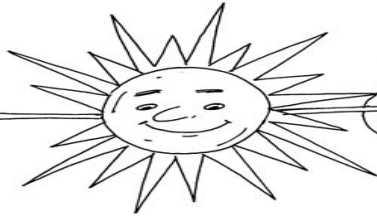


Everyday Democracy

Citizen Advocacy Center's Newsletter, Third Edition 2009

Let the Sun
Shine!



New IL
FOIA Law!

Federal Campaign Finance Laws Under Scrutiny by the U.S. Supreme Court

While reform legislation was a disappointment this session, the Illinois General Assembly met the public's expectations in the area of open records. The reform was spearheaded by the Illinois Attorney General's office who sought input from the CAC, the Illinois Press Association and other reform organizations. The new Freedom of Information Act ("FOIA") constitutes a total rewrite of the current statute that goes into effect January 1, 2010. The new FOIA laws makes Illinois *the only* Midwestern state, and one of only five nationwide, to have a Public Access Counselor (PAC) within an Attorney General's office with binding enforcement powers.

For Illinois residents, this means that when the public has problems accessing public records or public meetings they can ask the PAC for assistance *and* a public body can no longer simply ignore the PAC's communications. The PAC now has the power to issue subpoenas, review closed session tape recordings, issue binding opinions, initiate litigation to hold a public body accountable and much more!

The new FOIA law also mandates:

- Public bodies have to prove by *clear and convincing evidence* that public records are exempt from disclosure.
- Public bodies must have a designated FOIA officer who is responsible for processing requests and completing a training program facilitated by the Attorney General's office.
- The total time in which public bodies must respond to requests has been shortened *from fourteen (14) to ten (10) business days*.
- The personal privacy exemption has been *narrowed* and the problematic *per se privacy exemptions have been eliminated*.
- When a public body utilizes the highly abused exemption categories of "personal privacy" or "preliminary draft," the public body *must notify the PAC* who can review the assertion of the exemption and deem if it is proper.
- The *first 50 pages* for black and white, letter or legal sized *copies are free* and *additional copies* for black and white, letter/legal sized, are *capped at \$.15 per page*.
- *Settlement agreements* finalized by public bodies are *public information*.
- A *prevailing party* in a lawsuit *must* be awarded reasonable attorney fees.
- A court may impose *civil penalties* of up to \$5,000 for intentional violations.

Watch for CAC's FOIA training session dates in 2010!

In an era where running a political campaign involves increasing amounts of money; to what extent can our federal government regulate financial contributions? The Supreme Court of the United States (U.S.Ct) defines the contours of our First Amendment free speech rights and laws passed by Congress affecting free speech, through its interpretation of the phrase: "Congress shall make no law . . . abridging the freedom of speech." If we accept the premise that money "equals" speech, or even that it merely enables speech, is it constitutionally permissible to restrict speech through the regulation of campaign contributions?

In considering how money impacts politics, the U.S.Ct is contemplating the case of Citizens United v. Federal Elections Commission. The case involves whether a 90 minute video about then Presidential candidate Hillary Clinton violates federal campaign finance laws based on the source of funding to produce the video and the timing of the video airing in the medium of cable broadcast. The U.S.Ct's ruling could affect 100 years of federal campaign finance laws prohibiting government regulation of corporate campaign contributions.

The core issue of the case revolves around one section of the Bipartisan Campaign Reform Act (BCRA), a federal law that when passed, was

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Illinois General Assembly Passes Campaign Contribution Limits Bill

On the one year anniversary of the arrest of former Governor Rod Blagojevich on federal corruption charges, Governor Quinn signed campaign finance legislation into law that, for the first time, places contribution limits on state political campaigns.

The signing of the legislation was the culmination of a tumultuous process that few are entirely satisfied with. The initial legislation passed by the General Assembly in the Spring of 2009 was vetoed by the Governor after an aggressive lobbying campaign by good government organizations and members of the Illinois Reform Commission that included its Chair, Patrick Collins. In the fall veto session, a new piece of legislation passed that, while increasing disclosure provisions and instituting caps on campaign contributions for the first time in Illinois history, was not as aggressive as reform organizations wanted. The positive aspects of the new campaign finance law include:

Individual contribution limits:

- \$5,000 to any candidate each election
- \$10,000 to any political party or legislative caucus committee each year
- \$10,000 to any political action committee each calendar year

Union, business and other association contribution limits:

- \$10,000 to any candidate each election
- \$20,000 to any political party or legislative caucus committee each year
- \$20,000 to any political action committee each year

Candidate committee contribution limits:

- \$50,000 to any candidate per election cycle
- \$50,000 to any political action committee per calendar year
- \$50,000 to a committee participating in primary elections per calendar year

Capped transfers for primary elections:

- \$200,000 for statewide elections
- \$125,000 for Senate, First Judicial District, and countywide races in counties with more than 1,000,000 residents
- \$75,000 for House, all other judicial districts, countywide races in counties with less than 1,000,000 residents, Cook County local/municipal races
- \$50,000 for any other office

The new law failed to match the federal level's \$2,400 per election cycle caps and, conspicuously absent, are limits on the amount of money state and leadership committees can transfer to candidates during general elections. These are major loopholes that reinforce the phenomenon of legislators being beholden to the leadership instead of the constituents that elected them. The public can more legislation to be introduced in the 2010 legislative cycle to address some of the loop-holes.

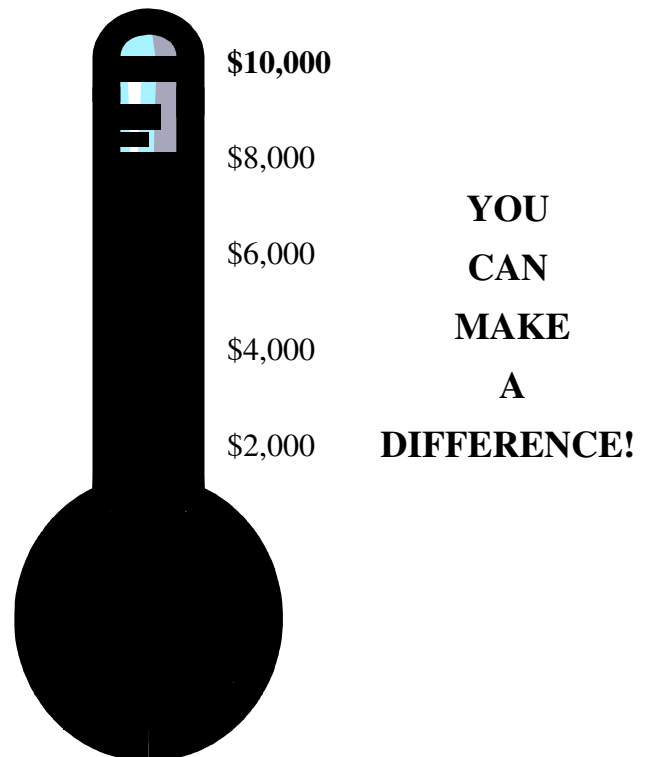
Remember CAC During the Holiday Season

For fifteen years, the Center has worked to build democracy and have the civic voices of individuals heard at the local and statewide level. Whether it is facilitating workshops to teach the public how to use open government laws and organizing tools to impact government decision-making, engaging in precedent setting litigation to hold open the doors of government, working to reform state ethics, campaign finance, and open government laws, or helping educators to improve youth civic education - the Center is a catalyst that enables citizens to achieve results.

The Center is in the midst of a \$10,000 matching grant from the Gaylord and Dorothy Donnelley Foundation. Donations from new donors and donations made in excess of last year's contributions are eligible for the fund matching!

Thank you to all who have contributed time and money to the Center.

The Center is only \$2,368 from fulfilling our matching grant!



Illinois Supreme Court Upholds Public's Right to Access Superintendents' Contracts

Over the last several years, the Center has witnessed more school districts unilaterally withholding superintendent contracts from public disclosure. School districts attempted to legitimize this practice by relying on a court case which states that if information requested by the public falls into one of the "per se" privacy exemptions within the Freedom of Information Act (FOIA), the public body may automatically withhold information without conducting any kind of further review or analysis.

Mark Stern is a citizen advocate who believes that the public has the right to know how public dollars are spent. He made a FOIA request for the Wheaton-Warrenville Community School District's (District) superintendent's contract. The District denied the request claiming that because the employment contract was physically located within the superintendent's personnel file, it was "per se" exempt from disclosure under FOIA.

Stern was not willing to give up so easily. With the assistance of pro bono lawyers from the Collins Law Firm in Naperville, he sued the District to compel disclosure. Remarkably, the District fought disclosure of the contract all the way to the Illinois Supreme Court, which ruled in favor of Stern. In its opinion, the Supreme Court recognized that the exemptions within FOIA are limited and that it is an important objective to "open governmental records to the light of public scrutiny." The Court also stated that the superintendent's employment contract contained information that dealt with public duties, and that disclosure of information on public duties is not considered an invasion of privacy.

Stern had the support of numerous organizations and public bodies. The CAC, the Illinois Press Association, and the Attorney General supported the case by filing a "friend of the Court brief" to the Supreme Court. Additionally, the CAC worked with Stern's pro bono lawyers through the entire lawsuit. Congratulations, Mark!

Read the opinion at:

http://www.state.il.us/court/Opinions/recent_supreme.asp under "Stern v. Wheaton-Warrenville Community Unit School District 200," docket # 107139 NRel.

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geared at closing loopholes in federal campaign finance. The specific section at issue prohibits corporations and unions from funding "electioneering communications" from general treasury funds.

BCRA defines "Electioneering communications" as "any broadcast, cable, or satellite communication which . . . refers to a clearly identified candidate for Federal office" and is made within 60 days before a general election or 30 days before a primary election.

The 90 minute video technically meets the definition of electioneering communications. However, Citizens United argued that when Congress defined "electioneering communication" it was intended to target short, punchy and arguably negative "issue" ads that catch the viewer unaware. In this case, the video was to be shown on cable via video on demand. The US.S.Ct could narrowly decide this case by deciding that the opt-in nature of the video on demand format is outside Congress' intent in enacting BCRA, effectively stating that video on demand is not included in the definition of "electioneering communication."

To some people's delight and to others' alarm, the US.S.Ct asked both sides to present a special argument on this one, narrow issue examining the possible vague and overbroad reach of this BCRA regulation and its application to different kinds of corporations. *The US.S.Ct. ruling could declare any government regulation of corporate and union campaign contributions unconstitutional.*

Community Lawyer Maryam Judar has been educating the general public and students about this landmark case. She facilitated an evening program on this complex subject where attendees debated the role of money in politics, watched the movie trailer and discussed the history of Supreme Court case law on federal campaign contribution regulations.

As an outgrowth from this event, Maryam created a lesson plan for high school students "Campaign Finance: Is Money Speech? What role does money play in politics and government?" The lesson plan was developed by working with two high school juniors in exploring historical, existing and proposed regulations on individual and corporate campaign contributions. As a member of the McCormick Freedom Project's Speakers in Schools program, Maryam facilitated the lesson for 10th graders and challenged them to discuss our nation's bedrock democratic principles and the tensions between them in balancing Congress' desire to protect our free speech rights as well as to maintain a healthy campaign system. In 2010, Maryam will also facilitate a session for teachers on this topic through the Speakers in Schools program at the "Free Speech & Campaign Finance Reform" Seminar, to be held at Cantigny Park in Wheaton, IL.

Watch for more information from the Center on Supreme Court rulings on the extent to which corporations can be regulated, if at all, from financially impacting elections.

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Everyday Democracy is a publication of the *Citizen Advocacy Center*, a non-profit, nonpartisan, 501(c)(3) organization. Submissions from citizen advocates in the western suburbs of Chicago are encouraged. The *Center* is an educational and charitable organization dedicated to building democracy for the 21st century by strengthening the public's capacities, resources, and institutions for self-governance.

If you are interested in more information, becoming a volunteer, or making a tax-deductible contribution, please feel free to contact or visit us.

Return Service Requested

CAC Pioneers Celebrate 15 Years of Building Democracy: CAC Founders, Current Community Lawyers and Former Community Lawyers.

**Keynote Speaker: Patrick Collins
Former Federal Prosecutor and Chair of
Illinois Reform Commission**



Left to right: Maryam Judar (Current Community Lawyer), Sarah Klaper, Laurel O'Sullivan, Terry Pastika (Ex. Dir./Community Lawyer), Theresa Amato (CAC Founder), Dr. Claire Nader (President, Shafeek Nader Trust for the Community Interest and CAC's Founding and Current Funder), Charlene LaVoie (Director of the Office of the Community Lawyer/Advocacy Project: CAC's sister organization, Winsted Conn.), Myrrah Guzman Southwell, and Susanne Stone.

Patrick Collins discusses Illinois' "Reform by Indictment" mentality and the need for comprehensive campaign finance and redistricting as key components in reforming Illinois' broken political system.