

CHAPTER 19

Campaigns

Topics 5.10–5.11

Topic 5.10 Modern Campaigns

PRD-2.D: Explain how campaign organizations and strategies affect the election process.

Topic 5.11 Campaign Finance

PRD-2.E: Explain how the organization, finance, and strategies of national political campaigns affect the election process.



Source: Getty Images

Senator Bernie Sanders (I-VT) speaks at a UNC-Chapel Hill campaign rally for the 2020 Democratic presidential nomination. Unlike other candidates, Senator Sanders relied on small donations for his campaign because he believes that corporate money plays too large a role in electing candidates.

Modern Campaigns

"Television has replaced the political party."

—Arthur Schlesinger, *Time Magazine*, 1988

Essential Question: How do campaign organizations and strategies affect the election process?

When citizens decide to run for political office, whether for county constable or president of the United States, they must consider many factors and push through a challenging path. This path includes a public examination of them, their past, their spouse, their religion, their resume, and their ideology. Candidates for office must create and manage a campaign organization of staff and volunteers to connect with the voters. They spend months traveling their districts and states campaigning. They also employ a strategy that targets certain voters, shapes their ad campaign, defines their opponent, and affects the election process. A campaign of any size requires hiring a political consultant or more staff. The average U.S. House race spends more than \$1 million each cycle, and competitive Senate races in a large state can require candidates to raise and spend upwards of \$30 million. Acquiring such large sums necessitates events such as fancy and expensive fundraising dinners to build strong relationships with interest groups.

Campaign Organization

Competitive candidates must work with and, at times against, their own party leaders and organizations. Outside interest groups and PACs can assist or derail a candidate's chances to win the election. The effort to bring in money is constant and necessary to persuade voters with their message through advertising. Most candidates will assemble a team of professionals that coordinate their events, talk to the press, develop strategy, conduct voter outreach, and design television and web ads.

Candidate's Committee

In most campaigns, from the presidential down to the county-level, a candidate will form a committee and file for candidacy with the appropriate governmental offices. In a presidential race, a leadership team that has experience in presidential politics will likely form around each candidate. In more local elections, the committee is made up of friends and family. The officially listed treasurer of the campaign has the legal responsibility to report donations,

expenses, income, and receipts to the Federal Election Commission (FEC) or state authority.

Party Organizations

Alongside any candidates wearing a party label is the party itself. National, state, and local party organizations will get involved in electioneering, spend money, and mobilize members. Usually, though, when it sees a competitive primary with two or more strong candidates, the party stays out. But sometimes the party sees who the favorite is and endorses that person. Having the support of a party organization is a game changer in political campaigns, because with these relationships come a sharing of information, member email lists, donor connections, and ad costs.

More often than not, party organizations put resources toward re-electing an incumbent, because that is usually a safe bet. However, the party may choose not to endorse and instead allow voters to make that decision. The party leadership may not always be in agreement with the candidate about how to handle or manage the campaign, and intraparty friction can occur. Official or *ad hoc* party organizations include the local Republican Club or the state Democratic Party Committee.

Congress has four committees that primarily work to elect their members to the House and Senate. (See Topic 5.3 for more on Congressional Campaign Committees.) One of those committees is the Democratic Congressional Campaign Committee (DCCC), the Democrats' national party headquarters. Democratic House members lead this committee, but talented and hard-working staffers do the real work in campaigning and coordinating with their chosen candidates. They are the ones who will have their sleeves rolled up, circled around a table, highlighting the marginal or toss-up districts where they will spend on advertising, and the safe districts where they will not spend.

In 2017, the DCCC created a program that trained more than 14,000 new Democratic activists in less than two years. It then deployed DCCC organizers to 38 of the most vulnerable Republican-held House districts. In 2016, the DCCC provided financial backing to 28 House candidates. In 2018, that number rose to 65. As Luke Mullens has reported, the DCCC can play favorites and with intensity. "Despite the DCCC's lip service to grassroots outreach," says Mullens, "the party bosses back in Washington still dictate who gets on the ballot."

Outside Groups

Both longstanding and sometimes temporary groups engage in electioneering and can have a strong effect on the election process. The most obvious examples are political action committees (PACs), such as the National Rifle Association (NRA). Standing interest groups run ads, donate to candidates, hold rallies, and impact the vote. (See Topic 5.11 for more on PACs.) Also, a 527 organization is a tax-exempt group that can raise unlimited funds from individuals, corporations, and labor unions for the purpose of influencing policy or elections.

Fundraising

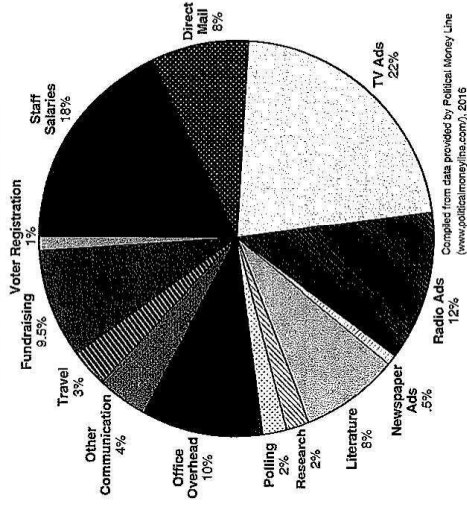
Since the government has tracked campaign spending, cash that has flowed through federal elections has skyrocketed. Few candidates finance their own campaigns, while most rely on the party organization and thousands of individual donors for contributions. The size of a candidate's war chest, or campaign fund, can play a role in determining the outcome of the election. The campaign for financial resources begins long before the campaign for votes. Fundraising allows candidates to test their chances. Those who can gather funds begin to prove a level of support that makes them viable. In more competitive districts with strong media markets, that number will rise. To raise the required cash over a two-year period, candidates dedicate about one-fourth of their campaign schedule to making personal phone calls to wealthy donors and holding high-dollar formal fundraisers. Campaigns bring in headline speakers, sometimes a former president or other political celebrity, and charge the legal maximum for entrance and a seat near the main attraction.

Senate candidates, because they are running statewide and may attract wealthier opponents, begin raising money much earlier than House candidates and devote more time to soliciting cash. Contributions by PACs to congressional candidates, who have a considerably smaller budget than presidential candidates, are essential to successful campaigns. Often, PACs will donate to an incumbent due to their likelihood of winning the election.

The internet became a campaign and fundraising tool in the 1990s. By 2002, 57 percent of all House candidates and virtually every Senate candidate used the web or email to gather funds. This type of solicitation is free, compared with an average of \$3 to \$4 for every direct mail request.

By the Numbers

Typical House Candidate Campaign Budget



Source: Paul S. Herman, Congressional Elections, 2008

What do the numbers show? What are the chief expenses in a House campaign? What portion of a candidate's expenditures are for marketing/showcasing the candidate? What percent goes to support staff or some type of research?

Compiled from data provided by Political Money Line (www.politicalmoneyline.com), 2016

Campaign Strategies

How candidates develop their strategies depends on the geographic location in which they are running, their experience and background, and what issues they want to put front and center in their campaign. They usually develop a slogan, a logo, a recognizable font and color for their signs and bumper stickers, and an advertising campaign. They target particular voting blocs to build a base of support and mobilize members of their coalition to get to the voting booths.

Professional Consultants

Winning elections requires the expertise of professional consultants. These may include a campaign manager, a communications or public relations expert, a fundraiser, an advertising agent, a field organizer, a pollster, and a social media consultant. The campaign profession has blossomed as a consulting class has emerged. Staffers on Capitol Hill, political science majors, and those who have worked for partisan and nonprofit endeavors also overlap with political campaigns. Entire firms and partisan-based training organizations prepare energetic civic-minded citizens to enter this field that elects officials to implement desired policy.

One such professional is strategist Corry Bliss. In 2016, at age 35, Bliss was entrusted to run the Republicans' Congressional Leadership Fund PAC and oversee a \$100 million effort to assure Republicans get elected to the House and Senate. In the top GOP circles, Bliss is viewed as one of the party's most influential political operatives. Bliss entered campaign work and had success in Virginia elections. Now the Leadership Fund frequently sends him from DC to a faltering campaign as a fixer.

Showcasing the Candidate

Most voters, like most shoppers, make their decision based on limited information with only a small amount of consideration. For this reason, electronic and social media, television, and focus groups are essential to winning an election. A candidate's message often centers on common themes of decency, loyalty, and hard work.

Polling results can help candidates frame their message. Polling helps determine which words or phrases to use in speeches and advertising. Campaigns occasionally use tracking polls (see Topic 4.5) to gain feedback after changing campaign strategy. They may also hold focus groups. Incumbents also rely on constituent communication over their term. Candidates also keep an eye on internet blogs, listen to radio call-in shows, and talk with party leaders and political activists to find out what the public wants. Campaigns set up registration tables at county fairs and on college campuses. They gather addresses from voter registration lists and mail out promotional pieces that highlight the candidate's accomplishments and often include photos of the candidate alongside spouse and family. Campaigns also conduct robocalls, automated mass phone calls, to promote themselves or to denounce an opponent.

A typical campaign is divided into three segments: the biography, the issues, and the attack. Successful candidates have a unique story to tell. Campaign literature and television ads show candidates in previous public service, on playgrounds with children, on a front porch with family, or in church. These images attract a wide variety of voters. After telling the biography, a debate over the issues begins as voters shop for their candidate. Consultants and professionals believe issues-oriented campaigns motivate large numbers of people to come out and vote.

Defining the Opponent Candidates competing for independent voters find it necessary to draw sharp contrasts between themselves and their opponents. An attack phase begins later in the race, often motivated by desperation. Underdogs sometimes resort to cheap shots and work hard to expose inconsistencies in their opponent's voting records. Campaigns do opposition research to reveal their opponent's missteps or any unpopular positions taken in the past. Aides and staffers comb over the *Congressional Record*, old interview transcripts, and newspaper articles to search for damaging quotes. They also analyze an opponent's donor list in order to spotlight special-interest donations or out-of-state money.

Debates As the election nears, candidates participate in formal public debates, highly structured events with strict rules governing response time and conduct. These events are risky because candidates can suffer from gaffes (verbal slips) or from poor performances. Incumbents and front-runners typically avoid debates because they have everything to lose and little to gain. Appearing on a stage with a lesser-known competitor usually helps the underdog. For races with large fields, the organizations sponsoring the debates typically determine which candidates get to participate. Their decisions are sometimes based on where candidates stand in the polls.

Television Appearances The candidate's campaign team also strategizes about appearances on television, either in news coverage or in a commercial. Veteran Democratic speechwriter and campaign consultant Bob Shrum laments, "Things are measured by when a campaign will go on television, or if they can and to what degree they can saturate the air waves."⁷

Candidates rely on two forms of TV placement: the news story and the commercial. A news story is typically a short news segment showing the candidate in action—touring a factory, speaking to a civic club, visiting a classroom, or appearing at a political rally. Candidates send out press releases announcing their events, usually scheduled early enough in the day to make the evening news. This is free media coverage because, unlike expensive television commercials, the campaign does not have to pay for appearing in the news. The most expensive part of nearly any campaign is television advertising. The typical modern campaign commercial includes great emphasis on imagery, action-oriented themes, emotional messages, negative characterizations of the opponent, and quick production turnaround.

NUMBER OF TELEVISION COMMERCIALS BY CANDIDATE 2016 PRESIDENTIAL ELECTION		
Candidate	Ads Sponsored by Candidate's Campaign	Ads Sponsored by Pro- candidate Groups
Donald Trump	120,447	44,153
Hillary Clinton	404,704	112,896

A candidate's appearance on camera can influence voters more deeply than words. For instance, in the first televised debate in 1960, John F. Kennedy's youthful, handsome, and charming demeanor was a stark contrast to Richard M. Nixon's frail appearance after a recent hospital stay for an infection. Many who watched the first debate considered Kennedy the "winner" of the debate, while those who listened to the debate on the radio clearly thought Nixon sounded much better. Kennedy won the election.

Social Media

Just as Kennedy became the first "television president" because he used the medium so well, Barack Obama is often called the first "social media" president. His campaign, especially for reelection in 2012, spent years on research and development to create complex programs that could link data available through social media and the party's own paper records in a precise and highly efficient voter outreach program. Digital ad costs were also much lower than those of television ads. For about \$14.5 million, Obama's campaign bought YouTube advertising that would have cost \$47 million on television.

Many supporters gave the Obama campaign permission to access their connections on social media, which were then cross-checked in the campaign's vast data repository. Rather than asking supporters to share an Obama ad with all their connections, the campaign told supporters to do so only in key states or with a certain demographic. Since people are much more likely to trust the outreach of a friend than the outreach of a political volunteer, this strategy won many votes for Obama. Since then, parties try to develop the most efficient social media strategies to gather data for targeted outreach.

Despite the positive aspects of connectedness and free or low-cost advertisement on social media, there is a negative side. Facebook and Twitter, in particular, ran thousands of "dark ads" during the 2016 election. Dark ads are anonymously placed status updates, photos, videos, or links that appear only in the target audience's social media news feeds but not in the general feeds. They are created to match the personality types of their audience to the message and to manipulate people's emotions—especially anger or fear—in order to sway their votes. Facebook and Twitter have both promised to provide more transparency to voters regarding this strategy.

Connecting to voters via social media has become essential in campaigning. For a fee, Facebook offers consultants to political groups to help reach voters, much as they offer consulting connections to a corporation to sell cereal or dog food. As Trump's key digital campaign manager, Brad Parscale, explained on

60 Minutes, the Trump team took Facebook's offer of help; the Clinton team did not.

The Facebook platform and technology allow campaigns to micro target—identify by particular traits and criteria—independent voters who could be persuaded and learn what might persuade them. Perhaps an intense, issues-oriented ad would sway their opinions, or maybe the color of a button on a website might enhance the chances for a donation. Marketers use psychographics—profiles of a person's hobbies, interests, and values—to create image-based ads that would appeal to certain personalities. Different personality types will see different ads.



THINK AS A POLITICAL SCIENTIST: USE REASONING TO ANALYZE EVIDENCE AND JUSTIFY A CLAIM

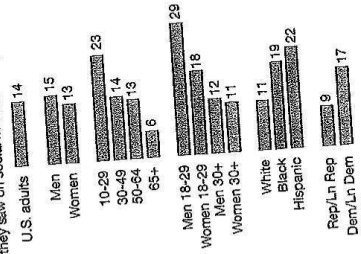
A growing number of people use social media platforms. Political campaigns have used this trend as an opportunity to connect with more potential voters in inventive ways. The use of technology and social media to reach voters is likely to continue in even more creative ways over time. Political scientists look at the effect that social media have on voter behavior.

Practice: Study the information in the graphs. Read the question below, and then use information from the graphs to develop a claim in response to the question. Then, choose three pieces of evidence from the graphs and/or from Topic 5.10 to support your claim.

To what extent has the increase in the use of social media strategies had an impact among all demographic groups recently?

Roughly three-in-ten younger men changed their views on an issue because of social media

% of U.S. adults who say they changed their views on a political or social issue because of something they saw on social media in the past year



The 2016 Presidential Campaign

The unusual 2016 presidential campaign is perhaps the worst example to study for understanding norms and trends in voting, campaigns, and elections. More than 20 candidates brought an intense intraparty contest in both major parties, set a new record for money spent, sparked attempts to manipulate election rules to stop an unconventional candidate, and took the candidates down in the mud like no other public campaign in memory.

The General Election Campaign

As the post-convention campaign began, a late August poll showed perhaps the widest gap between the candidates, Democrat Hillary Clinton with 45 percent to Republican Donald Trump's 33 percent. That gap narrowed. The candidates' respective poll averages from September through Election Day had Clinton outpolling Trump by only 45.5 percent to 42.2 percent.

An Ugly Campaign

What followed was what many termed "a race to the bottom." Trump continued his unconventional and, to many, unstatesmanlike approach to campaigning. He won support among many middle-class workers who responded well to his America First ideology and the concern he expressed for average working persons who may have lost their jobs as industry steadily declined.

By early October, Clinton's campaign had spent \$145 million on TV commercials to Trump's \$32 million. Trump, however, received an estimated \$200 million in free media. Top cable news reporters stood by at his rallies awaiting his grand entrance and anticipating some shocking behavior or pronouncement that would boost ratings. Meanwhile, his "Make America Great Again" message resonated with those who felt shut out by traditional politicians.

Meanwhile Clinton took a jab at some of Trump's supporters, referring to them as "a basket of deplorables." Trump strategists were able to turn the comment into another liberal elite's uptown view of Middle America.

An October surprise came with the release of a decade-old *Access Hollywood* video of Trump on a hot mic bragging about how he could have his way with women, kissing and grabbing them. When this news broke, he apologized before quickly pointing to Bill Clinton's dalliances, affairs, and aggressions toward women, suggesting that Hillary enabled this behavior. He invited Bill Clinton's past accusers to the next televised debate to turn the spotlight on the former president's behavior. The campaign had sunk to a new low.

The Vote

When citizen voters cast their popular votes on Tuesday, November 8, and such states as North Carolina, Florida, and Ohio went for Trump, the Clinton team became very nervous. Into the late evening and early morning, Trump won Pennsylvania, Wisconsin, and by the closest of margins, Michigan. In the final

tally, Trump won 306 electoral votes to Clinton's 232. However, Clinton's large-margin successes in states like New York and California took her over the top in the national popular vote. Once states counted provisional and absentee ballots, Clinton had 3 million more votes than Trump. She received 48 percent of the national total, he received 46, and the minor party candidates split the remainder. But with the winner-take-all system and the razor-thin victories in the Rust Belt (parts of the Northeast and Midwest where industry is in decline), Trump took the Electoral College. In his 2:45 a.m. victory speech, the president-elect said in a partially scripted and partly ad-libbed address, "Now it's time for America to bind the wounds of division; have to get together. To all Republicans and Democrats and independents across this nation, I say it is time for us to come together as one united people."

REFLECT ON THE ESSENTIAL QUESTION

Essential Question: *How do campaign organizations and strategies affect the election process? On separate paper, complete the chart below.*

Organizations and Strategies That Affect the Election Process	Influence of Organizations and Strategies
dark ads	war chest

Campaign Finance

"There are two things that are important in politics. The first is money and I can't remember what the second one is."

—attributed to Senator Mark Hanna, on presidential campaigns, 1896

Essential Question: How does the organization, finance, and strategies of national political campaigns affect the election process?

Winning an election requires a political campaign to first make voters aware of a candidate and then to persuade the same voters that he or she is the best choice. That takes money. Mark Hanna, politico and campaign manager for President William McKinley certainly knew this as well, whether he publicly made the above statement or not. Candidates today require everything from bumper stickers and yard signs to a full-time staff and televised commercials.

Campaign Finance

The quote from Mark Hanna illustrates that politicians realize money is at the heart of politics. The entanglement of money and politics reached new levels when people with unscrupulous business practices became fixtures in the political process in the late 19th century in an effort to influence and reduce the federal government's regulation of commerce. The bulk of today's relevant campaign finance regulations, however, came about much later—in the early 1970s—and other laws and Supreme Court decisions followed.

Federal Legislation on Campaign Finance

In 1971, Congress passed the **Federal Election Campaign Act (FECA)**, which tightened reporting requirements and limited candidates' expenditures. In spite of this law, spending in the 1972 presidential race between Richard Nixon and George McGovern reached \$91 million. The public soon realized how much money was going through the campaign process and how donors had subverted the groundbreaking yet incomplete 1971 act. Congress responded with the 1974 amendment to the FECA.

The Federal Election Commission

The 1974 law prevented individual donors from giving more than \$1,000 to any federal candidate and prevented political action committees from donating

more than \$5,000 in each election (primaries and general elections are each considered "elections"). It capped the total a candidate could donate to his or her campaign and set a maximum on how much the campaign could spend. The law created the **Federal Election Commission (FEC)** to monitor and enforce the regulations. It also created a legal definition for political action committees (PAC) to make donations to campaigns, declaring that they must have at least 50 members, donate to at least five candidates, and register with the FEC at least six months in advance of the election.

The FEC has structural traits to help it carry out several responsibilities. The president appoints the FEC's board of commissioners to oversee election law, and the Senate approves them. This commission always has an equal number of Democrats and Republicans. The FEC requires candidates to register, or file for candidacy, and to report campaign donations and expenses on a quarterly basis. A candidate's entire balance sheet is available to the government and the public. The site www.fec.gov has a database that allows anyone to see which individuals or PACs contributed to the candidates and in what amounts.

KEY PROVISIONS OF THE 1974 FEDERAL ELECTION CAMPAIGN ACT

- Limited an individual's contributions to \$1,000 per election
- Limited a candidate's own contribution to \$50,000 per election
- Defined and regulated donations of political action committees (PACs)
- Created a voluntary public fund to assist viable presidential candidates

One of the first challenges to FEC law came with the case of *Buckley v. Valeo*. In January 1975, a group of conservatives and liberals joined New York Senator James Buckley to overturn the Federal Election Campaign Act (FECA) in the courts. They argued that the early 1970s law unconstitutionally limited free speech. The Court upheld the law's \$1,000 limit on individual donations and the \$5,000 limit on political action committee (PAC) donations, claiming such limits did not violate free speech guarantees. However, the Court also ruled that Congress cannot limit a candidate's donation to his or her own campaign nor can it place a maximum on the overall receipts or expenditures for a federal campaign. With the *Buckley* ruling, Congress and the Court ultimately reached consensus that unlimited donations make for unfair elections.

Even after the ruling in *Buckley*, however, television advertising and money became more important in campaigns as interest groups, politicians, and lawyers found loopholes in the law. The FECA covered only money going directly to and from a candidate's treasury. If a non-candidate wanted to spend money to influence an election—for example, to buy a radio ad for or against a candidate—there were no limits. **Hard money**, a donation given directly to a candidate, could be traced and regulated. But **soft money**, a donation to a party or interest group, was not tracked. Therefore, the party could flood a congressional district with television ads that paint the opponent in a bad light, causing large, ultimately untraceable spending on electioneering at the end of a campaign. Unsurprisingly, soft money spending escalated.

Bipartisan Campaign Reform Act

This situation brought greater attention to soft money's influence on elections and highlighted how much that influence was able to subvert the spirit of the 1970s reforms. Senators John McCain (R-AZ) and Russ Feingold (D-WI) had pushed for greater campaign finance regulations since the mid-1990s. After some modification, the **Bipartisan Campaign Reform Act (BCRA)** of 2002, also known as the McCain-Feingold Act, finally passed the House with a 240-189 vote and the Senate with 60-40 vote, and President Bush signed it. The act banned soft money contributions to the national parties, increased the limits on hard money donations to \$2,000 from individuals (with future adjustments for inflation), \$5,000 from PACs, and \$25,000 from the national parties per election cycle. The law also placed an aggregate limit on how much an individual could donate to multiple candidates in a two-year cycle. Since then, the limit has been raised to \$2,700 per individual.

The BCRA prohibited PACs from paying for electioneering communications on radio or TV using campaign treasury money within 60 days of the general election and 30 days of a primary. To clear up who or what organization is behind a broadcasted advertisement, the McCain-Feingold law also requires candidates to explicitly state, "I'm [candidate's name] and I approve this message." That statement must last at least four seconds.

Though the law was dubbed bipartisan, the vote in Congress and the reaction to the law has been somewhat partisan, with more Democratic support than Republican. It was challenged immediately by then-Senate Majority Whip, Mitch McConnell (R-KY), in the courts and largely upheld. The 2010 case of *Citizens United v. Federal Election Commission (FEC)*, however, overturned key parts of the law.



MUST-KNOW SUPREME COURT CASES: CITIZENS UNITED V. FEC (2010)

The Constitutional Questions Before the Court: Does the 2002 Bipartisan Campaign Reform Act's (McCain-Feingold Act) donation disclosure requirement violate the First Amendment's free speech clause, and is a negative political documentary that never communicates an expressed plea to vote for or against a candidate subject to the BCRA?

Decision: No and Yes for Citizens United, 5:4

Before Citizens United: *Buckley v. Valeo* (1976) upheld the limits on campaign contributions from individuals (\$1,000) and PACs (\$5,000) but ruled that candidates could contribute unlimited funds from their own money to their campaigns. It also ruled that there was no limit on total revenue or expenditures for campaigns.

Facts: The BCRA prevented corporations or nonprofit agencies from engaging in "electioneering communications," primarily TV and radio campaign ads, 60 days before the general election. In 2008, the conservative group Citizens United produced *Hillary: The Movie*, a critique meant to derail Hillary Clinton's chance for the presidency. The law prevented the film's airing, regarding it as "electioneering communications," but

the group appealed to the Supreme Court. The opportunity to broadcast the movie had passed by the time the Court issued its ruling, which has had a dramatic impact on campaign financing.

Reasoning: The Court ruled that part of the BCRA violated the First Amendment's free speech clause and that corporations, labor unions, and other organizations could use funds from their treasuries to endorse or denounce a candidate at any time, provided ads are not coordinated with any candidate. The majority opinion reasoned that the limitations amounted to censorship.

The Court reasoned further that just because a PAC or any entity entitled to free speech supports a candidate via advertising, that candidate does not necessarily owe anything to that PAC. There's no assumption that the donation is buying a favor from the candidate, which in any event is already criminal and punishable by statute.

The Court's Majority Opinion by Mr. Justice Anthony Kennedy, joined by Chief Justice John Roberts and Justices Antonin Scalia, Samuel Alito, and Clarence Thomas: The law before us . . . makes it a felony for all corporations—including nonprofit advocacy corporations—either to expressly advocate the election or defeat of candidates or to broadcast electioneering communications within 30 days of a primary election and 60 days of a general election. . . . These prohibitions are classic examples of censorship. Were the Court to uphold these restrictions, the Government could repress speech by silencing certain voices at any of the various points in the speech process. . . . If [this part of the law] applied to individuals, no one would believe that it is merely a time, place, or manner restriction on speech, its purpose and effect are to silence entities whose voices the Government deems to be suspect.

Speech is an essential mechanism of democracy, for it is the means to hold officials accountable to the people. . . . The right of citizens to inquire, to hear, to speak, and to use information to reach consensus is a precondition to enlightened self-government and a necessary means to protect it. . . .

For these reasons, political speech must prevail against laws that would suppress it, whether by design or inadvertence. . . .

We find no basis for the proposition that, in the context of political speech, the Government may impose restrictions on certain disfavored speakers. Both history and logic lead us to this conclusion.

Since *Citizens United*: In 2014, in *McCutcheon v. FEC*, the Supreme Court ruled that the limit on how much a donor can contribute over a two-year election cycle was unconstitutional. To stay within that limit, the plurality of the Court argued, donors who could afford to give the maximum amount to a number of candidates would have to rule out some candidates and causes they might also wish to support. In that way, the Court ruled, their freedom of expression was unconstitutionally limited.

Political Science Disciplinary Practices: Analyze and Interpret Supreme Court Decisions

As you analyze the ruling in *Citizens United v. FEC* (or any other court case or law), compare it to other related cases or laws. Identify specific categories for comparison. If you are comparing Supreme Court cases, for example, the categories for comparison might include the constitutional principle at stake, the facts of the case, the decision, the makeup of the court, the historic time of the decision, and dissenting opinions,

among others. Creating these specific and relevant categories will help you sharpen the comparisons you make.

Apply: Complete the activities below.

1. Describe the facts of the *Citizens United v. FEC* case and the congressional regulation at issue.
2. Describe the claim the group Citizens United made about BCRA.
3. Explain how the Court's reasoning in *Citizens United* led to its ruling.

Impact of Citizens United

Debates over free speech and competitive and fair elections have increased since *Citizens United*. Free speech advocates, libertarians, and many Republicans view most campaign finance regulations as infringements on their freedoms, so they hailed the ruling. Others agreed with President Obama when he criticized the ruling at his 2010 State of the Union address as a decision that would “open the floodgates to special interests.”

In addition to allowing ads by outside or soft money groups immediately before an election, the Court's ruling also allowed for unlimited contributions to these groups from individual citizens and other organizations. This **dark money** has penetrated political campaigning, causing a lack of transparency about where the money originates. Even though political ads must express who is behind them, determining exactly where the money ultimately comes from is hard to do.

“*Citizens United* changed the culture at the same time that it changed the law,” according to Zephyr Teachout, Fordham University law professor and author of *Corruption in America*. “Before *Citizens United*, corporate or individual money could be spent with a good enough lawyer. But after *Citizens United v. FEC*, unlimited corporate money spent with intent to influence was named, by the U.S. Supreme Court, indispensable to the American political conversation.”

The ruling also concentrates who dominates the political discussion. Five years after the ruling, the Brennan Center at New York University found that of the \$1 billion spent, about 60 percent of the donations to PACs came from 195 people or couples. More recently, an analysis by OpenSecrets.org found that during the 2016 election cycle, the top 20 individual donors gave more than \$500 million to PACs. The 20 largest organizational donors also gave a total of more than \$500 million to PACs. And more than \$1 billion came from the top 40 donors. About one-fifth of political donations spent in all federal elections in 2016 came from dark money sources.

In the 2016 election cycle, special interests spent at least \$183.5 million in dark money, up from \$5.2 million in 2006. Of that, liberal special interests spent at least \$41.3 million, or 22.5 percent; conservatives spent most of the remaining amount.

Though Democrats are more prone to use *Citizens United* as a rallying cry against corporate special interests, Democrats have also benefitted from the ruling. As Sarah Kleiner of the Center for Public Integrity pointed out, "... many Democrats have ... taken full advantage of the fundraising freedoms *Citizens United* has granted them." Candidate Hillary Clinton, especially, "benefited from a small army of super PACs and millions of dollars in secret political money." More specifically, in 2016 the Clinton presidential campaign received 18 percent of its contributions, about \$220 million, from such sources, whereas Trump received 12 percent of his overall contributions, or roughly \$80 million, from PACs.



THINK AS A POLITICAL SCIENTIST: EXPLAIN HOW A REQUIRED SUPREME COURT CASE RELATES TO A FOUNDATIONAL DOCUMENT

The required Supreme Court case of *Citizens United v. FEC* (2010) lifted limits on corporate funding in political broadcasts established in the Bipartisan Campaign Reform Act (BCRA) of 2002. The Court ruled that the limits violated the First Amendment's right to free speech. A previous case, *Buckley v. Valeo* (1976), upheld the Federal Election Campaign Act (FECA) that placed limits on campaign contributions from PACs. The foundation for both cases and the government's concern over the influence of "factions" can be traced back to *Federalist No. 10*.

Practice: Read the excerpt from James Madison's *Federalist No. 10*, and explain how it could be used as justification for the concerns about PACs and campaign finance.

"... as each representative will be chosen by a greater number of citizens in the large than in the small republic, it will be more difficult for unworthy candidates to practice with success the vicious arts by which elections are too often carried; and the suffrages of the people being more free, will be more likely to center in men who possess the most attractive merit and the most diffusive and established characters.

...

Hence, it clearly appears, that the same advantage which a republic has over a democracy, in controlling the effects of faction, is enjoyed by a large over a small republic,—is enjoyed by the Union over the States composing it. Does the advantage consist in the substitution of representatives whose enlightened views and virtuous sentiments render them superior to local prejudices and schemes of injustice? It will not be denied that the representation of the Union will be most likely to possess these requisite endowments. Does it consist in the greater security afforded by a greater variety of parties, against the event of any one party being able to outnumber and oppress the rest? In an equal degree does the increased variety of parties comprised within the Union, increase this security. Does it, in fine, consist in the greater obstacles opposed to the concert and accomplishment of the secret wishes of an unjust and interested majority? Here, again, the extent of the Union gives it the most palpable advantage."

Types of PACs

Campaign finance laws define several different types of political action committees, distinguished by how they are formed, how they are funded, and how they can disperse their funds. Some also have different limits on the donation amount from individuals per year or election.

Connected PACs Corporations, labor unions, and trade organizations are not allowed to use money from their treasuries to influence elections. However, they are allowed to form **connected PACs**—political action committees funded separately from the organization's treasury through donations from members—and make limited campaign contributions in that way. Connected PACs are also known as Separate Segregated Funds (SSF) because of the way the money is separated from the sponsoring organizations' treasuries. They cannot solicit donations from anyone who is not a member of the organization.

Nonconnected PACs These political action committees have no sponsoring organization and often form around a single issue. They can solicit funds from anyone in the general public, and they can make direct donations to candidates up to limits set by law. Like the connected PACs, nonconnected PACs must register with the FEC and disclose their donors.

Leadership PACs are a type of nonconnected PAC. They can be started by any current or former elected official and can raise money from the general public. Though the money cannot be used to fund the officials' own campaigns, funds in a leadership PAC can be used to cover travel and other expenses for other candidates.

Super PACs These are the newest kind of political action committee, whose creation resulted from the Supreme Court ruling in *Citizens United v. FEC* and the U.S. District Court ruling in *Speechnow v. FEC*, both cases decided in 2010. The *Citizens United* ruling opened the door for unlimited donations to and spending by large PACs, as long as the don't formally coordinate or communicate with the candidate's campaign. The *Speechnow* ruling determined that those contributions to Super PACs should have no limit placed on them.

TYPE	FORMED BY	REQUIREMENTS	DONATION LIMITS	EXAMPLE(S)
Connected PAC (SSF—Separate Segregated Funds)	Corporations, labor unions, trade groups	Can collect contributions only from their members; can donate directly to candidates	Strict	Coca-Cola Company Nonpartisan Committee for Good Government
Nonconnected PAC	No sponsoring (connected) organization	Can collect from general public; can donate directly to candidates	Strict	KochPAC National Rifle Association Emily's List

(continued)

TYPE	FORMED BY	REQUIREMENTS	DONATION LIMITS	EXAMPLE(S)
Leadership PAC (type of non-connected)	Current or former elected official	Can collect from general public; can donate directly to candidates	Strict	Leadership Fund (Mitch McConnell)
Super PAC (independent expenditure-only committee)	Anyone	Can collect from anyone; cannot coordinate with candidates	No limits	Vote Latino Super PAC Cryptocurrency Alliance Super PAC

Four years after *Citizens United*, the court addressed campaign finance again in *McCutcheon v. FEC* (2014). *McCutcheon*, a generous donor to candidates across the nation, questioned multiple points of law, especially the FEC's aggregate limit of donations. While upholding the maximum contributions for individual candidates or committees, the ruling in *McCutcheon* removed the limit imposed by BCRA on how much an individual could donate to multiple candidates in a two-year cycle. This change greatly increased the popularity of the joint fundraising committee (JFC)—a coordinated fundraising effort of a number of candidates and committees. Rich donors can now write just one large check (more than \$1 million depending on how many candidates and committees are in the JFC). The contributions are then shared among the members of the JFC according to their own agreement.

These changes affected political parties in several ways. First, state party committees are often members of JFCs, so they received a share of the contributions. Once the money was in their coffers, there was no law against returning a sizable amount of it to the national committees. Through this process, the political parties worked around their limits on hard money and once again had more control of campaign donations and thereby influence on candidate choice and election results. Second, the unofficial structure of the party has changed from a top-down vertical organization to more of a horizontal network. Although the joint fundraising committees and Super PACs are not officially part of the party, they are key players in campaigns, so the political party has become part of a web of actors, dependent on elements outside of the party for funds.

REFLECT ON THE ESSENTIAL QUESTION

Essential Question: How does the organization, finance, and strategies of national political campaigns affect the election process? On separate paper, complete the chart below.

Factors in Campaign Finance

Influence of Factors

KEY TERMS AND NAMES

Bipartisan Campaign Reform Act (2002)
 Citizens United v. Federal Election Commission (2010)
 connected PACs
 dark money
 Federal Election Campaign Act (1971)
 Federal Election Commission (FEC)
 hard money
 soft money
 Super PACs

**CHAPTER 19 Review:
 Learning Objectives and Key Terms**

TOPIC 5.10: Explain how campaign organizations and strategies affect the election process. (PRD-2.D)	
Benefits and Problems with Campaigns (PRD-2.D.1) dark ads war chest	
TOPIC 5.11: Explain how the organization, finance, and strategies of national political campaigns affect the election process. (PRD-2.E)	
Government Limits on Campaign Finance (PRD-2.E.1) Bipartisan Campaign Reform Act (2002) Citizens United v. Federal Election Commission (2010) dark money Federal Election Campaign Act (1971) Federal Election Commission (FEC)	Influence of PACs (PRD-2.E.2 & 3) connected PACs hard money soft money Super PACs

CHAPTER 19 Checkpoint: Campaigns

Topics 5.10–5.11

MULTIPLE-CHOICE QUESTIONS

1. Which agency monitors campaign spending and provides that information to the public?

- (A) Federal Election Commission
- (B) Internal Revenue Service
- (C) Federal Bureau of Investigation
- (D) Office of Management and Budget

Questions 2 and 3 refer to the passage below.

[Candidate Mitt] Romney arrived in Denver on Monday night, after one final mock debate. In Denver he held a rally at which he received the endorsement of John Elway, the celebrated former quarterback of the Denver Broncos. His campaign was having trouble calibrating expectations. . . . The day before the Denver debate, Romney got another confidence booster when he got a call from George W. Bush. Don't worry, Bush told him. You'll do just fine. . . . On the morning of the debate, Obama and his advisers met for a final critique session before flying off to Denver. His advisers knew they were sending him into . . . [this debate] unfocused and with an uncertain strategy.

—Dan Balz, author, *Collision 2012: Obama v. Romney*, 2012

2. With which of the following statements would the author most likely agree?

- (A) Endorsements are what help candidates in a debate.
- (B) As long as a former president is on your side, you will win.
- (C) Romney had more confidence and focus entering the debate than Obama.
- (D) A candidate's debate performance is the key factor in winning a presidential election.

-
3. Which of the following statements is most accurate about debates, the media, and elections?
- (A) For voters with a party affiliation, the debates are important in voter choice.
 - (B) Debates are not watched by many voters.
 - (C) Debates allow candidates to fully discuss issues and policy possibilities.
 - (D) Debates are often avoided by incumbents and front-runners.
4. The Bipartisan Campaign Reform Act
- (A) Lowered limits on soft money
 - (B) Lowered limits on hard money
 - (C) Raised limits on soft money
 - (D) Raised limits on hard money
5. Two weeks before election day, an average of several independent polls shows that local Democratic congressional candidate, Henry Smith, an incumbent with 8 years in office, is leading against his challenger, 55 to 44 percent. He has \$400,000 in his campaign treasury. Which of the following will Smith likely do?
- (A) Donate to fellow Democratic congressional candidates in swing districts
 - (B) Begin a negative advertising campaign against his opponent
 - (C) Invite his opponent to debate him on television
 - (D) Open another campaign office
6. Which of the following is an accurate trend in modern campaigns?
- (A) There has been an increased dependence on political consultants.
 - (B) With new forms of media, costs have dropped.
 - (C) The duration of election cycles has shrunk.
 - (D) The Supreme Court has nearly erased free-speech rights with federal limitations.

FREE-RESPONSE QUESTIONS

Concept Application

The following is from a news report during the 2016 presidential campaign.

1. "I confess to having supported the ACLU position in *Buckle Up*. As the corrosive effects on democracy of uncontrolled campaign spending became increasingly clear, however, I joined several former ACLU leaders . . . in opposing the organization's campaign finance position [on *Citizens United* that the Bipartisan Campaign Reform Act limited free speech]. We have argued . . . that spending massive amounts of money during an election campaign is not "pure" speech when the spending level is so high that it drowns out competing voices . . . ; that a compelling interest in equality justifies preventing wealthy speakers from buying up an unfair proportion of the speech . . . that massive campaign spending by 'independent' entities poses a serious risk of postelection corruption; and that corporations lack the attributes of conscience and human dignity that justify free-speech protection."

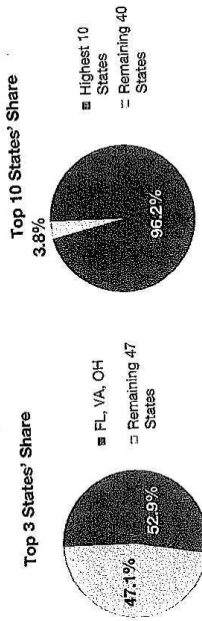
—Burt Neuborne, *The Nation*, March 21, 2012

After reading the scenario, respond to A, B, and C below:

- (A) Describe the political behavior that has resulted from the *Citizens United* ruling, according to the author.
- (B) In the context of the scenario, explain how the behavior described in part A affects elected officials.
- (C) In the context of the scenario, explain how the effect on elected officials can be influenced by linkage institutions.

Quantitative Analysis

Total TV Ad Spending by State (2012 Presidential Campaign)



2. Use the information graphic on the previous page to answer the questions.
- (A) Identify the percent of ad spending in the top three states.
 - (B) Describe the difference in spending between that in the top three states and the top ten.
 - (C) Draw a conclusion about the reasons for that difference.
 - (D) Explain how the data in the chart reflects a principle of electoral politics.

SCOTUS Comparison

3. In June 1985, the Michigan Chamber of Commerce wanted to run a newspaper ad in support of a candidate in the special election to fill a vacant seat in the Michigan House of Representatives. Although the organization had a separate political fund, it wanted to use money from its general treasury to pay for the ad. However, the Michigan State Campaign Finance Act prohibited the use of general treasury funds for political purposes. The Michigan State Chamber of Commerce argued that it was a "nonprofit ideological corporation" and, as such, should not be bound by the Michigan law, which it argued suppressed the Chamber's constitutional rights. A Michigan court upheld the application of the law; an appeals court reversed that decision, and the case came before the U.S. Supreme Court.

In 1990, in *Austin v. Michigan Chamber of Commerce*, the Supreme Court once again reversed, upholding the Michigan law that prohibited corporations from spending general treasury funds for political purposes. The Court disagreed with the designation of the organization, noting that most of its members were corporations. It reasoned further that since corporations are allowed to make political expenditures through their separate political funds, their constitutional rights were not unduly burdened.

- (A) Identify a similarity between *Austin v. Michigan* (1990) and *Citizens United v. FEC* (2010).
- (B) Given the similarity identified in part A, explain why *Citizens United v. FEC* led to a different holding than the holding in *Austin v. Michigan*.
- (C) Describe an action the Michigan Chamber of Commerce could take to minimize the effect of the ruling.