freedom that will have substantial implications for governmental employment. Refusing to confine *Elrod* and *Branti* to their facts, the court in *Rutan v. Republican Party of Illinois*[652] held that restrictions on patronage apply not only to dismissal or its substantial equivalent, but also to promotion, transfer, recall after layoffs, and hiring of low-level public employees. In 1996, the Court extended *Elrod* and *Branti* to protect independent government contractors.[653]

The protected right of association enables a political party to assert against some state regulation an overriding interest sufficient to overcome the legitimate interests of the governing body. Thus, a Wisconsin law that mandated an open primary election, with party delegates bound to support at the national convention the wishes of the voters expressed in that primary election, although legitimate and valid in and of itself, had to yield to a national party rule providing for the acceptance of delegates chosen only in an election limited to those voters who affiliated with the party.[654]

Provisions of the Federal Election Campaign Act requiring the reporting and disclosure of contributions and expenditures to and by political organizations, including the maintenance by such organizations of records of everyone contributing more than $10 and the reporting by individuals and groups that are not candidates or political committees who contribute or expend more than $100 a year for the purpose of advocating the election or defeat of an identified candidate, were sustained.[655] "[C]ompelled disclosure, in itself, can seriously infringe on privacy of association and belief guaranteed by the First Amendment. . . . We long have recognized the significant encroachments on First Amendment rights of the sort that compelled disclosure imposes cannot be justified by a mere showing of some legitimate governmental interest. . . . We have required that the subordinating interests of the State must survive exacting scru-

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[652] 497 U.S. 62 (1990). *Rutan* was a 5–4 decision, with Justice Brennan writing the Court's opinion. The four dissenters indicated, in an opinion by Justice Scalia, that they would not only rule differently in *Rutan*, but that they would also overrule *Elrod* and *Branti*.

[653] O'Hare Truck Serv., Inc. v. City of Northlake, 518 U.S. 712 (1996) (allegation that city removed petitioner's company from list of those offered towing business on a rotating basis, in retaliation for petitioner's refusal to contribute to mayor's campaign, and for his support of mayor's opponent, states a cause of action under the First Amendment); Board of County Comm'rs v. Umbehr, 518 U.S. 668 (1996) (termination or non-renewal of a public contract in retaliation for the contractor's speech on a matter of public concern can violate the First Amendment).

[654] Democratic Party v. Wisconsin ex rel. LaFollette, 450 U.S. 107 (1981). *See also* Cousins v. Wigoda, 419 U.S. 477 (1975) (party rules, not state law, governed which delegation from state would be seated at national convention; national party had protected associational right to sit delegates it chose).

[655] Buckley v. Valeo, 424 U.S. 1, 60–84 (1976).