# If Super PACs Were Allowed In High School Elections, This Is What They’d Look Like

By [**Matthew Green**](https://ww2.kqed.org/lowdown/author/matthewgreen/) MAY 6, 2012

OK, imagine this:

It’s election season at Dudley High School. Students are gearing up to vote for their next student body president. There are only two candidates, and at the outset, it doesn’t seem like much of a contest. The candidates are:

Becky Swanson

* + - straight-A student
		- captain of the soccer AND debate teams
		- voted “most likely to succeed in life” by classmates
		- dating the quarter-back of the football team
		- bold vision for monthly student events and construction of an on-campus cafe

Larry Guffman

* + - solid c-minus GPA
		- avid participant in video gaming club
		- virtually unknown/ignored by other classmates
		- campaigning on a single platform: a promise to advocate for the installation of video game consoles in the cafeteria and bathroom stalls

The election initially seems like a formality. Swanson is very popular and widely respected. Meanwhile, the majority of students don’t even know who Guffman is. Of those who do, most find it pretty random and laughable that’s he’s even running. But Guffman is smarter than he looks. And he’s got a small -(3 other dorky  guys, to be exact) but devoted crew of equally unpopular gaming enthusiasts who are hellbent on getting him elected. Guffman and his crew have scoured the school’s election bylaws and identified a crucial loophole. The rules on campaign spending and etiquette are pretty straightforward. As stated:

* + - Each candidate can raise and spend a maximum of $50 for campaign materials
		- Regardless of First Amendment freedoms that may apply to students off campus, candidates are forbidden from producing attack ads and other forms of negative campaigning on school grounds.

Pretty straightforward, right? But Guffman’s crew is more interested in what the rules DON’T mention: Nowhere in the bylaws are there any restrictions placed on people NOT affiliated with the candidates from participating in any kind of campaign fundraising or messaging.

And so this is how it goes down:

One week before the election Guffman officially resigns from the gaming club. He temporarily cuts any contact with the three remaining members. The three, in turn, form what they call the “Students for Campus Digital Freedom” club. Each member chips in 100 bucks.  With their combined $300, they create and print a series of very well-produced attack posters aimed squarely at Becky Swanson.

Three days before the election, the posters are placed throughout the school. Some cover up the overtly positive fliers that Becky placed the week before (paid for with the $40 she raised from a bakesale). One poster accuses Swanson of “suspiciously friendly” behavior with the English teacher. Another ad questions whether her high SAT scores were “legitimately” earned. At the bottom of each ad it simply says: *“Vote Guffman – Sponsored by Students for Campus Digital Freedom”*

Upon seeing the ads, Swanson runs to the principal’s office. She bursts in outraged to alert him of the smear campaign at hand. “Those things just aren’t true,” she insists.

The principal summons Guffman to his office and accuses him of violating the rules – by spending more than $50 on ads and participating in extremely negative campaigning, both of which are explicitly forbidden. But Guffman pleads ignorance.  He claims to have nothing to do with the posters or the group that is placing them. He says he’s only spent 20 bucks of his own funds to print a few modest “Vote Larry – Play Video Games” fliers.

The principal is dubious, but after looking through the bylaws, realizes that there is nothing that explicitly forbids a third party from circulating ads that support one candidate or denounce another. Befuddled, he reluctantly sends Larry back to class.

By Election Day, the damage is done. Public opinion has shifted drastically, and even Becky’s circle of friends are beginning to think twice about her capacity to lead.  Most students still don’t know anything about Larry. But at least they know he’s not having “suspiciously friendly” relationships with any of the teachers. And anyway, who’s going to argue with playing video games at lunch?

By the end of Election Day, what just a week before was considered virtually impossible,  has become reality: with all the votes counted, Guffman emerges triumphant, with a commanding 65 percent of the vote and is crowned Dudley High’s next Student Body President.

**Citizens United: When Money Became Speech**

By [**Matthew Green**](https://ww2.kqed.org/lowdown/author/matthewgreen/) FEBRUARY 10, 2012

In the heat of the 2008 Democratic presidential primaries, a conservative political group called [Citizens United](http://www.citizensunited.org/) produced a “documentary” that vilified democratic candidate Hillary Clinton. But when the group tried to run the piece on TV within a month of the primary election, the Federal Election Commission prohibited it from doing so, ruling it a form of corporate “express advocacy” banned by current campaign law on corporate spending. The group sued and the case eventually made it to the U.S. Supreme Court in the landmark [Citizens United vs. Federal Elections Commission.](http://www.scribd.com/fullscreen/25537902)

The key issue at play was whether political campaign spending should be considered a form of speech or an overwhelming source of political corruption.  Arguing on behalf of the plaintiffs, lawyer Ted Olson told the Court:

“The most fundamental right that we can exercise in a democracy under the First Amendment is dialogue and communication about political candidates. We have wrapped up that freedom, smothered that freedom, with the most complicated set of regulations and bureaucratic controls.”

Apparently, Olson was quite convincing. In a bitterly divided 5-4 decision, [the majority ruled](http://www.scribd.com/fullscreen/25537902) that political spending (on campaigns) should indeed be considered a form of  speech protected under the First Amendment, and that the government has no business regulating political speech. What that boils down to: money is speech and corporations have the same First Amendment protections as people.

The decision reversed previous campaign law and allowed corporations, unions, and other organizations to contribute unlimited amounts of money to groups called “independent expenditure” organizations that work on behalf of candidates but do not directly coordinate with them. And so the Super PAC was born.

**Strong opposition**
Over the last two years, a growing number of political leaders and organizations have consistently spoken out against the Citizens United ruling, arguing that it allows unlimited corporate money to flood the political process and have a corrupting impact on democracy.  Among the strongest concerns is that candidates, if elected, will be beholden to the individuals and groups that help put them in power.

Legislation has even been introduced in the Senate to enact a Constitutional amendment that would overturn the decision.

In the Court’s dissenting opinion, Justice John Paul Stevens wrote:

“At bottom, the Court’s Opinion is thus a rejection of the common sense of the American people, who have recognized a need to prevent corporations from undermining self government since the founding and have fought against the distinctive potential of corporate electioneering since the days of Theodore Roosevelt.”

In his 2010 State of the Union address, President Obama staunchly condemned the Supreme Court’s decision. With the nine justices sitting close by in the audience, Obama said:

“Last week, the Supreme Court reversed a century of law to open the floodgates for special interests — including foreign companies — to spend without limit in our elections. Well, I don’t think American elections should be bankrolled by America’s most powerful interests, and worse, by foreign entities. They should be decided by the American people, and that’s why I’m urging Democrats and Republicans to pass a bill that helps to right this wrong.”

The Court’s decision has already profoundly affected this year’s presidential race, as hundreds of Super PACs supporting the Republican candidates have sprung up and collected unprecedented, and formerly prohibited, levels of financial contributions from wealthy private interests. It’s predicted that more private money will pour into this election than ever before.

Interestingly, Obama’s reelection campaign recently announced that it was asking its supporters to form their own Super PAC and start raising money. The campaign argues that if the Republican candidates are all participating, it needs to as well.

**Some Key Campaign Finance Terms**

**Hard money:** **Hard money is cash contributed directly to a candidate**, party committee or PAC. It is regulated by the FEC, meaning it is subject to certain prohibitions (like limits) and can only come from an individual or a PAC. This money can be used to directly on the support of candidates, such as advertising, yard signs and more.

**Soft money:** Soft money refers to cash contributed to a party or outside group without being subject to limits. Traditionally, these **funds have been used for get-out-the-vote efforts, party building and similar activities, not the direct advocacy of specific politicians**. In 2002, the Bipartisan Campaign Reform Act vastly restricted the use of "soft money" in political finance. However, some of these bans were lifted in various court cases in the late 2000s, as well as in 2010 with the Citizens United Supreme Court case, which overturned the complete ban on corporate and union independent spending.

**Citizens United v. FEC (2012):** Citizens United was a landmark Supreme Court case that allowed **corporations and unions to make unlimited independent expenditures** on elections.

**PAC:** **A Political Action Committee (PAC) is a committee organized to specifically spend money on an election.** There are a lot of different types of PACs — super PACs and hybrid PACs, leadership PACs, candidate PACs and so on. Some PACs are formed by industries, corporations or labor organizations; others are formed on behalf of certain candidates.

**Super PAC:** Technically, these are “independent expenditure-only committees,” organizations registered with the FEC that don’t contribute to candidates but do make independent expenditures. **They can take unlimited donations from individuals, other PACs, corporations and unions.** The amount of money super PACs spend on elections is truly enormous. Some candidates have super PACs that are funded entirely by one large donor.

**Public financing:** This refers to when the **government provides money for candidates to help fund their campaigns**. Requirements to be declared eligible include agreeing to an overall spending limit, abiding by spending limits in each state, using public funds only for legitimate campaign-related expenses, keeping financial records and permitting an extensive campaign audit by the Federal Election Commission.

**FEC:** **The Federal Election Commission (FEC) is the body that regulates elections in the U.S., including campaign finance.** There are six commissioners, three Democrats and three Republicans. It has been [described](http://www.nytimes.com/2015/05/03/us/politics/fec-cant-curb-2016-election-abuse-commission-chief-says.html) as “worse than dysfunctional” by its then-chairwoman, because it's gridlocked along party lines, meaning there are often no consequences for what others see as huge violations of election law.

**Buckley v. Valeo:** This 1976 court case struck down limits on the total amount a campaign could spend, as well as limits on candidates using their own money for campaigns, but upheld individual contribution limits.