

# PAC contribution bill a mistake

By Robert G. McCampbell

A new rule from the Oklahoma Ethics Commission prohibiting one political action committee from contributing to another took effect July 1. *The Oklahoman* has editorialized in favor of that new rule. However, the new rule, though well intentioned, is a mistake because it unconstitutionally infringes the First Amendment political rights of the PACs and their members.

Protecting the rights of PACs is important. A PAC is merely an association of individuals wishing to pool their resources. As noted by the Supreme Court in *Citizens Against Rent Control v. Berkeley*, "By collective effort individuals can make their views known when, individually, their voices would be faint or lost."

Courts have repeatedly recognized that PACs possess First Amendment political rights. In *FEC v. National Conservative PAC*, the Supreme Court squarely rejected the notion that a PAC's form of organization diminishes its political rights. The court noted that to give a PAC less than full First Amendment protection "would subordinate the voices of those of modest means as opposed to those sufficiently wealthy to be able to buy expensive media ads with their own resources."

One right violated by prohibiting PAC-to-PAC contributions is the First Amendment right of political association. One important way to politically associate is through what the Supreme Court refers to as the "symbolic expression of support evidenced by a contribution." The new rule, however, would eliminate that right of association.



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Second, the new rule is unconstitutional because it infringes PACs' First Amendment right to make expenditures for political purposes. In the landmark case of *Buckley v. Valeo*, the Supreme Court struck down legislation that restricted political spending stating, "The Act's constraints on the ability of independent associations ... to expend resources on political expression is simultaneously an interference with the freedom of their adherents."

In *FEC v. National Conservative PAC*, the Supreme Court reaffirmed that a PAC's expenditures are entitled to "full First Amendment protection." The new rule, however, would completely prohibit one form of political expenditure.

Contributions from one PAC to another are important. A labor union PAC may wish to associate itself with a PAC supporting workers' rights. Also, a PAC may want to provide money for advertising generated by a likeminded PAC. This type of political expression is precisely what the First Amendment protects.

Any concerns about such contributions have been addressed through regulation such as contribution limits and disclosure requirements. Neither the federal government nor any other state has acted to completely prohibit PAC to PAC contributions.

The Ethics Commission performs a valuable function and deserves our utmost respect. However, in this particular rule, the commission has gone too far.

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