

LWVUS MONEY IN POLITICS (MIP) REVIEW AND UPDATE: BACKGROUND

As adopted by delegates to the 2014 LWVUS Convention, Leagues from across the nation are engaging in a review and update of the national LWV position on campaign finance to consider First Amendment-political speech issues. The LWVEF Board tasked the Money In Politics Review and Update Committee to:

- Conduct an update of the League's position on campaign finance.
- Evaluate the extent to which political campaigns are protected speech under the First Amendment.

This scope of work requires member understanding and agreement about these issues. The Money in Politics Committee is providing members and the public with information and facilitating member study and consensus.

In Fall 2014, LWVUS set this timetable for the MIP Review and Update:

- Spring to Summer 2015: Education materials are posted periodically on the League Management website. Leagues can use these materials for member and community meetings;
- Fall 2015: A study guide and consensus questions will be posted for the Money in Politics Review and Update. Leagues will hold consensus meetings to obtain member agreement on the consensus questions;
- February 1, 2016: Consensus reports (electronic) from Leagues due to LWVUS; and
- April 2016 national LWV Board meeting: Consensus reports and resulting position(s), if any, will be approved.

The LWVUS MIP Committee formed in Fall 2014. Our all-volunteer Committee includes eight League leaders from across the U.S. and national board members, with support from national staff. The Committee is providing ready-to-use resources and strategies to help understand the campaign finance system. These materials, which we call "Meetings-in-a-Box," are available on our webpage (<http://forum.lwv.org/category/member-resources/our-work/money-politics-review>) for Leagues to use for member and community events. They are intended to engage members and the general citizenry on MIP issues as they are evidenced nationally and in states and communities. In addition, they will help prepare members for the LWVUS update of its campaign finance position. Resources include a PowerPoint presentation with script, outside readings and issue papers prepared by the MIP Committee.

So, why is the League updating the position on campaign finance? Our current position dates back to the 1970s and predates Supreme Court decisions that changed campaign finance law significantly. The MIP Review and Update will address a gap in our current position. It aims to get League member understanding and agreement as to the extent to which our organization believes that financing a political campaign is speech protected by the First Amendment. Leagues are being asked to consider through the consensus process: the rights of individuals and organizations to express their political views through the financing of political campaign activities; and how those rights, if any, should be protected and reconciled with the interests set out in the current LWV position.

The current League position takes a collective approach to financing political campaigns. It focuses on achieving political equality in areas of combating corruption and undue influence, ensuring equitable competition, and protecting the rights of citizens to know and to fully participate. This position has enabled the League to advocate strongly for transparency in campaign finance and against big money and its influence on elections and government.

But there are still questions to consider and this is why we are studying the issue: What about the First Amendment interests of candidates and donors particularly as compared with equitable competition; preventing corruption and undue influence; enhancing voter participation? These are questions that the position update is considering.

The First Amendment has been at the center of the campaign finance debate since the 1970s. A key provision says, "Congress shall make no law...abridging the freedom of speech, or of the press..."

Before the 1970s, the Supreme Court rarely heard cases on campaign finance regulation. But the issue of money in politics has a long history in the U.S. The 1907 Tillman Act banned contributions from national banks and corporations, in response to corruption in the Gilded Age. The 1947 Taft Hartley Act extended the ban to labor unions. The 1971 Federal Election Campaign Act and its 1974 amendments put further restrictions on campaign contributions and spending, expanded disclosure, and created the Federal Election Commission to oversee compliance. The 2002 Bipartisan Campaign Reform Act (McCain-Feingold) tried to remedy the explosion of soft money we saw in the 1980s and 1990s.

The activities that the Court focused on largely involve free speech. Election campaigns develop messages for publication, from speeches and debates to paid advertising in various media. Money is required to coordinate the messaging and pay for the advertising. Under the Court's approach, a system of campaign finance protects the rights of a candidate to disseminate her message as well as the rights of her donors to express their own views through her message -- It also protects the rights of other political actors who may wish to make election expenditures independent of the candidates or to advocate in support or opposition to particular public policy issues. To the Court, this campaign speech (as opposed to campaign finance) is central to American democracy and is what the First Amendment was designed to protect.

Whatever else it may or may not have done, the Supreme Court's decisions in the 2010 *Citizens United v. Federal Election Commission* and 2014 *McCutcheon, et al. v. FEC* cases galvanized the campaign finance reform movement. Any education and discussion of these issues must attempt to be comprehensive, which means complex. The task of the Money in Politics Committee is to make the issues understandable to the members of LWV and all citizens.