

## Handouts E-J Answer Keys

### Handout E: *Citizens United v. F.E.C.* Background Essay Answer Key

1. The banning of direct campaign contributions by corporations (Tillman Act, 1907), limitations on activities of federal employees (Hatch Act, 1939), banning direct campaign contributions by labor unions (Taft-Hartley, 1947), public reporting requirements and dollar-amount limitations on contributions (FECA, 1971 & 1974), and a ban on “electioneering communications” within a set time period prior to elections (BCRA, 2002).
2. The Court deemed that restricting independent spending by individuals and groups to support or defeat a candidate interfered with speech protected by the First Amendment, so long as those funds were independent of a candidate or his/her campaign. Such restrictions, the Court held, unconstitutionally interfered with the speakers’ ability to convey their message to as many people as possible.
3. Citizens United, a non-profit group funded by donations, produced a feature-length movie critical of presidential candidate Hillary Clinton. The movie was to be shown nationwide in select theaters and through a major cable company’s On-Demand service. It potentially ran afoul of the BCRA’s limitation on “electioneering communications” within 30-days of a primary election or 60-days of a general election, paid for by a corporation’s general fund.
4. *Citizens United v. F.E.C.* extended the principle, set 34 years earlier in *Buckley*, that restrictions on spending money for the purpose of engaging in political speech unconstitutionally burdened the right to free speech protected by the First Amendment.
5. Accept reasoned answers.
6. Using the same reasoning as the Court did in *Buckley* and *Citizens United*, these laws would be unconstitutional. They would be unconstitutional not because “spending [on a lawyer] amounted to [assistance of counsel] protected by the [Sixth] Amendment,” or that “spending [on a private education] amounted to [private education] protected by the [Due Process Clause of the Fourteenth Amendment],” or that “spending [on an abortion] amounted to [an abortion] protected by the [Due Process Clause of the Fourteenth Amendment].” Rather, the reasoning would be that banning such spending *unconstitutionally interfered* with the rights to assistance of counsel, private education, or an abortion. Likewise, a government ban on candidates from traveling in order to give campaign speeches would likely be unconstitutional because the ban on travel unconstitutionally burdened the right to speak.

## Handout E-J Answer Keys: Page 2

### Handout F: Timeline of Campaign Finance Reform Initiatives

DATE	LAW/SUPREME COURT CASE	MAIN EFFECT
1907	Tillman Act	Prohibited corporate contributions for political purposes
1910	Federal Corrupt Practices Act	Added enforcement mechanisms to Tillman Act
1939	Hatch Act	Restricted political campaign activities of federal employees
1947	Taft-Hartley Act	Prohibited labor unions from expenditures that supported or opposed particular federal candidates
1971	Federal Elections Campaign Acts	Strengthened public reporting requirements of campaign financing
1974	Federal Elections Campaign Acts	Imposed specific limits to the amount of money that could be donated to candidates; set up Federal Election Commission
1976	<i>Buckley v. Valeo</i>	Ruled that restricting independent spending by individuals and groups to support or defeat a candidate interfered with speech
2002	Bipartisan Campaign Finance Reform Act (BCRA)	Ban on “electioneering communications”—speech that named a federal candidate within certain time periods if paid for out of a special interest’s general fund. Corporations could still fund electioneering through PACs.
2003	<i>McConnell v. F.E.C.</i>	Supreme Court upheld BCRA restriction (in spite of precedent set by <i>Buckley</i> .)

## Handout E-J Answer Keys: Page 3

DATE	LAW/SUPREME COURT CASE	MAIN EFFECT
2010	<i>Citizens United v. F.E.C.</i>	BCRA's ban on corporate and union independent expenditures was unconstitutional under the First Amendment's speech clause, extending the reasoning used in <i>Buckley</i> .

### Handout G: *Citizens United v. F.E.C.* (2010) Majority Opinion Answer Key

1. The First Amendment protects citizens, or associations of citizens, from being punished for engaging in political speech.
2. Accept reasoned answers.
3. Accept reasoned answers.

### Handout H: *Citizens United v. F.E.C.* (2010) Dissenting Opinion Answer Key

1. The dissent argues that the right to free speech was designed to protect an individual's right to speak, and was never understood to apply to corporations, which are business associations, not political ones. The notion of "corporate speech" was foreign to the Founders, and the First Amendment doesn't protect it at the same level. Congress has a legitimate interest in protecting against "undue influence" and corruption and the vast resources of corporations—in comparison to individuals—makes this "undue influence" more likely. The BCRA's ban may regulate how a person, or persons, may speak, but it does not prevent anyone from speaking "in his own voice."
2. Accept reasoned answers.

### Handout I: *Citizens United v. F.E.C.* (2010) Concurring Opinion Answer Key

1. This concurring justice argues that corporations existed at the time of the Founding. They not only engaged in speech and petitioned the government, but were understood by the authors of the First Amendment to have speech rights equivalent to individual Americans. Further, the First Amendment does not allow restrictions to be made on the basis of who is speaking.

### Handout J: *Citizens United v. F.E.C.* (2010) Concurring Opinion Answer Key

Accept reasoned responses in which students correctly summarize the documents provided and provide constitutional reasoning to evaluate the Supreme Court's opinions in *Citizens United v. F.E.C.* (2010)