



How to Define “Political Committee” – And How Not To

A well-written definition of “political committee” is key to protecting privacy and free speech in your state. Even minor changes to wording can make campaign regulations more fair and effective. For an example of how these definitions should be written, look to Wisconsin’s law.

Wisconsin’s Definition of “Political Committee”:

(a) Subject to par. (b), “political action committee” means any person, other than an individual, or any permanent or temporary combination of 2 or more persons unrelated by marriage that satisfies any of the following: 1. It has the major purpose of express advocacy, as specified in the person’s organizational or governing documents, the person’s bylaws, resolutions of the person’s governing body, or registration statements filed by the person under this chapter. 2. It uses more than 50 percent of its total spending in a 12-month period on expenditures for express advocacy, expenditures made to support or defeat a referendum, and contributions made to a candidate committee, legislative campaign committee, or political party. In this subdivision, total spending does not include a committee’s fundraising or administrative expenses.

(b) “Political action committee” does not include a candidate committee, legislative campaign committee, political party, or recall committee.

[Note: Other sections of Wisconsin’s law define “express advocacy” and exempt small groups from having to register or report.]

Wisconsin’s previous campaign finance laws were unconstitutionally vague and overbroad. These flaws helped enable the infamous “John Doe” scandal, in which a local prosecutor targeted groups that supported Governor Scott Walker’s collective bargaining reforms. The tactics included, among other things, a secret investigation and pre-dawn police raids on homes. After the Wisconsin Supreme Court ended the prosecution and a federal court ruled large portions of the law unconstitutional, the Legislature acted to re-write the state’s campaign finance law in 2015.

Wisconsin’s new definition of political action committee (PAC) is the best in the nation. The Badger State’s definition encompasses all aspects of a well written and First Amendment-friendly law by:

- Having a **major purpose test** to ensure that nonprofits and civic organizations are not misclassified as PACs;
- Providing **clarity** about which activities – and in what **proportion** – count toward classification as a PAC; and
- Providing a **significant exemption** before a group must register and report its activities. In this case, the amount is \$2,500 in a calendar year.

These features ensure that true political committees must register and report to the government, while nonprofits and others remain free to speak.

At the other end of the spectrum – providing an example of what not to do – is West Virginia

