

POLITICAL ACCOUNTABILITY AND TRANSPARENCY ACT

The Political Accountability and Transparency Act (PATA), H.R. 7267, a bipartisan bill introduced on December 13, 2018, by U.S. Representatives Kathleen Rice (D-NY), Mike Gallagher (R-WI), and Derek Kilmer (D-WA), seeks to increase the disclosure and accountability of political spending and address the abuses of federal campaign finance law that are increasingly common in American elections. Specifically, the bill strengthens coordination rules between super PACs and individual campaigns to ensure super PACs operate independently from candidates, requires political advertisements to disclose the top donors to the spender paying for the advertisements, and applies the personal use restriction on campaign funds to all political committees, including leadership PACs. These provisions are detailed below.

Capturing Coordination Between Super PACs and Campaigns

The Problem: When Big Money Evades Campaign Contribution Limits

Campaign contribution limits aim to reduce the undue influence of wealthy donors over politics, thereby **guarding against corruption and ensuring self-government for all citizens and officeholders who are accountable to the people**. Federal contribution limits apply to anyone who either contributes directly to a federal candidate or political party or coordinates their political spending with a candidate or party. But these contribution limits have been too easily circumvented, because big donors can give unlimited amounts to super PACs and other outside groups that have been allowed to work in close collaboration with their preferred candidates.

Groups like super PACs are permitted to raise and spend money not subject to contribution limits as long as their spending is totally independent of a candidate or party. But **federal law defines “coordination” far too narrowly**, failing to capture a wide range of coordinated activity between political candidates and outside spenders. Current law focuses only on whether an outside group and candidate have collaborated with respect to a specific expenditure, without taking a more holistic look at the relationship between the outside group and the candidate.

As a result, many super PACs are often in close contact with the candidates they support and often are operated by those candidates’ former staff or political allies. In fact, candidates frequently raise money for allegedly “independent” super PACs that have the sole purpose of supporting a single candidate’s campaign.

But at least super PACs are subject to comprehensive disclosure laws. When this type of activity is conducted by less transparent outside groups, such as 501(c)(4) groups that do not reveal their donors, the coordinated spending – or at least the interests financing the spending – can go entirely undetected. This gives rise to a particularly pernicious form of “dark money”: undisclosed coordinated expenditures that function like campaign contributions but are hidden from the public.

In this way, **wealthy special interests are able to skirt contribution limits by claiming to spend independently of campaigns while secretly coordinating with the campaigns behind closed doors.** Federal law has failed to keep up with these developments in the political landscape. PATA seeks to change that.

The Solution: Tracking Coordinated Campaign Activity and Contributions

PATA **amends existing law** to capture coordinated political activity. If a super PAC or outside group has certain types of contacts with a candidate or party that it supports (the **“conduct” requirement**), then its expenditures for certain types of campaign-related content (the **“content” requirement**) will be deemed **coordinated**. This means those expenditures will be **subject to federal contribution limits and disclosure requirements**. To this end, the bill:

1. **Defines the types of “conduct” that establish coordination.** A campaign-related expenditure is presumed coordinated if:
 - A candidate or his or her immediate family member, or a party official, had a role in **creating or running the spending organization**.
 - A candidate or party official **solicits money** for the spending organization or appears as a featured guest at the organization’s fundraiser.
 - The spending organization relies on **non-public information about campaign needs** provided directly or indirectly by the candidate or party official.
 - The spending organization employs or retains the services of a **former employee** or agent of the candidate or party, or uses a **common vendor** that recently provided professional services to the candidate or party.
2. **Defines the “content” of covered expenditures.** The bill also describes the kinds of campaign spending that, when coordinated with a candidate or party, would count as a direct contribution. These include ads that **expressly advocate** for or against the election of a candidate, or alternatively, merely **reference a candidate** within 120 days of a primary election through to the general election. Expenditures for **partisan voter activity**, or **campaign-related expenses** such as opposition research or polling expenses, are also covered.

<i>Examples of coordinated activity covered by this bill</i>	
If a presidential candidate fundraises for a super PAC, any money that is then spent by the super PAC on ads that expressly advocate the election of the candidate will be considered a coordinated expenditure.	If a 501(c)(4) group hires a senior staffer who was employed by a House candidate in the last two years, its spending for partisan GOTV in the candidate's district will be deemed a coordinated expenditure.

Bolstering Campaign Finance Disclosure

For democratic elections to work, voters must have the information they need to evaluate candidates for public office and keep elected officials accountable. **When wealthy special interests launder millions of dollars in support of candidates through anonymous entities and shell corporations, voters are kept in the dark about why candidates support certain positions and who supports those candidates.** PATA seeks to address this dangerous trend by bolstering the disclosure requirements in federal law.

Top Three Donor Disclosure

Under federal law, when an outside group spends money for certain kinds of political ads or communications, the ad is required to include a disclaimer disclosing specific information, such as the name of the group that paid for the ad, and a statement that the ad was not authorized by a candidate.

PATA requires the ad disclaimer to disclose the spender's top three funders in the preceding year.

True Source of Funds

Sometimes, money is transferred between donors (including individuals, legal trusts, corporate donors, and other entities) before a contribution is made, and spenders make little to no effort to learn who is actually behind the contributions they receive.

To avoid the meaningless disclosure of shell companies on an ad disclaimer, **PATA requires spenders to make "best efforts" to determine the true source of the funds used for their expenditures when disclosing their top three donors.**

Digital Ad Disclosure

Federal law requires the disclosure of any spending associated with the cost of producing and airing "electioneering communications." Generally speaking, federal law defines an "electioneering communication" as any broadcast, cable, or satellite communication that refers to a federal candidate and is made within 60 days of a general election or 30 days of a primary or nominating convention. However, because this definition

excludes digital ads, a political ad subject to disclosure when aired on television can escape those transparency requirements when it is run online.

PATA updates the definition of “electioneering communication” to include digital and Internet ads made within the same 60- and 30-day time frames.

Limiting the Personal Use of Political Funds

PATA also addresses a gap in the law that allows politicians to use leadership PACs as personal slush funds. Leadership PACs are political committees that officeholders can use to contribute to other candidates’ campaigns – but are often used as slush funds to subsidize politicians’ luxurious lifestyles. Over the past five years, less than half of all leadership PAC spending has gone toward contributions to other candidates or committees. Politicians are instead using leadership PACs to fund luxury hotel stays, country club memberships, and high-end meals – in other words, for their personal use. Even though federal law bars officeholders from using their own campaign funds for personal use, the FEC has not applied this prohibition to leadership PACs, effectively allowing these committees to be used as slush funds.

PATA amends the personal use restriction to clarify that contributions to leadership PACs and other political committees cannot be converted to personal use.