

GOV 3020

Money and Politics

Spring 2021

Group A MWF 9-9:40am	Group B MWF 9:40-10:20am
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Instructor: Michael Franz Email: mfranz@bowdoin.edu Phone: 207-798-4318 (office) Office: 200 Hubbard Hall	<u>Office Hours:</u> Tuesday, 8:30-10am Book an appointment in Blackboard; Or email about a different time as needed
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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.

*This class is labeled as having in-person components. For us, this will mean the possibility of in-person discussions on the quad in the warmer months. If you are learning from off-campus, this will not disadvantage you. I will simply re-arrange who will meet in Groups A and B for the weeks where this is possible.

Learning Goals

In this course, you should

1. Learn about the basics of campaign finance reform: its history, evolution over time, and current status
2. Consider the trade-offs in how the laws reflect different values, which we will call rationales. These include: political equality, anti-corruption, free speech, and competitiveness.

Class Structure

The course will consist of two key parts:

1. Recorded lectures, on some weeks. Your professor will upload these, and you will watch them asynchronously. Lectures for the week will be posted by the preceding Friday. There will be some weeks where there will be no recorded lectures.
2. Three weekly discussion groups. These will last 40 minutes and will involve about 9 students. These will happen synchronously and will be moderated by the professor.

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 **on Blackboard** by Monday, Wednesday, or Friday, 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. But you must hand one in by Week 4, another by Week 8, and a third by Week 12.**
**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). Papers will be uploaded to Blackboard in the “Assignments” section of our class page.
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 the scheduled Zoom discussion groups. Be advised, simple attendance is not sufficient.

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. David Primo and Jeff Milyo. 2020. *Campaign Finance and American Democracy: What the Public Really Thinks and Why It Matters*. University of Chicago Press.
3. Alexander Hertel-Fernandez. 2018. *Politics at Work: How Companies Turn Their Workers into Lobbyists*. Oxford University 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.
2. 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.
3. Cite your sources. Talk with me about proper citation if you have any questions. I’m open to any approach you take, so long as it is consistent and generally well-regarded. Consider [the Chicago Style](#), as I’m partial to that one.

Class Schedule

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

Week 1 (2/8)

Meeting 1: Introductions and Expectations

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

Meeting 2: 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

Meeting 3: The Campaign Finance System, cont.

- Robert Mutch, *Campaign Finance: What Everyone Needs to Know*, Chapters 6, 8, and 9

Week 2 (2/15)

Meeting 1: 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
- Diana Dwyre. 2020. “The Origin and Evolution of Super PACs: a Darwinian Examination of a Campaign Finance Species. *Society*. 57: 511-519.

Meeting 2: Disclosure and Disclaimers

- R. Michael Alvarez, Jonathan Katz, and Seo-young Silvia Kim. 2020. “Hidden Donors: the Censoring Problem in U.S. Federal Campaign Finance Data,” *Election Law Journal*. 19(1).
- Ray LaRaja. 2014. “Political Participation and Civic Courage: The Negative Effect of Transparency on Making Small Campaign Contributions,” *Political Behavior*. 36(4): 753-776.
- *MURs assigned*

Meeting 3: Looking at the Federal Code

- We may continue the discussion also from the 2nd meeting of the week.

Week 3 (2/22)

Meeting 1: 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
- “Federal Election Commission: Membership and Policymaking Quorum, In Brief,” Congressional Research Service
- Presentations (1 or 2 this day)

Meeting 2: Regulating Campaign Finance, cont.

- Presentations

Meeting 3: Regulating Campaign Finance, cont.

- Presentations
- **Paper 1 due by Feb 28 (10pm)**

Week 4 (3/1)

Meeting 1: 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*.
- Daniel Tokaji. 2018. "Campaign Finance Regulation in North America: An Institutional Perspective," *Election Law Journal*. 17(3).

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

Meetings 2 and 3: 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.

Week 5 (3/8)

Meeting 1: 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>

Meeting 2: 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.

Meeting 3: Anti-Distortion/Equality Rationale, cont.

- Mike Norton and Richard Pildes. 2020. "How Outside Money Makes Governing More Difficult," *Election Law Journal*. 19(4).

Week 6 (3/15)

Meeting 1: Competitiveness/Institutionalist Rationale

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

Meetings 2 and 3: Free Speech Rationale: Is Money Speech?

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

Week 7 (3/22)

Meeting 1: Spring Break!

Meetings 2 and 3: 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.

Week 8 (3/29)

Meeting 1: 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.

Meeting 2: Free Speech Rationale, cont.

- Primo and Milyo, Chapters 1-4

Meeting 3: Free Speech Rationale, cont.

- Primo and Milyo, Chapters 5-9
- **Paper 2 due by Apr 4 (10pm)**

Week 9 (4/5)

Part 3—Corporate Influence Beyond Money

Meeting 1: Politics at Work

- Hertel-Fernandez, Chapters 1-2

Meeting 2: Politics at Work, cont.

- Hertel-Fernandez, Chapters 3-4

Meeting 3: Politics at Work, cont.

- Hertel-Fernandez, Chapters 5-6

Week 10 (4/12)

Meeting 1: Politics at Work, cont.

- Hertel-Fernandez, Chapters 7-9 and Conclusion

Part 4—What Reforms are Possible? Or Necessary?

Meeting 2: Equality and Clean Elections

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

Meeting 3: Equality and Clean Elections, cont.

- Hasen, Chapters 5-9

Week 11 (4/19)

Meeting 1: Small Donors

- Alex Keena and Misty Knight-Finley. 2019. “Are Small Donors Polarizing? A Longitudinal Study of the Senate,” *Election Law Journal*. 18(2).

Meeting 2: Vouchers in Action

- Brian McCabe and Jennifer Heerwig. 2019. “Diversifying the Donor Pool: How Did Seattle’s Democracy Voucher Program Reshape Participation in Municipal Campaign Finance?” *Election Law Journal*. 18(4).

Meeting 3: Clean Elections in Practice

- David Wiltse. 2018. “Subsidizing Equality: Female Candidate Emergence and Clean Elections,” *Election Law Journal*. 17(2).

Week 12 (4/26)

Meeting 1: Clean Elections in Practice, cont.

- Donald Green, Jonathan Krasno, Costas Panagopoulos, Benjamin Farrer, and Michael Schwam-Baird. 2015. “Encouraging Small Donor Contributions: A Field Experiment Testing the Effects of Nonpartisan Messages,” *Journal of Experimental Political Science*. 2(2).

Meeting 2: Anonymity in Campaign Finance

- Reading TBD

Meeting 3: An Experiment on Clean Election Laws and Public Funding

- **Paper 3 due by May 2 (10pm)**

Week 13 (5/3)

Meeting 1: 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.

Meetings 2 and 3: Campaign Finance in the 50 States

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

Week 14 (5/10)

Meeting 1: Presentation 3

Meeting 2: Presentation 3, cont.

Meeting 3: Presentation 3, cont.

Week 15 (5/17)

Meeting 1: TBD

Paper 4 due Friday May 21, 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 funding” or “clean elections” can come in many forms: small donor matching like in New York City, clean election grants like in Maine, tax rebates, 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, using the course readings as a starting point. Is there a “public funding” or “clean elections” solution that you like best? Explain.

To facilitate this, and in addition to the readings from class, you might consult the following additional resources (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/democracyvoucher>

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: You will have 10 minutes. 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?

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. 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.**
- b. Conclude by offering a number of discussion questions. *These questions should be shared via chat at the beginning of the Zoom meeting.*
- c. Take questions from your classmates about your presentation and any opinions you offer about the readings. You will then lead the discussion for about 15 minutes.

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 ~15 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>