



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

July 9, 1980

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1980-64

Mr. Robert H. Chanin  
General Counsel  
National Education Association  
1201 16th Street, N.W.  
Washington, D.C. 20036

Dear Mr. Chanin:

This responds to your letter of May 22, 1980, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations to the proposed payment by the National Education Association ("NEA") from its general treasury funds to NEA members who have been selected to serve as delegates to the 1980 Democratic and Republican national nominating conventions for their travel and subsistence expenses incurred in attending the conventions.

According to your letter, NEA is a labor organization, comprised essentially of professional employees of public school districts. You explain that several NEA members who have been elected to serve as delegates to the 1980 Democratic and Republican national nominating conventions have indicated that the travel and subsistence expenses involved in attending the conventions will place a significant strain on their personal resources. In order to relieve the strain, NEA proposes to use its general treasury funds to pay the travel and subsistence expenses of its members who are delegates. Thus, the question raised by your request is whether NEA may use its general treasury funds to pay the delegate travel and subsistence expenses of the NEA members who have been selected to serve as delegates to the 1980 Democratic and Republican national nominating conventions?

The Commission concludes that NEA may not pay for the travel and subsistence expenses of its members who are delegates to the Democratic and Republican national

nominating conventions. Section 110.14(f) of the Commission's proposed regulations \* which addresses delegate selection, see 45 Fed. Reg. 34865 (1980), specifically states that "all contributions to and expenditures by any delegate ... are subject to the prohibitions of 11 CFR 110.4(a), Part 114 and 2 U.S.C. 441b and 441e." Section 441b contains a general prohibition against corporate and labor organization contributions and expenditures made in connection with a federal election. Section 110.14(d) of those same proposed regulations states that expenditures by a delegate to defray costs incurred for his/her selection are not subject to 11 CFR Part 110 and 2 U.S.C. 441a. It further explains that such costs include the costs of travel and subsistence during the delegate selection process, including the national nominating convention. Nothing in the explanation and justification of the regulations concerning contributions to and expenditures by delegates to national nominating conventions, nor the proposed regulations themselves indicates that payments by a corporation or labor organization to defray delegate expenses was intended to be permissible. Thus, payment for the travel and subsistence expenses of NEA members who are delegates to the national nominating conventions, as well as other expenses of such delegates, are subject to the prohibitions of 441b and 441e.

NEA in its request suggests that payments for travel and subsistence to their members who are delegates is permissible under the statutory exception for "nonpartisan ... get-out-the-vote campaigns by a labor organization aimed at its members ...." 2 U.S.C. 441b(b)(2)(B). The Commission disagrees with this interpretation. Although 2 U.S.C. 441b(b)(2)(B) provides that general treasury funds of a labor organization may be used for non-partisan registration and get-out-the-vote campaigns aimed at its members and their families, that is not the situation presented by NEA's request.

"Registration" and "get-out-the-vote drive" are terms of art used in campaign or election parlance. Those terms generally connote efforts to increase the number of persons who register to vote and once registered, to maximize the number of eligible voters who go to the polls. The legislative history of the Hansen amendment, see 117 Cong. Rec. 43379 (1971), presently 2 U.S.C. 441b(b)(2), talks in those terms and discusses various types of registration and get-out-the-vote activity. Nowhere in that discussion is there any mention of encouraging or facilitating attendance of delegates at a nominating convention. Polling places are mentioned in terms of where the public votes, but certainly not as the convention floor. Moreover, Commission regulation 114.3(c)(3) which elaborates on permissible get-out-the-vote activity by a labor organization directed toward its membership, does so in terms of both registration and get-out-the-vote drives. It is obvious from such joint treatment that the permissibility of get-out-the-vote activity by either a labor organization or a corporation was not meant to reach attendance of delegates at a national nominating convention.

---

\* The Commission transmitted these proposed regulations to Congress on May 14, 1980. If neither House of Congress disapproves the regulation within 30 legislative days after its transmittal, the Commission may prescribe these regulations. 2 U.S.C. 438(d).

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)

Max L. Friedersdorf  
Chairman for the  
Federal Election Commission