

CAMPAIGN FINANCING & LOBBYING TERMS

THE BIPARTISAN CAMPAIGN REFORM ACT OF 2002 (BCRA): The most progressive attempt, at the federal level, to regulate how elections are financed since the Federal election Campaign Act of 1971. Also called the “McCain-Feingold law” (after the two Senator’s who sponsored the legislation), the legislation prohibits federal office holders, candidates and the parties from raising and spending soft money for federal elections. The law also redefines and regulates political advertising. Lastly, BCRA increased hard money limits to political candidates and the parties (see contribution limits chart).

BUCKLEY VS. VALEO: This was the 1976 landmark Supreme Court case that decided the constitutionality of key provisions of the Federal Election Campaign Act of 1971. The Court recognized that political communications frequently cost money, and then over-extended that principle essentially to equate free speech with money. As such, the Court ruled that contribution limits are permissible, since contributions constitute “proxy speech” in that they merely enable someone else to speak on behalf of the contributor, but then invalidated mandatory expenditure ceilings as a violation of the speaker’s free speech rights. Expenditure ceilings could only be permissible if they are voluntary, such as in a contractual arrangement for public financing.

ELECTIONEERING COMMUNICATIONS: Communications which depict a federal candidate within 60 days of a general or runoff election or 30 days before a primary election, and which target the voting constituency in that election.

EXPRESS ADVOCACY: Communications, which employ the “magic words” of “vote for,” “vote against,” “elect” or something comparable.

FEDERAL ELECTION CAMPAIGN ACT OF 1971: The comprehensive law to regulate and disclose how candidates for the United States Congress and President raise money for their campaigns. The law has been amended many times, but most importantly in 1974 it was amended to provide for the Presidential Public Financing System and the Federal Election Commission (see below).

THE FEDERAL ELECTION COMMISSION (FEC): Established in 1974 as an amendment to the Federal election Campaign Act of 1971, the FEC is required to administer and enforce election law. The agency is made up of six members, typically three Democrats and three Republicans. To take any action, four of the six members must cast the same vote. Because of this requirement, historically, the FEC is often deadlocked, especially on issues that will benefit one party over the other.

HARD MONEY: Political contributions that are regulated by law – specifically contributions that fall within the contribution limits and source requirements. Its name is ironic to some because of how “hard” it is to raise these funds.

ISSUE ADS: An advertisement in support of or against a particular political issue. Because these types of advertisements are not express advocacy, issue ads are not supposed to advocate for the election or defeat of a political candidate. Still, those who aspire to influence an election, often claim their ads are “issue” even though many would consider them electioneering in nature. “Sham issue ads”, that avoid the magic words yet promote the election or defeat of candidates, are one of many loopholes special interests use to get around campaign finance laws.

LOBBYIST: A representative of a corporation, labor union, membership organization or trade association hired to represent their views and positions before government officials.

LOOPHOLE: A way in which election lawyers, lobbyists, special interests and even politicians escape restrictions placed upon them by election and lobbying regulations by searching out and exploiting technicalities or ambiguities in the law.

MCCONNELL VS FEC: Senator McConnell sued the FEC arguing that BCRA’s restrictions on “issue ads” infringed upon on First Amendment rights. In 2003, the Rehnquist Supreme Court upheld nearly all aspects of BCRA, including the electioneering communications provision, A few years later, much of this decision was reversed by the Roberts Court (see Wisconsin Right to Life).

POLITICAL ACTION COMMITTEE (PACS): Most PAC’s are politically active groups run by corporations, labor unions, membership organizations or trade associations. Political contributions made to these PAC’s must be solicited exclusively from within their given entity. Non-connected PAC’s aren’t established or operated by one of the above entities and are allowed to raise funds from the general public (see PAC chart).

THE PRESIDENTIAL PUBLIC FINANCING SYSTEM: Established by the Federal Election Campaign Act of 1975 this voluntary system allows presidential candidates to obtain federal funding for their campaign (in the primary and/or general election). By participating in the Public Financing System candidates agree to voluntarily limit campaign fundraising and spending. In recent elections, because the system hasn’t been updated to compete with money outside the system, Presidential candidates (even those who claim to support clean elections) have opted out of public financing. For more information see “How Presidential Public Financing Works.”

SOFT MONEY: Any political contribution that is not regulated by law. While these funds are supposed to be limited to party building activities and get out the vote drives, some of this money still finds its way into areas where contributions should be regulated (ie. "Issue ads advocating for the election or defeat of a candidate).

SPECIAL INTEREST: Typically corporations, labor unions, membership organizations or trade associations who have an interest influenced or controlled by the government.

WISCONSIN RIGHT TO LIFE v. FEC: Following several new appointments to the Supreme Court by President George W. Bush, the new Roberts Supreme Court in 2006 reversed a key finding of the Rehnquist Court just three years earlier. In this case, the Roberts Court determined that "issue ads" may be paid for with soft money, even if they constitute electioneering communications. The ruling did not invalidate disclosure requirement for electioneering communications nor the soft money ban to candidates and parties.

527 GROUPS: A term for political organizations created and run to influence elections. The term, "527" comes from the IRS tax-exempt code under which they operate. 527 groups generally fall outside the contribution limits and soft money restrictions of FECA and BCRA. However, 527 groups must disclose the sources and amounts of their funds on a publicly-available Web page managed by the IRS.