



Political Spending Disclosure Rules: Corporations vs. Unions

Corporations and unions are subject to widely different disclosure requirements of their political spending with treasury funds. *Citizens United* freed up both unions and corporations to spend unlimited amounts of treasury funds on political expenditures, but none of the disclosure requirements for either group were updated along with the loosened spending restrictions. The result is that corporations have no formal political spending disclosure regime, while unions have many stringent disclosure requirements.

Unions are required to report to several federal agencies and their members and face restrictions on using members' dues payments. These reports are available to anyone on the internet. In particular, federal regulations require unions to publicly disclose all political or legislative expenditures of \$5,000 or more along with the date, purpose of the payment, and the name and address of the recipient.

Corporations are not required to disclose political spending from treasury funds. Corporations may also engage in political spending through third party organizations such as trade associations and 501(c)(4) "social welfare" groups, which are also not subject to any reporting requirements. Those groups may then use the contributions to support or oppose candidates with no record of where the money originated. Unlike unions, companies face no restrictions on the use of shareholder money for political spending.

The following table examines and compares the legal disclosure requirements of unions and corporations:

1. Disclosure Rules at a Glance		
Is this group required to disclose (spending from treasury funds)...	Unions	Corporations
<i>Direct contributions to federal candidates?</i>	✓	
<i>Direct contributions to state-level candidates, parties, and committees?</i>	✓	✓*
<i>Independent expenditures?</i>	✓	✓
<i>Indirect spending through 501(c) and other tax-exempt organizations?</i>	✓	
<i>Publicly available and comprehensive political expenditure reports?</i>	✓	
<i>Contributions made through its affiliated political action committee (PAC)?</i>	✓	✓

* Disclosure laws vary significantly by state. Additionally, nearly half of all states do not allow corporations or unions to make direct contributions.

2. Disclosure Rules In Detail

	Unions [†]	Corporations
General Requirements	<ul style="list-style-type: none"> • Federal laws require annual filing of form LM-2 with the Department of Labor, to include: <ul style="list-style-type: none"> ○ “Direct and indirect disbursements to all entities and individuals ... associated with political disbursements or contributions in money.” ○ “Political disbursement or contribution is one that is intended to influence the selection, nomination, election, or appointment of anyone to a Federal, state, or local executive, or legislative or judicial public office, or office in a political organization, or the election of Presidential or Vice Presidential electors, and support for or opposition to ballot referenda.” ○ Includes contributions to Super PACs, trade associations, and 501(c)(4) “social welfare” organizations. ○ Disbursement over \$5,000 need to be itemized. • Reports available at www.unionreports.gov • Required for every union with total annual receipts of \$250,000 or more. 	<ul style="list-style-type: none"> • No federal law requires overall disclosure of corporate political expenditures either to the public or to shareholders. • Not required to disclose indirect spending through trade associations or other tax exempt groups.
Independent Expenditure Requirements	<ul style="list-style-type: none"> • Independent expenditures and electioneering communications – ads bought directly to support or oppose the election of any candidate for office – reported to the Federal Election Commission. 	
Frequency of Disclosure	<ul style="list-style-type: none"> • Annually. • Form LM-2 must be filed within 90 days after the end of the fiscal year with no allowance for extensions. 	<ul style="list-style-type: none"> • No federal requirement. • State laws vary.
Consequences of Failure to Disclose	<ul style="list-style-type: none"> • False reporting and failure to report may result in administrative enforcement action and litigation. • The officers responsible for signing Form LM-2 are also subject to criminal penalties for perjury. 	<ul style="list-style-type: none"> • No federal requirements. • State laws vary.

[†] *Instructions for Form LM-2 Labor Organization Annual Report*, The U.S. Department of Labor (accessed Jan. 8, 2014), <http://www.dol.gov/olms/regs/compliance/EFS/LM-2InstructionsEFS.pdf>