State of Washington
PUBLIC DISCLOSURE COMMISSION
711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908
(360) 753-1111 • FAX (360) 753-1112
Toll Free 1-877-601-2828 • E-mail: pdc@pdc.wa.gov • Website: www.pdc.wa.gov

Memo

To: Commissioners
From: Sean Flynn, General Counsel
Date: July 16, 2026
Re: Summary of *NRSC v. FEC* and Washington Law

The United States Supreme Court recently issued an opinion in *National Republican Senate Committee v. Federal Elections Commission*, striking down the federal contribution limits for political parties spending in coordination with a candidate. The decision overruled a 2001 decision in which the Court had upheld the same law. In *NRSC*, the majority leaned on the development of the law since 2001 to warrant the reversal.

The law in question restricted the amount a political party could spend in coordination with a candidate. For example, this would apply to money spent by a party on a political advertisement in support of a candidate after consulting with the candidate on the content, timing, or placement of the advertisement.

As limits on contributions constitute a restriction on political speech, the Court recognized the law was subject to "closely drawn scrutiny" to determine if the law satisfied First Amendment standards. Such standard required the Court to consider whether (1) the government had a sufficiently important interest to protect and (2) the law was closely drawn, or "necessary," to achieve that interest. The Court mostly analyzed the claim that the law helped prevent the circumvention of contribution limits where a donor makes a large contribution to the candidate's political party (greater than the limit for a donation directly to the candidate), and then the party turns around and coordinates the expenditure of that money with the candidate.

The Court rejected such rationale since the only recognized permissible interest for imposing contribution limits is to prevent *quid pro quo* corruption between the candidate and the donor. That risk is not the same where the donation is made to the party and not in a direct transaction with the candidate.

The Court further pointed out two existing less restrictive means of effectively preventing circumvention, which made the party limits unnecessary. First, to the extent that the donor attempts to direct the donation through the party to the candidate, the Court noted that existing earmarking laws effectively prevent circumvention. Earmarking essentially treats contributions directed through an intermediary to a candidate as contributions to the candidate, and subject to applicable limits for such candidate. Second, the Court promoted disclosure laws as a

"particularly effective means of arming the voting public with information" through the application of modern technology. (Citations omitted).

Combined, the Court determined that the direct limits on contributions to candidates, plus the earmarking requirements and the disclosure laws provide sufficient protection against circumvention and ultimate *quid pro quo* corruption, without further need to limit party coordinated spending. Therefore, while striking down the party contribution limits the Court also reaffirmed the purpose and utility of earmarking and disclosure laws to protect the government's interest in campaign finance regulation.

Washington's campaign finance laws include a contribution limit regime like the federal law. State law provides contribution limits from political parties (and caucus committees) to candidates. RCW 29B.40.020(4). Limits also apply for contributions to an official opposing a recall petition, or to a political committee supporting a recall RCW 29B.40.020(3). Separate limits apply for county and legislative district committees. There are no limits on how much money an individual may donate to a political party or caucus committee, but corporations, unions, political committees, and other entities have limits on how much they can give to a political party.

Contribution limits apply to in-kind contributions. WAC 390-05-210. An in-kind contribution includes any "goods, services or anything of value, other than money or its equivalent, [provided] . . . free-of-charge or for less than fair market value." WAC 390-16-207. In-kind contributions are reportable both by the contributor (when applicable) and the recipient.

State law exempts certain contributions from limits if the contribution is earmarked for certain activities that do not support or oppose any individual candidate. Political parties may establish exempt accounts that segregate exempt contribution funds to be used for authorized non-candidate activities such as get-out-the-vote campaigns, sample ballots, or internal organization and fundraising. RCW 29B.40.020(15). Such exempt funds cannot be used to support or oppose individual candidates.

Washington law also has earmarking laws. An earmarked contribution includes "designation, instruction, or encumbrance, whether direct or indirect, expressed or implied, or oral or written, that is intended to result in or does result in all or any part of a contribution being made to a certain candidate or state official." RCW 29B.40.160. Earmarked contributions are considered contributions from the person who made the original contribution and are subject to the same limits as direct contributions. WAC 390-16-240(2). In addition, if the intermediary exercises any direction or control over the choice of recipient, then the contribution is attributable to both the original donor and the intermediary. The party or committee receiving an earmarked contribution must report the receipt of the contribution and must notify the candidate or committee for whom the contribution is earmarked. RCW 29B.25.150.