

# Institute for Free Speech: Lawsuit aims to restore nonprofits' freedom to speak about candidates

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## ***An unconstitutional interpretation of the law has reduced nonprofit voices to a whisper***

**Green Bay, WI** - A Wisconsin nonprofit filed a federal [lawsuit](#) yesterday that aims to stop a massive expansion of the Federal Election Commission's (FEC) donor disclosure mandates for nonprofit groups that advocate the election or defeat of candidates. Only those donors who specifically intend to fund campaign expenditures can be constitutionally required to be reported to the FEC, the complaint explains.

Wisconsin Family Action (WFA) brought the lawsuit to secure its right to speak independently to the public about federal candidates in future elections. It has refrained from doing so out of concern that public reporting of the group's general donors would suppress contributions and expose its members to harassment, threats, and other acts of retaliation. The group is represented in the case by Don Daugherty of the Institute for Free Speech, a nonpartisan First Amendment advocacy group that defends political speech rights, and Michael D. Dean, LLC.

"The FEC can't condition the exercise of one First Amendment freedom on the sacrifice of another. Nonprofits have a right to speak about candidates, and Americans have a right to support nonprofits without being reported to the government," **said Institute for Free Speech Senior Attorney Don Daugherty.**

A 2018 court ruling struck down a longstanding FEC regulation stipulating that only contributors who supported a particular ad endorsing or opposing a federal candidate must be publicly exposed. Three years later, the FEC has still not replaced that regulation. The little guidance the Commission has provided suggests that nonprofits may now be forced to report general donations given to an organization for no political purpose.

This sweeping interpretation of the law could result in the public exposure of the names and addresses of every person who gives as little as \$200 in a calendar year to any nonprofit group that spends just \$250 on communications that advocate the election or defeat of a candidate. The threat of such widespread exposure of nonprofit donors has had a severe chilling effect on political speech.

From 2010 until the 2018 court ruling, nonprofits typically accounted for [3 to 5 percent](#) of total spending on advocacy for or against federal candidates. In the 2020 election cycle, as groups feared for their supporters' privacy, that number plummeted below [1 percent](#). The FEC's new interpretation of the law has silenced some of the smallest voices in our democracy and allowed politicians, political parties, and major media outlets to gain even more power to control the narrative around campaigns.

"Every American should have the right to support nonprofit causes without being threatened or harassed for their beliefs. Our members should not have to risk their security just because we take a stand in a heated election," **said Julaine Appling, President of Wisconsin Family Action.**

The First Amendment and Supreme Court [precedent](#) limit the government's power to compel public exposure of a nonprofit's supporters. The government may only require nonprofits like WFA to report donors who intend to fund communications advocating the election or defeat of candidates, the lawsuit explains. The FEC's vague disclosure policy violates the rights of Americans who support a nonprofit's overall mission rather than its occasional advocacy on campaigns.

Three years ago, the Institute for Free Speech [petitioned](#) the FEC to remedy the problem by providing a clear meaning of "contribution" under the law, but the Commission has not acted. Now, to protect the First Amendment rights of nonprofits and the Americans who support them, IFS is helping Wisconsin Family Action challenge the Commission's interpretation of the law in federal court.

The case is *Wisconsin Family Action v. Federal Election Commission* in the United States District Court for the Eastern District of Wisconsin, Green Bay Division. To read the complaint, [click here](#). For future updates, visit our case page [here](#).