



## Who Own\$ the Election?

### League of Women Voters of Columbia-Boone County

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**Political action committees:** Federal law allows for multiple types of Political Action Committees.

- **Connected PACs:** The Bipartisan Campaign Reform Act prohibits corporations and labor unions from making direct contributions or expenditures in connection with federal elections. These organizations may, however, sponsor a "separate segregated fund" (SSF), known as a "connected PAC." These PACs may receive and raise money only from a "restricted class," generally consisting of managers and shareholders in the case of a corporation and members in the case of a union or other interest group. In exchange, the sponsor of the PAC may absorb all the administrative costs of operating the PAC and soliciting contributions.
- **Nonconnected PACs:** A nonconnected PAC is financially independent, meaning that it must pay for its own administrative expenses using the contributions it raises. Although an organization may financially support a nonconnected PAC, these expenditures are considered contributions to the PAC and are subject to the dollar limits and other requirements of the Act.
- **Leadership PACs:** Elected officials and political parties cannot give more than the federal limit directly to candidates. However, they can set up a Leadership PAC that makes independent expenditures. Provided the expenditure is not coordinated with the other candidate, this type of spending is not limited. Under the FEC rules, leadership PACs are non-connected PACs, and can accept donations from individuals and other PACs. Since current officeholders have an easier time attracting contributions, Leadership PACs are a way dominant parties can capture seats from other parties. A leadership PAC sponsored by an elected official cannot use funds to support that official's own campaign. However, it may fund travel, administrative expenses, consultants, polling, and other non-campaign expenses. Between 2008 and 2009, leadership PACs raised and spent more than \$47 million.
- **"Super PACs":** The 2010 election marked the rise of a new political committee, dubbed the "super PAC". They are officially known as "independent-expenditure only committees," because they may not make contributions to candidate campaigns or parties, but rather must do any political spending independently of the campaigns. Provided they are operated correctly, they can raise funds from corporations, unions and other groups, and from individuals, without legal limits. Super PACs were made possible by two judicial decisions. First, in January 2010 the U.S. Supreme Court held in *Citizens United v. Federal Election Commission* that government may not prohibit unions and corporations from making independent expenditure for political purposes. Two months later, in *Speechnow.org v. FEC*, the Federal Court of Appeals for the D.C. Circuit held that contributions to groups that only make independent expenditures could not be limited in the size and source of contributions to the group.

Taken from "Campaign Finance in the United States," Wikipedia. ([www.wikipedia.org](http://www.wikipedia.org))

#### **Section 501(c) groups (tax code):**

- A **501(c)(3)** organization is a public charity or private foundation (e.g., Boy Scouts of America, Heritage Foundation, churches, LWV Education Fund). Donations to a public charity are tax deductible and donors need not be publicly disclosed under the tax law. A 501(c)(3) is prohibited from participating or intervening in any political campaign for a candidate for public office.
- A **501(c)(4)** is a social welfare organization (e.g., NRA, Sierra Club, LWV). Contributions to a (c)(4) are not tax deductible, and may be subject to a gift tax. Donors also need not be publicly disclosed under the tax law. Unlike (c)(3)s, these groups can participate in political campaign activity for candidates for public office, provided that this is not their **primary activity**. The IRS uses a "facts and circumstances" test to determine when a group sponsoring ads is participating in campaign activity. 501(c)(4) groups were particularly active in the 2010 election cycle, as they represented a handy way to ensure donor confidentiality while engaging in a considerable amount of independent campaign advocacy. Examples of such (c)(4)s are Crossroads GPS and American Action Network.

- **501(c)(5)s** are labor organizations and **501(c)(6)s** are trade associations. They are also not required to publicly disclose their donors under the tax law. Similarly to 501(c)(4)s, these groups can engage in political campaign activity provided that it is not their **primary activity**. Both of these types of groups were very involved in the 2010 elections; according to the Center for Responsive Politics, the most active (c)(5) was the Service Employees International Union and the most active (c)(6) was the U.S. Chamber of Commerce.

### Section 527 groups (tax code):

- A **Section 527 group** is a tax-exempt group organized under section 527 of the Internal Revenue Code “for the function of influencing or attempting to influence the selection, nomination, election or appointment of any individual to any Federal, state, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors.” Federal, state and local candidate campaign committees; federal, state and local political party committees; and most other political committees are generally organized under section 527. Only those that accept contributions or make expenditures to influence federal elections of over \$1,000 in a calendar year, and that have as their major purpose the nomination or election of one or more federal candidates, are required to register with the FEC as federal political committees.
- Section 527 groups first rose to public prominence in the 2004 and 2006 federal elections when a number of 527s spent hundreds of millions of dollars on ads to influence federal elections while refusing to comply with the strict contribution limits that applied to federal political committees. They claimed—questionably—that they did not have to register as political committees because they were not making expenditures to advocate the election or defeat of any federal candidates but instead were engaging in independent “issue advocacy.” The FEC ultimately found that several of these “rogue” 527s were in violation of the law and imposed historically high penalties (e.g., The Media Fund, Swift Boat Veterans for Truth and MoveOn.org Voter Fund).
- 527 groups are required to publicly disclose their donors. If a 527 registers as a federal political committee with the FEC, then it is subject to extensive disclosure requirements under the federal campaign finance laws. Subject to certain exceptions, a 527 group that is not registered as a federal political committee is required to file with the IRS an annual information return and periodic reports disclosing publicly its contributions and expenditures. If a 527 does not disclose a contribution, it must pay tax on the amount of that contribution.

### Current Campaign Finance Laws:

The **FEC** is responsible for enforcing the federal campaign finance law. It is a six-member commission made up of three Republicans and three Democrats.

- An **individual** who is a citizen can contribute \$2,400 to a candidate for the primary election, and \$2,400 for the general election (a total of \$4,800 per person). Individuals can also give \$5,000 to a political action committee (PAC) per year; \$30,400 a year to a national political party committee per year; and \$10,000 to the federal account of a state party committee per year. The most an individual can give altogether is \$115,500 for the two-year cycle (\$45,600 to all candidates and \$69,900 to all PACs and parties).
- The **national party committees** (e.g., RNC, DNC) can give \$5,000 to House candidates and \$42,600 to Senate candidates per election.
- A **multi-candidate political committee** (or “**PAC**”) (e.g., EMILY’s List) can give \$5,000 to a candidate for each election, and \$15,000 to national political parties a year. If a PAC makes contributions to candidates or parties, it can only accept “hard money,” i.e., money raised under the applicable \$5,000 federal contribution limit and the ban on corporate and union contributions. But if a PAC makes only independent expenditures (i.e. a **Super-PAC**), it is not bound by these federal contribution restrictions.
- **Corporations** and **labor unions** are prohibited from using treasury funds to make a contribution to candidates, political parties, and many types of PACs. If a corporation or labor union wants to make a contribution, it must establish a PAC (i.e., “separate segregated fund”) (e.g., Exxon Mobil PAC, Int’l Brotherhood of Electrical Workers PAC). A corporate/union PAC can accept only voluntary contributions from members of its “restricted class” (corporate shareholders and executives/ union members) subject to the federal contribution limits. A corporation or union may pay the administrative costs of running their PACs with treasury funds, however.

- An individual, corporation, labor union or PAC can also make expenditures to influence a federal election without limit provided that they do so independently of candidates or political parties. If, however, an expenditure by an individual or PAC is coordinated with a candidate or political party, then it is considered an in-kind contribution to such candidate or party subject to the contribution limits. A corporation or union may not coordinate its expenditures with a candidate or political party because it is prohibited from making contributions.
- **National party committees** are subject to special rules that allow them to spend money in coordination with their candidates in amounts greater than the otherwise applicable contribution limits would allow. The coordinated party expenditure limits vary between \$43,500 for expenditures coordinated with certain House candidates to over \$2 million for expenditures coordinated with certain Senate candidates. Political parties also may spend unlimited amount to support their party nominees if they do so independently of their candidates.
- All of the contributions and expenditures listed above must be reported to the FEC. All federal political committees—including candidate campaign committees, party committees and receipts and disbursements in regular reports to the FEC. All individuals and entities must file disclosure reports with the FEC in connection to two types of advertising: (1) “express advocacy,” i.e., ads that expressly advocate the election of a federal candidate, and (2) “electioneering communications,” i.e., broadcast ads that mention a federal candidate, and run within 30 days of a primary election and 60 days of a general election.

Taken from “A Guide to the Current Rules for Federal Elections,” The Campaign Legal Center. ([www.campaignlegalcenter.org](http://www.campaignlegalcenter.org))