

GOV 3020

Money and Politics

Fall 2019
Hubbard 22
Monday and Wednesday, 1:15-2:40pm

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Office Hours:
Tuesday, 2pm-3pm
Thursday, 9:30am-11am
And by appointment

This course considers the historical and contemporary relationship between money and government. In what ways do moneyed interests have distinctive influences on American politics? Does this threaten the vibrancy of our representative democracy? Are recent controversies over campaign finance reform and lobbying reform signs that American government is in trouble? This course is reading, writing, and discussion intensive, and we consider the large academic literature on this subject, as well as the reflections of journalists and political practitioners. Election law and regulations on money in politics are always changing (and none of us are campaign finance lawyers!!), and so part of the course is designed to give students tools at tracking these developments. The overall goal of the course is to foster an understanding of the money/politics relationship in ways that facilitate the evaluation of American democracy.

Course Requirements

There are four major components to your grade:

1. **Five reading reactions** (10 points; each worth 2 points)—these are short reactions of about 2 pages (double-spaced). I will evaluate these on the basis of how well you react to the readings (namely, originality of thought and conciseness). There are no right or wrong answers, but I will challenge you to think logically. These papers are due **in class** on Monday or Wednesday, and they should focus on the readings for that day. Because there are only 5 of them, you can choose which days you want to turn them in.
*You must hand in reaction papers in class; late papers or emailed papers will NOT be accepted
**You cannot hand in a reaction paper on the day you present (see below).
2. **Class presentation** (15 points)—Students will present three times. One presentation will be in advance of Paper 1. A second presentation will be scheduled during the semester on a particular set of readings. The third presentation will be at the end of the semester. More details on each presentation are provided at the end of the syllabus. Your grade will be assessed collectively on the basis of all three presentations.
3. **Four long papers** (60 points; 15 points each) — Paper topics and instructions are provided at the end of the syllabus. These will be 5-6 pages (double-spaced). I do not accept emailed papers.

4. **Participation** (15 points)—this includes attendance and class participation. Attendance is required, and I will take regular note of who is and who is not in class. I understand that people get sick, have doctor’s appointments, and so on, but I only grant excused absences in rare circumstances. Mere attendance is not sufficient. I expect every student to come prepared to participate in every class.

Readings

There are three books for this course, and a number of outside articles. All of the outside readings can be accessed through Blackboard.

1. Rick Hasen. 2016. *Plutocrats United: Campaign Money, the Supreme Court, and the Distortion of American Elections*. New Haven: Yale University Press.
2. Richard Painter. 2016. *Taxation Only with Representation*. Take Back Our Republic Press.
3. Timothy LaPira and Herschel Thomas. 2017. *Revolving Door Lobbying: Public Service, Private Influence, and the Unequal Representation of Interests*. University of Kansas Press.

Other Issues

1. I expect all students to abide by the Bowdoin Academic Honor Code, which can be accessed online at: <https://www.bowdoin.edu/dean-of-students/student-handbook/the-academic-honor-code-and-social-code.html>. If you have any concerns or questions about how to cite work appropriately, please consult a reference librarian or me.
1. If you have chosen to take the class as Credit/D/F, I will only grant a Credit grade if the student has completed all of the work for the class.
2. Keeping with up legal or political developments on campaign finance, lobbying reform, election law, etc is very difficult. To help us do this, consult the following blogs or online resources, especially the first two on this list:
 - a. <http://electionlawblog.org/>
 - b. <http://www.ifs.org/>
 - c. <http://opensecrets.org/>
 - d. <http://www.cfinst.org/>

I’ve also posted these (and other) links on Blackboard! On most days where there is a presentation, we will debrief on current developments. But even on days without a presentation, I expect to ask students their thoughts on campaign finance-related news.
3. I am not allowing the use of laptops during class time. Old-fashioned notebooks and pens/pencils are recommended for note taking.

Part 1—Where Are We? How Did We Get Here?

September 4—Introductions and Expectations

- “A Civil Rights Perspective On Money In Politics,” Brennan Center For Justice

September 9—The Campaign Finance System and its Evolution

- Anthony Corrado, “Money and Politics: A History of Federal Campaign Finance Law,” in Anthony Corrado et al (eds), *The New Campaign Finance Source Book*, Chapter 1

September 11—The Campaign Finance System, cont.

- Richard L. Hasen, 2011. “Citizens United and the Illusion of Coherence,” *Michigan Law Review*. 109(4): 581-623.

September 16—The Campaign Finance System, cont.

- “The State of Campaign Finance Policy: Recent Developments and Issues for Congress,” Congressional Research Service
- “H.R. 1: Overview and Related CRS Products,” Congressional Research Service

September 18—Disclosure and Disclaimers

- Ray LaRaja. 2014. “Political Participation and Civic Courage: The Negative Effect of Transparency on Making Small Campaign Contributions,” *Political Behavior*. 36(4): 753-776.
- Abby Wood, Christopher S. Elmendorf and Douglas M. Spencer, “Mind the (Participation) Gap: How Campaign Voucher Disclosure Affects Political Participation.” Working Paper.

September 23—Looking at the Federal Code

- *MURs assigned*

September 25—Regulating Campaign Finance

- “The Federal Election Commission: Overview and Selected Issues for Congress,” Congressional Research Service
- “The Federal Election Commission: Enforcement Process and Selected Issues for Congress,” Congressional Research Service

September 30— Regulating Campaign Finance, cont.

- Presentations

October 2— Regulating Campaign Finance, cont.

- Presentations
- **Paper 1 due**

October 7— Regulating Campaign Finance, cont.

- David L. Wiltse, Raymond J. La Raja, Dorie E. Apollonio. 2019. “Typologies of Party Finance Systems: A Comparative Study of How Countries Regulate Party Finance and Their Institutional Foundations,” *Election Law Journal*.

Part 2—What are the Rationales and Evidence for Reform?

October 9— Anti-Corruption Rationale

- Zephyr Teachout. 2009. “The Anti-Corruption Principle,” *Cornell Law Review*. 94(2): 341-413.
- SKIM: Seth Barrett Tillman. 2012. “*Citizens United* and the Scope of Professor Teachout’s Anti-Corruption Principle,” *Northwestern University Law Review*. 107(1): 1-22.

October 14—no-class (fall break)

October 16— Anti-Corruption Rationale, cont.

- Martin Gilens and Benjamin I. Page. 2014. “Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens.” *Perspectives on Politics* 12(3): 564-581.
- “Remember that study saying America is an oligarchy? 3 rebuttals say it's wrong,” vox.com: <http://www.vox.com/2016/5/9/11502464/gilens-page-oligarchy-study>

October 21—Anti-Distortion/Equality Rationale

- Hasen, Introduction and Chapters 1-2
- Shaun Bowler and Todd Donovan. 2016. “Campaign Money, Congress, and Perceptions of Corruption,” *American Politics Research*. 44(2): 272-295.

October 23— Competitiveness/Institutionalist Rationale

- Ian Vandewalker and Daniel Weiner, “Stronger Parties, Stronger Democracy: Rethinking Reform,” Brennan Center for Justice

October 28— Free Speech Rationale: Is Money Speech?

- Deborah Hellman. 2011. “Money Talks But It Isn't Speech,” *Minnesota Law Review*

October 30— Free Speech Rationale, cont.

- Robert Post, “Campaign Finance Reform and the First Amendment,” *Citizens Divided: Campaign Finance Reform and the Constitution*. Cambridge: Harvard University Press.

November 4— Free Speech Rationale, cont.

- Stephen Ansolabehere, John M. de Figueiredo, and James M. Snyder. 2003. "Why Is There So Little Money in Politics?", *Journal of Economic Perspectives* 17(1): 105-130.

November 6— Free Speech Rationale, cont.

- Painter, Introduction and Chapters 1-4

November 11— Free Speech Rationale, cont.

- Painter, Chapters 5-9 and Epilogue
- *Paper 2 due*

Part 3—How does Lobbying Fit?

November 13— Lobbying and Legislation

- LaPira and Thomas, Chapters 1-3

November 18— Lobbying and Legislation, cont.

- LaPira and Thomas, Chapters 4-6

November 20— Lobbying and Legislation, cont.

- LaPira and Thomas, Chapters 7-9

Part 4—What Reforms are Possible? Or Necessary?

November 25— Equality and Clean Elections

- Hasen, Chapters 3-4
- *States assigned*

November 27—no class (Thanksgiving)

December 2— Equality and Clean Elections, cont.

- Hasen, Chapters 5-9

December 4—An Experiment on Clean Election Laws and Public Funding

December 9—Campaign Finance in the 50 States

- Patrick Flavin. 2015, “Campaign Finance Laws, Policy Outcomes, and Political Equality in the American States,” *Political Research Quarterly*. 68(1): 77–88.
- Presentations
- ***Paper 3 due***

December 11—Campaign Finance in the 50 States

- Christopher Witko. 2017. “Regulation and Upper Class Bias in Campaign Finance Systems,” *Election Law Journal*.
- Presentations

Paper 4 due Monday December 16, 5pm

Assignments

Paper 1 prompt: Answer the following in 5-6 pages (double-spaced). Provide a brief review of the facts of your assigned MUR (i.e., who initiated the complaint, who was the accused, what did the general counsel recommend, and how did the FEC decide the case). In discussing the accused violation of the law, be specific about the relevant statutory or regulatory issue in question. The MUR will reference many legal and regulatory issues. Focus on the most important one(s).

To facilitate this, you should look up and consult relevant references to U.S. law and regulations. These are accessible at (and linked to in Blackboard):

- Title 52 of the US Code: <https://www.law.cornell.edu/uscode/text>
- Title 11 of the Code of Federal Regulations (CFR): <https://www.fec.gov/legal-resources/regulations/>

In the final section of the paper, provide your frank assessment of the outcome. Was the case rightly decided in your opinion, given the facts of the case? Explain.

Paper 2 prompt: Answer the following in 5-6 pages (double-spaced). In this section of the course we discuss four rationales for campaign finance reform (or deregulation): anti-corruption, anti-distortion/equality, competition/institutionalist, and free speech. What rationale makes the most sense to you? That is, why should we design campaign finance laws with one rationale in mind? In asserting your perspective, be sure to make note of why the competing rationales are not compelling, or not persuasive enough. *Make reference to the readings from class to bolster your argument.* You can, if you wish, propose that a number of rationales are convincing, but ultimately come down in favor of one.

*Note: the anti-corruption rationale has many definitional variations, as discussed by Teachout. If you are asserting this rationale as your favorite, be specific as to the version of anti-corruption you support.

Paper 3 prompt: Answer the following in 5-6 pages (double-spaced). “Public finding” or “clean elections” can come in many forms: small donor matching like in New York City, clean election grants

like in Maine, tax rebates like the ones proposed in Painter's book, voucher dollars as proposed by Hasen (and in place currently in Seattle). Some others include: public financing for parties and free television time for candidates (the latter of which is not utilized in the United States but has been often proposed).

Research these different ideas. Is there a "public funding" or "clean elections" solution that you like best? Explain.

To facilitate this, you might consult the following (links to these are on Blackboard):

- Overview of state laws on public financing: <http://www.ncsl.org/research/elections-and-campaigns/public-financing-of-campaigns-overview.aspx>
- Seattle's Voucher Program: <http://www.seattle.gov/democracymatcher>
- Michael J. Malbin, Peter W. Brusoe, and Brendan Glavin, "Small Donors, Big Democracy: New York City's Matching Funds as a Model for the Nation and States," *Election Law Journal* 11, no. 1 (2012): http://www.cfinst.org/pdf/state/nyc-as-a-model_elj_as-published_march2012.pdf
- Bruce Ackerman and Ian Ayres. 2004. *Voting with Dollars*. Princeton University Press.
- Kenneth Mayer. 2013. "Public Election Funding: An Assessment of What We Would Like to Know," *The Forum*. 11(3): 365–384
- Lillian BeVier. 1998. *Is Free TV for Federal Candidates Constitutional?* American Enterprise Institute.

Paper 4 prompt: Answer the following in 5-6 pages (double-spaced). Imagine you are writing an opening statement for testimony before a congressional committee; or, perhaps, a long form column in a magazine. Evaluate the "money in elections" question. What is or isn't a big deal? Does the flow of money into elections affect the health of American democracy? What, if anything, should change? Explain.

This is a chance for you to "put it all together" from this semester. There are no right or wrong answers, but be careful about the facts. We started the semester with very little background on the topic. Now you are a budding expert. Getting the facts wrong or making empirical claims that are not well founded can undercut your argument.

Instructions for presentation 1: The same MUR will be assigned to two students. 20 minutes will be allocated to each MUR, and so you and the other student should allocate the following between both of you: Outline the facts of the case, the recommendation of the general counsel, and the final FEC decision. Cite to the relevant U.S. law and/or regulations. How do you assess the outcome of the case? Leave 5 minutes for questions from your classmates about the facts and/or your assessment of the outcome.

Instructions for presentation 2: On designated classes a student will present about a 10-minute review of the readings. The structure of the presentations should proceed as follows:

- a. A short update on any relevant current events in the field of campaign finance. We can use the overhead projector in the class if you want to show a news article or blog post.
- b. For lack of a better description, you will then offer a verbal reaction paper, offering the class your thoughts and reactions to the course readings. Do not summarize the readings beyond what is necessary. Think of this as an opportunity to frame the discussion for the class.
- c. Conclude by offering a number of discussion questions. *These questions should be turned in to your instructor and classmates the night before the class.*
- d. Take questions from your classmates about your presentation and any opinions you offer about the readings.

Instructions for presentation 3: Outline campaign finance laws in your assigned state. What is different or similar from laws at the federal level? What recent laws have been considered in the state? You will have ~10 minutes to lay this out and perhaps take a question or two from the class.

Consult the following resources (links to these are on Blackboard):

- Campaign Finance Institute: <http://cfinst.org/State/LawsDatabase.aspx>
- National Institute on Money in Politics: <https://beta.followthemoney.org/>
- National Conference of State Legislatures: <http://www.ncsl.org/research/elections-and-campaigns/state-limits-on-contributions-to-candidates.aspx>