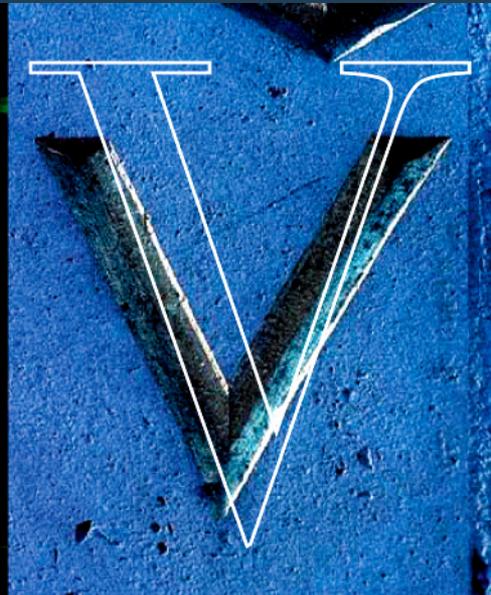
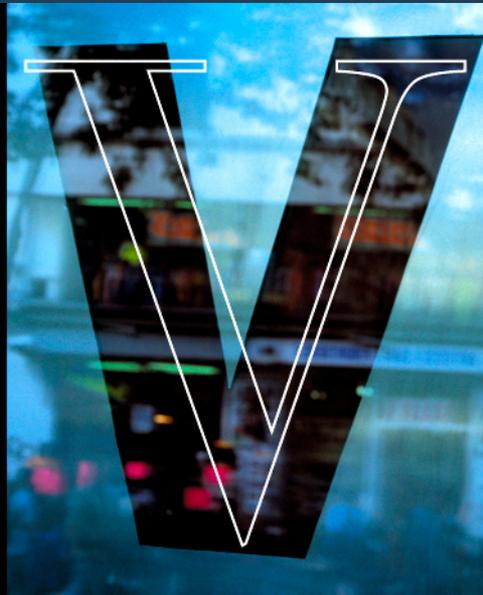
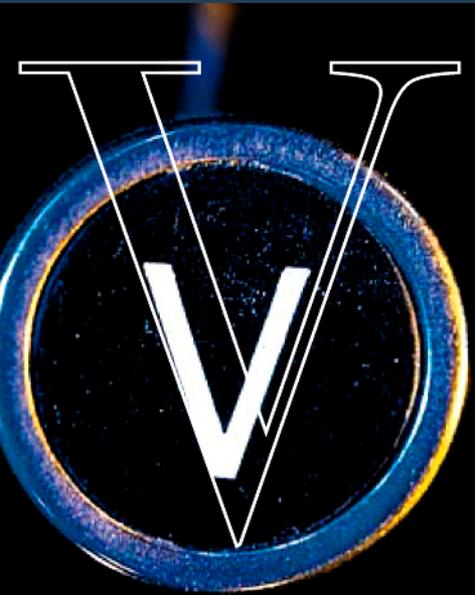


VENABLE<sup>®</sup><sub>LLP</sub>

# Ramping up for the 2016 Cycle: Make Compliance a Priority for Lobbying and Political Activity

Ronald M. Jacobs & Lawrence H. Norton

March 26, 2015



# Today's Presenters



**Larry Norton**  
**202.344.4541**  
lhnorton@venable.com



**Ron Jacobs**  
**202.344.8215**  
rmjacobs@venable.com

[www.venable.com/political-law-practices](http://www.venable.com/political-law-practices)

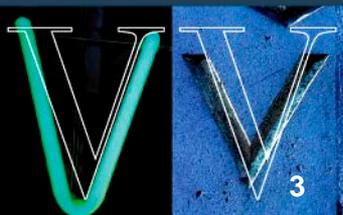
[www.PoliticalLawBriefing.com](http://www.PoliticalLawBriefing.com)

[Subscribe to Blog](#)



# Agenda

- Maximizing your PAC
- Hosting Candidate Events
- Super PACs
- State Corporate Contributions
- State Pay-to-Play Rules
- Changes in State Laws



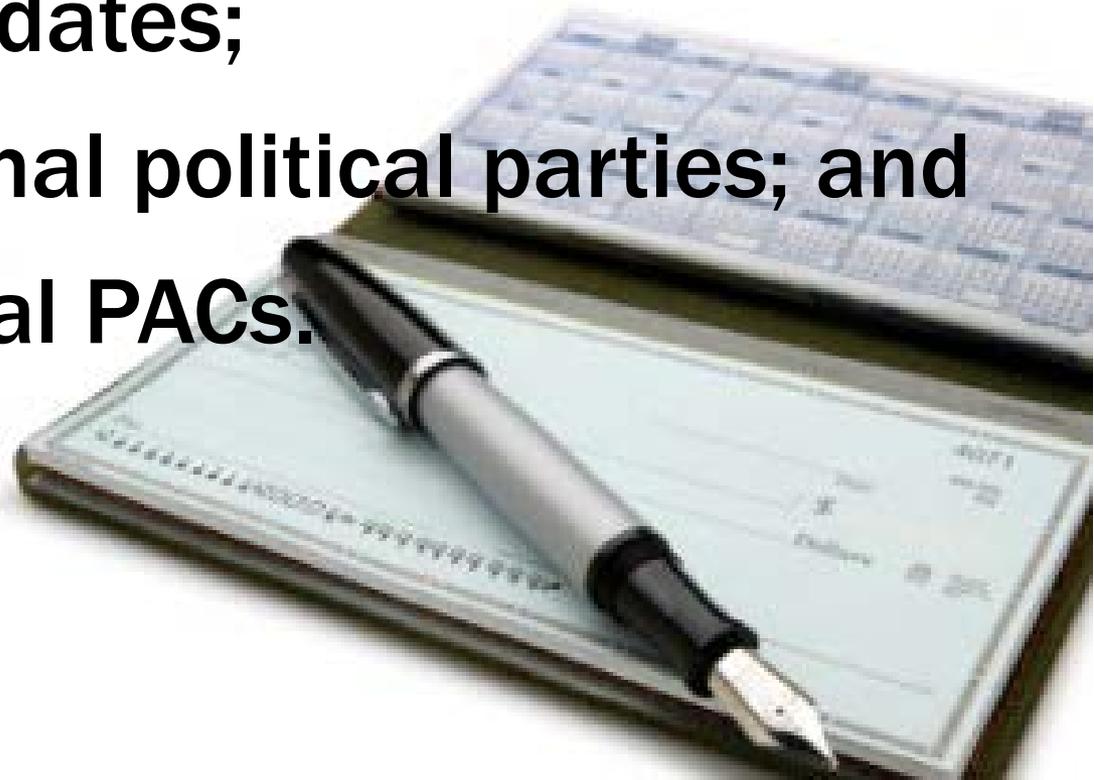


# POLITICAL ACTION COMMITTEES

# No Federal Corporate Contributions

No monetary or in-kind corporate contributions to:

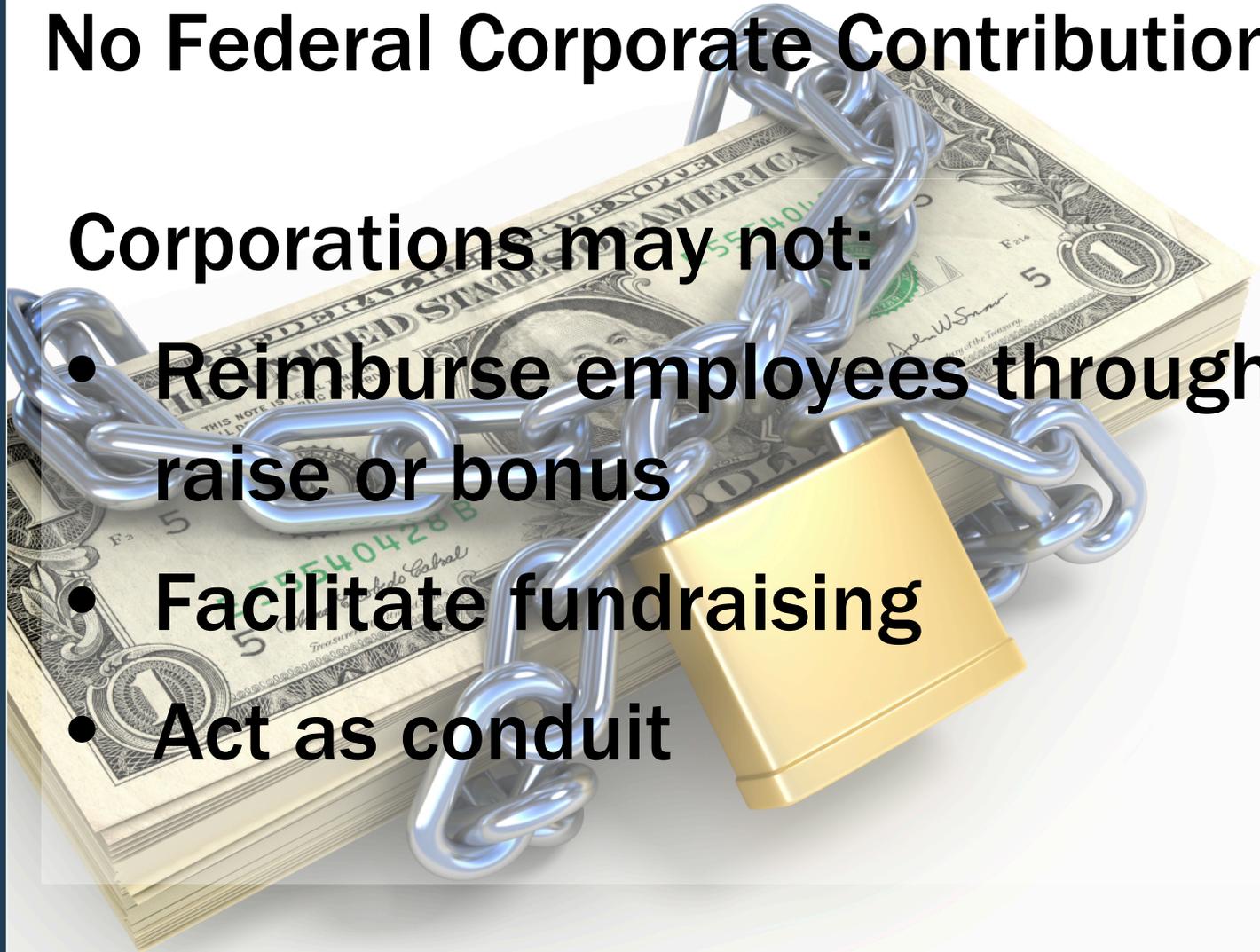
- candidates;
- national political parties; and
- federal PACs.



# No Federal Corporate Contributions

Corporations may not:

- Reimburse employees through raise or bonus
- Facilitate fundraising
- Act as conduit



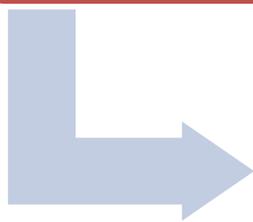
## What is a PAC?

- **Special bank account**
- **Corporate name**
- **Administrative support from corporation**
- **Host fundraising events**

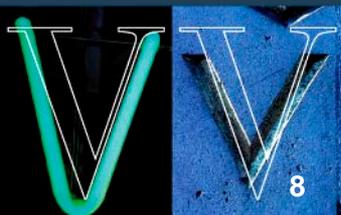


# The PAC

\$5,000 per  
year per  
individual

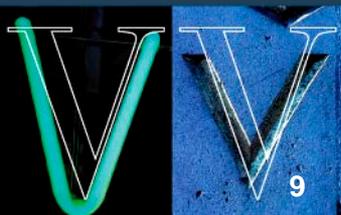


\$5,000 per  
election to  
candidates



# Accepting Contributions

- May accept from any U.S. Citizen

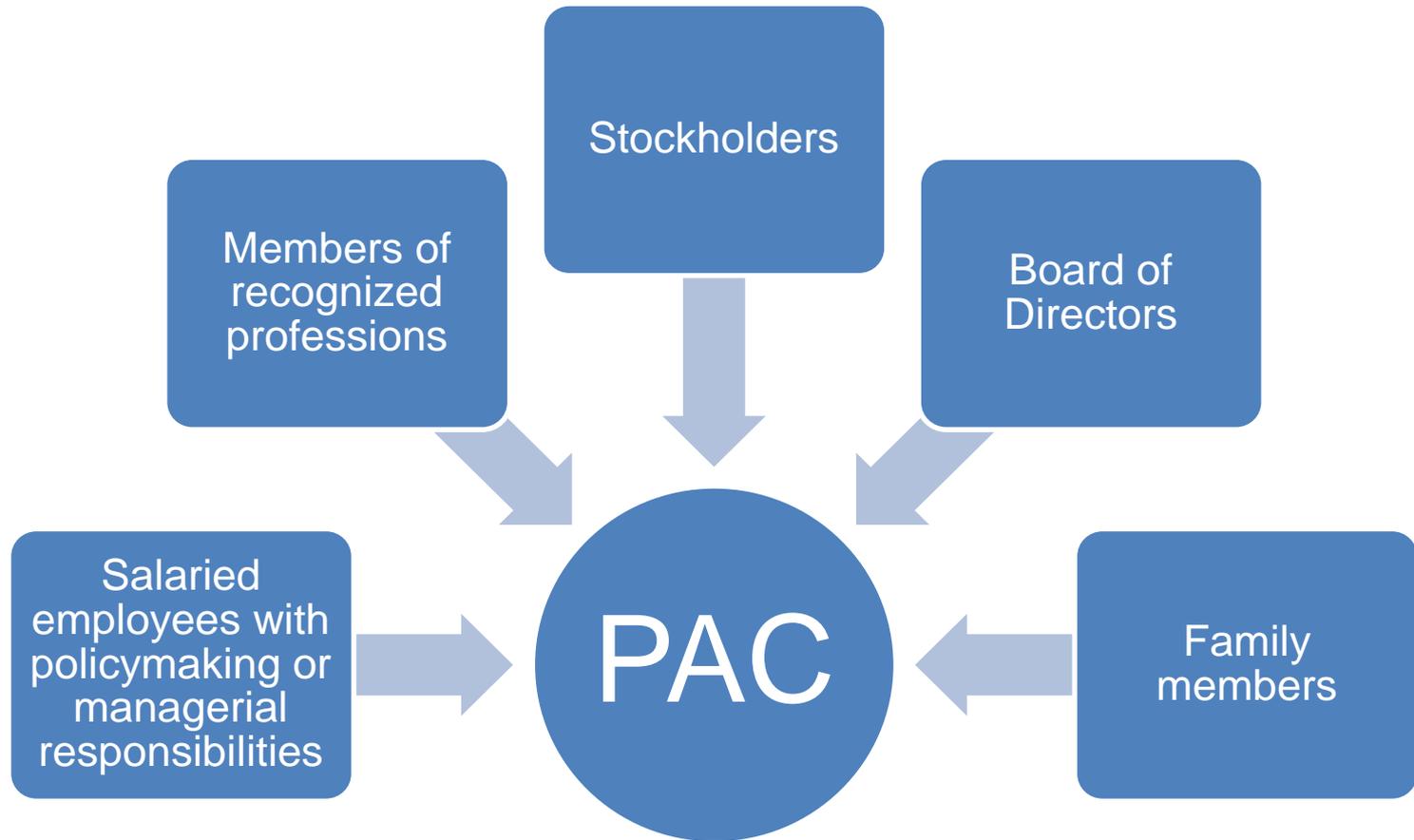


# Soliciting Contributions

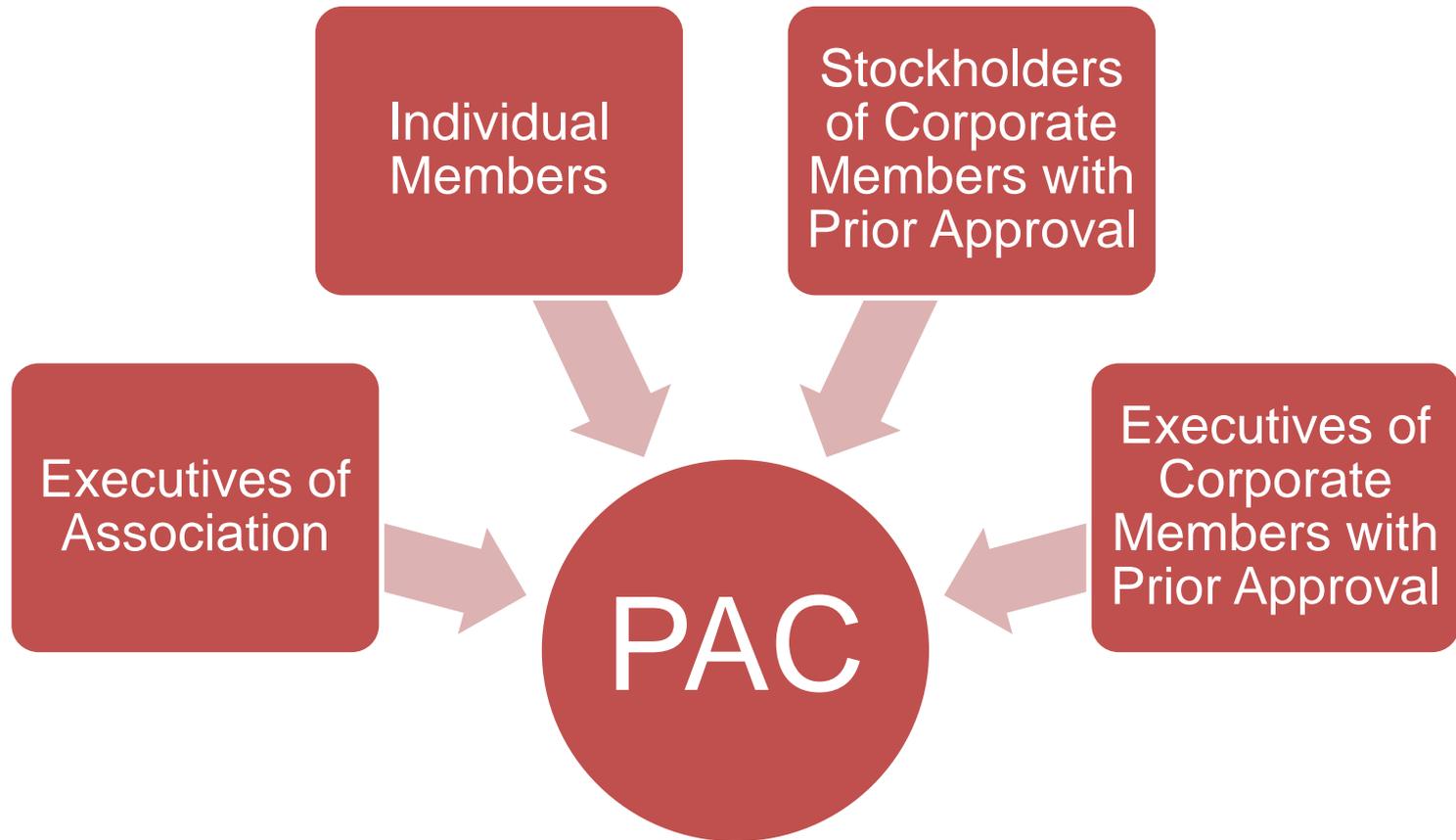
- May only solicit the “restricted class”



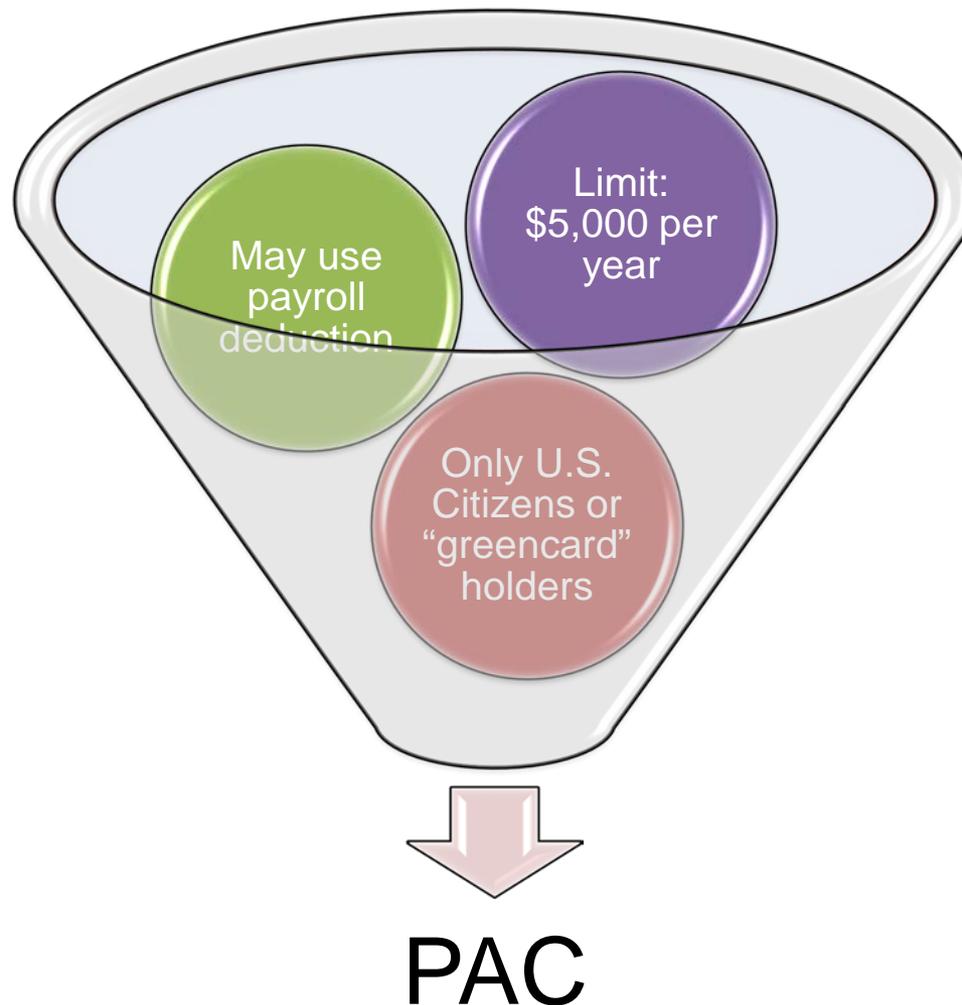
# Corporate Restricted Class



# Association Restricted Class

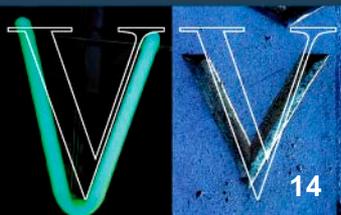


# Contributions In



# Contributions Out

	To a Candidate	To a National Party Committee	To State and Local Parties	To Other Political Committees
Individual or Non-Multicandidate PAC May Give	\$2,700 per election	\$33,400 per year	\$10,000 per year	\$5,000 per year
Multicandidate PAC May Give	\$5,000 per election	\$15,000 per year	\$5,000 per year	\$5,000 per year



# Disclosure

- Filed with FEC
- Donors disclosed:
  - Name
  - Address
  - Occupation
  - Employer
- Online



# Corporate Support of the PAC

- **Administrative costs**
- **Fundraising costs**
  - **Prizes**
  - **Charitable Match**
  - **Trinkets**
- **May not contribute to the PAC**



# Solicitation Rules

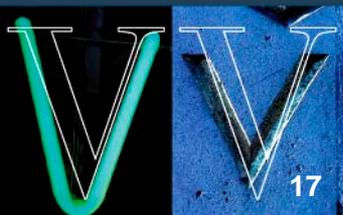
## co·er·cion

/kō'ərZHən,-SHən/ 

*noun*

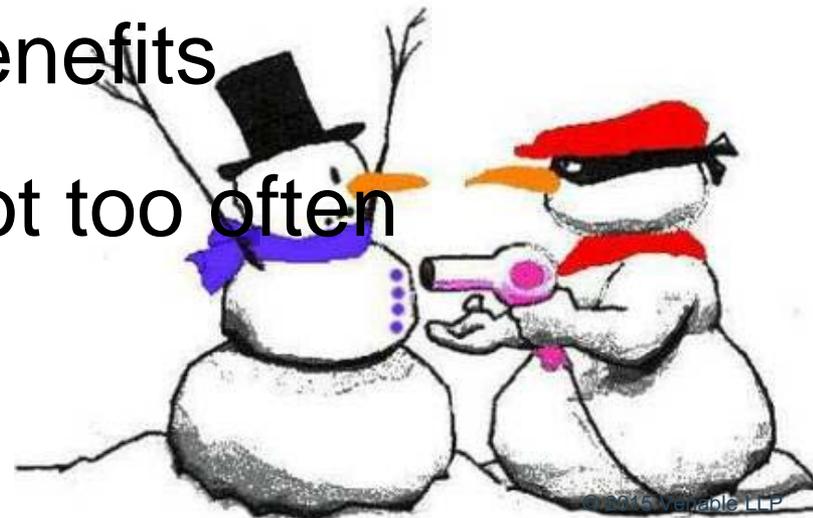
1. the practice of persuading someone to do something by using force or threats.  
"it wasn't slavery because no coercion was used"

*synonyms:* force, compulsion, constraint, duress, oppression, enforcement, harassment, intimidation, threat, arm-twisting, pressure [More](#)



# No Coercion

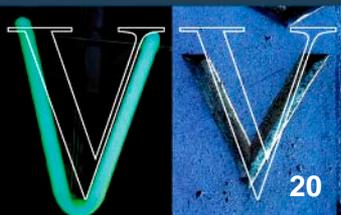
- Avoid one-on-one solicitations with direct reports
- Small group meetings are better
- Don't threaten or harass
- Don't promise benefits
- Follow up, but not too often





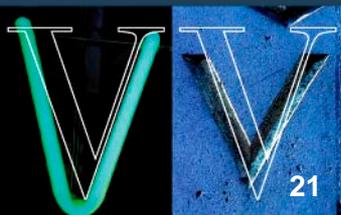
# SUCCESSFUL SOLICITATIONS

# Phrasing is Important



# Provide Opportunities

- Interact with senior leadership
- Meeting public officials
- Dinners/Lunches



# Suggest How Much to Give

- Provide giving tiers
  - Consider percentages
- Recommended giving levels

Chairman's Circle – 1% of salary

Regular Member



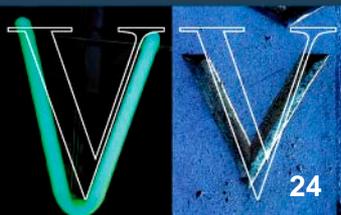
# Disclaimer

Contributions to Company, Inc. PAC (“Company PAC”) will be used to support federal and state officeholders and candidates, and other political committees. Contributions to Company PAC are strictly voluntary and you may refuse to contribute without reprisal. Any proposed contribution level is merely a suggestion. You are free to contribute more or less than suggested. You will not benefit or be disadvantaged in your employment by reason of the amount you contribute or a decision not to contribute. Federal law requires Company PAC to use its best efforts to collect and report the name, mailing address, occupation and employer of persons whose contributions exceed \$200 in a calendar year. Contributions are not tax-deductible as a charitable contribution for federal income tax purposes. You must be a U.S. citizen or lawfully admitted for permanent residence in the U.S. in order to contribute.



# Incentives

- Charitable Match
- Trinkets
- Raffles

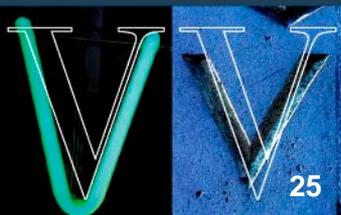


# One-Third Rule

$$\frac{\textit{Contributions}}{3} > \textit{Value of Prize}$$

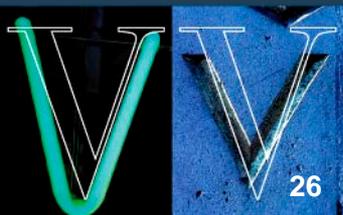
$$\frac{\$12,000}{3} = \$4,000 > \$1,000 \textit{ prize}$$


$$\frac{\$3,000}{3} = \$1,000 < \$2,000 \textit{ prize}$$

# Timing

- After raises/bonuses
- Avoid tax time
- **BUT:** Careful not to reimburse or suggest bonus is the result of a contribution





# HOLDING CANDIDATE EVENTS

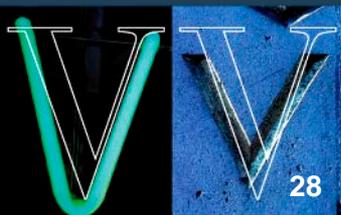
# Options

## Company/Assn

- Restricted Class
- Use corp. resources

## Volunteer

- Anyone
- No corp. resources



# Permissible Activities

- **May communicate freely with “restricted class,” including request to contribute to candidates**
- **May allow use of corporate resources with advance payment or reimbursement**
- **Volunteer exception**



# Candidate Appearances – Restricted Class

- Political fundraiser may be held in office
- If held in conjunction with site visit, should be separate event
- Candidate and company reps may expressly advocate candidate's election
- Candidate and company reps may solicit contributions before, during, and after event
- Candidate may accept contributions, but no company representative may do so



# Volunteer Fundraising

- **Keep it separate from corporate**
- **Be very careful about soliciting downstream**
- **Use own email address, postage, envelopes**
- **Limit time during office hours to one hour/week, four hours/month**
- **Ask contributors to send checks directly to campaign**
- **30 days to forward contributions**





# SUPER PACS

# What is a Super PAC?



Makes independent expenditures

Does not contribute to candidates

May not coordinate with candidates

Unlimited corporate

Unlimited individual



# Making IEs

## PACs

- Limited contributions
- Connected org. support
- Unlimited IEs

## Corporations

- Fairly unusual
- “Paid for by WXZ Corp.”

## Associations

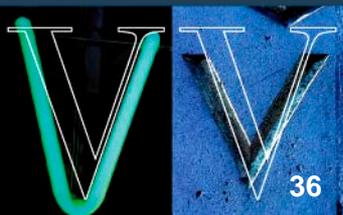
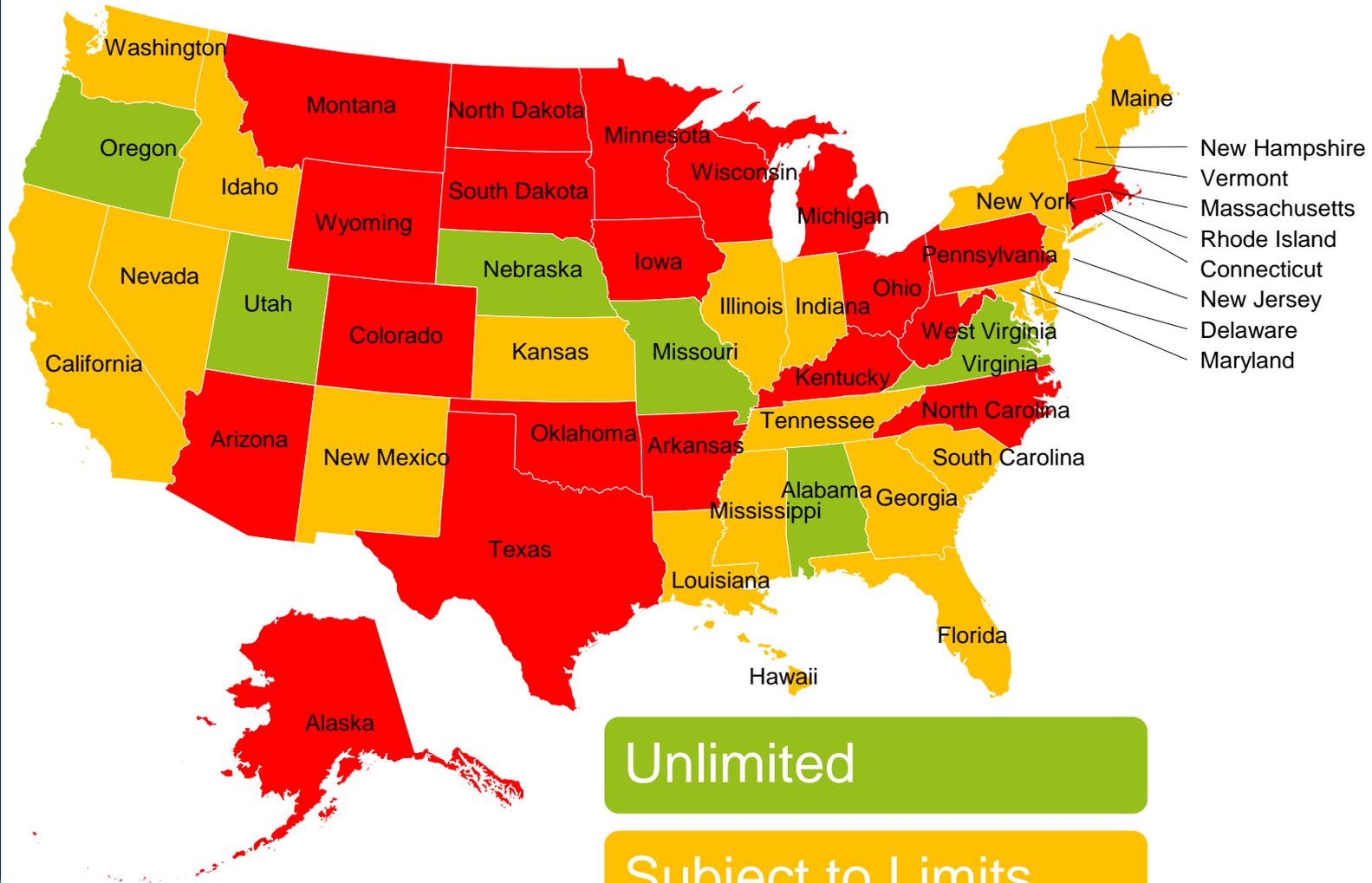
- More common
- Fairly limited disclosure



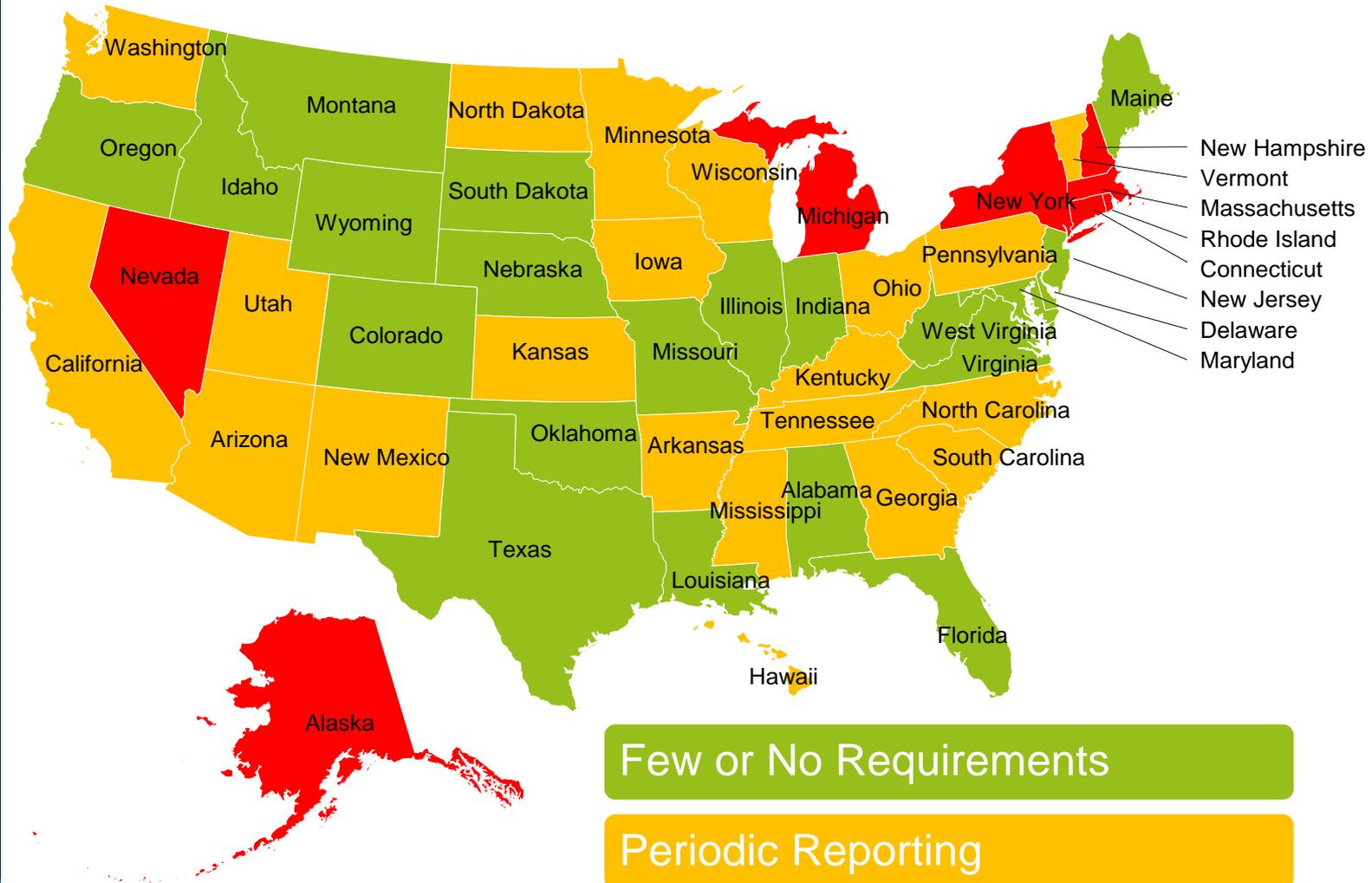


# STATE CONTRIBUTIONS

# Corporate Contributions



# Federal PAC Contributions



Few or No Requirements

Periodic Reporting

Prohibited or Virtually Impossible





# PAY-TO-PLAY LAWS

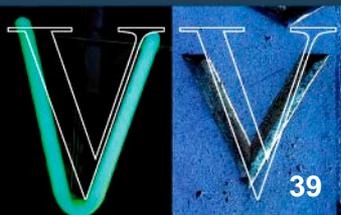
# Types of Restrictions

Ban political contributions

Restrict or limit political contributions

Disclosure

Combination



# Covered Contracts

## Procurement method

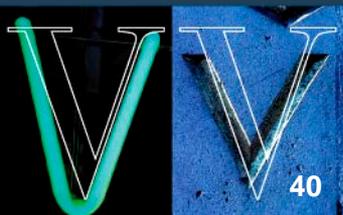
- All contracts;
- Sole-source contracts only (*i.e.* not subject to competitive bidding).

## Value of contracts

- *e.g.* restrictions might apply if public contracts of **any value** are held or sought by company in the jurisdiction;
- *e.g.* restrictions might apply if public contracts held or sought by firm in the jurisdiction **equal or exceed \$50,000** in a calendar year.

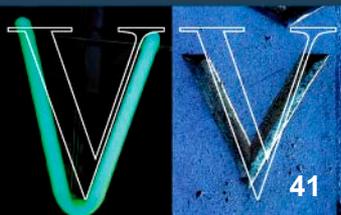
## Type of contract

- All contracts;
- Goods, supplies, equipment, services;
- Real estate transactions;
- Grants;
- Etc.



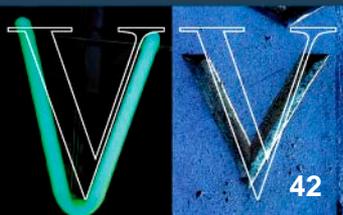
# People

- Contracting Entity and:
  - Subsidiaries, parent entities, affiliates;
  - Owners;
  - Officers, directors, and senior managers;
  - Employees involved in obtaining a contract, or whose compensation is tied to the contract;
  - All employees in some jurisdictions (e.g. Kentucky);
  - Spouses and children in some jurisdictions (e.g. Connecticut; New Jersey).
- Varies by state



# Covered Officials

- Public officials/candidates (approaches vary):
  - All public officials/candidates in the jurisdiction,
  - Executive branch officials/candidates,
  - Legislative branch officials/candidates,
  - Officials/candidates directly responsible for awarding the contract,
  - Officials/candidates who have influence over the award of the contract;
- Political parties (in some jurisdictions);
- Political action committees (in some jurisdictions).





# Where are there *local*/P2P laws?

- California
  - Oakland
  - L.A. City
  - County of L.A.
  - Culver City
  - San Francisco
  - County of San Diego
- Illinois
  - Chicago
  - Cook County
- Texas
  - Dallas
  - Houston
  - San Antonio
  - Teacher Retirement System of TX
- Colorado
  - Denver
- Florida
  - Fort Lauderdale
  - Orange County
- New Jersey
  - In over 165 cities and towns
- New York
  - New York City
- Pennsylvania
  - Philadelphia



# What's at Stake?

- Bids disqualified and contracts voided
- Barred from future contracts
- Fines and criminal penalties
- Damage to reputation

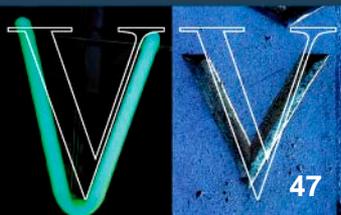
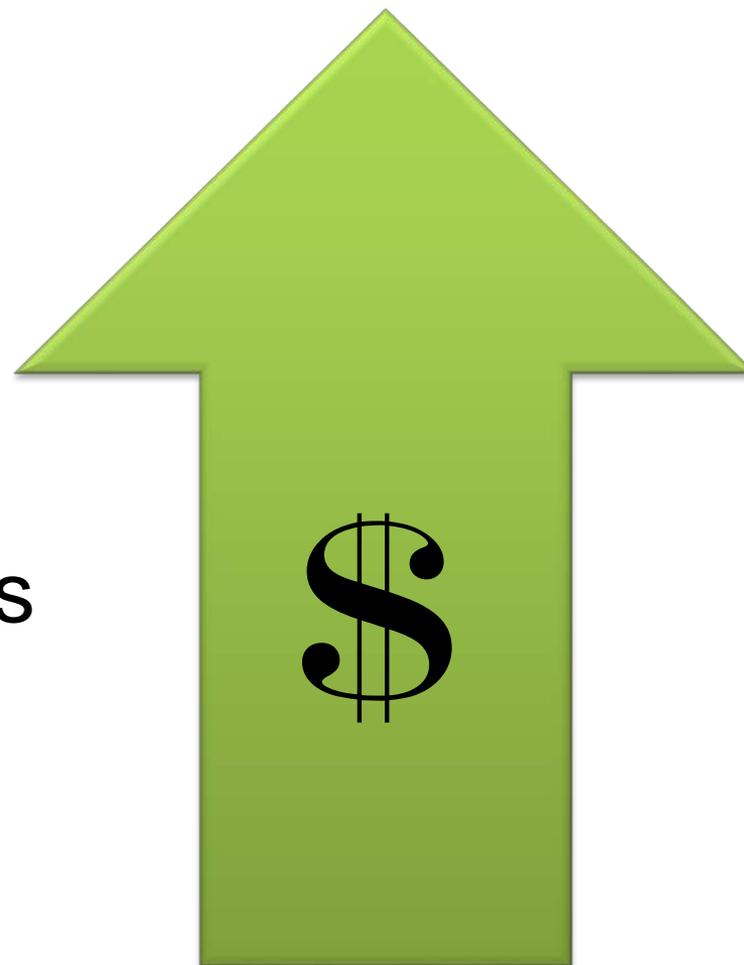




# CHANGES IN STATE LAW

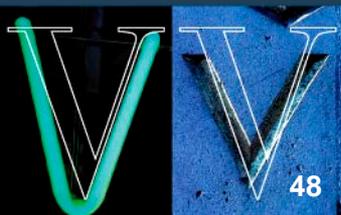
# Increased Contribution Limits

- California
- Illinois
- Maryland
- Massachusetts
- Vermont
- Wyoming



# Changes: Arkansas

- Ban on corporate and union contributions
- Lobbyist gift ban



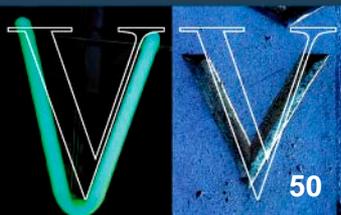
# Changes: California

- Lobbyists barred from home fundraisers



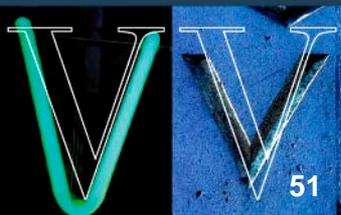
# Changes: Delaware

- Business entities must disclose name and address of responsible individual



# Changes: District of Columbia

- Closed LLC loophole
- Disclosures of bundled contributions



# Changes: Illinois

- Executive order eliminated gift rule exemptions for state employees



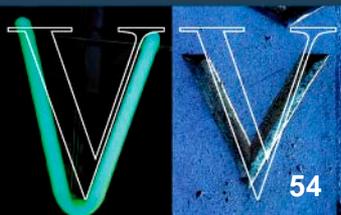
# Changes: Maryland

- Expanded pay-to-play reporting
- Closed LLC loophole
- New independent expenditure reporting



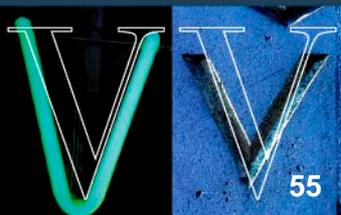
# Changes: Massachusetts

- Online training required for political committee treasurers



# Changes: Oklahoma

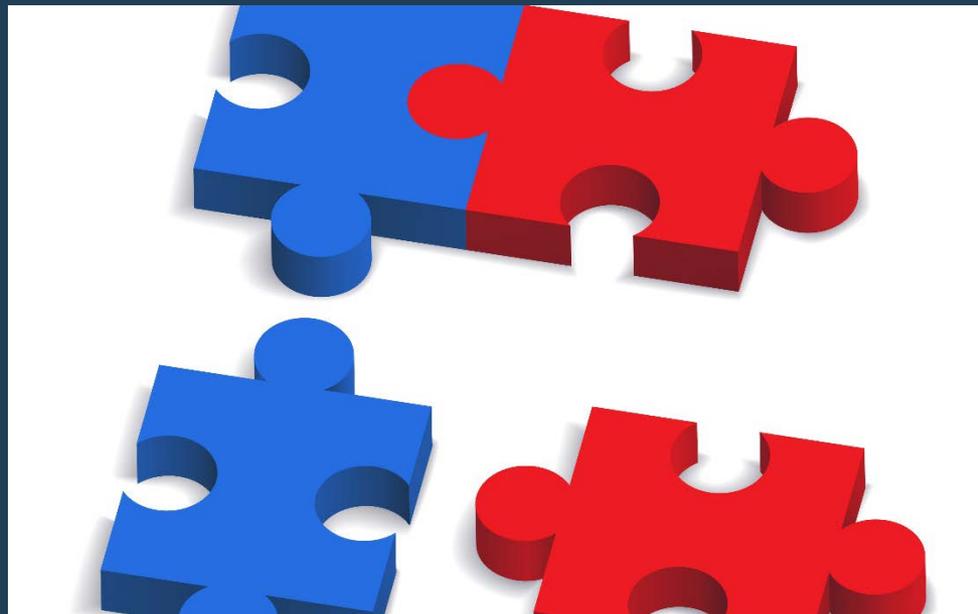
- Revised gift rules
- Banned gifts from vendors and sales agents



# Changes: Virginia

- Limited gifts from lobbyists, lobbyist principals, bidders, and contractors





**PUTTING IT ALL TOGETHER**

# Risk Management

- Develop simple and clear policies and procedures
- Provide regular training
- Let employees know who is responsible for answering questions
- Separate responsibility for government relations and legal compliance



# Final Thoughts

- Heavily regulated area, with many traps for the unwary
- **Ask first!**
- Usually a way to accomplish your goals
- Regardless of the rules, always consider “the *Washington Post* test”

