

ENDING THE WORST ABUSES OF SUPER PACS: STOPPING HIDDEN CAMPAIGN COORDINATION AND CONTRIBUTIONS

THE PROBLEM: WHEN BIG MONEY EVADES CAMPAIGN CONTRIBUTION LIMITS

For a democracy to be effective, candidates and elected officials have to answer to their constituents – not wealthy special interests. Campaign contribution limits play an important role in protecting this; they reduce the undue influence of wealthy donors over politics, thereby guarding against political corruption and ensuring that our officeholders are accountable to all citizens. At the federal and state levels, 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. Because coordinated spending is just as valuable to candidates as direct contributions, coordination between outside spenders and their preferred candidates must be strictly policed to prevent big donors from indirectly bankrolling their preferred candidates while sidestepping contribution limits. Undetected coordination erodes the accountability to everyday voters that we need from our elected officials.

The problem is especially acute with super PACs and corporations. They can raise and spend money not subject to contribution limits as long as their spending is not legally “coordinated” with a candidate or party. This distinction, however, is meaningless if our definition of “coordination” fails to capture a wide range of coordinated activity between political candidates and outside spenders. Strong coordination policy should take a more holistic look at the relationship between the outside group and the candidate, not focus solely on whether an outside group and candidate have collaborated with respect to a **specific expenditure**.

In essence, **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**. Voters want *real* transparency about who is spending big money on elections, which leads to more government accountability, less influence for wealthy special interests and less political corruption.

THE SOLUTION: TRACKING COORDINATED CAMPAIGN ACTIVITY AND CONTRIBUTIONS

Laws and regulations can deliver transparency by clearly and comprehensively delineating the meaning of coordination with a candidate or a party. Effective anti-coordination measures should take a holistic approach to evaluating, considering a thorough range of coordinating *conduct* between candidates and outside spenders, as well as the *content* of a particular expenditure in defining coordination.

A good coordination law would capture the coordinated political activity that is currently permitted under the guise of nominally “independent” campaign spending. 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 contribution limits and disclosure requirements**. To this end, strong coordination policy:

1. **Defines the types of “conduct” that establish coordination.** A campaign-related expenditure should be deemed coordinated if:
 - A candidate or their 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 provided professional services to the candidate or party.
2. **Defines the “content” of covered expenditures.** It will also describe the kinds of campaign spending that, when coordinated with a candidate or party, would count as a contribution. These include paying for ads that **expressly advocate** for or against the election of a candidate, or that **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.

Examples of coordinated activity that should be covered

If a 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 coordinated.	If a 501(c)(4) group hires a senior staffer who was employed by a legislative candidate in the last two years, its spending for partisan GOTV in the candidate’s district will be deemed coordinated.
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3. **Provides that “republication” is a coordinated expenditure.** If an expenditure funds a communication that substantially **republishes** a candidate or party’s campaign material, the expenditure is deemed coordinated.
4. **Creates a “safe harbor” for firewalls.** If a spending organization implements a **firewall policy**, an expenditure involving former employees or common vendors that might otherwise be covered will not be deemed coordinated. To qualify for this exception, the firewall policy must, among other things: **separate staff** that provide services to the spending organization from staff working with the candidate; **prohibit** the spending organization’s owners and managers from **overseeing** the work of staff separated by a firewall; and **be formalized in writing and distributed** to all relevant employees and consultants.

Strong policy options also include **exceptions** for the media, for spending related to candidate debates, and to permit candidates to fundraise for 501(c)(3) charities that do not engage in election activity, consistent with existing federal campaign finance law.

TAKE ACTION

Here are some ways you can build support for stronger coordination laws in your community:

- Learn more about effective coordination laws at campaignlegal.org
- Identify potential champions in government. This means elected officials who support campaign finance reform, as well as elections and/or ethics officials who would be enthusiastic about passing better policy.