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*“A Complicated and Indirect Encroachment”: Is the  
Federal Election Commission Unconstitutionally Composed?*

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Abstract by Rosy Lor

This article argues that the Federal Election Campaign Act’s (FECA’s) provision on presidential appointments to the Federal Election Commission is a violation of Article II, Section 2, Clause 2 of the Constitution (Appointments Clause). In particular, the author notes that the FECA’s appointments provision constitutes a congressional interference with a presidential power provided by the Constitution. The authors find that the FECA’s provision that the President may appoint “[n]o more than 3 members . . . affiliated with the same political party” and must appoint two members “not affiliated with the same political party” at a time also prevents the President from appointing individuals based on their integrity and intelligence. The article also discusses the vagueness of “party affiliation” in the FECA appointment provision and argues that it serves to entrench the two-party system to the detriment of independent parties. In conclusion, the author suggests that this issue is ripe for adjudication and that courts need not wait for a President’s attempt to evade compliance in order to find a justiciable injury against citizens, particularly those outside the two-party system.