



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

**Testimony of Commissioner Ellen L. Weintraub
Before the Committee on House Administration
U.S. House of Representatives
September 20, 2023**

Chairman Steil, Ranking Member Morelle, and members of the Committee, thank you for inviting me to testify today. I am pleased to be here with my colleagues on behalf of the Federal Election Commission (“FEC”) to discuss the important work of our agency. The FEC is charged with administering and enforcing the federal campaign finance laws and providing public disclosure and transparency in our elections to empower a well-informed electorate. In 1976, the Supreme Court case *Buckley v. Valeo* recognized that disclosure “provides the electorate with information ‘as to where political campaign money comes from and how it is spent by the candidate’ in order to aid the voters in evaluating those who seek federal office.”¹ That critical obligation continues to guide our work at the Commission.

I sit at this table with my fellow Commissioners, but the agency is not made up of only six individuals. While we have the responsibility to vote on the decisions to be made by the agency, we cannot fulfill this agency’s crucial mission without the hundreds of people who are not at this table. Our FEC staff is made up of some of the most dedicated public servants I have ever met. They are diligent, thoughtful, and provide great service to the American people. I would be remiss if I did not take this opportunity to thank them all for their hard work and commitment to the mission of our agency.

The FEC has been through a lot in the last few years. We went through a total of 15 months, during the record-shattering fundraising of the 2020 election, when we did not even have a quorum of commissioners to make decisions. That ended at the end of 2020, when we regained a full complement of commissioners for the first time since 2017. We have been pretty busy ever since.

Not surprisingly, we had quite a backlog (452 matters, to be precise) of enforcement decisions to make when we regained the quorum. But we were fortunate in 2021 to have the steady and determined leadership of then-Chair Broussard, who made attacking the backlog a top priority. Thanks to her efforts, and the continued focus by 2022 Chair Dickerson and 2023 Chair Lindenbaum and the hard work of all of my colleagues, we have virtually eliminated the backlog of cases awaiting decisions by the Commission, for the first time in many years. Now, I didn’t agree with the outcomes of each of those decisions, but eliminating the backlog, so that cases do not languish and fall due to the statute of limitations, is an important accomplishment.

¹ *Buckley v. Valeo*, 424 U.S. 1, 66-67 (1976).

Public confidence in the political process depends not only on laws and regulations to ensure transparency, but also on the awareness that those who disregard the campaign finance laws will face consequences. One accomplishment I would like to highlight today in that regard is the updated Memorandum of Understanding with the Department of Justice (“DOJ”) that the Commission adopted in April of this year. I want to thank Vice Chairman Cooksey for partnering with me on an ad hoc committee to oversee this project. And I particularly want to thank the leadership of the Department of Justice, who made this a priority and worked cooperatively with us to get it done. The FEC is charged with the civil enforcement of the Federal Election Campaign Act, and the DOJ is charged with criminal enforcement of the same body of laws. Our ability to work together more efficiently will aid in effective enforcement of the law, a goal that the American people expect and deserve.

So there have been accomplishments, and I want to thank Commissioner Trainor who serves with me on the Press Committee, for helping to ensure that the public is informed about those accomplishments. But, as always, there is still plenty of work to be done.

We have made strides on the rulemaking front, thanks to the efforts of Commissioner Broussard and Commissioner Dickerson on our Regulations Committee. Important rulemaking projects are ongoing, such as our efforts to update our rules on candidate compensation to make it possible for citizens from all walks of life to consider public service.

Here too, however, we face a backlog of projects. For example, it has been more than 13 years since the Supreme Court’s *Citizens United* decision and the subsequent D.C. Circuit Court decision in *Speechnow.org v. FEC*² that created the entities we now know as super PACs.³ But we have not yet promulgated regulations governing super PACs. Our coordination regulations have not been updated to take into account the significant role that super PACs now play in the campaign finance arena, and the old rules are not adequate to bear the weight that has been placed upon them. Previous efforts to address these issues were unsuccessful, but it is my ongoing hope that we can break through the logjam.

Citizens United reiterated the importance of disclosure, the heart of the FEC’s mission. The Court explained that disclosure “enables the electorate to make informed decisions and give proper weight to different speakers and messages.”⁴ Or as Justice Scalia put it, in his concurrence in *Doe v. Reed*:

“Requiring people to stand up in public for their political acts foster civic courage, without which democracy is doomed. For my part, I do not look forward to a society which, thanks to the Supreme Court, campaigns anonymously (*McIntyre*) and even exercises the direct democracy of initiative and referendum hidden from public scrutiny and protected from the accountability of criticism. This does not resemble the Home of the Brave.”

² *SpeechNow v. Fed. Election Comm’n*, 599 F.3d 686 (D.C. Cir. 2010) (en banc).

³ *John Doe No. 1 v. Reed*, 561 U.S. 186, 228 (2010) (J. Scalia, concurring).

⁴ *Citizens United v. Fed. Election Comm’n*, 558 U.S. 310 (2010).

Undisclosed “dark money” is a large and growing problem that undermines the Court’s promise of transparency and the FEC’s fundamental mission. The FEC can and should do more to address it.

As it does every year, in 2022, the Commission unanimously approved a package of bipartisan Legislative Recommendations. Among the highest ranked Recommendations is urging Congress to enact legislation that would make the Administrative Fine Program for reporting violations permanent. This is an efficient and effective program administered by the FEC. It is incorporated in both the *Freedom to Vote Act* and the *American Confidence in Elections Act*. We will lose this program at the end of the year if Congress does not act. Earlier this month, the Senate passed a ten-year extension of the program. While a permanent extension is preferable, a 10-year extension would be welcome.

We have numerous other important Legislative Recommendations, which include amending the foreign national prohibition to include knowingly helping or assisting a foreign national in a violation of the prohibition and amending the prohibition to apply to state and local ballot initiatives, referenda, and recall elections. I know members of this Committee have expressed concern regarding foreign nationals participating and influencing our elections. My colleagues and I unanimously agree that these legislative recommendations will further enable the Commission to protect our elections from the influence of foreign nationals.

Our joint testimony details the dramatic increases in the Commission’s workload and the strains it has put on our budget. The FEC performs its mission through the work of our staff. Nearly 70% of our budget goes to cover personnel costs. We don’t have any construction projects or aircraft carriers that we can postpone to save funds. And personnel costs rise every year, whether or not the budget keeps pace. A flatline budget, for an agency like ours, is effectively a budget cut. Our requested funding of \$98.3 million would allow the agency to continue to grow its staffing levels to meet its increased workload and to keep pace with needed updates to the agency’s critical IT infrastructure. And we have just begun to deal with new challenges such as the potential role of artificial intelligence in campaigning.

Progress has been made, but challenges remain. Dark money, foreign malign influence, new technology, cybersecurity, AI, budget constraints – these are just a few of the issues confronting the FEC. I stand ready to work with my colleagues at the FEC and with our oversight committees in Congress to address these challenges. I look forward to a productive exchange here today towards that goal.