



Stop the Coup 2025
a public education and mobilization campaign

Chapter 29. Federal Election Commission. Author: Hans A. von Spakovsky. *Von Spakovsky is an American attorney and a former member of the Federal Election Commission. He is the manager of The Heritage Foundation's Election Law Reform Initiative and a senior legal fellow in The Heritage Foundation's Meese Center for Legal and Judicial Studies.*

Von Spakovsky focuses on limiting the role of the Federal Election Commission (FEC) in enforcing the Federal Election Campaign Act (FECA) passed by Congress in 1971 and amended in 1974. FECA establishes the law governing campaign financing, and the FEC has exclusive enforcement authority over FECA violations. The FEC, by law, is a bipartisan body that may not have more than three of six commissioners representing one political party.

According to the author, the FEC's "regulation of campaign finance deeply implicates First Amendment principles of free speech and association." He notes that, because the FEC is an independent agency outside of the executive branch, the president's power to control the FEC is limited. But there are numerous actions that the president can take in relation to the FEC.

Proposals:

- ✓ Assure loyalist appointees to the FEC share the view of the current Republican commissioners that the FEC should not: overregulate political activity, act beyond statutory authority, construe ambiguous and confusing provisions against candidates and the public instead of the government, or infringe on protected First Amendment activity." This is aimed at protecting against "overzealous" prosecutors
- ✓ Since "the president does have control over the Department of Justice," the president should ensure that the DOJ prosecutes only "clear violations" of FECA and does not prosecute any provisions that may be ambiguous, unclear, or confusing
 - The DOJ also should only prosecute interpretations of the law with which the FEC agrees, and be bound by prior FEC opinions and findings
 - "The DOJ should not engage in criminal prosecutions that stretch legal theories and defy FEC interpretations and regulations"

The FEC is one of a few federal agencies that has its own litigation authority, independent from DOJ, and customarily defends itself against legal action through the federal court of appeals and is defended in the US Supreme Court by the Solicitor General. But past partisan disagreement among the six commissioners has failed to provide a needed fourth vote for litigation defense, so the FEC has failed to defend itself against numerous lawsuits, "filed by political allies of certain Democrat commissioners," charges Von Spakovsky, leading to the FEC defaulting in litigation in the federal courts.

Proposals:

- ✓ The President recommends Congress remove the FEC's independent litigation authority



Stop the Coup 2025

a public education and mobilization campaign

- ✓ The president directs the Attorney General to defend the FEC in all litigation where commissioners fail to authorize a defense

Other proposals:

- ✓ End the current practice of allowing FECA commissioners to stay beyond their terms in the absence of the appointment of a new commissioner
- ✓ Oppose any effort to change the number of commissioners from six to an odd number
- ✓ Loosen restrictions on the “ability of party committees to coordinate with their candidates”; raise monetary limitations on contributions; limit reporting requirements

STC 2025 Commentary: The author aims to reduce the power of the FEC, an agency independent of the executive branch, established by Congress to regulate campaign finance and spending laws under the Federal Election Campaign Act. According to experts at the progressive Brennan Center for Justice, the FEC is a barely functioning agency as it is; the bipartisan structure of the FEC has, in contemporary politics, resulted in gridlock, stagnation, and failure to enforce limits on “dark money” contributions, and failure to ensure transparency in campaign advertising. The FEC has proven unable to update regulations in response to a landscape of social media and now artificial intelligence that did not exist when the law was passed or last amended.

This section reflects conservative strategies for giving the president greater control over a now-independent agency, backed by loyalist commissioners who agree with the ideological goal of a weakened FEC. It would use the DOJ as a tool to limit enforcement of FEC regulations, but also as a defensive weapon against public attempts to enforce the laws.

The author’s proposals to amend the Federal Election Campaign Act would reduce the FEC’s independence and undermine its authority. Similarly, proposals to amend the limitations on campaign contributions and lower transparency and reporting requirements would make it easier for dark money and major donors and Political Action Committees to influence elections.

Chapter 29 - Key Points:

- ✓ Ensure FEC appointees are loyalists prepared to execute the president’s agenda
- ✓ Limit DOJ enforcement action of FECA violations
- ✓ Authorize the DOJ to defend public lawsuits against the FEC
- ✓ Propose Congressional action to reduce FEC independence, weaken campaign finance and reporting laws