

THE COMPLIANCE COLLECTIVE

Top 10 Political Law Issues Companies Face This Election Year

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The Compliance Collective



This webinar is a part of our monthly webinar series, “The Compliance Collective.”

The webinar series is hosted by a team of cross-disciplinary Perkins Coie lawyers who provide a monthly overview and discussion forum on a critical hot topic in ethics and compliance. Each topic provides a look at emerging issues and offers creative solutions to potential compliance problems.

The webinar is hosted every third Thursday at the same time each month: 10:00 a.m. PT/12:00 p.m. CT/1:00 p.m. ET.

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Meet the Political Law Group

Navigating the laws and regulations that govern political engagement is complex. We're here to lead you through the ever-changing legal and regulatory environment so you can strategically plan and execute your political initiatives.

We've been at the forefront of political law for decades, guiding clients like *Fortune* 100 companies, tech leaders, and lobbying firms through the maze of regulations that govern political activities. Whether you're a corporation, a nonprofit, or an individual, we're here to help you understand these laws and regulations and make informed decisions regarding political engagement.

Areas of Focus

- Campaign Finance Experience
- Lobbying Compliance
- Compliance Advice Regarding Global Engagement and FARA
- Support for Nonprofits and Tax-Exempt Organizations



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**Top 10 Political Law Issues
Companies Face This Election
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10. Foreign Agents Registration Act



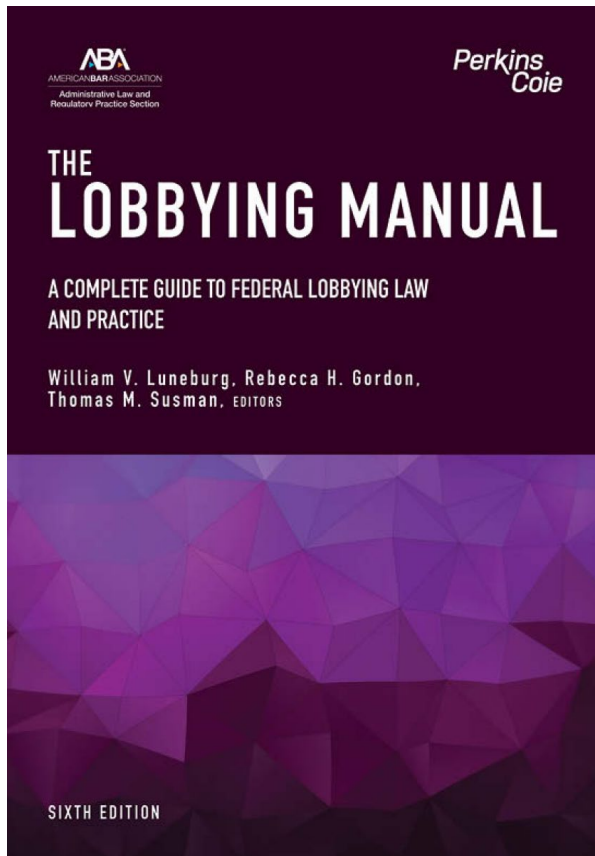
DOJ-enforced law requires registration and regular reporting by any entity that undertakes certain government- or public-facing activities on behalf of a “foreign principal”

Registrable activities can include lobbying, public relations work, fundraising, and government-facing advocacy

Foreign government-owned or controlled entities raise these concerns most often:

- This includes for-profit companies with government ownership
- Also includes nonprofits funded or controlled by foreign governments

9. Federal and State Lobbying Registration and Compliance



Federal law and the laws of each state define what constitutes registrable “lobbying” in that jurisdiction

“Lobbying” can cover more than just direct contacts with legislators

It can reach behind the scenes work too, as well as government-facing communications with agencies on regulations and procurements, and other activities besides

Some companies centralize lobbying functions inside a broad government relations group, while others leave it up to those in local offices

Ensuring a healthy, functioning lobbying compliance operation is crucial to reputation management

Coordination with tax/accounting department is also important

8. Corporate Voter Registration and GOTV



Federal campaign finance law limits corporate activity in elections

Exceptions to these laws permit a corporation to undertake certain voter registration and get-out-the-vote activities, but they generally can't:

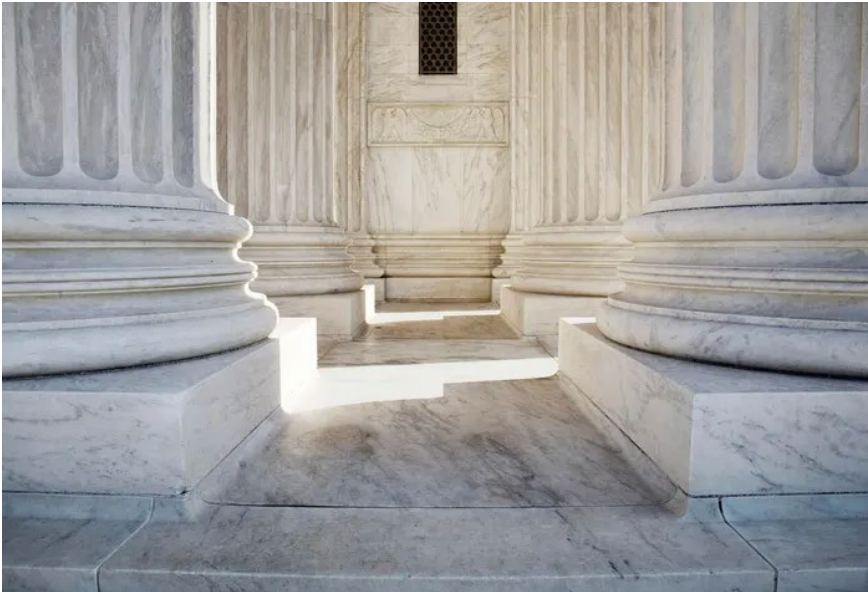
- Be coordinated with any candidate or political party, or
- Expressly advocate for any candidate or political party

State and local campaign finance laws may impose additional restrictions

State voting laws and rules may impose additional restrictions

These activities must be carefully vetted and reviewed by counsel

7. Ban on Federal Contractor Contributions



Federal campaign finance law prohibits a federal contractor from making contributions to candidates, federal PACs, and political party committees – including super PACs

Prohibition also extends to contributions or expenditures to “any person for any political purpose or use,” which reaches certain contributions to 501(c)(4) organizations

For this purpose, “federal contractor” is defined broadly, and status in the SAM (System for Award Management) registry does not necessary control

6. Political Giving by High Net Worth Individuals



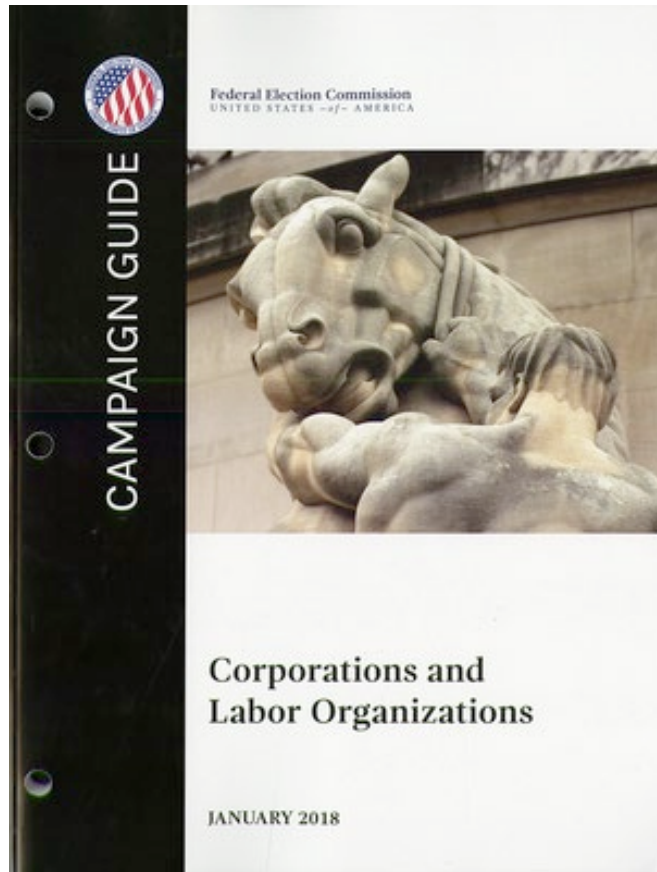
Campaign finance law changes have expanded donor opportunities for meaningful participation in the political process

There are ways for individual donors to give to a range of nonprofit entities that participate in elections

The law provides opportunities for donors to help fund activities that might impact elections in both disclosed and non-disclosed ways

We counsel individuals, family offices, and advisors on the legality of various proposals, and also assist in their defense when accusations are made about the propriety of the activities

5. Handling Employee Political Activity



During the election year, many clients will face requests from employees to take time away from work to volunteer for campaigns

Such requests implicate campaign finance law -- depending on the terms of the corporation's paid leave policy, providing paid time off for this type of work can, in some cases, constitute a reportable in-kind contribution to the benefiting candidate or result in a prohibited corporate contribution

These issues arise also when a corporate executive becomes a candidate for elective office

Strict limits apply to the use of corporate staff and resources to engage in fundraising activity

4. Gifts to Public Officials



Every jurisdiction in the United States places some limitation on the ability of private industry to provide gifts to public officials

A “gift” is generally defined broadly to include anything of value for which the recipient would otherwise have to pay

Gifts can include meals, beverages, transportation, and event tickets, as well as things that are free to the giver (like corporate-paid season tickets or box seats)

In some cases, the liability attaches to the giver, not just the recipient; companies with in-house lobbyists make semi-annual certifications that they have not knowingly made prohibited gifts in the U.S. House and U.S. Senate

3. Pay to Play Laws



Relevant to any entity that has or seeks state or local government business, and entities in certain regulated industries (e.g., financial sector, insurance, gaming)

Many state and local laws restrict political giving by entities that have or seek government funds or contracts

- Some prohibit giving altogether
- Others impose strict limits
- Still others require specific reporting
- Some reach company giving only
- Others reach giving by executives as well

Penalties for noncompliance can be draconian, including debarment

2. Ad Tech Clients Selling Political Ads



Range of laws imposed at the state and local level on companies in the ad tech ecosystem

This includes platforms/publishers and ad purchasers, but also can include demand-side platforms and supply-side platforms

Generally, the laws require recordkeeping or publication of information about political ads serviced

Can include price and targeting data

Every jurisdiction defines for itself what constitutes a “political” ad

Every jurisdiction determines for itself which entities are subject to these requirements

1. Foreign National Activity in U.S. Elections



Federal law prohibits foreign nationals (including foreign companies) from participating in U.S. elections at federal, state, and local level

Prohibition extends beyond simply voting or making contributions, banning also:

- Foreign national participation in election-related decision-making by any person
- Foreign national funding of election-related advertisements

It is illegal for a foreign parent company to have input into the election-related decisions of its domestic subsidiaries

It is illegal for a foreign parent company to fund election-related spending by its domestic subsidiaries

CLE Code Word: Election

Questions?

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