

Campaign Finance Law and the U.S. Supreme Court

Federal campaign finance law is composed of three primary components:

- Contribution limits
- Disclosure and disclaimer requirements
- Source restrictions

While the Federal Election Campaign Act (FECA) sets forth the statutory provisions governing these components, several Supreme Court rulings have had a significant impact on the regulatory scope of FECA.¹

- 1972

FECA of 1971
Established reporting and disclosure requirements
- 1974

FECA of 1974
Made significant amendments in response to Watergate; established the Federal Election Commission (FEC)
- 1976

Buckley v. Valeo
Upheld FECA's limits and disclosure requirements and invalidated IE limits
- 1976

FECA of 1976
Made amendments in response to *Buckley*
- 2002

Bipartisan Campaign Reform Act of 2002 (BCRA)
Made comprehensive amendments to FECA, including disclaimer and disclosure requirements
- 2003

McConnell v. FEC
Invalidated FECA's ban on minors' contributions and requirement that parties choose between coordinated and independent expenditures; upheld major BCRA provisions
- 2008

Davis v. FEC
Invalidated FECA's increased contribution limits for candidates whose opponents significantly self-finance
- 2010

Citizens United v. FEC
Invalidated FECA's ban on corporate and union IEs and electioneering communications, partially overruling *McConnell*; upheld disclaimer and disclosure requirements
- 2012

Bluman v. FEC
Summarily affirmed a lower court ruling that upheld FECA's ban on foreign money
- 2014

McCutcheon v. FEC
Invalidated FECA's aggregate contribution limits
- 2022

FEC v. Ted Cruz for Senate
Invalidated FECA's cap on contributions used to repay candidate loans

Contribution limits
FECA establishes contribution limits, which refer to how much a donor can contribute

Contribution: Involves giving money to an entity, such as a candidate's campaign committee

Independent Expenditures (IE): Involves spending money directly for advocacy of the election or defeat of a candidate, independently of any candidate or political party

What has the Supreme Court said about contribution limits?

The Supreme Court held that limits on contributions and expenditures implicate First Amendment free speech rights and that such limits must serve the governmental interest in avoiding quid pro quo corruption or its appearance

Disclaimer and disclosure requirements
FECA contains disclaimer and disclosure requirements

Disclaimers: Requires that statements of attribution appear directly on campaign-related communications

Disclosure: Requires that political committees register with the FEC and comply with periodic reporting requirements

What has the Supreme Court said about disclaimer and disclosure requirements?

The Supreme Court held that disclaimer requirements “insure that the voters are fully informed about the person or group who is speaking”

Source restrictions
FECA contains several bans, referred to as source restrictions, on who may make campaign contributions

Corporate/Union Contributions: Bans contributions directly from treasury funds; must establish a political action committee (PAC) to make contributions

Foreign Money: Bans contributions and IEs by foreign nationals

What has the Supreme Court said about banning foreign money?

The Supreme Court summarily affirmed a three-judge federal district court ruling that upheld FECA's foreign money ban against a First Amendment challenge and that identified a compelling governmental interest in limiting foreign citizens' influence over U.S. elections

¹ For more information, see CRS Report R45320, *Campaign Finance Law: An Analysis of Key Issues, Recent Developments, and Constitutional Considerations for Legislation*, by L. Paige Whitaker (2023).

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