

Winter 2019
PubPol 475/750
Campaign Finance Reform
MW 11:30-1:00, 1220 Weill Hall

Professor Richard L. Hall
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Office Hours: TTh 2:00-4:00 p.m.

Most political observers think our campaign finance system is broken. It serves special interests at the expense of constituents by distorting elections and compromising politicians. Others say such claims are insufficient to justify government restrictions on political speech. In this course we take up these claims by critically examining their justification on both normative and empirical grounds. We then examine various campaign finance systems as well as new proposals for reforming them.

The twin goals of the course are to think more critically about campaign finance from competing ideological perspectives, subjecting them to the standards of social science used in public policy. The success of the seminar depends heavily on your careful preparation for and participation in each class. The readings for some weeks are considerably heavier than others, so I encourage you to look ahead. I will often call on a student or two to begin the discussion by summarizing one of the readings for that day. I also plan to use iClicker questions to get your reactions and facilitate discussion, so register your iClickers on the course Canvas site right away and bring them to class.

Your **course grade** will be based on two exams (20% each), paper (30%), presentations (15%), and participation (15%). I'll also use participation as a tie-breaker for close calls in final grading.

Group Assignment

Undergraduate and Graduate Students: You will work as part of a group of three to write a report proposing changes to a state or local campaign finance system. The report should reflect a thorough and comprehensive study of the system, including interview-based and quantitative analysis if possible, and include these elements:

- a summary of the current system
- an analysis of its problems or limitations
- a description and justification of your proposal, including a response to possible legal or other objections

You will present the proposal to a mock legislative panel, say, a city council or a state legislative committee. Several of your classmates will play the role of skeptical legislators.

Graduate Students: Each graduate student will read and discuss one additional journal article at some point in the term. Graduate students will also have one additional group project, which we will negotiate early in the term.

Books:

We will read multiple chapters of the following books, which I have listed them through the local bookstore system. All other readings will be available online or on the Canvas course site.

Robert E. Mutch, *Campaign Finance: What Everyone Needs to Know*, Oxford University Press, 2016.

Richard L. Hasen, *Plutocrats United: Campaign Money, the Supreme Court, and the Distortion of American Elections*. New Haven: Yale University Press, 2016.

Respecting Diversity

Members of the University of Michigan community represent a rich variety of backgrounds and perspectives. I hope we can create an atmosphere for learning in the classroom that recognizes and profits from this diversity. Please be open to the views of others, listen to what they say, and communicate with them in a respectful manner.

Policy on Classroom Recording

It is very important that everyone can speak freely in class. For this reason, any audio or video recording in the classroom is strictly prohibited. I will only make exceptions for students with a relevant disability. *By taking this class you are agreeing to abide by this policy*

Other Important Matters:

If you think you need an accommodation for a disability, please let me know at your earliest convenience. Some aspects of this course, the assignments, the in-class activities, and the way the course is usually taught may be modified to facilitate your participation and progress. As soon as you make me aware of your needs, we can work with the Services for Students with Disabilities (SSD) office to help us determine appropriate academic accommodations.

If you need an accommodation for special religious obligations or observances or for absences when representing the University or the military, please let me know as soon as possible, and I will try to accommodate you. I will not be able to do so for the final exam, however.

University of Michigan is committed to advancing the mental health and wellbeing of its students. If you or someone you know is feeling overwhelmed, depressed, and/or in need of support, services are available. For help, contact **Counseling and Psychological Services (CAPS)** at (734) 764-8312 and <https://caps.umich.edu/> during and after hours, on weekends and holidays,

or through its counselors physically located in schools on both North and Central Campus. You may also consult **University Health Service (UHS)** at (734) 764-8320 and <https://www.uhs.umich.edu/mentalhealthsvcs>, or for alcohol or drug concerns, see www.uhs.umich.edu/aodresources.

You are responsible for knowing the LSA standards for academic integrity, including the prohibition of and penalties for plagiarism. Plagiarism is representing someone else's ideas, words, statements, or other work as one's own without proper acknowledgment or citation. Examples of plagiarism include:

- Copying word for word or lifting phrases or a special term from a source or reference, whether oral, printed, or on the internet, without proper attribution.
- Paraphrasing, that is, using another person's written words or ideas, albeit in one's own words, as if they were one's own thought.
- Borrowing facts, statistics, graphs, or other illustrative material without proper reference, unless the information is common knowledge, in common public use.

Students guilty of plagiarism will receive a failing grade in the course, and their case will be referred to the Associate Dean's office.

Assignment Schedule

(C) = on Canvas

*Only assigned student needs to read this.

January 9: Course Introduction

The Campaign Finance System at the Federal Level

January 14/16:

Karl Evers-Hillstrom, "Democrats ride monster fundraising to take the House, GOP successfully picks its Senate battles," OpenSecrets.org, Nov. 7, 2018.

<https://www.opensecrets.org/news/2018/11/2018-wrap-up-am/>

Adam Hughes, "5 Facts about U.S. Political Donations." *Pew Research Center*. May 17, 2017.

<http://www.pewresearch.org/fact-tank/2017/05/17/5-facts-about-u-s-political-donations/>

Robert E. Mutch, *Campaign Finance: What Everyone Needs to Know*, Oxford University Press, 2016. Chs. 5-6, 8-9.

New York Times graphic on flows of campaign finance. (C)

January 21: Martin Luther King Day – No Class

Campaign Finance and Free Speech

January 23: Pre-Citizens United

Daniel R. Ortiz, "The First Amendment and the Limits of Campaign Finance Reform," excerpt from Anthony Corrado, Thomas E. Mann, Daniel B. Ortiz, and Trevor Potter, *The New Campaign Finance Sourcebook*, Brookings Institution Press, 2005, pp. 91-113. (C)

January 28/30: Citizens United

Citizens United v. the FEC, case brief, *The Legal Dictionary*,

<https://legaldictionary.net/citizens-united-v-federal-election-commission/>

Citizens United v. the FEC. Majority opinion only. (C)

Robert O. McGuinnis, "Liberals are Dangerously Wrong about *Citizens United*: Money Is Speech," *Los Angeles Times*, May 20, 2016.

<http://www.latimes.com/opinion/op-ed/la-oe-mcginnis-money-speech-liberals-20160522-snap-htmlstory.html>

Robert Levy, "A Libertarian Primer," *Cato Institute*, January 28, 2010

<https://www.cato.org/publications/commentary/campaign-finance-reform-libertarian-primer>

Feb. 4: *Cases since Citizens United v. FEC*

Jess Bravin and Colleen McCain Nelson, "Supreme Court Ends Overall Limit on Contributions," *Wall Street Journal*, April 2, 2014.
<https://www.wsj.com/articles/supreme-court-strikes-down-aggregate-campaign-contribution-limits-1396448515>

Adam Liptak, "Justices Strike Down Arizona Campaign Finance Law," *New York Times*, June 27, 2011. <http://www.nytimes.com/2011/06/28/us/politics/28campaign.html>

Feb. 5: 5:00 p.m.: One-page memo due outlining proposed focus of report.

Feb. 6: NO CLASS: Group Meetings with Professor Hall, TBA.

Campaign Finance and Political Equality

Feb. 11/13: *Democratic Distortion?*

Justice John Paul Stevens, *Citizens United v. FEC* (2010), dissenting opinion. (C)
Robert C. Post, *Citizens Divided: Campaign Finance Reform and the Constitution*, Harvard Press, 2014, pp. 3-23 (through Section IV). (C)
Richard Hasen, *Plutocrats United: Campaign Money, the Supreme Court, and the Distortion of American Elections*, Chs. 1 and 3-4.

Feb. 18: *Unequal Speech*

Anu Narayanswamy, Chris Alcantara, and Michelle Ye Hee Lee "Meet the Wealthy Donors Pouring into the 2018 Elections," *Washington Post*, Oct. 26, 2018 (updated).
https://www.washingtonpost.com/graphics/2018/politics/superpac-donors-2018/?utm_term=.34b51a72ee09
Kaitlin Washburn, "Liberal 'Guardian Angel' Donors Surpass Conservatives in Spending," *OpenSecrets*, December 3, 2019.
<https://www.opensecrets.org/news/2018/12/guardian-angel-donors/>
Sean McElwee, Brian Schaffner, and Jesse Rhodes, "Whose Choice, Whose Voices: The Distorting Influence of the Political Donor Class in Our Big-Money Elections," *Demos*, 2016.
https://www.demos.org/sites/default/files/publications/Whose%20Voice%20Whose%20Choice_2.pdf

Feb. 20/25: *Money Buys Elections (or Does It)?*

Philip Bump, "Does More Money Actually Buy More Votes? An Investigation." *The Atlantic*, November 11, 2013. <https://www.theatlantic.com/politics/archive/2013/11/does-more-campaign-money-actually-buy-more-votes-investigation/355154///>
Maggie Koerth-Baker, "How Money Affects Elections," *FiveThirtyEight*, September 2018.
<https://fivethirtyeight.com/features/money-and-elections-a-complicated-love-story//>
Alan Abramowitz, "Why Outside Spending is Over-rated," *Rasmussen Reports*, Feb. 19, 2015.

http://www.rasmussenreports.com/public_content/political_commentary/commentary_by_alan_i_abramowitz/why_outside_spending_is_outrated

*Andrew B. Hall, "Systemic Effects of Campaign Spending: Evidence from Corporate Contribution Bans in US State Legislatures," 2016, *Political Science Research and Methods*, 2016, 4:2, pp. 343–359. (C)

*Note: Only assigned student needs to read this.

Feb. 27: First Exam

Winter Break: No Class March 4 or March 6.

March 11: Money Buys (Something from) Legislators (or Does It?)

Lawrence Lessig, *Republic, Lost: How Money Corrupts Congress – and a Plan to Stop It, Version 2.0*, 2015(2011) pp. 125-171. (C)

Lauren McCauley, "How Much to Buy a Congressional Vote: New Research Seeks Answer," *Common Dreams*, May 2, 2017.

<https://www.commondreams.org/news/2017/05/02/how-much-buy-congressional-vote-new-research-seeks-answer>

John Sides, "A New Experiment Shows How Money Buys Access to Congress," *Washington Post*, March 11, 2014. https://www.washingtonpost.com/news/monkey-cage/wp/2014/03/11/a-new-experiment-shows-how-money-buys-access-to-congress/?utm_term=.9fc0f9d8ddc2

*Steven Ansolabehere, John M. De Figueiredo, and James Snyder, Jr., et al. "Why is There So Little Money in Politics?" *Journal of Economic Perspectives*, 17:1 2003, pp. 105–130. (C)

*Joshua Kalla and David E. Broockman, "Campaign Contributions Facilitate Access to Congressional Officials: A Randomized Field Experiment," *American Journal of Political Science*, 60:3, July 2016, pp. 545–558. (C)

*Richard L. Hall and Robert P. Van Houweling, "Lobbying without Buying Time," draft, 2017. (C)

*Note: Only assigned student needs to read this.

March 13: Money Undermines the Public Trust (or Does It?)

David M. Primo, "Public Opinion and Campaign Finance: A Skeptical Look at Senator McCain's Claims," *Cato Institute*, Briefing Paper #60. January 31, 2001.

<https://object.cato.org/sites/cato.org/files/pubs/pdf/bp60.pdf>

*Rebecca L. Brown And Andrew D. Martin, "Rhetoric And Reality: Testing The Harm Of Campaign Spending," *New York Law Review*, 2015. (C)

*David M. Primo And Jeffrey Milyo, "Campaign Finance Laws and Political Efficacy: Evidence from the States," *Election Law Journal*, Volume 5, Number 1, 2006. (C)

*Note: Only assigned student needs to read this.

Campaign Finance: Other Systems & New Proposals

March 18: Campaign Finance in Comparative Perspective

Daniel P. Tokaji, "Campaign Finance in North America: An Institutional Perspective," *Election Law Journal* 17:3, 2018, pp. 188-208. (C)

Ballotpedia, "State by State Comparison of Campaign Finance Requirements,"
<https://ballotpedia.org/State-by-state-comparison-of-campaign-finance-requirements>

Note: Be prepared to provide a brief overview of the system your group is studying.

March 20: Matching Funds

Karl Evers-Hillstrom, "House Democrats Propose Major Campaign Finance Reforms in First Bill of Session," OpenSecrets.org, January 4, 2019.
<https://www.opensecrets.org/news/2019/01/democrats-propose-campaign-finance-reforms19/>

Angela Migally and Susan Liss, "Small Donor Matching Funds: The NYC Election Experience." *The Brennan Center for Justice*, 2010,
<https://www.brennancenter.org/sites/default/files/legacy/Small%20Donor%20Matching%20Funds-The%20NYC%20Election%20Experience.pdf>

Jon Schwarz, "Rep. John Sarbanes and a Campaign Finance Plan That Might Actually Work," *The Intercept*, July 8, 2015. <https://theintercept.com/2015/07/08/part-rep-john-sarbanes-government-people-act/>

*Richard L. Hall, "Equalizing Campaign Expenditures," *Election Law Journal*, 6:2, 2007, pp. 145-162. (C)

*Note: Only assigned student needs to read this.

March 22, 5:00 p.m.: Memo due outlining progress and problems with project.

March 25/27: Campaign Vouchers and More

Hasen, *Plutocrats United*, Chs. 4-7.

Lawrence Lessig, *Republic, Lost: How Money Corrupts Congress – and a Plan to Stop It, Version 2.0*, 2015(2011) pp. 264-272. (C)

Ballotpedia, "State by State Comparison of Campaign Finance Requirements,"
<http://www.brennancenter.org/sites/default/files/legacy/Small%20Donor%20Matching%20Funds-The%20NYC%20Election%20Experience.pdf>

Kaitlin Washburn, "State officials going after campaign finance regulation, ethics reforms," OpenSecrets.org, December 7, 2018.
<https://www.opensecrets.org/news/2018/12/state-officials-go-for-campaign-finance-regulation//>

April 1: Regulating Disclosure and Coordination

Robert E. Mutch, *Campaign Finance: What Everyone Needs to Know*, Ch. 4.

Eric Wang, "Staring at the Sun: An Inquiry into Compulsory Campaign Finance

Donor Disclosure Law," *Cato Institute*, December 14, 2017.
<https://www.cato.org/publications/policy-analysis/staring-sun-inquiry-compulsory-campaign-finance-donor-disclosure-laws>

Jordan Muller and Robert Maguire, "Secretive Nonprofits Remain a Major Player in 2018," *OpenSecrets*, August 6, 2018
<https://www.opensecrets.org/news/2018/08/report-secretive-nonprofits-remain-a-major-player-in-2018/>

Stephen Dinan, "Dark Money Groups Forced into Sunlight of Disclosure after Court Rulings" *Washington Times*, September 18, 2018.
<https://www.washingtontimes.com/news/2018/sep/18/supreme-court-move-forces-dark-money-groups-disclo/>

Brennan Center for Justice, "Strengthen Rules Preventing Candidate Coordination with SuperPACs," Feb. 4, 2016. <https://www.brennancenter.org/analysis/strengthen-rules-preventing-candidate-coordination-super-pacs>

April 3: *A Different Approach*

John C. Nagle, "The Recusal Alternative to Campaign Finance Legislation," *Harvard Journal of Legislation*, 2000.
https://scholarship.law.nd.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1497&context=law_faculty_scholarship

April 8: NO CLASS. Group Meetings with Professor Hall

April 10: Catch-Up and Conclusion

April 12: 5:00 p.m. Report due.

April 15/17/22: Group Presentations

Second Exam: Monday, April 29: 4:00 pm - 6:00 pm