

Summary of the Democrats' Staff Report on the Federal Election Commission at 50

“The Deregulators Are Winning”

Alexa Didinsky, for Citizen Works

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The Supreme Court's decision in *Citizens United* allowed corporations and special interest groups to spend unlimited, often undisclosed amounts of money on federal campaigns by ruling that corporations and special interest groups, including unions and nonprofits, have a First Amendment right to spend unlimited amounts of money on independent political expenditures in federal elections. This outcome permits extremely wealthy donors to flood elections with funding, which has the potential to drown the impact of the 'ordinary' donor and voter. In addition, the FEC's failure to investigate or enforce alleged campaign violations exacerbates this outcome. Since *Citizens United*, the Report notes that only 12% of alleged improper coordination cases recommended for investigation by staff were pursued, only 20% of dark money cases were investigated, and just 52% of foreign interference cases were acted upon [Report at 3].

The broader impacts of the *Citizens United* decision and overall inaction by the FEC are seen through various high-stakes policy issues. The increased contributions of dark money sustain crises such as the suppression of the citizenry's voice in favor of corporate donors, who have a financial stake in the outcomes of elections. Many interest groups across the ideological spectrum have exploited loopholes to promote their agendas using undisclosed money [Report at pp. 16-17]. As a result of shifts in the current administration, resignation and reappointment patterns, the FEC lost its quorum as of April 30, 2025. This means that until the FEC regains its quorum (of at least four of the six commissioners), it cannot effectively operate, make rules, issue advisory opinions, or enforce laws as it would have the power to do if it had a quorum.

## **I. Systemic Breakdown of the FEC**

The report details how the FEC, *especially* in the post-*Citizens United* era, has been rendered toothless by internal dysfunction and ideological opposition to regulation. The primary issues can be broken down into key patterns of non-enforcement and general structural weakness [Report at pp. 3, 21-23].

### **A. Key Patterns of Non-Enforcement**

Patterns of non-enforcement by the FEC show the lack of action taken to prevent the flaunting of regulations and a decline in their enforcement in elections. For example, wealthy interest groups and super PACs claim independence while coordinating directly

with campaigns illegally. Only 7 of 59 staff-recommended investigations proceeded within this area of alleged illegal coordination [Report at pp. 3, 21]. Moreover, repeated instances of dark money disclosure failures went untouched [Report at p.21]. Nonprofit 501(c)(4) groups have hidden donors who funnel money into elections [Report at p.21]. The second Trump administration repealed IRS rules requiring donor disclosure for many nonprofits. The FEC did not investigate or act on this [Report at pp. 22-25]. In terms of foreign interference, staff members recommended 29 cases, and in only 15 were staff authorized to take any action. Of the 14 ignored cases, 12 directly involved Trump, his associates, or donors [Report at pp. 21-22]. Staff recommended action in 32 Trump-related cases, and Republican commissioners blocked every one of them, a trend escalation that hadn't been seen prior to this administration.

## **B. Structural Weakness**

The FEC struggles due to the inherent nature and structure of the commission since its inception. Much of its regulatory weakness is baked into its design. The FEC requires four of six commissioners to vote to proceed on investigations. Partisan deadlock, from major parties, has neutralized the agency's core functions [See, e.g., Report at pp.22-25]. In addition, even though the Act creating the FEC only requires that no more than three commissioners come from any one party, this has generally been interpreted as 3 Democrats and 3 Republicans rather than populating the Commission with all Independents or multi-party commissioners.

## **II. Recommendations and Reform Proposals**

The Report concludes by calling for bold structural reforms to restore accountability, transparency, and enforcement to campaign finance law. Some of Representative Morelle's immediate reforms proposed are to strengthen the disclosure laws already in place, including for state and local ballot initiatives [Report at 45]. He also advocates for the creation of a small donor public financing program, such as through "democracy credits," as well as for a restructuring of the FEC, by reducing the number of commissioners from six to five, to avoid such imminent partisan deadlock, and by empowering nonpartisan staff to initiate investigations unless overruled by the commissioners [Report at pp. 45-46]. Lastly, Rep. Morelle believes in improving transparency in commissioner appointments and increasing compensation to attract more qualified professionals [Report at 45]. He also includes legislative approaches, such as those included in the Freedom to Vote Act [Report at 45]. These sorts of recommendations have been proposed in Congress many times before, but they have been largely stalled. The Report concludes that without urgent reform, the American electoral system risks becoming dominated fully by a narrow set of wealthy elites, capable of undermining democratic participation and governance [Report at pp. 49-50].

### *Sources*

United States, House of Representatives, Committee on House Administration. *The Deregulators Are Winning: How Republicans Are Dismantling the Federal Election Commission and Sabotaging the Administration of Federal Campaign Finance Laws*. Democrats-cha.house.gov, Mar. 2024, <https://democrats-cha.house.gov/sites/evo-subsites/democrats-cha.house.gov/files/evo-media-document/Report-The-Deregulators-Are-Winning.pdf>.