

30 JUL 1976

Re: AOR 1976-13

Mr. Allen E. Brandstater
California Citizens for
Reagan for President
11050 Chandler Boulevard
North Hollywood, CA 91603

Dear Mr. Brandstater:

This letter is in response to your request for an advisory opinion pursuant to 2 U.S.C. §437f. The request posed the question of whether any Federal laws exist which specify how old a minor child must be in order to contribute to a Federal election campaign utilizing funds that are his or her separate property and controlled solely by the minor child.

We regret the delay in answering your inquiry, but, subsequent to the Supreme Court's decision in Buckley v. Valeo, 424 U.S. 1 (1976), the Commission was required too suspend the issuance of advisory opinions until after the date of its reconstitution. Moreover, 2 U.S.C. §437f, as amended by the Federal Election Campaign Act Amendments of 1976, now requires the Commission to formulate its rules of general applicability by proposing formal regulations, rather than by the advisory opinion process. Accordingly, the Commission has published a Notice of Proposed Rulemaking inviting public comment and held hearings relating thereto on June 7 through 11. A copy of the Notice is enclosed. Please note that significant changes have been made to those proposals. The final version will be published in the Federal Register when sent to Congress.

The Commission is not aware of any Federal law which specifically prohibits such a contribution under the described circumstances. In general, subject to Federal constitutional limits or Congressional preemption by statute, such matters would be the concern of state laws.

The Commission directs your attention, however, to its recently approved regulations which contain the following language in §110.1(i)(2):

“Minor children (children under 18 years of age) may contribute up to \$1,000 to a candidate for an election . . . if

(i) the decision to contribute is made knowingly and voluntarily by the minor child;

(ii) the funds, goods or services contributed are owned or controlled exclusively by the minor child, such as income earned by the child, the proceeds of a trust for which the child is the beneficiary, or a savings account opened and maintained exclusively in the child's name; and

(iii) the contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed, or is not in any other way controlled by another individual.

Obviously, the proposed regulation leaves to state law such questions as what constitutes knowing consent and ownership and control. Assuming those state standards are met in a particular factual context, minor children may contribute to Federal candidates subject to the limits generally applicable to all persons. 2 U.S.C. §441a.

This response relates to your opinion request but may be regarded as informational only and not as an advisory opinion since it is based in part on proposed regulations of the Commission which must be submitted to Congress. The proposed regulations may be prescribed in final form by the Commission only if not disapproved either by the House or the Senate within thirty legislative days from the date received by them. 2 U.S.C. §438(c). It is the Commission's view that no enforcement or compliance action should be initiated in this matter if the actions of the political committee conform to the conclusions and views stated in this letter.

Sincerely yours,

Vernon W. Thomson
Chairman for the
Federal Election Commission

Enclosure