The Campaign Finance Guide

www.campaignfinanceguide.org

This Guide provides citizens, candidates, political organizations and the news media with a brief overview of current federal campaign finance laws. It summarizes the rules governing the financing of federal political activities and describes how the laws are enforced.

First printing, July 2004.

We have recently entered a new era in federal campaign finance. In March 2002 Congress passed the Bipartisan Campaign Reform Act of 2002, better known as the McCain-Feingold law – the most comprehensive change in federal campaign finance law in more than two decades. Twenty-one months later, the Supreme Court upheld the law's constitutionality in a decision that solidly affirmed the premises on which the law was based.

The Campaign Finance Guide offers a practical explanation of the new campaign finance laws that governs how money can be raised and spent in federal elections. It provides a broad overview of the federal laws governing political actors and their activities. It also explains how these laws are administered and enforced – and what you can do if you want to seek redress under campaign finance law.

As an introductory *Guide*, this publication does not address every question or concern that may arise under the campaign finance laws, but instead provides access to many additional sources if you want to pursue a technical question. New questions arise regularly in the campaign-finance world. For this reason, the online version of *The Campaign Finance Guide* (www.campaignfinanceguide.org) will be updated regularly and offers links and more information on the issues covered herein.

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I

A Brief History of Money and Politics

Money has played an important role in the American political process at least since George Washington used his fortune to pay for alcoholic refreshment for voters in colonial Virginia, and it has often been a source of controversy. Large-scale reform efforts have typically followed major scandals involving unusually large contributions, bribery, or other controversial or illegal activities.

The following summary sketches the longstanding relationship between money and politics and the efforts to regulate contributions and expenditures.

As America's political system matured in the eighteenth and early nineteenth centuries, political parties developed a spoils system in which loyal party supporters were appointed to government jobs and were then required to give portions of their government salaries to the political party to support the party's political activities. These **contributions** from government employees were called assessments, and were the primary source of campaign funding in the mid-nineteenth century. Congress first took action against the assessment of government employees by banning solicitations of political contributions from naval yard employees as part of the 1868 Naval Appropriations Act. This legislation is generally considered to be the first federal law regulating the financing of campaigns, but it had little effect as parties continued to raise contributions from other political appointees and federal employees.[1]

In 1883, Congress took a broader step to end the spoils system and change the way campaigns were financed. The Pendleton Civil Service Act of 1883 created a class of federal employment available only through competitive exams. These jobs could not be given away through the spoils system. The law led to an overall reduction in party reliance on government employees for political contributions, which then shifted the fundraising burden to business interests with major stakes in federal policy-making.

During the 1880s and 1890s, business interests – banks, oil companies, steel firms, and railroad developers – became the primary source of party funding. As the U.S. government and economy grew, and congressional regulation and federal spending became more important, large corporate contributions to federal candidates and parties became a more dominant feature of presidential elections.

The Early 1900s: Progressive Era Legislation

In 1907, after being criticized for contributions he received from business interests in his 1904 presidential campaign, President Theodore Roosevelt responded by urging Congress to ban corporate contributions in federal elections and provide for funding from the U.S. Treasury for political parties. Congress then passed the Tillman Act, which banned corporate contributions and gifts to federal candidates. Although this act was a significant change, many reformers felt that the wealthy still had disproportionate influence on the political process. In 1910, additional reform legislation made its way through Congress. The Federal Corrupt Practices Act (and amendments) created campaign spending limits for parties in congressional races. It also required **national party committees** to file reports of their contributions and **expenditures**, thus establishing the first public **disclosure** rules at the federal level.

A major scandal arose in the early 1920s when oil developers were caught giving federal officials gifts in return for oil leases on public lands. Congress reacted to these revelations, which came to be known as the Teapot Dome scandal, by implementing the Federal Corrupt Practices Act of 1925. This law served as the basis for federal campaign finance law from the 1920s until the 1970s.

The Corrupt Practices Act tightened the disclosure rules imposed on federal candidate and national party campaign committees (defined as **party committees** operating in more than one state) by requiring these committees to file quarterly contribution reports. The Act also reaffirmed the contribution and spending limits established under previous federal law, while it increased the spending limit for senatorial campaigns. Even though the law laid down clear disclosure requirements, an effective regulatory system never took hold. There was no independent enforcement agency, and penalties for noncompliance were not defined. Additionally, the public had difficulty seeing the reports, which were in the custody of House and Senate officials and never published. Although many candidates and party committees failed to file reports regularly, no one was ever prosecuted for failure to comply with the law.

History of Campaign Finance Legislation

1883

Civil Service Reform Act
Prevented party assessments of civil servants

1907

Tillman Act
Banned political contributions from corporations

1910

Federal Corrupt Practices Act*
(amended 1911 & 1925)
- Required federal candidate disclosure of expenditures for the first time
- Limited expenditures by political committees

After President Franklin Roosevelt implemented the New Deal programs, many reformers became concerned about the political vulnerability of the enlarged federal workforce. Many federal employees, especially the thousands enrolled in the public works programs, were not covered by the 1883 Pendleton Act and could possibly be subjected to the party system of spoils and assessments. The Hatch Act of 1939 (and subsequent amendments) banned political activity by federal employees not already covered by the civil service law and banned the solicitation of political donations from all government employees. The Act also limited how much an individual employee could contribute to each party committee or federal candidate, and placed an aggregate limit on the amount an individual could give to parties and candidates. Although the individual **contribution limit** was effective, the aggregate contribution limit was ignored and unenforced.

Another major development at this time was the rising power of labor unions and their growing importance as a source of campaign contributions. Concerns regarding the influence of labor unions' political contributions prompted Congress to extend the ban on corporate giving to labor union treasury funds in the Taft-Hartley Act of 1947. The Act also banned corporate and union expenditures on behalf of federal candidates (*e.g.*, paying for campaign services or buying ads instead of giving funds to a candidate) as a way of keeping unions and businesses from circumventing direct contribution limitations.

In response to the ban on union contributions and expenditures, labor unions began to organize auxiliary committees to support federal candidates, funded by members' contributions apart from their dues. These **political action committees** (PACs) did not use union treasury funds but operated on voluntary donations pooled from individual union members to fund voter turnout efforts and to make contributions to national parties and federal candidates. Labor unions dominated PAC activity from the late 1940s until the early 1960s, when business interests entered the game and began to form their own PACs.

1939

Hatch Act

- Prevented the solicitation of political contributions from federal government employees
- Limited individual contributions to $5,000 per year per federal candidate
- Applied campaign finance regulations to primary as well as general elections

1947

Taft-Hartley Act

- Banned direct political contributions and expenditures by labor unions
- Extended the ban on corporate contributions to include corporate expenditures

*As upheld by the U.S. Supreme Court.

The principal change during this period was a gradual shift away from a political system dominated by political parties to one dominated by candidates. Although political parties were still important sources of money, campaigns became more and more focused on candidates, and candidates assumed a growing share of the responsibility for raising the monies needed to finance their campaigns.

The focus on candidates rather than parties was exacerbated by the use of television and radio as tools for communicating messages to voters. The use of broadcast advertising also dramatically increased the cost of political campaigns. In 1956, the total cost of federal elections was $155 million with nearly $10 million spent on television advertising. In 1968, the cost of elections had almost doubled to $300 million, while the amount spent on media rose to nearly $59 million, an increase of almost 500% over 1956.[2]

By the end of the 1960s, it was clear that the spending limits and disclosure requirements of the 1925 Federal Corrupt Practices Act were ineffective. Members of Congress began to express growing concern about the rapid increase in election costs and its implications regarding the influence of money in the electoral process. Changing practices thus led to a renewed interest in campaign finance legislation.

1971

Federal Election Campaign Act of 1971*
(amended 1974, 1976 & 1979)

- Required full and timely disclosure of expenditures and contributions for all candidates, political committees and parties
- Prohibited corporate and labor union contributions
- Limited individual contributions to $1,000 per candidate per election, $5,000 per year to a PAC, and $20,000 per year to a national party committee
- Limited PAC contributions to candidates to $5,000 per election and to national party committees to $15,000 per year
- Limited the aggregate amount contributed by an individual to $25,000 per year
- Created the Federal Election Commission
- Created the presidential public funding system

In 1971, Congress crafted a stringent new law in an effort to address the rising costs of federal campaigns and the weaknesses in previous disclosure policies. **The 1971 Federal Election Campaign Act (FECA)** changed campaign finance regulations in two major ways. First, in an effort to address rising campaign costs, it limited the amount of money a candidate could give to his or her own campaign and placed limits on the amount a candidate could spend on television advertising. Second, it revised the regulations for disclosing contributions and expenditures by requiring candidates, PACs, and all party committees active in federal elections to file reports on a quarterly basis. The information to be disclosed included the name, occupation, address and business of each contributor or spender of more than $100. For large contributions of $5,000 or more, disclosure was required within 48 hours of receiving the contribution.

The many shortcomings of disclosure under the Corrupt Practices Act became readily apparent with the implementation of the new FECA regulations. In 1968, under the old law, federal candidates reported $8.5 million in spending. In 1972, under FECA, spending reported by federal candidates soared to $88.9 million.

Despite FECA's increased disclosure requirements and new media spending limits, campaign spending continued to grow at a rapid pace, rising to $425 million in 1972. The Watergate scandal and other campaign finance abuses in the 1972 election spurred Congress to draft additional provisions that overhauled the 1971 law and established a more comprehensive regulatory regime. The 1974 FECA Amendments strengthened disclosure requirements, placed stricter limits on political contributions, replaced the media spending limits with overall spending limits for federal campaigns, and limited party spending on behalf of candidates. These amendments also created a new federal agency responsible for administering and enforcing federal campaign finance laws, the **Federal Election Commission (FEC)** (*see chapter V on the FEC*).

Another notable component of the 1974 FECA was the creation of a public funding program for presidential candidates. This system, financed through a tax checkoff on individual federal

2002

The Bipartisan Campaign Reform Act*

- Banned national party committees from raising or spending soft money
- Regulated the use of corporate and union treasury funds for federal electioneering communications
- Increased individual contribution amounts to candidates to $2,000 per election and to national party committees to $25,000
- Limited the aggregate amount an individual may contribute to $95,000 every two years
- Required disclosure on electioneering communications by individuals who exceed $10,000 in aggregate spending per year

*As upheld by the U.S. Supreme Court.

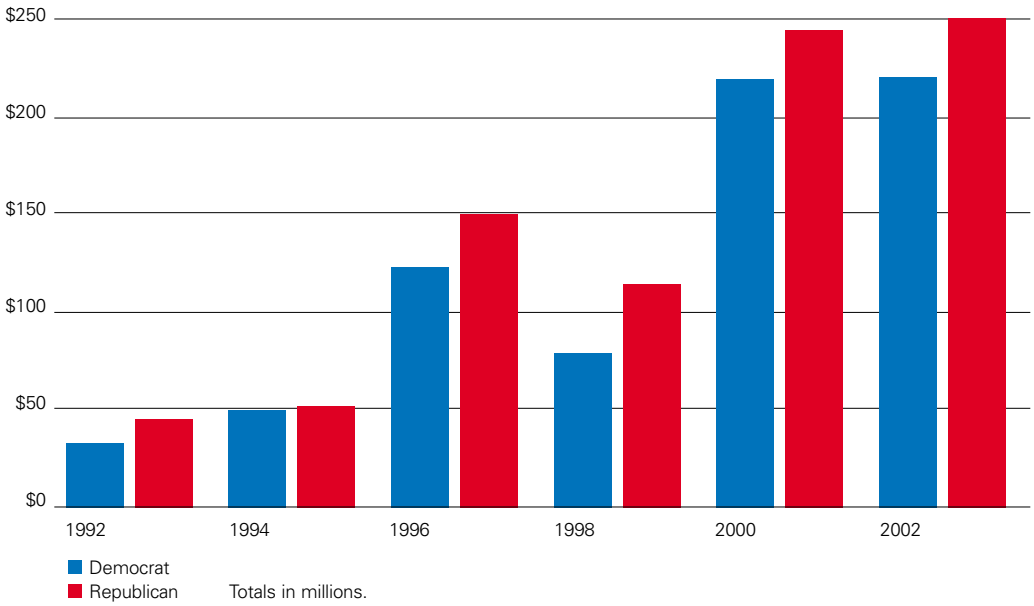
income tax forms, offered candidates the opportunity to participate in a voluntary program of public funding. Participating candidates were eligible for matching subsidies in primary elections, based on a dollar-for-dollar match on individual contributions of up to $250. In the general election, candidates were eligible for a grant of public money to be used to finance the entire campaign. To be eligible for public funding, candidates have to agree to not raise any private funds for their campaigns. They also have to abide by spending limits and caps on the amounts of money they could contribute to their own campaigns. The program also provided a subsidy to party committees to pay for their presidential nominating conventions.

Even before FECA was fully implemented, Congress was forced to revisit its regulatory approach as a result of the Supreme Court's 1976 decision in *Buckley v. Valeo* (424 U.S. 1, 1976), the landmark case that determined the constitutionality of FECA's major provisions. In its decision, the Supreme Court created a framework for future campaign finance decisions and congressional regulation. The Court concluded that Congress did not have the authority to limit political spending as a means of promoting equality, but did have the right to regulate political contributions as a means of preventing "corruption and the appearance of corruption." Congress amended FECA in light of *Buckley* in 1976 and removed or revised the provisions found to be unconstitutional. Most importantly, the 1976 law was brought into conformity with the Court's ruling by eliminating campaign spending limits or caps on the amount a candidate could give to his or her own campaign, except in the case of presidential candidates who accepted public funding.

In 1979, Congress revised the law once again, this time to allay some critics' concerns about overly burdensome reporting requirements and to ease party spending restrictions. The law's disclosure rules were modified so that only contributions or expenditures of more than $200 had to be reported. The new rules also allowed political parties to spend without limit on get-out-the-vote and voter registration activities conducted primarily for a presidential candidate, so long as the funds used to pay for these activities came from monies raised under FECA **contribution limits** (so-called **hard money**). This exemption was designed to promote political party grass-root activity while limiting the amount of funds parties could spend on political advertisements.

During its first decade, FECA had a tremendous effect in both increasing the transparency of campaign funding and improving the enforcement of the law. The contribution limits also did away with the large financial gifts that had sparked public outcries in 1972. But changing campaign tactics and other financial innovations eventually began to erode the regulatory structure, reducing its overall effectiveness.

Soft Money Fundraising 1992 - 2002



Source: Federal Election Commission figures.
http://www.opensecrets.org/softmoney/softglance.asp

Over time, FECA's restrictions on campaign funding were significantly undermined by aggressive party fundraising practices and weak or non-existent responses to these practices by the FEC. One major problem that emerged in the 1980s stemmed from the use of unregulated monies by party committees, which came to be known as **soft money**. In the 1970s, the political parties asked the FEC if they could raise and spend unregulated money – including corporate and labor union donations and unlimited funds from individuals – on non-federal party-building activities and administrative costs. The FEC eventually allowed both the state and the national political parties to do so. The parties soon began to use these funds on voter registration and turnout programs, as well as other activities that supported the election of specific federal candidates.

Beginning with the 1988 campaign, both presidential campaigns for the first time concentrated on raising large sums of soft money, which were then spent by their party committees on activities designed to influence federal elections. Following that election, soft money became a major part of the financing of presidential and congressional elections for the next fifteen years *(see Soft Money Fundraising 1992-2002 chart, above)*. Presidential candidates and members of

Congress began to play an active role in helping the parties to raise soft money, often to pay for activities that would directly benefit their own campaigns. Parties also began seeking increasingly large soft money gifts, especially from corporations with interests in federal policies. Consequently, the amounts of soft money available to parties grew at a rapid rate.

One of the reasons why soft money became such a prominent feature of federal elections was that party committees aggressively pushed new ways to spend these funds to affect federal elections, with little or no objection from the Federal Election Commission. Beginning in the 1996 election, national and state party committees began to use these funds to pay for candidate-specific **issue ads** that featured their respective presidential nominees, but were not subject to the contribution or spending limits imposed on parties or publicly funded presidential candidates. The parties claimed that these ads were not subject to FECA limits because they did not expressly advocate the election or defeat of a candidate. The parties argued that because their ads did *not* use such words as "vote for," "elect," or "defeat," – words that the Supreme Court had cited in *Buckley* as examples of **express advocacy** that could be regulated by Congress – the ads could be financed with soft money. In each election between 1996 and 2002, the parties spent millions of dollars in soft money on issue ads to help elect their candidates.

Between 1986 and 2002, Congress debated campaign finance reform legislation almost every year, yet strong partisan differences over the best way to rewrite the laws made it impossible to agree on new legislation.

As with many other reform efforts, the most recent was sparked by financial abuses and controversies over the undue influence of money in the political process. The 1996 presidential campaign was replete with questionable fundraising practices, including contributions to party committees from foreign nationals, the "selling" of access to the White House by offering coffee meetings and sleepovers in the Lincoln bedroom to large soft money donors, the creation of non-federal PACs by federal candidates, and corporate and labor funding of candidate specific "issue ads". These practices led many legislators to conclude that campaign finance laws were being widely circumvented and, in some cases, openly violated. Three separate federal investigations were launched into the financing of the 1996 presidential race and campaign finance reform once again became a high priority for Congress.

The principal legislative proposal to address the problems that characterized the 1996 election was sponsored by Senators John McCain of Arizona and Russell Feingold of Wisconsin and was dubbed the McCain-Feingold bill. In the House, this legislation was sponsored by Representatives Martin Meehan of Massachusetts and Christopher Shays of Connecticut. Versions of this bill were presented in every session of Congress between 1996 and 2002, but the sponsors were unable to

overcome procedural obstacles until March of 2002, when the **Bipartisan Campaign Reform Act of 2002** (**BCRA**) was finally adopted and enacted into law.

Securing final passage of BCRA over the determined opposition of the House leadership and anti-reform Senators proved to be an unusual and challenging process. After the Senate voted in favor of the bill, the House supporters had to force a floor vote on the proposal by relying on a discharge petition (a rarely used procedure in which a majority of the House of Representatives sign a petition that moves a bill out of committee and brings it directly to the House floor). The House eventually approved a revised version of the bill after a late-night session in which supporters turned back multiple attempts to defeat the bill. Senate supporters decided to have the Senate pass the House bill, rather than allow anti-reform congressional leaders to appoint members to a conference committee to reconcile differences between the bills. The Senate ultimately approved the bill by a 60 to 40 vote and on March 27, 2002, President George W. Bush signed the bill into law without the traditional public ceremony.

Primarily, BCRA did two things. First, it reinstituted limits on the sources and size of political party contributions; and second, it regulated how corporate and labor treasury funds could be used in federal elections. Specifically, BCRA resolved the problem of soft money by prohibiting national party committees from raising or spending soft money. Under the new rules, national party committees can only use hard money raised in accordance with federal contribution limits to pay for their political activities. To address the problem of candidate-specific issue advertising, BCRA sets forth a new definition of **electioneering communications** that provides broader regulation of the monies used to pay for campaign advertising. This new definition is designed to restrict the use of corporate and labor union money to pay for campaign advertising.

As this history demonstrates, BCRA was not a wild departure by Congress to regulate activities that it had previously not regulated; rather, BCRA merely reinstated the FECA limits on contributions to political parties that had been destroyed by the flood of unregulated soft money over the prior decade and restored the nearly century-old ban on corporate money (established in the Tillman Act of 1907) and the half-century-old limits on union treasury expenditures in federal elections (established in the Taft-Hartley Act of 1947).

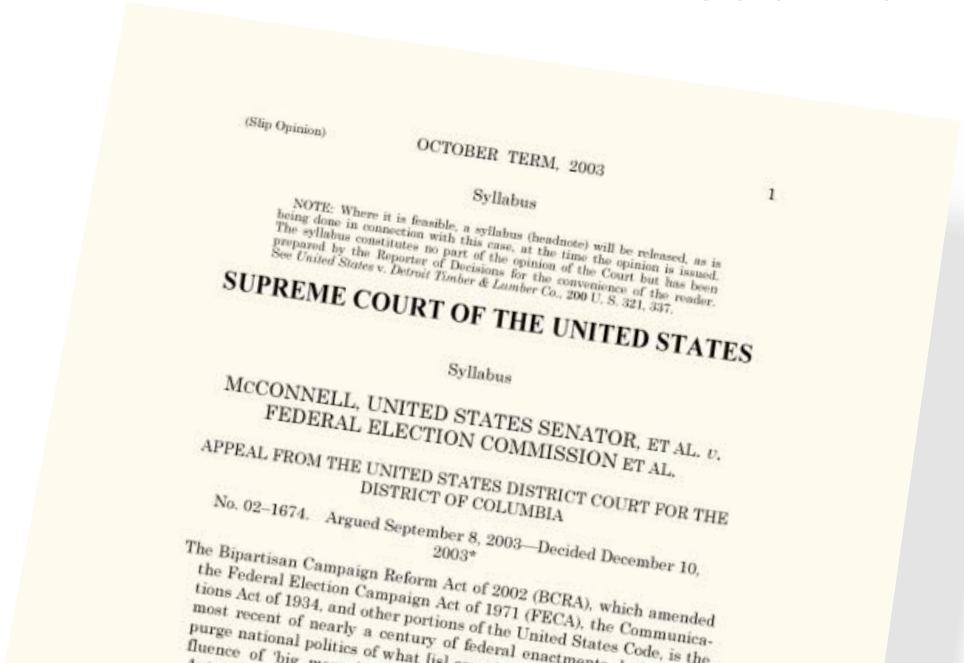
The same day the law was signed, Senator Mitch McConnell and the National Rifle Association filed lawsuits challenging the law's constitutionality. Other parties quickly joined suit and the final court case, *McConnell v. Federal Election Commission* (540 U.S. [__] 2003; 124 S. Ct. 619), involved 11 separate lawsuits and more than 80 plaintiffs, ranging from the Republican national party and California Democratic party to the American Civil Liberties Union and the National Rifle Association.

The case was heard by a three-judge District Court panel on an expedited schedule and then went directly to the Supreme Court on appeal because of the need to resolve quickly the constitutional challenge to the newly enacted campaign finance regime. The case was decided by the three-judge panel on May 1, 2003, in a split 1,600-page decision, but upon immediate appeal to the Supreme Court, the District Court stayed its decision so that the law could remain intact until the matter was resolved by the Supreme Court.

During the district court proceedings, the Federal Election Commission, charged with implementing and enforcing the new law, had eight months to write regulations to implement it. After the FEC issued these regulations, BCRA's congressional sponsors challenged more than a dozen of them as inconsistent with the law. That challenge, *Shays v. FEC*, is currently before the United States District Court.

The Supreme Court decided to hear the *McConnell* litigation before the start of its fall 2003 term to allow the parties four hours of oral argument – four times the normal amount of time before the Court. On December 10, 2003, the Supreme Court issued its decision and upheld virtually all provisions of the law *(see page 15 for Excerpts from the Supreme Court's Decision in McConnell v. FEC).*

For further information on the legislative history of BCRA and the District and Supreme Court decisions in McConnell, please visit the Campaign Legal Center's website at: www.campaignlegalcenter.org



(Slip Opinion) OCTOBER TERM, 2003 1

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

MCCONNELL, UNITED STATES SENATOR, ET AL. *v.* FEDERAL ELECTION COMMISSION ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

No. 02–1674. Argued September 8, 2003—Decided December 10, 2003*

The Bipartisan Campaign Reform Act of 2002 (BCRA), which amended the Federal Election Campaign Act of 1971 (FECA), the Communications Act of 1934, and other portions of the United States Code, is the most recent of nearly a century of federal enactments [illegible] purge national politics of what [illegible] fluence of 'big [illegible]

Excerpts from the Supreme Court's Decision in *McConnell v. FEC*

Soft money contributions have the potential and appearance of corruption and may be regulated:
"The evidence connects soft money to manipulations of the legislative calendar, leading to Congress's failure to enact, among other things, generic drug legislation, tort reform, and tobacco legislation…Our cases have firmly established that Congress's legitimate interest extends beyond preventing simple cash-for-votes corruption to curbing 'undue influence on an officeholder's judgment, and the appearance of such influence.'…"

"[I]t is the manner in which parties have sold access to federal candidates and officeholders that has given rise to the appearance of undue influence. Implicit (and … sometimes explicit) in the sale of access is the suggestion that money buys influence. It is no surprise then that purchasers of such access unabashedly admit that they are seeking to purchase just such influence. It was not unwarranted for Congress to conclude that the selling of access gives rise to the appearance of corruption."

"[L]obbyists, CEO's and wealthy individuals alike all have candidly admitted donating substantial sums of soft money to national committees not on ideological grounds, but for the express purpose of securing influence over federal officials."

"It is not only plausible, but likely, that candidates would feel grateful for such donations and that donors would seek to exploit that gratitude."

Express advocacy is not constitutionally required:
"Thus, a plain reading of *Buckley* makes clear that the express advocacy limitation, in both the expenditure and the disclosure contexts, was the product of statutory interpretation rather than a constitutional demand.… Our decisions in *Buckley* and *MCFL* were specific to the statutory language before us; they in no way drew a constitutional boundary that forever fixed the permissible scope of provisions regulating campaign-related speech."

Express Advocacy is not useful in defining political speech:
"Nor are we persuaded, independent of our precedents, that the First Amendment erects a rigid barrier between express advocacy and so-called issue advocacy. That notion cannot be squared with our longstanding recognition that the presence or absence of magic words cannot meaningfully distinguish electioneering speech from a true issue ad … Indeed, the unmistakable lesson from the record in this litigation, as all three judges on the District Court agreed, is that *Buckley's* magic-words requirement is functionally meaningless.…"

"Not only can advertisers easily evade the line by eschewing the use of magic words, but they would seldom choose to use such words even if permitted.… And although the resulting advertisements do not urge the viewer to vote for or against a candidate in so many words, they are no less clearly intended to influence the election.… *Buckley's* express advocacy line, in short, has not aided the legislative effort to combat real or apparent corruption, and Congress enacted BCRA to correct the flaws it found in the existing system."

II

Political Actors and their Activities

Federal campaign finance laws regulate the money spent by various political actors to influence federal elections. The regulations are of different kinds: there are contribution limits on what political actors can receive; source prohibitions on money allowed in federal elections; and public disclosure requirements on the monies that are raised and spent in federal elections. Different actors are subject to different rules.

This section describes the general rules that apply to individuals, candidates, political parties, political committees, unions and corporations, and section 527 groups (see page 34-35 for summary chart of federal regulations governing political activities).

Contribution Limits

An individual may spend personal funds to make contributions to influence federal elections subject to specific limits. An individual may give $2,000 per election to a federal candidate (primary and general elections count separately, for a total of $4,000 to a single congressional candidate in an election cycle). An individual may also contribute $25,000 per year to the national committee of a political party and $10,000 per year to the federal account of a state party committee. An individual may also give $5,000 per year to a political action committee or "PAC" *(see page 28 for discussion on the different types of PACs)*. In addition, a person may make contributions to the non-federal account of a state party which cannot be used by the state party for **federal election activity**. The limits and other rules for such contributions to state parties are governed by state law and vary from state to state. *(See the discussion on state party contributions on page 26.)*

A contributor's spouse has his or her own separate limits as described above. The FEC is currently considering new regulations for

An individual may …			
	Give to a federal candidate or spend on coordinated expenditures	$ 2,000.	per election
		$ 37,500. *	per cycle on all federal candidates
	Give to national party committees	$ 25,000.	per year
		$ 57,500. *	per cycle
	Give to state and local party committees	$ 10,000.	per year
		$ 37,500. *	per cycle
	Give to multicandidate PACs	$ 5,000.	per year
		$ 37,500. *	per cycle
	Give to "Levin" accounts	$ 10,000.	as permitted by state law
	Spend on independent expenditures or electioneering communications	unlimited	but disclosed

* Individuals are subject to a $95,000 per two-year election cycle aggregate limit. Of that limit, there is a $57,500 limit on federal non-candidate contributions, including no more than $37,500 to PACs and state/local parties' federal accounts, and a $37,500 limit on federal candidate contributions.

contributions by a child (17 years or under), but in general, such contributions are only permissible if the child owns or controls the funds from which the contribution is made.

For all these types of federal contributions by individuals, there is an aggregate contribution limit of $95,000 per two-year election cycle. There are sub-limits within this $95,000 aggregate limit: contributions to candidates are limited to $37,500 and contributions to PACs and state and local party committees are limited to no more than $37,500 per two-year election cycle. Contributions to all committees, including national party committees, are limited to an aggregate of $57,500.

Federal law prohibits certain foreign individuals from making political contributions. Foreign nationals (individuals who are not citizens of the United States, except for green card holders who are lawfully admitted in the U.S. for permanent residence) are prohibited from making any contribution in connection with any election in the U.S. – federal, state or local – including a contribution to a political party. They are also prohibited from making an expenditure, including an independent expenditure, or any disbursement for an electioneering communication in connection with a federal election.

Exceptions to Contribution Limits

The law provides a list of exceptions to individual contribution limits *(see Individual Volunteer Activities, page 19)*. An individual, for example, may volunteer his or her services to a campaign without the value of the services being considered a contribution. Likewise, an individual may provide the use of his or her home to a candidate for a fundraising event and spend up to $1,000 per candidate on food or beverages, all without making a contribution. If the campaign activity is jointly sponsored by a husband and wife, then the limit is increased to $2,000 (*i.e.*, $1,000 for the husband and $1,000 for the wife). Likewise, an individual may spend up to $1,000 per election for his or her own travel expenses related to services as a campaign volunteer. Finally, campaign work by a company employee during normal working hours does not constitute a corporate contribution if that time is made up by the employee. Generally, a person is allowed to volunteer one hour per week or four hours per month for campaign work during normal working hours.

Individuals may spend as much of their own time and money as they like in creating and maintaining a personal website devoted to political issues without incurring any reporting requirements by the FEC, so long as the content does not involve expressly advocating the election or defeat of a federal candidate.

Individuals may volunteer their time and services to federal candidates or political committees. Some expenses count toward the individual contribution limits. In these instances, any amount that exceeds the exempt allowance of $1,000 per candidate per election (or $2,000 annually on behalf of all political committees of the same party) is treated as an in-kind contribution and counts toward the individual contribution limit. Other activities do not count toward contribution limits.

Activities subject to contribution limits

- Event invitations, food and beverages
- Travel expenses related to a party or candidate activity
- Cumulative value of vendor discounts to a party or candidate

Activities not subject to contribution limits

- Volunteered time and personal services not reimbursed or paid for by a candidate or political party
- Use of an individual's home and living expenses
- Use of a community building if the building is regularly used by community members freely for noncommercial events, regardless of political affiliation
- Personal websites to discuss political issues without expressly advocating for or against a candidate so long as there is no coordination with a candidate
- Personal e-mails about candidates and political issues

Expenditures

If an individual wants to engage in express advocacy (such as newspaper or television ads), or otherwise influence a federal election, he or she may do so without limit so long as the activity is not coordinated with a candidate or a candidate's committee, but must report costs above $250 to the FEC. If an individual does choose to coordinate with a candidate or a candidate's committee, the expenditures count against the individual's contribution limits toward that candidate.

The FEC has issued rules defining **coordination** in order to determine the applicability of federal contribution limits to particular expenditures. Under these rules, a communication is coordinated if it meets both a *content test* and a *conduct test*.

- The *content test* requires that the communication either expressly advocate the election or defeat of a candidate, mention the name of a candidate within 120 days of the election, or republish a candidate's campaign literature.
- The *conduct test* examines whether the communication is made at the request or suggestion of the candidate, whether the candidate has had material involvement in decisions about the communication, whether there has been substantial discussion about the communication with the candidate, and whether the spender is using vendors also used by the candidate.

This definition appears to allow extensive candidate involvement in any independent communications appearing more than 120 days before an election. Congressmen Shays and Meehan, two of BCRA's sponsors, have criticized this regulation and are suing to overturn it in court.

Express Advocacy and Electioneering Communications

Independent expenditures made by individuals for certain **public communications**, while unlimited, do trigger disclosure requirements. If the communication contains express advocacy – words such as "vote for," "defeat," and "vote against," which advocate the election or defeat of an identifiable federal candidate – or if it is an **electioneering communication** (a cable, satellite, or broadcast ad that refers to a federal candidate, is aired within 60 days before a general or 30 days before a primary election, and is targeted to the electorate of the candidate), spending for it must be publicly disclosed if it exceeds certain thresholds. Independent expenditures by individuals, including funds spent on ads containing express advocacy, must be disclosed by the individual spender as soon as the expenditure exceeds $250. Every expenditure thereafter must be reported to the FEC. An individual also must disclose to the FEC if he or she spends more than $10,000 for the direct costs of producing and airing electioneering communications within a calendar year. Such reporting must take place within 48 hours after each expenditure over $10,000.

Contribution Limits and Source Prohibitions

Candidates for federal office can raise only hard money – that is, money that complies with federal contribution limits and **source prohibitions**. No corporate, labor, or foreign national (without a green card) funds are allowed.

Federal candidates can receive contributions of up to $2,000 per primary or general election from any single individual and up to $5,000 from any single PAC. Federal law prohibits candidates from accepting contributions from corporate or labor union general treasury funds. Instead, a corporation or labor union can establish a PAC, raise funds from individuals and contribute those individual funds to a candidate in amounts of up to $5,000 per election. Federal law also prohibits candidates from receiving contributions from government contractors and national banks.

Exceptions to Contribution Limits: The "Millionaires' Amendment"

A federal candidate – other than a presidential candidate who accepts public funds – may use an unlimited amount of his or her own personal funds to finance his or her own campaign. Presidential candidates who accept public funds must agree to accept spending limits as a condition of eligibility and agree to limit their use of personal funds to no more than $50,000.

When using personal funds for a campaign, a candidate may only use funds that the candidate individually owns and controls or up to one-half of funds owned jointly by a candidate and his or her spouse, if no specific share is indicated on a document of ownership.

A candidate who uses personal funds to finance a campaign has the option of contributing the money to the campaign (and thus giving up any option for repayment) or loaning the money to the campaign. However, if a candidate loans money to his or her own campaign, the law restricts payment following the election to $250,000.

If a candidate does rely on personal funds to provide full or partial funding for a campaign, this action may serve to increase the amounts

Case Study: Millionaires' Amendment in the 2004 Cycle

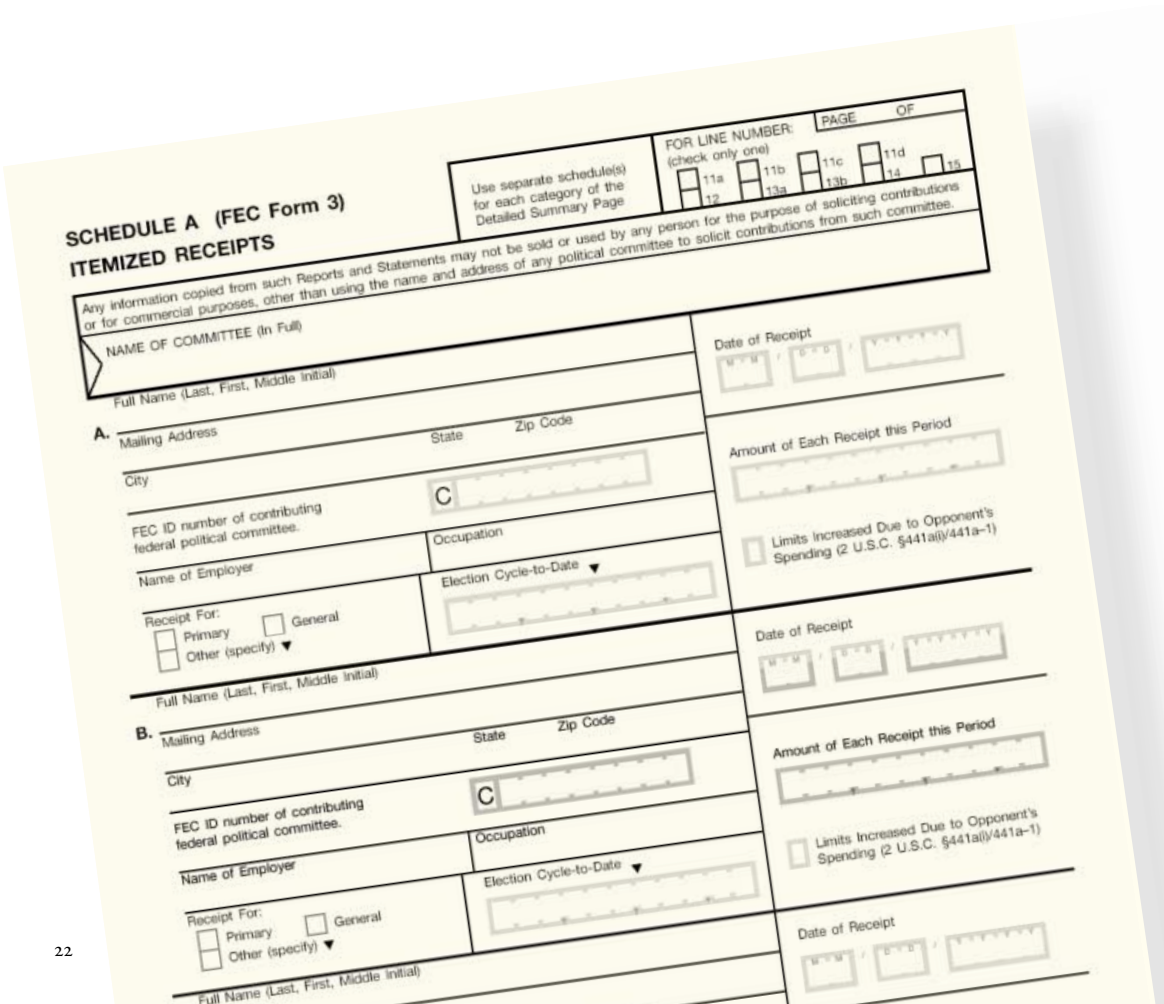
In the 2004 Illinois Democratic primary election for U.S. Senate, four candidates vied on the Democratic ticket for the seat being vacated by Peter Fitzgerald. Blair Hull, a securities trader worth about $500 million, was one of the four candidates. By February 2004, Hull had spent about $20 million of his own money in the campaign. Barack Obama, one of the candidates running in the primary against Hull, utilized the new "millionaires' provision" which made it possible for him to receive individual contributions of more than $2,000. He was thus able to raise $2 million more than he could have otherwise, which amounted to about one-third of his total campaign finances. Obama won the Democratic primary with 53% of the vote.

A federal candidate may receive …			
	From individuals or non-multicandidate PACs	$ 2,000.	per election
	From national party committees	$ 5,000. $ 35,000.	per election for President & House per election for Senate
	From state and local party committees	$ 5,000.	per election
	From multicandidate PACs	$ 5,000.	per election
	From corporations, unions, foreign nationals without green cards, section 527s not registered with the FEC or 501(c)4s or (c)6s	$ 0.	prohibited

others may contribute to his or her opponent. BCRA includes an exception to the contribution limits for candidates who are running against wealthy opponents who use a great deal of their personal wealth to finance their campaigns. In such cases, under a complex formula, a less well-financed candidate for a House seat may accept contributions from individuals in amounts up to $6,000, while a less wealthy candidate for a Senate seat may accept contributions in amounts up to $12,000 *(see www.fec.gov/pages/bcra/rulemakings/millionaire.htm for detailed chart on alternate contribution limits triggered by a self-financed candidate)*. This provision has been successfully utilized by candidates in several well-publicized races in 2004.

No Expenditure Limits

There are no limits on the amount of money a House or Senate campaign may spend, provided that the funds are raised from permissible sources and in permissible amounts. (Candidates for the presidency who accept federal funds are, however, subject to spending limits in exchange for these federal funds.)



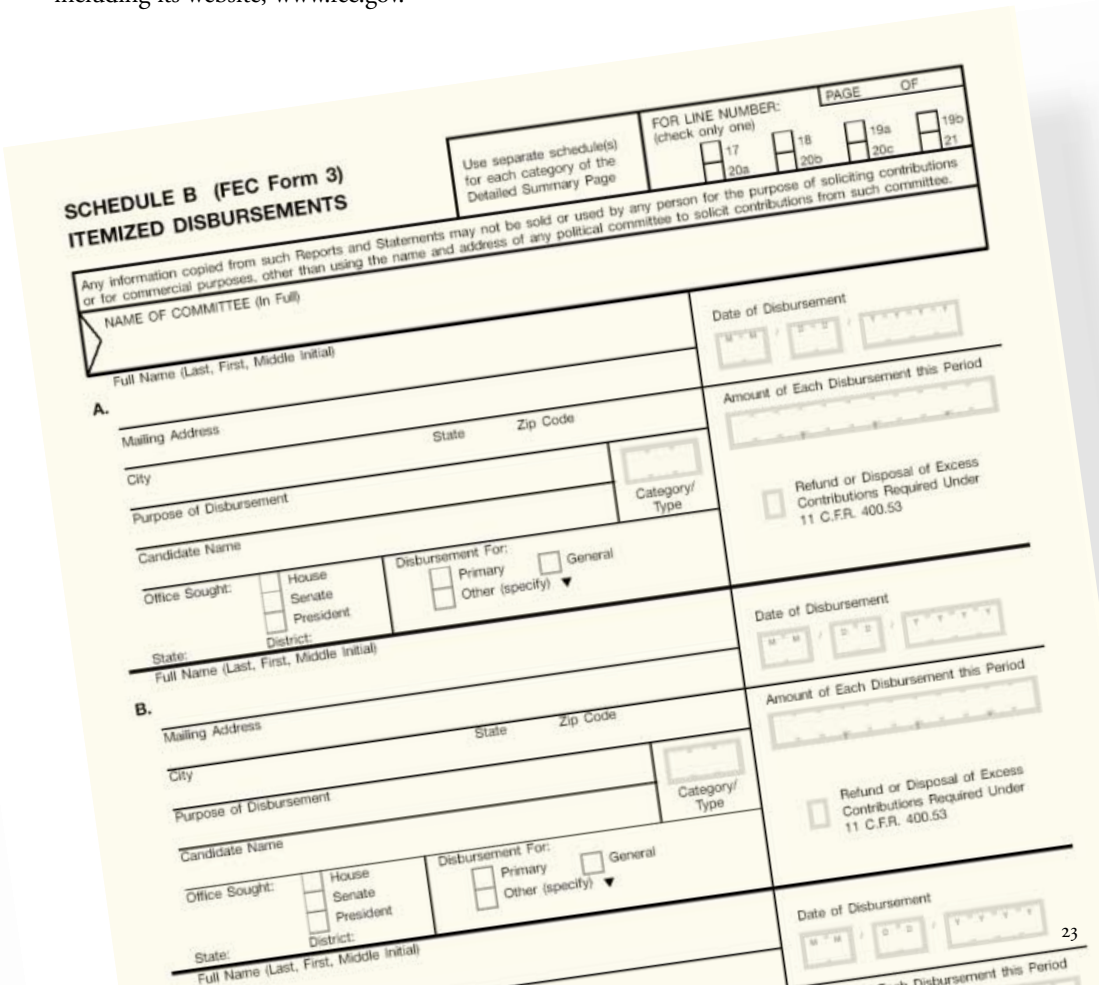
Disclosure

Federal candidates must file periodic reports with the FEC that list each contribution of $200 or more that the campaign received and each disbursement of $200 or more that the campaign made. These reports must be filed by the candidate's committee on a semi-annual basis during non-election years and on a quarterly basis during election years *(see FEC Contribution and Expenditure Disclosure Required of Campaign Committees below)*.

Additional reports are also required before and after the election. The FEC makes these reports available to the public through several means, including its website, www.fec.gov.

Solicitation Restrictions

Federal candidates cannot receive or spend any non-federal funds – *i.e.*, funds that do not comply with the contribution limits and source prohibitions of federal law. Federal candidates are, however, currently allowed to solicit funds that comply with federal contribution limits and source prohibitions for the non-federal account of a state party. They can also make a general solicitation on behalf of non-profit organizations and charities that do not engage in political activity as their principal purpose if the solicitation does not specify how the funds will or should be used.


SCHEDULE B (FEC Form 3)
ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one)
17 20a 18 20b 19a 20c 19b 21

PAGE OF

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)

A.
Full Name (Last, First, Middle Initial)
Mailing Address
City State Zip Code
Purpose of Disbursement
Category/ Type
Candidate Name
Office Sought: House Senate President
District: State:
Disbursement For: Primary General Other (specify)
Date of Disbursement
Amount of Each Disbursement this Period
Refund or Disposal of Excess Contributions Required Under 11 C.F.R. 400.53

B.
Full Name (Last, First, Middle Initial)
Mailing Address
City State Zip Code
Purpose of Disbursement
Category/ Type
Candidate Name
Office Sought: House Senate President
District: State:
Disbursement For: Primary General Other (specify)
Date of Disbursement
Amount of Each Disbursement this Period
Refund or Disposal of Excess Contributions Required Under 11 C.F.R. 400.53

Full Name (Last, First, Middle Initial)
Date of Disbursement

Types of National Party Committees

Major political parties have several different national party committees: the central party committee (*i.e.*, the Democratic National Committee and the Republican National Committee), the House campaign committee (*i.e.*, the Democratic Congressional Campaign Committee and National Republican Congressional Committee), and the Senate campaign committee (*i.e.*, the National Republican Senatorial Committee and Democratic Senatorial Campaign Committee). The financial activities of these committees are regulated in a number of ways by federal law.

Contribution Limits and Source Prohibitions

Like federal candidates, the national party committees can raise only hard money, but subject to different limits. National party committees are permitted to receive contributions of up to $25,000 per year from any individual or **non-multicandidate PAC** and up to $15,000 per year from a **multicandidate PAC**. *(See page 28 for extended discussion on political committees.)* They cannot raise any funds from corporations, labor unions or other restricted sources, although individuals affiliated with these entities can donate through the entities' connected PACs.

National party committees may make contributions directly to federal candidates of up to $5,000 per election, with the exception of Senate candidates, to whom they may contribute a total of $35,000 per candidate per election cycle. In addition, national party committees can make coordinated expenditures on behalf of their candidates. In House races, these coordinated expenditures by national party committees can reach a total of about $30,000 per candidate. In Senate races, the amount depends on the population of the state, but ranges from a total of about $60,000 in the smallest states to well over $1 million in the largest states. In the presidential general election race, the Democratic and Republican National Committees can each spend about $16 million in coordination with their respective presidential nominees.

Independent Expenditures

In addition to contributions and coordinated expenditures, the national party committees can also make an unlimited amount of independent expenditures on behalf of their House and Senate candidates. Like individuals, however, the party committees cannot coordinate any aspect of the timing, content, placement or use of these expenditures with their candidates. Whether they may do so on behalf of their publicly-funded presidential candidates is an unsettled legal question.

Solicitation Restrictions

Like federal candidates, national parties and their officers and agents cannot solicit, receive or spend any non-federal funds.

A national party committee may …	Give to a federal candidate	$	5,000.	per election for President & House
		$	35,000.	per election for Senate
	Give to national, state and local party committees		unlimited	transfers
	Give to multicandidate PACs	$	5,000.	per year
	Give to "Levin" accounts	$	0.	prohibited
	Spend on coordinated expenditures	$	0.02 x*	voting age population of USA (for President)
		$	10,000.*	for the House
		$	0.02 x*	voting age population of state (for Senate)
	Spend on independent expenditures or election-eering communications		unlimited	but disclosed
A national party committee may receive …	From individuals	$	25,000.	per year
	From national, state and local party committees		unlimited	transfers
	From multicandidate PACs	$	15,000.	per year
	From corporations, unions, foreign nationals without green cards, section 527s not registered with the FEC or 501(c)4s or (c)6s	$	0.	prohibited

* These base figures are indexed for inflation, so the $10,000 spending limit on House elections is really approximately $35,000 in 2004.

Contribution Limits and Source Prohibitions

State party funds spent in connection with federal elections are generally subject to federal regulation and must be segregated in a separate bank account in which only federal funds are deposited. A state party committee can raise up to $10,000 from an individual per year and up to $5,000 from a political committee per year for this federal account. Corporations and labor unions cannot contribute from their general treasuries to a state party federal account, but their connected PACs may contribute up to $5,000 per year.

State parties can contribute up to $5,000 in federal funds per election to individual federal candidates. In addition, they can make limited coordinated expenditures on behalf of federal candidates in House and Senate races. The amounts they may spend are based on the same formulas used to determine the amounts allowed national party committees. A state party usually delegates its coordinated spending authority to a national party committee, which may then make coordinated expenditures up to the amount of the combined national and state party limits – about $60,000 in the case of House candidates and double the sum established for the national party in a Senate race.

State rules regulate non-federal funds donated to state parties. These rules vary widely from state to state. Some states have contribution limits; others do not. Some states permit parties to raise corporate or union funds; others do not.

Expenditures

Since state parties, with limited exceptions, may spend only federal funds on **federal election activities**, they must use hard money not only to make contributions to federal candidates, but also to make expenditures on their behalf or to make any public communications that promote, support, attack or oppose federal candidates. Under BCRA, federal election activities that must be financed with hard money even when conducted by a state party include: (1) voter registration activity within 120 days of the election; (2) voter identification, get-out-the-vote activity or generic campaign activity conducted for an election in which a candidate for federal office appears on the ballot; (3) public communication that refers to a clearly identified federal candidate and promotes or attacks a candidate for that office; or (4) services provided during any month by an employee of a state, district or local committee of a political party who spends more than 25% of his or her compensated time during that month on activities connected with the federal election. So long as the money comes from federal funds, however, a state party may make independent expenditures on behalf of House and Senate candidates without limit, provided the spending is truly independent of the candidate. The state party cannot, of course, coordinate independent expenditures in any way with the candidates supported by these expenditures.

State and Federal (Allocated) Activities

Some state party activities affect both federal and non-federal elections. For example, if a state party conducts a voter registration drive or get-out-the-vote drive in a federal election year, this drive will have an influence on both state and federal elections. Under rules established by

A state party committee (federal account) may …	Give to a federal candidate	$	5,000.	per election
	Give to national, state and local party committees		unlimited	transfers
	Give to multicandidate PACs	$	5,000.	per year
	Give to "Levin" accounts	$	0.	prohibited
	Spend on coordinated expenditures	$	5,000.*	treated as a contribution and subject to same limit for President
		$	10,000.*	for the House
		$	0.02 x*	voting age population of state for Senate
	Spend on independent expenditures or election-eering communications		unlimited	but disclosed
A state party committee (federal account) may receive …	From individuals	$	10,000.	per year
	From national, state and local party committees		unlimited	transfers
	From multicandidate PACs	$	5,000.	per year
	From corporations, unions, foreign nationals without green cards, section 527s not registered with the FEC or 501(c)4s or (c)6s	$	0.	prohibited

* These base figures are indexed for inflation, so the $10,000 spending limit on House elections is really approximately $35,000 in 2004.

the FEC, pursuant to BCRA, state parties may pay for these kinds of activities using a mixture of federal funds and funds raised under state law (which may permit, for instance, donations by corporations or unions prohibited by federal law). The monies raised under state law for these joint federal/non-federal activities are known as "**Levin Funds**" after Senator Carl Levin of Michigan, who proposed this provision of BCRA.

Levin funds are subject to a contribution limit of $10,000 per donor (including from federally impermissible sources like corporations), if permitted by state law. If state law sets a lower contribution limit for donations to party committees, then the lower contribution limit applies. Monies raised under this provision may only be spent in conjunction with federal funds and may not be used to pay for broadcast advertising. The percentage of federal and non-federal funds to be used for Levin activities, which include generic party voter registration drives, voter identification programs, and get-out-the-vote efforts, is based on an allocation formula determined by the FEC.

Disclosure

All federal funds raised and spent by state parties must be reported to the FEC and are available to the public. A state or local party committee must file monthly disclosure reports of Levin Funds. These reports include all receipts and disbursements of federal funds used in federal election activity including the federal portion of all allocated expenses. See http://www.fec.gov/pdf/forms/fecfrm3x.pdf, Section H1, page 13, for the FEC disclosure form.

Types of Political Committees

Political committees encompass all organizations that have the influencing of federal elections as their "major purpose" and that raise at least $1,000 in contributions or spend at least $1,000 for that purpose. Political party and **candidate committees** are just two types of political committees. There are several others, most notably political action committees (PACs).

There are two primary types of PACs: **connected PACs**, which are also known as **separate segregated funds**, and **non-connected PACs**. Connected PACs are political committees set up by corporations (including non-profit corporations) or labor unions. Corporations and unions can use their general treasury funds to pay the set-up, administrative, and solicitation costs of a connected committee. The PACs then solicit contributions and use the money they raise to make federal contributions and expenditures. With limited exceptions, connected PACs can solicit money only from particular individuals connected to their respective organizations. Union PACs, for example, can solicit only union members and their families, while corporate PACs can solicit only the corporation's shareholders and executive and administrative personnel and their families. By contrast, a non-connected or independent PAC, one which is not connected to any corporation or union, can solicit any person for a contribution. However, a non-connected PAC must pay its administrative and solicitation costs from the contributions it receives. The same basic rules regarding contributions and expenditures apply to both connected and non-connected PACs.

Federal regulations allow federal officeholders to sponsor **Leadership PACs** in addition to their official campaign committees. A Leadership PAC can raise only hard money and is not affiliated with a campaign committee. A donor can give separate contributions (up to the acceptable limits) to a Member's campaign committee and his or her Leadership PAC. Any funds, goods or services provided by a Leadership PAC to an authorized campaign committee are subject to the PAC contribution limits of $5,000 per year.

A multicandidate PAC may …	Give to a federal candidate or spend on coordinated expenditures	$	5,000.	per election
	Give to national party committees	$	15,000.	per election
	Give to state and local party committees	$	5,000.	per year
	Give to multicandidate PACs	$	5,000.	per year
	Give to "Levin" accounts	$	10,000.	as permitted by state law
	Spend on independent expenditures or electioneering communications		unlimited	but disclosed
A multicandidate PAC may receive …	From individuals	$	5,000.	per year
	From national, state and local party committees	$	5,000.	per year
	From a multicandidate PACs	$	5,000.	per year
	From corporations, unions, foreign nationals without green cards, section 527s not registered with the FEC or 501(c)4s or (c)6s	$	0.	prohibited

Contributions

A PAC may accept contributions from individuals or other political committees of up to $5,000 per year. A PAC cannot accept any contributions from corporations and unions.

A political committee may make contributions to other political committees. A committee that qualifies as a multicandidate political committee (one that has been registered with the FEC for at least six months, has received contributions from at least 50 people, and has made contributions to at least five federal candidates) may make contributions to a federal candidate of up to $5,000 per year, contributions to a national party committee of up to $15,000 per year, and contributions to another political committee of up to $5,000 per year. A non-multicandidate PAC (one that does not receive contributions from more than 50 people and has not made contributions to more than four federal candidates) may make contributions to a federal candidate of up to $2,000 per year, contributions to a national party committee of up to $25,000 per year, and contributions to other political committees of up to $5,000 per year.

Expenditures

A political committee may spend an unlimited amount of money on independent expenditures, including communications that expressly advocate the election or defeat of a federal candidate or other public communications that promote or attack candidates. Any expenditure that is coordinated with a candidate, however, is treated as a contribution to the candidate and is subject to the political committee's $5,000 contribution limit.

Allocated Activity

A political committee can spend funds on voter mobilization activities, like voter registration or get-out-the-vote drives, which affect both federal and non-federal elections. To do so, the committee can set up a non-federal account and raise funds for that account that do not comply with federal contribution limits or source prohibitions, and spend those non-federal funds on state and local activity. The committee can then spend an allocated mixture of federal and non-federal funds for voter mobilization activities so long as those activities are not directed at supporting *particular* federal candidates. It is also permissible to spend allocated funds on public communications that support *both* particular federal and particular nonfederal candidates (*i.e.*, Vote for Senator X and Governor Y). The precise mixture of federal and non-federal funds is determined under FEC rules by the ratio of a committee's candidate-specific federal spending (such as for contributions to federal candidates) to the committee's overall spending *(see www.fec.gov for actual ratio regulations).*

Disclosure

All political committees must file periodic reports with the FEC that disclose all contributions and disbursements over $200 received or made by the committee. The FEC makes these reports available to the public in several ways, including its website, www.fec.gov.

Federal election law places similar restrictions on corporate and labor union political activity, and it makes few distinctions among different types of corporations. Whether the corporation is for-profit or non-profit by itself makes no difference.

Contributions and Expenditures

As a general rule, corporations and unions cannot make *any* contributions or expenditures to influence federal elections. There are, however, limited exceptions to this broad principle.

As noted above, corporations and unions may use their general treasury funds to set up and administer connected PACs and pay the costs incurred by the PAC to solicit contributions from permitted individuals. Connected PACs are allowed to accept up to $5,000 from any one individual or political committee and can use whatever funds they receive to make contributions and expenditures subject to federal limits and disclosure requirements.

A corporation or union may also spend treasury funds on communications directed to its own members, which are known as **internal communications**. These consist of a corporation's communications to its shareholders and executive and administrative personnel or a labor union's messages to its members. These communications can be on any subject, including an endorsement urging the election

A corporation or labor union may …			
	Give to a federal candidate	$ 0.	prohibited
	Give to national party committees	$ 0.	prohibited
	Give to state and local party committees	*state law*	
	Give to multicandidate PACs	$ 0.	prohibited (but may pay administrative costs of their own PACs)
	Give to "Levin" accounts	$ 10,000.	as permitted by state law
	Spend on coordinated or independent expenditures, or electioneering communications	$ 0.	prohibited
	Spend on internal communications	*unlimited*	

or defeat of a federal candidate. A corporation or union may not post express advocacy communications relating to a federal candidate on its PAC website unless the access to the site is restricted to those members of the corporation or union's restricted class (employees and board for a corporation; union members for a union).

Electioneering Communications

Current law allows a corporation or labor union to spend an unlimited amount of treasury funds for ads that refer to federal candidates so long as the ads:

- do not contain express advocacy or solicit contributions;
- are not coordinated with a candidate or political party; and
- are not cable, satellite, or broadcast ads run in the period 30 days before a primary or 60 days before a general election, targeted to the candidate's constituency.

A corporation or union's connected PAC, however, may spend an unlimited amount of money for such communications so long as they are not coordinated with a candidate committee or political party.

Non-profit Corporations

A few special types of corporations are subject to somewhat different rules. **Non-profit corporations**, which are typically organized as tax exempt organizations under section 501(c) of the Internal Revenue Code, are subject to the same general rules as for-profit corporations: they may not use general treasury funds for contributions, expenditures, or electioneering communications, but they may set up a connected PAC to raise money for these purposes. Tax law, however, does not allow 501(c) organizations to have the influencing of elections as their primary purpose.

Exemption for Certain Ideological Corporations

Certain non-profit corporations are commonly called ideological non-profit corporations because their purpose is to educate the public about policy issues or advocate particular issues or political ideals. These non-profits may spend their general treasury funds on independent expenditures or electioneering communications without limit so long as such spending does not become their principal purpose. The non-profit must report any such expenditures over $250 to the FEC. A non-profit corporation qualifies for this exemption only if it:

- has the promotion of political ideals as its only express purpose;
- does not engage in any business activity;
- does not accept money from business corporations;
- does not have any shareholders or others who receive benefits that would discourage them from disaffiliating from the corporation because of its political positions; and
- qualifies as exempt under section 501(c)(4) of the tax code.

Like other corporations, ideological non-profits may not make any contributions to federal candidates or political committees.

Section 527 Groups

Section 527 refers to the provision of the Internal Revenue Code that governs the tax treatment of **political organizations**. These are defined by the IRS as entities "organized and operated primarily" for the purpose of influencing the selection of candidates to elected or appointed office. Virtually all political committees – whether candidate committees, party committees, or PACs – are registered with the IRS under section 527. This section of the tax code provides that the contributions received and expenditures made by these committees will not be taxed.

While all political committees are **section 527 organizations**, not all 527 groups qualify as political committees subject to federal campaign finance law registration, reporting and contribution limit requirements. Organizations that engage only in activities to influence appointments – such as judicial nominations – or that influence only state and local elections are not considered federal political committees.

There is, however, ongoing controversy as to whether section 527 groups that only sponsor independent ads that promote or attack federal candidates, or engage in partisan voter drives, meet the definition of a federal political committee and therefore must register with the FEC and be subject to the contribution limits and source prohibitions that apply to such committees.

The sponsors of BCRA and reform groups have taken the position that any 527s whose major purpose is influencing specific federal elections, and which spend more than $1,000 doing so, must register as political committees with the FEC and use only federal funds for their election activities. Legal complaints have been filed against these groups, which may be pursued in court depending on how they are resolved by the FEC.

The FEC is currently considering changes to its regulations that may clarify this matter. Until the FEC or the courts issue a definitive ruling on the question, some section 527 groups will likely continue to raise and spend unlimited soft money without registering as political committees and without complying with the federal campaign finance rules that apply to political committees.

All section 527 groups seeking to be exempt from tax, however, are subject to a provision in the tax law that requires them to report contributions of over $200 per year and disbursements of over $500 to the Internal Revenue Service (unless the group is already required to disclose to the FEC or to a state disclosure agency), which makes that data available to the public. The disclosure reports filed with the IRS by section 527 organizations can be accessed via the IRS website at http://forms.irs.gov/politicalOrgsSearch/search/gotobasicSearch.action.

Federal Contribution and Spending Regulations

Donors or Spender	Recipient: Federal Candidates	Recipient: National Party Committees	Recipient: State Party Committees (federal accounts)
Individuals* (excluding foreign nationals without green cards)	$2,000 per election[1]; $37,500 per cycle	$25,000 per year; $57,500 per cycle	$10,000 per year; $37,500 per cycle
National Party Committees	Senate candidates $35,000 per election; Presidential and House candidates $5,000 per election	Unlimited transfers of funds to other party committees	Unlimited transfers of funds to other party committees
State Party Committees (federal accounts)	$5,000 per election	Unlimited transfers of funds to other party committees	Unlimited transfers of funds to other party committees
PACs (multicandidate PACs)	$5,000 per year	$15,000 per year	$5,000 per year
PACs (non-multi candidate PACs)	$2,000 per year	$25,000 per year	$10,000 per year
Corporations and Unions	Prohibited	Prohibited	Prohibited
Section 527 Organizations not registered with the FEC	Prohibited	Prohibited	Prohibited
501(c)(4s) and 501(c)(6s)	Prohibited	Prohibited	Prohibited

* Individuals are subject to a $95,000 per two-year election cycle aggregate limit. Of that limit, there is a $57,500 limit on federal non-candidate contributions, including no more than $37,500 to PACs and state/local parties' federal accounts, and a $37,500 limit on federal candidate contributions.

Federal PACs (non-connected and segregated funds)	**Coordinated Expenditures** (coordinated with candidate)	**Independent Expenditures / Express Advocacy** (not coordinated with candidate)	**Electioneering Communications**	**"Levin" Accounts**
$5,000 per year; $37,500 per cycle	$2,000 per election (considered contributions); $37,500 per cycle	Unlimited, but must be disclosed to the FEC	Unlimited, but must be disclosed to the FEC	Whatever state law permits, up to $10,000
$5,000 per year	See spending formulas for types of candidates[2],[3],[4]; coordinated expenditures are in addition to contributions	Unlimited (except to Presidential candidates)[5] Must be disclosed	Unlimited, but must be disclosed	Prohibited
$5,000 per year	Pres. cand. $5,000 per election (are contributions); Senate cand.[3] and House cand.[4] (in addition to contributions)	Unlimited, but must be disclosed	Unlimited, but must be disclosed	Prohibited
$5,000 per year	$5,000 per year (are contributions)	Unlimited, but must be disclosed	Unlimited, but must be disclosed	Whatever state law permits, up to $10,000
$5,000 per year	$2,000 per election (considered contributions)	Unlimited, but must be disclosed	Unlimited, but must be disclosed	Whatever state law permits, up to $10,000
Prohibited (but may pay administrative costs of connected PACs)	Prohibited	Prohibited	Prohibited	Whatever state law permits, up to $10,000
Prohibited	Prohibited	Prohibited if incorporated	Prohibited if incorporated. If not incorporated, unlimited[6]	Whatever state law permits, up to $10,000
Prohibited	Prohibited	Prohibited except for qualifying 501(c)(4) MCFL corporations	Prohibited except for qualifying 501(c)(4) MCFL corporations	$10,000 if permitted by state law

Footnotes may be found on page 77.

III

Regulation of Political Advertising

Federal law now regulates political advertising in federal elections in three different ways: first, it determines who may fund certain forms of advertising (source requirements); second, it sets forth what advertisers must disclose about their funding to the FEC (disclosure requirements); and third, it states what they must say about themselves in their ads (sponsorship requirements). These regulations may apply to any person or any group that runs political advertisements.

Federal political committees (candidates, PACs, and federal, state, and local political party committees) may spend any amount of money on advertising for federal candidates provided that the money is raised in limited amounts and from legal donors (not corporations, labor unions or foreign nationals). That means that *no* party money can come from general corporate and union treasuries and that only a limited amount can come from a single political committee or from a single individual in a single election cycle. Individuals may spend an *unlimited* amount of their own funds on advertising for federal candidates, provided the spending is disclosed. Individual limits are discussed more fully on pages 17-20, as are the associated disclosure requirements.

The more interesting and pressing questions are: who else may fund advertising in federal elections and what must they disclose to the FEC about their activities? Two separate sets of regulations – express advocacy and electioneering communications – apply here.

The Old Standard: Express and Issue Advocacy

Express advocacy grew out of the post-Watergate amendments to FECA. On their face, these provisions were broad – one provision restricted expenditures "relative to a clearly identified candidate" and another required disclosure of expenditures used "for the purpose of … influencing" a federal election.

In *Buckley v. Valeo*, however, the Supreme Court found the phrases "relative to" and "for the purpose of … influencing" unconstitutionally vague and so rewrote the statute in order to "save" it. The Court interpreted the term expenditure to be limited to communications that included explicit words of advocating the election or defeat of a candidate. And the Court provided examples of such words of express advocacy, like "vote for," "elect," "support," "defeat," and "reject" – which came to be known as "magic words." Unless an advertisement contained such words or used phrases with a similar, unmistakable meaning, it would not be considered express advocacy but instead would comprise **issue advocacy**. Any money spent on issue advocacy would not constitute an expenditure that required disclosure or was possibly prohibited under federal law.

Between 1976 and 2002, this distinction between express and issue advocacy had two primary consequences. First, since the law barred corporations and unions from making any expenditures at all, they could not spend money from their general treasuries for express advocacy. They could, however, spend unlimited amounts on

issue advocacy since the money required for it did not count as an expenditure. In other words, although they could not directly fund any advertising containing what came to be called "magic words," they could fund as much advertising as they wanted that did not meet the express advocacy test. Individuals, by contrast, could spend unlimited amounts on either type of advocacy. Second, since federal law required FEC disclosure of permitted expenditures above a certain amount but required no disclosure of spending that did not constitute expenditures (or direct contributions), neither individuals, corporations, nor unions had to disclose any spending on issue advocacy. Thus, corporations, unions, and individuals could spend unlimited amounts on "issue advertising" in the midst of federal elections, referring to federal candidates, without having to disclose what they were doing. Their advertising would escape federal regulation entirely.

The result was predictable. Corporations, unions, and individuals largely evaded limits and disclosure by simply avoiding the use of magic words. They engaged robustly in election-influencing advocacy while avoiding express advocacy. As many, including the Supreme Court in *McConnell*, noted, however, issue ads featuring candidates became the functional equivalent of express advocacy. They had the same political effect.

Case Study:
The NRA

Like many other corporations, the NRA, a tax-exempt advocacy organization, exploited the distinction between express and issue advocacy to evade the campaign finance law's ban on spending from its general corporate treasury. In 2000, for example, the NRA spent a substantial amount of money on advertising designed to influence the outcome of the presidential race. Executive Vice President of the NRA, Wayne LaPierre, stated in a fundraising letter that he "spent what it took [in 2000] to defeat Al Gore, which amounted to millions more than we had on hand." He later testified that "[w]e took some money out of [NRA] reserves to cover the deficit …. [The Gore advertising] was probably … the main contributing factor." The NRA ran several different Gore ads – some funded out of its general treasury funds and some funded by its PAC, the NRA Political Victory Fund. The small differences between some of the ads run by the NRA and those run by its PAC show what little difference there is between advertisements that did and did not use magic words. The ads were virtually identical. The ones paid for from the corporation's general treasury simply omitted a few key terms. The differences appear in bold.

NRA Executive Vice President Wayne LaPierre described the two scripts as "exactly the same" because, he admitted, the reference to "the day of reckoning … at hand" in the NRA ad was to the day of the 2000 election. Simply by dropping the phrase "Vote George W. Bush for President" the NRA could place its full treasury, not just money its political action committee had independently solicited from NRA members, behind its advertising campaign.

NRA PAC Advertisement

Heston:

Did you know that right now in federal court, Al Gore's Justice Department is arguing that the Second Amendment gives you no right to own any firearm? No handgun, no rifle, no shotgun.

And when Al Gore's top government lawyers make it to the U.S. Supreme Court to argue their point, they can have three new judges handpicked by Al Gore if he wins this election.

Imagine … what would Supreme Court Justices Hillary Clinton, Charlie Schumer, and Dianne Feinstein do to your gun rights?

And what you think wouldn't matter any more. Because the Supreme Court has the final say on what the Constitution means.

When Al Gore's Supreme Court agrees with Al Gore's Justice Department and bans private ownership of firearms, that's the end of your Second Amendment rights.

Please, vote freedom first.
Vote George W. Bush for President.

Announcer: Paid for by the NRA Political Victory Fund and not authorized by any candidate or candidate's committee.

NRA Direct (Non-PAC) Advertisement

Heston: Other issues may come and go, but no issue is as important as our freedom. And the day of reckoning is at hand.

Did you know that right now in federal court, Al Gore's Justice Department is arguing that the Second Amendment gives you no right to own any firearm? No handgun, no rifle, no shotgun.

And when Al Gore's top government lawyers make it to the U.S. Supreme Court to argue their point, they can have three new judges handpicked by Al Gore if he wins this election.

Imagine … what would Supreme Court Justices Hillary Clinton, Charlie Schumer, and Dianne Feinstein do to your gun rights?

And what you think wouldn't matter any more. Because the Supreme Court has the final say on what the Constitution means.

When Al Gore's Supreme Court agrees with Al Gore's Justice Department and bans private ownership of firearms, that's the end of your Second Amendment rights.

Announcer: Paid for by the National Rifle Association.

The FEC Definition

The FEC wrote a definition of express advocacy into its regulations in 1995 which attempted to include both magic words (part one of the regulation) and a broader "facts and circumstances" test (part two). Part two stated that a communication was express advocacy if:

When taken as a whole and with limited reference to external events, such as the proximity to the election, [it] could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because –

> *(1) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and*
> *(2) Reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action.*

Legal opinion concerning this regulation was mixed. Although two circuit courts held that it was unconstitutional because it impermissibly expanded express advocacy beyond magic words, the FEC initially maintained that it would enforce this standard in all other circuits. A change in FEC Commissioners then led to a *de facto* stay in the Commission's use of part two of the regulation pending a Supreme Court ruling on express advocacy. Now that the Court has ruled in *McConnell* that "magic words" is not a constitutionally-mandated standard, it is unclear whether the FEC will again seek to apply part two, which remains on the books.

The BCRA Standard: Electioneering Communications

The Bipartisan Campaign Reform Act of 2002 (BCRA) addressed the problem posed by corporate and labor funded issue advocacy advertising by establishing an additional bright-line test to identify a new class of political communications subject to federal regulation, which it called electioneering communications. Its definition covers only: (1) broadcast, cable, and satellite communications; (2) that clearly identify a candidate for federal office; (3) are aired within 60 days before a general or 30 days before a primary election; and (4) can be received by 50,000 or more people in the jurisdiction the candidate seeks to represent. BCRA then applies this definition in two different ways. First, it requires disclosure of disbursements for any electioneering communications made by an individual or group totaling more than $10,000 in a calendar year. Second, it bars business corporations and unions, as well as any non-profit organization that receives any money from business corporations and unions, from spending any general treasury funds on electioneering communications.

The Supreme Court, in deciding the constitutional challenge to BCRA in the *McConnell* case, stated that the express advocacy standard was not required by the Constitution and upheld the new bright-line test for electioneering communications. The Court said that the express advocacy test centered on the existence or absence of the magic words, an exercise that had proved irrelevant to identifying political advertising subject to disclosure and funding rules. The magic words test, it thought, did not aid the "legislative effort to combat real or apparent corruption," and the Court recognized that BCRA was a legitimate effort to "correct the [test's] flaws."[3]

How the Standards Work Together

As a result of years of congressional legislation and court decisions, there are now two regimes regulating the source and disclosure of federal political advertising. Under the old express advocacy regime, money spent on any advertisement featuring a clearly identified candidate for federal office that employs express advocacy – no matter how long before an election it appears, no matter what media it appears in, and no matter which jurisdiction, if any, it targets – counts as an expenditure. That means that corporations and unions cannot spend any money from their general treasuries on these communications and that individuals, although they can spend unlimited amounts, must report any expenditure over $250 to the FEC.

As noted above, whether the FEC will continue to attempt to use only magic words to define express advocacy (despite the Supreme Court's rejection of that concept both as a constitutional and practical matter in *McConnell*) or will utilize the broader "reasonable person" standard of part two of its regulation to identify express advocacy is unclear at this time.

Checklist for Electioneering Communications

All four conditions must be met:

1. Does it refer to an identifiable candidate for federal office?
2. Will it appear within 60 days before a general election or 30 days before a primary or special election?
3. Will it appear as part of a broadcast, cable, or satellite transmission?
4. Will it be targeted to the candidate's constituency (be viewable by at least 50,000 people there)?

The Result:

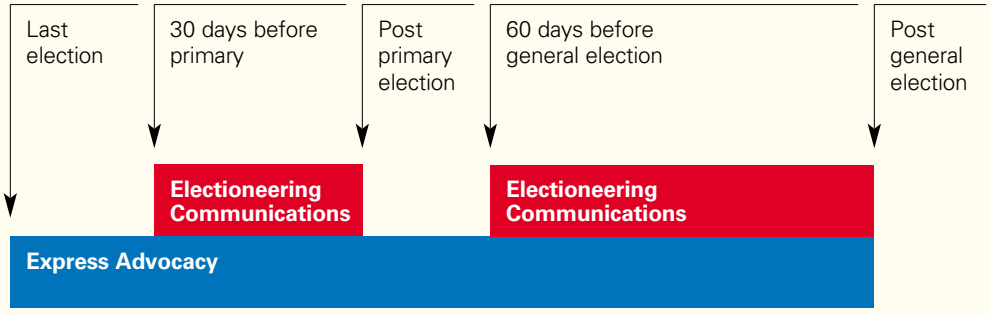
1. No money from a corporate or union general treasury.
2. Any money aggregating more than $10,000 in a calendar year spent by individuals must be disclosed to the FEC.

Note that all four of the conditions must be met for an ad to be considered an electioneering communication. Thus, all newspaper and direct mail ads are excluded, as are ads more than 60 days before a general election or more than 30 days before a primary election. Internet ads, e-mails and websites are also not included in the definition of "electioneering communications".

Under the new electioneering communications regime, money spent on advertisements aired within 60 days before a general or 30 days before a primary or special election, featuring a clearly identified candidate for federal office, appearing on a broadcast, cable, or satellite medium, and targeting the candidate's constituency also effectively counts as an expenditure. Again, that means that corporations and unions cannot spend any money from their general treasuries on such ads and that individuals, although they can spend unlimited amounts, must disclose all expenditures over an aggregate of $10,000 to the FEC. Because the magic words that define express advocacy are so easy to avoid, however, the new electioneering communications regime effectively does most of the heavy lifting with respect to the regulation of political advertising.

The timeline below shows the reach of these two different regimes. Since express advocacy depends only on the words used, not at all on when the ad appears, federal candidate advertisements are always subject to it, although few, of course, will be run long before an election. Since electioneering communications have a temporal element as part of their definition, BCRA's new requirements kick in only during certain parts of the electoral cycle.

Electioneering Communications Timeline



Case Study: Comparing Express Advocacy & Electioneering Communications Standards

To understand the differences between these two standards, consider the following advertisement, which except for the final added sentence is identical to one broadcast in a 1996 Senate race in Arkansas:

"Senate candidate Winston Bryant's budget as Attorney General increased 71%. Bryant has taken taxpayer funded junkets to the Virgin Islands, Alaska, and Arizona. And spent about $100,000 on new furniture. Unfortunately, as the state's top law enforcement official, he's never opposed the parole of any convicted murderers. And almost 4,000 Arkansas prisoners have been sent back to prison for crimes committed while they were out on parole. Winston Bryant: government waste, political junkets, soft on crime. Vote against Bryant."

Because of the last sentence, which contains magic words, the ad constitutes express advocacy and money spent for it would count as an expenditure no matter when the ad was aired, no matter what medium it appeared on, and no matter where in the country it appeared. Thus, corporations and unions would not be able to spend money from their general treasuries to fund it and an individual who spent money on it would have to disclose to the FEC what he was doing. Drop the last sentence, however, and the ad was no longer express advocacy. There were simply no magic words. Prior to BCRA, these final three words made all the difference. Without them, corporations and unions could spend money to run the ad from their general treasuries and never have to disclose what they were doing.

Under the new electioneering communications standard, however, the situation is more complex. The ad clearly meets the first requirement of an electioneering communication. By mentioning Bryant's name, it clearly identifies a federal candidate. In addition, the actual ad, which was broadcast in Arkansas in the period immediately before the Senate election, met the other three. It appeared within 60 days prior to the general election, was broadcast on television, and was targeted to Bryant's electorate – Arkansas. Under BCRA's new standard, then, this would constitute an electioneering communication and money spent on it would effectively count as an expenditure. Thus, disclosure would be required (if the overall amounts spent by the sponsor exceeded the disclosure threshold) and corporations and unions would not be able to spend any money for it from their general treasuries. Note that all this is true even if the ad does not contain the final three words. Although they make all the difference to whether the ad constitutes express advocacy, they make no difference as to whether it constitutes an electioneering communication. The tests are different even though their consequences, if met, are largely the same.

FECA exempts much press coverage from regulation. It excludes from the definitions of contribution, expenditure, and electioneering communication any communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless such facilities are owned or controlled by any political party, political committee, or candidate.

The FEC takes the position that press entities are entitled to this exemption if they meet the statutory requirements *and* they are acting in their usual press capacity when they publish. The latter requirement stems from a 1981 case questioning whether the widespread distribution by *Reader's Digest* magazine of a video tape about Senator Edward Kennedy fell within the press exemption or represented a corporate political expenditure.

In *Readers Digest Association v. FEC* (509 F.Supp. 1210), a court held that the FEC could investigate whether the Readers Digest Association was acting in its capacity as a magazine publisher in distributing the tape in order to determine whether the press exemption was applicable. The FEC later determined not to take any action against *Reader's Digest.*

The FEC has not yet dealt with a number of issues relating to the press exemption, including whether and how it applies to Internet-based speech. Should an Internet publisher have to take advertising and have a news page like AOL or MSN, or be an affiliate of a print or broadcast media organization, like WashingtonPost.com or CNN.com, to enjoy the exemption? Should the exemption apply to bloggers or perhaps to anyone with a website? Does the exemption apply to paid advertising for a news story or commentary?

In FEC Advisory Opinion 1982-44, the Commissioner did indicate, that it was prepared to take a broad view of what constitutes commentary in the exemption, stating that:

Although the statute and regulations do not define commentary, the Commission is of the view that commentary cannot be limited to the broadcaster. In the opinion of the Commission, commentary was intended to allow the third persons access to the media to discuss issues. The statute and regulations do not define the issues permitted to be discussed or the format in which they are to be presented under the commentary exemption nor do they set a time limit as to the length of the commentary.

General

Sponsors of political and election-related advertising must be disclosed in the advertisements at the time of airing. The Legal Center has produced a detailed *Campaign Media Guide* that offers examples of sponsorship language, which is available at: www.campaignlegalcenter.org. When federal candidates spend from their authorized campaign committees for so-called public communications, they must comply with FEC sponsorship identification requirements. Public communications include:

- broadcast, cable or satellite communications;
- communications by means of newspaper, magazine, outdoor advertising facility, mass mailing or telephone bank to the general public;
- political committee internet websites accessible to the general public; and
- unsolicited e-mails of more than 500 substantially similar communications. (Internet advertisements are *not* included in the definition of public communications.)

Every public communication financed with candidate campaign funds must include a statement that the communication has been paid for by the candidate's authorized campaign committee. Certain other public communications paid for by other persons or groups but authorized by federal candidates must also include sponsorship information. This requirement applies to public communications that either:

- are financed by political committees registered with the FEC;
- expressly advocate the election or defeat of a clearly identified federal candidate;
- solicit federal campaign contributions; *or*
- are electioneering communications as defined in FEC regulations (*i.e.*, broadcast, cable or satellite communications that: (i) refer to a clearly identified candidate for federal office; (ii) are aired within 60 days before the candidate's general election or 30 days before her primary election; and (iii) are targeted to the candidate's electorate) (*see page 41*).

No matter which advertising medium is used, the advertisement must state who paid for the communication and identify the candidate who authorized it. These statements must appear in a clear and conspicuous manner. If the placement is easily overlooked or the statement is difficult to read or hear, it will fail to meet the law's requirements. Statements in printed public communications, for example, must appear in sufficient type size to be clearly readable (*e.g.*, 12-point type for signs and posters measuring no more than 24 by 36 inches), with a reasonable degree of color contrast from the background and in a printed box set apart from other contents of the communication.

Additional Special Rules for Radio and Television Advertising

If the public communications described above appear on radio or television, they must also comply with additional sponsorship identification rules specified in FEC regulations.

Radio: The candidate must deliver an audio statement identifying himself and stating that he has approved the advertisement.

Television, cable, or satellite: The candidate must deliver a statement identifying herself and stating that she has approved the advertisement. The candidate must say the statement in a full-screen shot or in a voice-over accompanied by a clearly identified photographic or similar image of the candidate that occupies at least 80% of vertical screen height. A similar statement must also appear in writing at the end of the advertisement for a minimum of four seconds in letters at least 4% of vertical picture height and with a reasonable degree of color contrast from the background.

In addition, if the candidate's ads are broadcast at the broadcast station's **lowest unit charge** and make direct reference to another candidate for the same office, they must contain the following:

Radio: A personal audio statement by the candidate identifying the candidate and the office the candidate is seeking and indicating that the candidate has approved the broadcast.

Television: A clearly identifiable photographic or similar image of the candidate running the ad and a clearly readable printed statement identifying the candidate and stating both that the candidate has approved the broadcast and that the candidate's authorized committee has paid for it.

Enforcement of Candidate Sponsorship Requirements

Complaints against candidates for not including required statements in their public communications can be filed with the FEC *(see page 68 for FEC contact information).*

General

Under certain conditions, federal law requires that public communications neither paid for nor authorized by federal candidates contain certain sponsorship information. These requirements extend to public communications paid for by any person or group which either:

- are financed by a political committee registered with the FEC;
- expressly advocate the election or defeat of a clearly identified federal candidate;
- solicit federal campaign contributions; *or*
- are electioneering communications as defined in FEC regulations (*i.e.*, a broadcast, cable or satellite communication which refers to a clearly identified candidate for federal office, is aired within 60 days of the candidate's general election or 30 days of his or her primary and is targeted to the candidate's electorate).

Meeting any one of these criteria triggers the disclaimer requirement. Regardless of the medium used (including e-mails sent to more than 500 separate addresses in a calendar year and websites that contain express advocacy or solicit political donations), these "public communications" must clearly state the full name and permanent street address, telephone number or World Wide Web address of the person or group who paid for the communication and indicate that the communication is not authorized by any candidate or candidate's committee.

The statement must appear in a clear and conspicuous manner. For printed public communications, it must be sufficiently large to be clearly readable (*e.g.*, 12-point type for signs and posters measuring no more than 24 by 36 inches) with a reasonable degree of color contrast from the background and in a printed box set apart from the other contents of the communication.

Additional Special Rules for Radio and Television Advertising

If distributed through radio, television, cable, or satellite, the public communications described above must comply with the following additional sponsorship identification requirements. An organization that distributes public communications must also file a "Form 9" at the FEC if it spends more than $10,000 in a calendar year on electioneering communications. See the FEC's website for the form.

Radio: The communication must include the following audio statement, spoken clearly: "[Name of payor] is responsible for the content of this advertising".

Television, cable, or satellite: The communication must include the same audio statement required for radio communications, conveyed by either an unobscured full-screen view of a representative of the payor or in voice-over. The similar statement must also appear in writing at the end of the communication for at least four seconds in letters at least 4% of vertical picture height and with a reasonable degree of color contrast from the background.

Enforcement of Non-Candidate Sponsorship Disclaimer

Complaints may be filed with the FEC against groups for not including a disclaimer in public communications. For additional information on sponsorship regulations, visit the FEC website and review the "Special Notices on Political Ads and Solicitations," at www.fec.gov/pages/brochures/notices.htm.

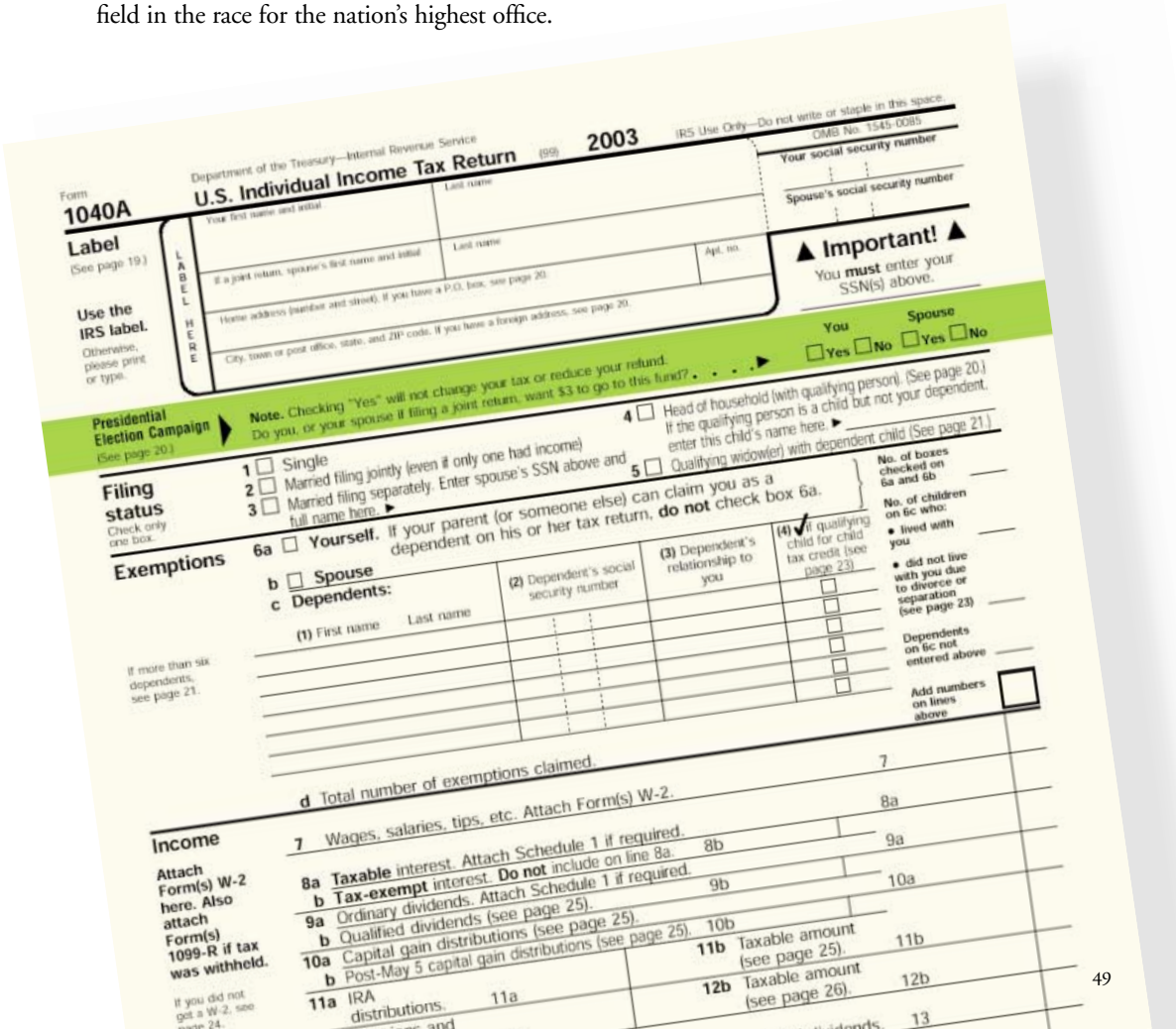
IV

Public Funding of Presidential Elections

The 1974 Federal Election Campaign Act Amendments established an innovative voluntary program of public financing for presidential elections. This program included a system of public matching funds for small individual contributions received by qualified presidential primary candidates, full public grants to finance general election campaigns, and subsidies to national party committees to cover the costs of national presidential nominating conventions. The program is administered and enforced by the FEC.

As part of the landmark 1974 Federal Election Campaign Act (FECA), Congress created a voluntary program of public financing for presidential elections that was designed to reduce the reliance on private funds and enhance the role of small individual donations in the financing of presidential campaigns. The program offers public monies to qualified candidates, including major and minor party candidates, and national party committees to help pay the costs of a presidential campaign. To qualify for public money, a candidate has to agree to limit the amount he or she will spend on a campaign. The program was thus designed to help level the financial playing field in the race for the nation's highest office.

The funding for this program, as established by the Revenue Act of 1971, comes from a tax checkoff on individual federal income tax forms. Originally, individuals who pay income taxes could check a box on the tax form to designate $1 (or $2 if filing a joint return) to the Presidential Election Campaign Fund, an account maintained by the U.S. Treasury, for the purposes of financing the costs of the program. In 1993, the amount of the checkoff was increased to $3 for an individual or $6 for a joint filer.


Form 1040A
Department of the Treasury—Internal Revenue Service (99)
U.S. Individual Income Tax Return 2003
IRS Use Only—Do not write or staple in this space.
OMB No. 1545-0085
Your social security number
Spouse's social security number
Label (See page 19.)
Use the IRS label. Otherwise, please print or type.
Your first name and initial
Last name
If a joint return, spouse's first name and initial
Apt. no.
Home address (number and street). If you have a P.O. box, see page 20.
City, town or post office, state, and ZIP code. If you have a foreign address, see page 20.
Important! You must enter your SSN(s) above.
Presidential Election Campaign (See page 20.)
Note. Checking "Yes" will not change your tax or reduce your refund.
Do you, or your spouse if filing a joint return, want $3 to go to this fund?
You Yes No
Spouse Yes No
Filing status
Check only one box.
1 Single
2 Married filing jointly (even if only one had income)
3 Married filing separately. Enter spouse's SSN above and full name here.
4 Head of household (with qualifying person). (See page 20.) If the qualifying person is a child but not your dependent, enter this child's name here.
5 Qualifying widow(er) with dependent child (See page 21.)
Exemptions
6a Yourself. If your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a.
b Spouse
c Dependents:
(1) First name Last name
(2) Dependent's social security number
(3) Dependent's relationship to you
(4) ✓ if qualifying child for child tax credit (see page 23)
If more than six dependents, see page 21.
No. of boxes checked on 6a and 6b
No. of children on 6c who:
• lived with you
• did not live with you due to divorce or separation (see page 23)
Dependents on 6c not entered above
Add numbers on lines above
d Total number of exemptions claimed.
Income
Attach Form(s) W-2 here. Also attach Form(s) 1099-R if tax was withheld.
If you did not get a W-2, see page 24.
7 Wages, salaries, tips, etc. Attach Form(s) W-2.
8a Taxable interest. Attach Schedule 1 if required.
b Tax-exempt interest. Do not include on line 8a.
9a Ordinary dividends. Attach Schedule 1 if required.
b Qualified dividends (see page 25).
10a Capital gain distributions (see page 25).
b Post-May 5 capital gain distributions (see page 25).
11a IRA distributions.
11b Taxable amount (see page 25).
12b Taxable amount (see page 26).

Presidential candidates are subject to the same contribution limits and disclosure requirements as other federal candidates. They may accept contributions of up to $2,000 per election from an individual and up to $5,000 per election from a political action committee (PAC). They may not accept any corporate or labor union money, nor may they solicit or use any money that is not subject to federal contribution limits. Presidential candidates who accept public funds are also subject to additional restrictions. As a condition of eligibility to receive public money, a candidate must agree to abide by limits on campaign spending and agree to give no more than $50,000 in personal funds for use in the campaign. Presidential contenders who decide not to accept public money face no limits on the amount of money their campaigns may spend and no limit on the amount they may spend from their personal resources.

During the primary stage of the presidential selection process, a candidate may become eligible for public matching funds that offer a dollar-for-dollar match on an amount up to $250 for each individual contributor. Only candidates who seek the nomination by a political party to the office of President are eligible to receive primary matching funds. This includes candidates seeking to be the nominee of minor parties, such as the Natural Law Party or Green Party, that select a presidential nominee at a party convention, but do not hold state primaries or caucuses.

Eligibility

In order to qualify for matching funds, a candidate must meet certain eligibility requirements. Specifically, a candidate must:

- raise at least $5,000 in individual contributions of up to $250 in twenty states (a total of at least $100,000 nationwide);
- agree to limit spending from personal funds to $50,000; and
- agree to abide by an aggregate ceiling on campaign spending and state-by-state spending limits.

To receive public funds, a candidate must agree to two types of spending limits. These limits apply to all the monies spent by a candidate from the time he or she becomes a candidate until the time that a nominee is chosen at the national party convention.

First, a candidate is subject to a limit on total primary campaign spending, which is often called the aggregate limit. This limit is based on a formula established in the 1974 FECA, which calls for a base limit of $10 million, adjusted for inflation, plus an additional 20% for fundraising expenses. A candidate is also allowed to spend an additional amount to pay the legal and accounting costs incurred to comply with the law. In 1976, the first presidential election conducted under the public funding program, each candidate who accepted matching funds was allowed to spend about $13 million during the primaries. In 2000, the FEC modified the spending limit by allowing a candidate to spend up to 15% of the base limit on legal and compliance costs, excluding any expenses incurred to wind down a campaign after a candidate has dropped out of the race. In 2004, with these various adjustments included, each publicly funded candidate was allowed to spend a total of almost $50 million seeking the presidential nomination.

In addition, the law limits how much a candidate may spend in each state. The amount allowed under these state ceilings depends on the voting-age-population in a state. In 2004, these state limits ranged from a minimum of about $746,000 in a low population state like New Hampshire to more than $15 million in California. These state limits, however, are governed by many complicated rules that determine the expenditures that count against a particular state's ceiling. Consequently, they have not proven to be very effective in limiting candidate spending, and candidates are usually only concerned about state ceilings in Iowa and New Hampshire, the two states that traditionally start the presidential primaries.

Payments

Once a candidate has qualified for matching funds, any contribution of up to $250 per contributor received after January 1 of the year before the election is eligible for matching. The first payments of public money are made on January 1 of the election year, and on a monthly basis thereafter. The maximum amount of matching money that a candidate may receive is one-half of the base aggregate spending limit. (In 2004, this would have equaled more than $18 million, since the base limit of $10 million set in 1974 had grown to more than $37 million in 2004, as a result of the adjustments for inflation.)

Under rules adopted by the FEC, a candidate who fails to receive 10% of the vote in two consecutive state primaries in which he or she is on the ballot is no longer eligible to continue to earn matching funds. A candidate who fails to meet this threshold can restore eligibility by winning 20% of the vote in a subsequent state primary. Candidates who are eligible to receive matching funds, even though they may no longer be campaigning actively for the nomination, may continue to request public funds to pay off their campaign debts until late February or early March of the year following the election.

In the general election, presidential candidates may receive a grant to finance the entire cost of a campaign. However, the general election program does make a distinction between major party candidates and minor party or new party candidates, and only provides the full amount of public money allowed under the law to major party candidates. Minor party or new party candidates may only qualify for a proportional subsidy.

Major Party Candidates

The presidential nominee of a major party who opts for public funding may receive a full public grant equal to the total amount that may be spent under the general election expenditure limit. A **major party candidate** is defined in the law as the nominee of a party that received at least 25% of the vote in the previous presidential general election. Since the beginning of the public funding program, only the Republican and Democrat parties have met this definition. The Republican and Democratic presidential candidates are therefore the only two candidates who receive the full public grant in the general election. The amount of this grant was originally set in 1974 at $20 million plus adjustments for inflation. In 1976, the first general election grant provided $21.8 million to each of the major party nominees. By 2004, the amount of this grant had grown to $74.6 million.

As in the primary election, a candidate may become eligible to receive public money by agreeing to limit personal spending on the campaign to no more than $50,000 and by agreeing to abide by a national spending limit. There are no state-by-state spending caps in the general election. The major party nominees must also agree that they will not raise or spend additional private contributions for their campaigns, with the exception of monies that they are allowed to raise to finance legal and compliance costs.

Any private monies raised to pay for general election legal, accounting and compliance costs (known as GELAC funds) must come from contributions permissible under federal law. So individuals are limited to giving $2,000 for this purpose, and no corporate or labor union funds may be used. While this is considered a "minor exemption" in the general rule against additional fundraising, the amounts received can be significant. In 2000, Democrat Al Gore raised $11 million in compliance money; Republican George Bush raised $7.5 million.

How Public Funding Works

Total Amount Contributed by Individual	$ 25	$ 300	$ 2,000
Amount of Contribution Eligible on a Dollar for Dollar Match	$ 25	$ 250	$ 250
Total Amount Received by the Candidate	**$ 50**	**$ 550**	**$ 2,250**

Non-Major Party Candidates

A non-major party candidate or minor party candidate (*i.e.*, the nominee of a party that did not receive at least 25% of the vote in the prior presidential election) can qualify for a proportionate share of the general election grant. The exact amount of this partial subsidy is based on the share of the vote the party received in the previous election as compared to the average vote received by the major parties. In order to be eligible for public money, the party's candidate in the previous election had to receive at least 5% of the national vote. The party then qualifies for a proportionate share of the public grant based on their share of the vote. So, for example, in 1996 and 2000, the Reform Party candidate received a partial public funding grant based on the share of the national vote Ross Perot received in 1992 and 1996. Candidates who qualify for a partial share of public funding in the general election may raise additional private contributions, subject to the federal contribution limits, up to the total amount of the general election spending ceiling. In addition to agreeing to abide by the national spending ceiling, a candidate must also agree to limit personal spending to no more than $50,000 in order to be eligible to receive a partial public funding grant.

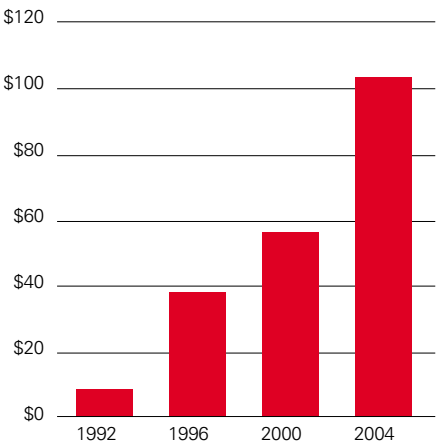
Candidates representing new parties or a minor party that has not previously received 5% of the national vote can also qualify for a post-election share of the public grant by receiving 5% of the national vote. In this instance, a candidate may request a partial public funding payment based on the share of the vote received in the election. For example, in 1980, John Anderson, the nominee of the National Unity Party, received more than 5% of the vote in the 1980 election, and, after the election, received more than $4 million (slightly less than one-fifth of what the major party candidates received at the start of the general election) to help pay for the costs of his campaign. If the National Unity Party had nominated a presidential candidate in 1984 (it did not), the Party would have qualified for a partial public grant in 1984.

Presidential Public Funding Aggregate Spending Limits 1996-2004	1996	2000	2004
Elections:			
Total Primary	$37.1 Million	$45.60 Million	$50.37 Million
General	$61.82 Million	$67.56 Million	$74.62 Million
National Nominating Convention	$12.36 Million	$13.51 Million	$14.92 Million

The public funding program also provides national party committees with subsidies to finance their presidential nominating conventions. Each major party is entitled to receive a basic grant that was originally set in 1974 at $2 million, with adjustments for inflation. This base amount has been increased twice and, in 2004, each major party – the Democrats and Republicans – received $14.9 million in public funds to pay for their conventions. Minor parties may also qualify for a partial public grant to pay for their nominating conventions on the same proportionate basis as described above for general election funding. To be eligible, a minor party had to receive at least 5% of the national vote in the previous presidential election.

Private Fundraising for Conventions

1992 - 2004



Totals in millions.
Data: *Campaign Finance Institute*

This party money is not the only source of convention funding. Certain supplemental services may also be provided by host committees, which are defined as any local group, such as a civic association, business organization, convention bureau, or chamber of commerce, which is registered as a non-profit organization and whose principal purpose is to encourage commerce in the convention host city. The host city may, for example, provide additional public transportation to and from the convention site or a business may sell or rent chairs, podiums, tables or other equipment to the convention committee at discounted rates. Additionally, many host cities have utilized 501(c)(3) charitable accounts to raise private funds for convention activities. However, these host committee funds may not be used to finance political activities at the convention.

After the 2000 election, the FEC rewrote the convention rules to allow corporations to contribute funds to convention host committees, regardless of whether the corporations had business interests in the city (the previous standard). This has allowed corporations to continue to be involved in the financing of party conventions, despite the prohibition on soft money to national party committees. *(See Private Fundraising for Conventions chart, left.)*

The presidential public funding system has been under strain in recent years. Revenue trends for the funding of the program show a continuing decline in taxpayer checkoff rates, as well as a decline in the monies available to the program in recent election cycles. These financial concerns have been exacerbated by payment priorities established in the law that require the U.S. Treasury to first set aside the sums needed for the general election, then the convention subsidies, and finally, the matching fund payments. This has, at times, led to temporary shortfalls in the amount of money available to meet matching fund payments early in the presidential election year. In 2000, for example, the FEC was unable to make timely matching fund payments to candidates for a number of months.

A greater problem relates to the spending limits, especially during the primary campaign. The front-loading of the presidential selection process – the decisions by states to move the scheduling of their respective presidential primaries or caucuses to earlier and earlier dates in the election year – has increased the need to spend money early in the process and increased the cost of presidential primary campaigns. The spending ceilings, however, have not been revised to reflect these changes in the process, and thus have become a major strategic concern for candidates, who now face the possibility of running out of room to spend money as early as March of the election year. This has led many candidates to question whether the benefits offered by public funds are worth the strategic risks created by the spending restrictions.

In 2000, George W. Bush became the first major party presidential nominee to decide to forgo public matching funds and spending limits during the primaries. In 2004, both major party nominees, President George W. Bush and Senator John Kerry, have chosen to opt out of the system during the primary campaign. Howard Dean, one of the principal contenders for the Democratic nomination, also decided to refuse public funds.

The experience of the 2004 campaign has highlighted the inadequacies of the increasingly outdated rules of the public funding system and the need for major revisions in the law. In November 2003, the same Members of Congress who served as the primary sponsors of the Bipartisan Campaign Reform Act – Senators John McCain and Russell Feingold and Representatives Martin Meehan and Christopher Shays – introduced legislation to address the problems of the public funding program. This legislation would increase the amount of the tax checkoff, allow qualified candidates to receive matching funds before the beginning of the election year, and raise the ceilings on spending.

V

The Federal Election Commission

The Federal Election Commission was created by Congress in 1975 to administer and enforce the Federal Election Campaign Act, the principal federal statute governing the financing of federal campaigns. The following is a summary of the purpose, structure and work of the FEC, and a critique of its current shortcomings.

Prior to 1975, there was no independent agency responsible for administering federal campaign finance laws. The Clerk of the House and the Secretary of the Senate were responsible for disclosure reports, but it was difficult for the public to gain access to those reports through their offices. Moreover, the reports only had to be kept on file for a period of two years. The U.S. Department of Justice had the authority to conduct criminal investigations of alleged violations of federal campaign laws, but it rarely exercised this authority. Consequently, enforcement of campaign finance laws prior to the creation of the FEC was weak and ineffective.

Under the provisions of FECA, Congress gave the Federal Election Commission exclusive authority to:

- issue advice and write regulations interpreting campaign finance laws;
- enforce the campaign finance laws (limited to civil jurisdiction);
- disclose to the public all reports filed by federal political committees; and
- administer the presidential public funding system.

The FEC is superficially modeled after other federal regulatory agencies, including the Federal Communications Commission (FCC) and the Federal Trade Commission (FTC). However, unlike virtually every other federal administrative agency, it has an even number of Commissioners (six) and must have the support of a majority (four Commissioners) to take any action. The law that established the agency states that no more than three of the six Commissioners can be from the same political party; as a practical matter, this means that the Commission is made up of three Republicans and three Democrats. Commissioners are formally nominated by the President and confirmed by the Senate, but in practice each political party's leaders select "their" Commissioners, and then provide the names to the President, who typically nominates the individuals who have been proposed. Each Commissioner serves a term of six years with two seats (one from each party) open for new appointments every two years. This "paired" process results in very little scrutiny of nominees by the Senate in the confirmation process, because each party is viewed as having selected "its" nominee. Furthermore, the Commission has an unusually "weak" office of chairman. The chair rotates among the six-Commissioners on an annual basis, and the occupant has no power to hire or fire senior personnel. The agency's structure – an even number of Commissioners, a partisan split of three Commissioners from each party, and the requirement that there be at least four votes to take any action (thus requiring a bipartisan vote) – all serve to limit the FEC's ability to act and thus undermine its ability to use its regulatory and enforcement powers to great effect. The Commission has a history of splitting 3-3 on important enforcement and policy issues, resulting in no action by the FEC.

The FEC has four primary responsibilities. They are to:

- disclose campaign finance information to the public;
- clarify the law through advisory opinions and regulations;
- enforce the law through investigations, audits and fines; and
- administer the presidential public funding system.

Disclose Contributions and Expenditures

The Commission administers the disclosure of the amounts and sources of monies raised and spent in federal elections. Specifically, the FEC is the recipient of regular disclosure reports filed by federal candidates, PACs, and political party committees, including state and local party monies spent on federal election-related activities and independent expenditure and electioneering communication reports. The Commission reviews the reports for accuracy and timeliness and makes the reports publicly available online within 48 hours. The financial data is also entered into the FEC's database, and the Commission produces analyses and historical comparisons of campaign finance data at regular intervals and makes this information available to the public. American government scholar Thomas Mann has noted that the United States provides greater and faster disclosure of political contributions and expenditures than any other democracy.[4]

Access to the FEC's database, including scanned images or electronic copies of financial reports, is available at the **FEC Public Records Office**, which is open to the public, or on the internet at www.fec.gov/pubrec *(see p. 68 for contact information)*.

As part of its efforts to improve disclosure and the efficacy of the law, the Commission also engages in substantial educational outreach intended to promote greater voluntary compliance with federal campaign finance law. This educational outreach includes a toll-free telephone and fax hotline, conferences, roundtable discussions and publications. The FEC also hosts conferences annually where the Commissioners and staff conduct technical workshops on campaign finance laws, including reporting and other compliance matters. Information on these programs is available at www.fec.gov/pages/infosvc.htm#anchor474101.

Clarify the Law

As is the case with other federal regulatory agencies, the FEC is responsible for interpreting the law and applying its provisions to particular circumstances. The FEC carries out this responsibility primarily by issuing rules to implement provisions of the law and by responding to Advisory Opinion Requests from organizations and individuals who seek guidance on the application of the law to specific activities.

Rulemaking Process

Part of the Commission's responsibilities are to interpret federal election law and promulgate rules for the regulated community through rulemakings. The Commission begins by drafting a proposed rule and publishing a Notice of Proposed Rulemaking in the *Federal Register*.

(These notices are also available on the Commission's website at www.fec.gov/register.htm.) A notice includes a request for written comments from the public and regulated entities. Thereafter, the Commission may hold hearings at which members of the public can testify. Further staff drafts usually follow, culminating in a decision by the Commission to issue a new rule or to end or postpone the rulemaking. Individuals and groups may also ask the Commission to initiate a rulemaking by filing a petition that sets forth the proposed rule and the reasons for it. *(See http://eqs.sdrdc.com/eqs/searcheqs.)*

Rules issued by the FEC may be challenged in court as being "contrary to law." For instance, the congressional sponsors of BCRA have filed suit in federal court against some of the FEC's new regulations, saying that the regulations fail to adequately implement the new law.

Advisory Opinions

The FEC uses an Advisory Opinion process to answer specific questions raised by individuals and organizations who seek guidance on how the law affects their proposed activities. In responding to an advisory opinion request, the Commissioners consider the specific circumstances outlined by the individual or organization making the request. The request for an opinion must be based on an action an individual or organization plans to undertake; the Commission does not issue advisory opinions in response to hypothetical questions or circumstances. The Commission posts advisory opinion requests on its website and provides an opportunity for public comments on the request. The Office of General Counsel (OGC) issues a draft response, which is then debated and voted upon by the Commissioners at a public meeting. The FEC is required to act within 60 days of receipt (absent extensions) of the original inquiry. The requestor may follow the direct guidance of the advisory opinion without risk of later being found to have violated the law. Advisory opinions also serve as precedents for other individuals or organizations in the same circumstances. *(See the FEC's Advisory Opinions at http://herndon3.sdrdc.com/ao/.)*

Legislative Recommendations

As part of its annual reporting requirements to Congress, the FEC makes legislative recommendations. Some recommendations seek technical adjustments to the law that would enable the FEC to work more effectively, while others are more policy-oriented (for example, in 2004 the Commission proposed an increase in the amount of money that authorized candidate committees may give to other authorized candidate committees).

Enforce Disclosure, Contribution Limits and Sources

The FEC is charged with enforcing the laws as passed by Congress, as interpreted by the courts and as implemented by the Commission through regulations, advisory opinions, and judicial actions. Failures to comply with the law are handled by the Commission through a complaint process (where the Commission may seek civil, but not criminal, penalties) and an administrative fine program.

Complaint Process

Anyone who believes a violation of federal election laws has occurred may file a complaint with the FEC. A complaint is a statement of the facts relating to the alleged violation of the law and includes any supporting documentation. A complaint initiates an enforcement process called a Matter Under Review or MUR. It must contain the complainant's name and address (no anonymous complaints may be considered), and the complaint must be signed, sworn to and notarized. *(See page 61 sidebar on facts needed to file a complaint.)*

One difficulty with the FEC's enforcement process is that it is cumbersome and lengthy. Current FEC Commissioner Scott Thomas has stated that the "procedural requirements and their attendant time allowances make it difficult – if not impossible – for the Commission to resolve a complaint in the same election cycle in which it is filed."[5] Many complaints take four or five years to resolve, and others are dismissed without investigation by the FEC because of a lack of resources. As noted above, controversial partisan matters can result in a 3-3 deadlock at the Commission level, resulting in no further action.

The FEC enforcement process works as follows:

1. First, a complaint is filed (or a complaint is generated internally by the FEC based on its own findings or referrals from the Department of Justice). Once a complaint is received and accepted by the OGC (basic complaint criteria must be met), a copy is sent to the person or group accused of violating the law, and they are given an opportunity to respond. A complaint can be made public by the person or organization filing it, but an FEC investigation of a complaint and all correspondence in the matter is confidential until the Commission concludes its review.

2. Second, the complaint is reviewed by the OGC and rated for importance according to standards within the Enforcement Priority System. Standards include "the intrinsic seriousness of the alleged violation, the apparent impact the alleged violation had on the electoral process, the topicality of the activity, and the development of the law and subject matter."

3. Third, because of limitations on resources and funds, only some of the complaints filed are investigated by FEC staff. Other complaints, considered stale or less significant, are simply closed without any action. Active cases are analyzed by the General Counsel, who prepares a first report to the Commission that defines the legal and factual issues and recommends to the Commissioners whether or not there is "reason to believe" that a violation of federal law has occurred. If no reason to believe is found (by a vote of at least four Commissioners), the case is dismissed. If the Commissioners agree (again, by a majority vote) that there is "reason to believe," the OGC is authorized to pursue an investigation.

4. The FEC can issue subpoenas for testimony and documents. Based on their findings, the Office of General Counsel will produce a second report that advises whether the Commission should find "probable cause to believe" that a violation of federal campaign finance law has occurred or not. If probable cause is found, the respondent has 15 days to reply to the counsel's assessment, and then both the counsel's probable cause report and the reply brief are reviewed by the Commissioners. As always, four votes are necessary to either dismiss the case or find probable cause to believe. If the Commission deadlocks on the case by a 3-3 vote (as it sometimes does in controversial matters), the case is closed without action and the complainant is so notified.

5. If the Commission concludes that there is probable cause to believe, the FEC must attempt to resolve the issue through "informal methods of conference, conciliation, and persuasion." This negotiating process usually results in a signed Conciliation Agreement between the FEC and the violator(s). Conciliation agreements typically involve an admission of wrongdoing by the respondent, and the payment of a civil monetary penalty. In cases where no conciliation agreement is reached, the Commission can file a civil lawsuit against the respondent in federal court, requesting that the court find a violation and impose a civil penalty.

There are two opportunities for judicial review of the complaint process. First, any complainant may petition the U.S. District Court for the District of Columbia to review the agency's failure to act if a complaint is not resolved 120 days after the filing of the complaint. Second, once the complaint is formally closed by the Commission, the complainant may file suit in federal court arguing that the Commission's resolution of the matter was "arbitrary and capricious" and wrong as a matter of law. In order to succeed in bringing such a court challenge, the complainant must demonstrate "constitutional standing" (that he or she is personally injured by the Commission's action or inaction, including being deprived of information which should be available to the public).

Campaign finance law requires that the FEC keep enforcement matters confidential until they have ended. Once a complaint has been closed, the documents involved in that complaint, including those received through subpoena, are made available for public review. Some of these documents have recently been posted online at http://eqs.sdrdc.com/eqs/searcheqs. *(See case studies of FEC complaints reviewed by the courts, page 62.)*

Facts Needed to File a Complaint

Complaints Must:

- State the full name and address of complainant
- Be signed, sworn to, and notarized
- Clearly show specific violations under the Commission's jurisdiction
- Clearly identify each person or group allegedly in violation
- If available, include documentation of alleged violation (news clippings, correspondence, etc.)

For more information on complaints, visit www.fec.gov/pages/brochures/complain.htm

Case Study: FEC Enforcement Action Mandated by the Courts

In the November 1992 general election, no candidate for a U.S. Senate seat in Georgia won a majority of the vote and three weeks later a second election was held between the two top candidates.

The Democratic Senatorial Campaign Committee (DSCC) and the National Republican Senatorial Committee (NRSC) each had limits on what they could spend on behalf of their respective candidates in the Georgia Senatorial general election. By election day, the NRSC had spent its maximum, while the DSCC had not. The NRSC requested an advisory opinion from the FEC to determine whether the subsequent election would qualify as a second general election or as a run-off. If the FEC determined that it qualified as a second general election, the DSCC and the NRSC each would be given a new spending limit; otherwise, the original general election spending limits would stay in place. The FEC never issued an opinion after splitting 3-3 on the matter. The NRSC went ahead and spent nearly the full amount permitted for a general election on the second election, while the DSCC did not exceed the balance remaining from its original spending allowance.

The DSCC proceeded to file a complaint with the FEC, alleging that the NRSC had violated federal law in exceeding the original spending allowance. The FEC split 3-3 on whether or not to proceed with the matter by initiating an investigation, and therefore dismissed the DSCC's complaint. The DSCC brought suit before the U.S. District Court for the District of Columbia.

On November 14, 1994, the court determined that the second election qualified as a run-off election and ordered the FEC to vacate its dismissal of the DSCC's complaint and initiate appropriate enforcement proceedings against the NRSC.

Case Study: FEC Prodded Into Action by the Courts

On May 14, 1993, the Democratic Senatorial Campaign Committee (DSCC) filed a complaint with the FEC, alleging that the National Republican Senatorial Committee (NRSC) had made illegal contributions in relation to the 1992 Senate races. After nearly 600 days had passed without any action on the part of the FEC, the DSCC filed suit in the United States District Court for the District of Columbia, claiming that the FEC's failure to act in any significant way was "arbitrary and capricious."

Based on its analysis of a number of factors for determining reasonableness of the FEC's action, the court determined that the FEC's failure to take meaningful action for such an extended period of time was contrary to law. While noting that the FEC had in the meantime initiated action on the complaint while the suit was pending, the court further warned that if any future inactivity of this nature should occur "the need for additional judicial intervention may well be compelling."

Administrative Fine Program

The Administrative Fine Program (or "traffic ticket" system, as it is often called) was started in July 2000 in order to better assure the timeliness of reports filed with the Commission. The program allows the FEC to assess civil penalties on candidates or political committees that fail to report on time, fail to report at all, or fail to report properly. This program takes into account how late the report is, the relative election-sensitivity of the report, and past violations. The fines are on an automatic schedule.

Administer the Presidential Public Funding System

The presidential public funding system is detailed in the previous chapter. Principally, the FEC certifies that the qualified candidates have met the eligibility requirements, authorizes payments to candidates and the political parties, and audits campaign accounts of publicly funded presidential primary and general election candidates.

Congress structured the FEC agency in such a way as to curb its authority and enforcement powers. Congress wanted an agency that would enforce the law, but it did not want an overly powerful or autonomous agency. Accordingly, Congress limited its jurisdiction, curbed its enforcement authority, and created a laborious enforcement process that makes it difficult for the Commission to act quickly or contrary to the interests of one of the major parties. Congress also denied the FEC the authority to investigate anonymous complaints and the ability to conduct random financial audits of candidates.

For the Commission to impose a civil penalty, it must reach an agreement with the respondent in the conciliation process. Absent an agreement, the Commission may not impose a sanction, but must instead seek a sanction from the court. All criminal prosecutions must be referred to and pursued by the Justice Department.

Some advocates for reform have recommended that changes to the FEC include strengthening the enforcement powers and altering the structure of the Commission to enable a tie-breaking vote. Senators McCain and Feingold and Congressmen Shays and Meehan introduced legislation in July of 2003 calling for a new "Federal Elections Administration" to replace the FEC. This new FEA would have three members with the chair serving a 10-year term and the two other Commissioners (each from a separate political parties) serving six-year terms. The new agency would also have substantially strengthened enforcement powers.

In July of 2004, Senator Lott (R-MS) scheduled Senate hearings on the FEC and voiced support for changing the structure of the FEC to prevent future tie votes.

VI

Resources: Where to Go for More Information on Campaign Finance

Campaign Finance Laws

The Federal Election Campaign Act:
http://www.fec.gov/law/feca.pdf

The Bipartisan Campaign Reform Act of 2002:
http://www.fec.gov/pages/bcra/bcra_update.htm

FEC Regulations:
http://www.fec.gov/law/cfr/11_cfr.html

FEC Guide to BCRA:
http://www.fec.gov/pdf/guidesup03.pdf

FEC Guide to Major BCRA Resources:
http://www.fec.gov/pages/bcra/major_resources_bcra.htm

FEC Guide to BCRA Litigation Documents:
http://www.fec.gov/pages/bcra/litigation.htm

FEC Advisory Opinions Related to BCRA:
http://www.fec.gov/pages/bcra/aos_bcra.htm

Guide to BCRA Reporting:
http://www.fec.gov/pages/bcra/bcra_reporting.htm

BCRA Regulations by Topic:
http://www.fec.gov/pages/bcra/rulemakings/rulemakings_bcra.htm

FEC Guide to Campaign Finance Law Resources:
http://www.fec.gov/finance_law.html

FEC Court Case Abstracts:
http://www.fec.gov/pdf/cca.pdf

FEC Topical Brochures:
http://www.fec.gov/brochures.html

Campaign Finance Institute eGuide:
http://www.cfinst.org/eguide/

Publications

"20 Year Report," Federal Election Commission, 1995, (www.fec.gov/pages/20year.htm).

Campaign Finance Reform: A Sourcebook, edited by Anthony Corrado, Thomas Mann, Daniel Ortiz, Trevor Potter and Frank Sorauf, Brookings Institution, 1997, Second edition forthcoming (see http://www.brookings.edu/gs/cf/newsourcebk.htm for new chapters of forthcoming book).

Campaign Finance Reform: Beyond the Basics, by Anthony Corrado, The Century Foundation, 2000.

Campaign Finance "Reform": The Good, the Bad, and the Unconstitutional, by James Bopp, Jr., The Heritage Foundation, 1999, (http://www.heritage.org/Research/GovernmentReform/BG1308ES.cfm).

Financing the 2000 Election, edited by David B. Magleby, Brookings Institution Press 2002, (see http://www.brook.edu/press/books/Financing_2000_election.HTM for table of contents and sample chapter).

Inside the Campaign Finance Battle, edited by Anthony Corrado, Thomas E. Mann and Trevor Potter, Brookings Institution Press, 2003, (see http://www.brook.edu/press/books/insidethecampaignfinancebattle.htm for table of contents).

The Last Hurrah? Soft Money and Issue Advocacy in the 2002 Congressional Elections, edited by David B. Magleby and J. Quin Monson, Brookings Institution Press, 2004, (see http://www.brook.edu/press/books/lasthurrah.htm for table of contents and sample chapter).

Legislative Labyrinth: Congress and Campaign Finance Reform, edited by Diana Dwyre, Victoria A. Farrar-Myers, Congressional Quarterly Books, 2000.

Political Money: Deregulating American Politics, Selected Writings on Campaign Finance Reform, by Annelise Anderson, Hoover Institution Press, 2000.

The Presidential Public Funding Program, Federal Election Commission Booklet, 1993.

Project FEC, "No Bark, No Bite, No Point," issued by Democracy 21, 2002, (www.democracy21.org).

Public Financing of Presidential Candidates and Nominating Conventions, Campaign Finance Institute Report, 2003, (http://www.cfinst.org/presidential/pdf/FEC_Comments_conventions.pdf).

Public Funding of Presidential Elections, Federal Election Commission Brochure, 1996.

Report on the Changing Nature of Conventions, The George Washington University, 2004, (http://www.gwu.edu/~action/2004/chrnconv.html).

Selling Out, by Mark Green, ReganBooks, 2002.

Unfree Speech: The Folly of Campaign Finance Reform, by Bradley A. Smith, Princeton University Press, 2001.

The Washington Post Campaign Finance Resource Page, (www.washingtonpost.com/wp-srv/politics/special/campfin/links.htm).

Research and Advocacy Websites:

The Alliance for Better Campaigns:
http://www.bettercampaigns.org

The Annenberg Public Policy Center:
http://www.appcpenn.org

The Campaign Finance Information Center:
http://www.campaignfinance.org/

The Campaign Finance Institute:
http://www.cfinst.org

The Campaign Legal Center:
http://www.campaignlegalcenter.org

The Center for Responsive Politics:
http://www.opensecrets.org

The Center for Governmental Studies:
http://www.cgs.org

The Center for Public Integrity:
http://www.publicintegrity.org

Common Cause:
http://www.commoncause.org

C-SPAN:
http://www.c-span.org/congress/campaignfinance.asp

Democracy 21:
http://www.democracy21.org

Democracy Matters:
http://www.democracymatters.org/

The Greenlining Institute:
http://www.greenlining.org/

Hoover Institution:
http://www.campaignfinancesite.org/

Interfaith Alliance:
http://www.callforreform.org

League of Women Voters:
http://www.lwv.org

National Voting Rights Institute:
http://www.nvri.org

Policy Almanac:
http://www.policyalmanac.org/government/campaign_finance.shtml

Political Money Line:
http://www.fecinfo.com/

Project Vote-Smart:
http://www.vote-smart.org

Public Agenda:
http://www.publicagenda.org/issues/frontdoor.cfm?issue_type=campaign_finance

Public Campaign:
http://www.publicampaign.org

Public Citizen:
http://www.citizen.org

The Reform Institute:
http://www.reforminstitute.org

Stanford Law School:
http://www.law.stanford.edu/library/campaignfinance/

U.S. Public Interest Research Group:
http://www.pirg.org

Think Tank Websites:

The American Enterprise Institute:
http://www.aei.org

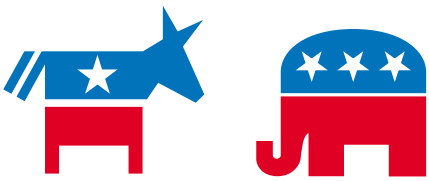
The Aspen Institute:
http://www.aspeninst.org

The Brookings Institution:
http://www.brookings.edu/gs/cf/cf_hp.htm

The Brennan Center for Justice:
http://www.brennancenter.org

The Cato Foundation:
http://www.cato.org

Heritage Foundation:
http://www.heritage.org



Government Websites:

Congress' Official Website: http://thomas.loc.gov

The Federal Election Commission:
http://www.fec.gov

Internal Revenue Service,
Political Organization Search:
http://forms.irs.gov/politicalOrgsSearch/search/gotobasicSearch.action

The United States Code:
http://www4.law.cornell.edu/uscode/ or
http://uscode.house.gov/usc.htm

The United States House of Representatives:
http://www.house.gov

The United States Senate:
http://www.senate.gov

Political Party Websites:
Democratic National Party:
http://www.dnc.org

Green Party:
http://www.greenpartyus.org

Libertarian Party:
http://www.lp.org/

Reform Party:
http://www.reformparty.org

Republican National Party:
http://www.rnc.org

VII

Federal Election Commission

Contact Information

The Federal Election Commission

999 E Street, NW
Washington, DC 20463
Phone: (202) 694-1100
Phone: (800) 424-9530
Phone: (202) 219-3336 (TDD for the hearing impaired)
Fax: (202) 501-3413

Information Division

Phone (800) 424-9530, option #1, then option #3 or (202) 694-1100

Press Office

Located at the address above, ground floor – must bring picture ID.
Phone: (800) 424-9530, option #2

Public Records Office

Located at address above, ground floor – must bring picture ID.
Phone: (800) 424-9530, option # 3 (toll free)
e-mail: pubrec@fec.gov

Fax Service

Call (202) 501-3413 either from fax machine or touch-tone phone. Voice-guided instructions will prompt you throughout the call to find the documents you are interested in having faxed to you. The FEC has more than 600 publications and documents immediately available upon request.

Complaints

For instructions on how to file a compliant, contact the Information Division (202) 694-1100, or go to: http://www.fec.gov/pages/brochures/complain.htm (see also page 59 for guidance on filing a complaint).

For information on the status of FEC complaints, contact the Press Office (contact information listed above) or use the FEC's Enforcement Query System at: http://eqs.sdrdc.com/eqs/searcheqs.

VIII

Glossary

BCRA

BCRA is an acronym for the Bipartisan Campaign Reform Act of 2002, which is also known as McCain-Feingold after its two primary sponsors in the U.S. Senate. BCRA amended existing law. Among its most important provisions were a ban on soft money in federal elections and new regulations for electioneering communications.

Candidate Committee

Candidate committees are the official political committees of federal candidates. Every federal candidate is required to register an authorized candidate committee with the Federal Election Commission. This committee serves as the official depository for the candidate's official campaign funds.

Connected Political Action Committee (PAC)

See *Separate Segregated Funds.*

Contribution

A contribution is the giving of money or anything of value – subject to certain specific statutory exceptions – to a federal candidate or political committee for its use in influencing a federal election.

Contribution Limit

Federal law limits the amounts individuals and PACs can give to candidates, political parties, and political committees. These limits regulate both specific contributions and aggregate contributions by individuals.

Coordination

Coordination is consulting, cooperating, or working in concert with or at the request or suggestion of a candidate or party committee. Expenditures made in coordination with a candidate or party committee are treated as in-kind contributions to that candidate or party committee. They are subject to all the limits and disclosure requirements that apply to such contributions. BCRA overturned the FEC's existing regulations on coordinated spending on communications and ordered it to adopt new regulations on the subject. The FEC has since established a three-part test to determine whether a communication is coordinated. That test looks to (i) the source of the payment, (ii) the communication's content, and (iii) the interactions between the spender and the candidate or party committee or vendors used by them. The regulation is currently under judicial review.

Disclosure

Certain contributions and expenditures to influence federal elections must be reported to a federal authority, usually the Federal Election Commission. The authority then makes these reports available to the public. The FEC, for example, posts the disclosure reports it receives online and makes them available at its office for public inspection.

Electioneering Communications

Any broadcast, cable, or satellite communication clearly identifying a federal candidate that appears within 30 days before a primary or special election or 60 days before a general election, and is accessible by at least 50,000 members of the candidate's constituency is an electioneering communication. BCRA regulates the type of funding that can be used for these communications.

Expenditure

An expenditure is the disbursement of money or anything of value – subject to certain specific statutory exceptions – for the election or defeat of a federal candidate. Expenditures differ from contributions in that the spender or the spender's agent, not a different person or entity, maintains control over how the money will be ultimately used.

Expenditures come in two types. An expenditure made in cooperation with a candidate, the candidate's campaign committee, or a political party committee is a coordinated expenditure and is treated as a contribution. An expenditure made without such cooperation is an independent expenditure. Independent expenditures are not subject to limits on the amount that may be spent, unlike contributions.

Express Advocacy

According to FEC regulations, this type of communication is one (a) that uses particular "magic words" like "elect," "defeat," "vote for," or "vote against," or (b) when taken as a whole and with limited reference to external events, such as the proximity to the election, can only be interpreted by a "reasonable person" as advocating the election or defeat of one or more clearly identified candidate(s).

The Federal Election Campaign Act

The Federal Election Campaign Act of 1971 is the statute that serves as the basis for current federal campaign finance regulation. It has been amended extensively four times: in 1974 in response to Watergate, in 1976 in response to the Supreme Court's opinion in *Buckley*, in 1979 to allow parties to raise and spend additional funds for individual volunteer activities, and in 2002 by the Bipartisan Campaign Reform Act (BCRA).

Federal Election Commission

The Federal Election Commission is the federal agency responsible for administering and enforcing most federal campaign finance laws. The FEC was created by the 1974 FECA Amendments and the method of appointing Federal Election Commissioners was modified by the 1976 FECA Amendments.

Federal Election Activity

Under BCRA, "federal election activities" must be financed with hard money even when conducted by a state party. Federal election activities include voter registration activity within 120 days of the election; voter identification, get-out-the-vote activity, or generic campaign activity conducted for an election in which a candidate for federal office appears on the ballot; a public communication that refers to a clearly identified federal candidate and promotes or attacks that candidate; and services provided by an employee of a state, district or local political party committee who spends more than 25% of his or her compensated time during a single month on activities connected with the federal election.

Hard Money

Hard money is money or anything of value that a political committee receives that satisfies federal contribution limits, source restrictions, and disclosure requirements. Before BCRA, national political party committees could solicit and receive money for certain uses, most notably to finance generic party activities and issue advocacy advertisements, that was not subject to federal contribution limits and source prohibitions. After BCRA, national party committees are only allowed to use federally regulated funds to pay for their political activities.

Internal Communications

Internal communications are partisan communications between a corporation and its shareholders and executive and administrative personnel, or between a labor union and its members. These communications can be on any subject, including an endorsement urging the election or defeat of a federal candidate.

Issue Advocacy

Any communication that does not expressly advocate the election or defeat of a clearly identified federal candidate is termed issue advocacy. It does not primarily have to relate to policy issues rather than candidates. Before BCRA, FECA did not regulate issue advocacy. BCRA now regulates issue advocacy that qualifies as an "electioneering communication" and issue advocacy by any federal political committee.

Leadership Political Action Committee (PAC)

Leadership PACs, sometimes called personal PACs, are non-connected political action committees that serve the political interests of a member of Congress. The FEC has allowed federal officeholders to sponsor leadership PACs in addition to their official campaign committees. Leadership PACs may accept hard money contributions of up to $5,000 per year.

Levin Funds

Levin funds are contributions to state, district or local political party committees that are permitted under federal law for specific purposes and are limited to $10,000 per year per donor, so long as allowed by state law. If state law allows, they can come from sources ordinarily impermissible under federal law, like corporations or labor unions. If state law sets a lower contribution limit for donations to party committees, then the lower contribution limit applies. Levin funds may only be spent in conjunction with federal funds and may not be used to pay for broadcast advertising. The percentage of federal and non-federal funds to be used for "Levin activities," which include generic party voter registration drives, voter identification programs, and get-out-the-vote efforts, is based on an allocation formula determined by the FEC.

Lowest Unit Charge

The lowest unit rate for the same class and amount of broadcast time for the same period that a television or radio station offers to its best commercial advertisers. In some circumstances this rate must be offered to a legally qualified federal candidate.

Multicandidate Political Action Committee (PAC)

A type of political action committee. To qualify for this status, a PAC must have been registered with the FEC for at least six months, have received contributions from at least 50 people, and have made contributions to at least five federal candidates. A multicandidate PAC may contribute up to $5,000 per year to a particular federal candidate, up to $15,000 per year to a national party committee, and up to $5,000 per year to another political committee.

National Party Committees

Each national party has three separate committees that work to support their candidates – a national party committee, a senatorial committee, and a congressional committee. Respectively, these committees are: the Republican National Committee, the National Republican Senatorial Committee, the National Republican Congressional Committee; and the Democratic National Committee, the Democratic National Senatorial Committee, and the Democratic Congressional Campaign Committee.

Non-connected Political Action Committee (PAC)

Non-connected PACs, also known as independent PACs, are political action committees not officially affiliated with another entity. Unlike connected PACs, they must pay their set-up, administration, and solicitation expenses out of the contributions they receive.

Non-profit Corporations

Non-profit corporations are typically organized as tax exempt organizations under section 501(c) of the Internal Revenue Code and are subject to the same general rules as for-profit corporations: they may not use general treasury funds for contributions, expenditures, or electioneering communications, but, with the exception of 501(c)(3) charities, they may set up a connected PAC to raise money for these purposes. Tax law, however, does not allow 501(c) organizations to have the influencing of elections as their primary purpose.

Non-multicandidate Political Action Committee (PAC)

A type of political action committee that does not qualify for mulitcandidate PAC status. Non-multicandidate PACs may contribute up to $2,000 per year to a federal candidate, up to $25,000 per year to a national party committee, and up to $5,000 per year to another political committee.

Party Committee

Party committees are the political committees that represent political parties. They are part of the official party structure at the national, state, or local level and control the funds the party itself can spend on influencing federal elections.

Political Action Committee (PAC)

Political action committees (PACs) are political committees officially independent of parties and candidates. They come in two types: connected PACs and non-connected PACs. Almost all PACs at the federal level are multicandidate committees that have been registered with the FEC for more than 6 months, have received contributions from at least 50 people, and have made contributions to at least five federal candidates. These committees may contribute up to $5,000 per election to a federal candidate.

Political Committee

In general, the following four types of entities are considered to be political committees under federal law: (i) corporate and union separate segregated funds; (ii) organizations which in a single calendar year either receive more than $1,000 in contributions or make more than $1,000 in expenditures, and whose "major purpose" is to engage in political activities; (iii) national party committees and state and local party committees raising or spending funds for federal elections; and (iv) federal candidate committees.

Political Organizations

See *Section 527 Organizations*.

Public Communications

Communications that are made publicly on broadcast television or radio, a digital broadcast system, a cable system or via e-mail or the web. Disclosure regulations may apply if a public communication is an electioneering communication or contains express advocacy.

Section 527 Organizations

Section 527 is the provision of the Internal Revenue Code that governs the tax treatment of "political organizations" which are organized and operate primarily for the purpose of influencing the selection of candidates to elected or appointed office. This section of the tax code provides that the contributions received and expenditures made by these committees will not be taxed.

All federal political committees – whether candidate committees, party committees, or PACs – are section 527 organizations, as are state and local political organizations, and a smaller number of organizations not registered and reporting with any election agency. It is this latter group that the media usually means when it refers to "527s" raising and spending soft money in federal elections.

Separate Segregated Funds

Separate segregated funds are PACs whose set-up, administration, and solicitation costs are paid for by another entity, usually a union or business corporation. Connected PACs can only solicit contributions from certain individuals connected to the organization sponsoring them.

Soft Money

Soft money is money or anything of value that is given or spent for federal election purposes outside of federal contribution limits, source restrictions, and disclosure requirements. Prior to the adoption of BCRA, soft money was the term used to refer to the non-federal monies raised by party committees and used to pay a share of the costs of federal-election-related activities. National parties were banned from receiving or using soft money under BCRA. After BCRA, the most controversial form of soft money has been the monies donated to section 527 tax exempt political organizations not registered as federal political committees that engage in independent activity to influence federal elections.

Source Prohibition

Source prohibitions completely ban expenditures or contributions by particular types of entities, most notably business corporations, unions, and foreign nationals.

IX

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[1] Herbert Croly, *Marcus Alonzo Hanna: His Life and Work* (New York: Macmillan, 1912), p. 325.

[2] Corrado, Anthony, "Money and Politics: A History of Federal Campaign Finance Law," *The New Campaign Finance Sourcebook* (Washington: Brookings Institution, forthcoming), page 17-18. Draft chapter, revised January 2003, available at http://www.brookings.edu/dybdocroot/gs/cf/sourcebk01/HistoryChap.pdf.

[3] *McConnell v. FEC*, 520 U.S. [__], 124 S.Ct. 619, 634, 654, 738 (2003).

[4] Thomas Mann, "The FEC: Administering and Enforcing Campaign Finance Law" in *Campaign Finance Reform: A Sourcebook*, (Washington: Brookings Institution forthcoming), www.brookings.edu/gs/cf/newsourcebk.htm.

[5] Project FEC, "No Bark, No Bite, No Point," issued by Democracy 21, 2002, www.democracy21.org.

Footnotes from Federal Contribution and Spending Regulations Chart, page 34-35

[1] With the "Millionaires' Provision," the contribution limits are increased (tripled to $6,000 for a House candidate and up to $12,000 for a Senate candidate). Where applicable, any amount over $2,000 does not apply against the individual's aggregate contribution limit.

[2] Coordinated expenditure limits for national party committees to Presidential candidates is limited to $.02 x Voting Age Population in the United States x the cost of living adjustment. For 2004, this figure is $16,249,699.00.

[3] Coordinated expenditure limits for party committees (both national and state) to Senatorial candidates is limited to the greater of $20,000 or $.02 x Voting Age Population of the state x the cost of living adjustment. See state by state chart at www.fec.gov/pdf/record/2004/mar04.pdf. Coordinated expenditure limit increases when the "Millionaires' Provision" is triggered.

[4] Coordinated expenditure limits for party committees (both national and state) to House candidates is limited to $10,000 x the cost of living adjustment, which for 2004 is $37,310. Coordinated expenditure limit increases when the "Millionaires' Provision" is triggered.

[5] A national party committee cannot make independent expenditures for its presidential candidate if it is also designated as the authorized committee of its presidential candidate.

[6] If not incorporated, unlimited so long as using only funds contributed by individuals and disclosed to the FEC if over $10,000.

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Acknowledgements

The Campaign Legal Center and the University of Virginia School of Law Foundation gratefully acknowledge lead funding for this *Guide* provided by The Pew Charitable Trusts and the generous support of The Joyce Foundation for additional research and publication of the *Guide,* including the expanded on-line version.

This *Guide* was written and edited by Trevor Potter, Dan Ortiz, Tony Corrado, Marianne Viray (Campaign Legal Center Managing Director), Donald Simon (Partner, Sonosky, Chambers, Sachse, Endreson & Perry, LLP), and Kirk Jowers (Legal Center Deputy General Counsel). We also thank Marianne Viray for managing the production of the hard copy and web-based versions.

We also extend our thanks to Campaign Legal Center Assistant Managing Director Shannon Robertson and Summer Associates and/or Interns: Tiffany Guglielmetti, Sherri Higgins, Ben Kingery, Marilee Miller, Matt Sanderson, and Will Tully for their work which made this *Guide* possible.

The Campaign Legal Center is a nonpartisan, nonprofit organization which works in the areas of campaign finance, communications and government ethics. We represent the public interest in administrative and legal proceedings where the nation's campaign finance and related media laws are enforced: at the Federal Election Commission (FEC), the Federal Communications Commission (FCC), the Internal Revenue Service (IRS), and in the courts.

In the campaign finance area, the Legal Center joins the legal and policy debate about disclosure, political advertising, contribution limits, enforcement issues and many other matters. Most recently, our attorneys were members of the legal team that successfully defended the Bipartisan Campaign Reform Act of 2002 (commonly called McCain-Feingold) before the U.S. Supreme Court. We also participate in FEC Advisory Opinion and rulemaking proceedings as the agency continues to interpret and enforce the new law.

In the area of media law, the Legal Center shapes political broadcasting policy by promoting awareness and enforcement of political broadcasting laws through Federal Communications Commission rulemaking proceedings, congressional action and public education.

We also work to develop reasonable, nonpartisan solutions to the ethics problems that often arise in Washington. The Legal Center currently leads an ideological diverse coalition of ten government watchdog groups working to reform the congressional ethics oversight system.

The Campaign Finance Guide is an important part of our efforts to educate the public on campaign finance laws.

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