



FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 19, 1978

AO 1978-22

Honorable Cecil Heftel
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Heftel:

This refers to your letter of March 14, 1978 requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to expenses you may incur to maintain a "hospitality room" at the State Convention of the Democratic Party of Hawaii to be held in late May. Specifically, you ask whether the cost of such a room would be a campaign expense subject to the Act.¹

Your letter explains that, because you are an incumbent, you would maintain a hospitality room at the Convention even if you were not a candidate for reelection to the House or any other elective office. You also note that there will be other Federal office holders who "will not face another campaign until 1982" but will also maintain such a room. A member of your staff indicated in a telephone conversation with a member of the Commission's legal staff that you would make one or more speeches to the Convention and would personally meet convention attendees comprising your electorate who may visit the hospitality room.

The Commission has recognized a variety of circumstances involving appearances by a candidate for Federal office made before a substantial number of people who comprise a part of the candidate's electorate, for which the expenses incident to the appearance were "expenditures" for the purpose of influencing the candidacy.² The State party convention is a partisan event that involves decision-making related to a forthcoming primary or general election or both. Furthermore, it seems reasonable to infer that your attendance at the convention, and the activity occurring in the "hospitality room," will have the effect of furthering your candidacy.

¹ Your questions concerning a constituent inquiry on 2 U.S.C. 441c were responded to previously in an informational letter.

² The Commission has also concluded that in certain circumstances the costs of appearances before a candidate's electorate are not expenditures (or contributions) under the Act. e.g. a non-partisan, bona fide testimonial event honoring a Congressman's service to his Congressional district (AO 1978 4); a candidate's participation in an issue-oriented campaign (AO 1977-54) or a fundraising drive for a community charity (AO 1978-15). These circumstances are distinguishable from those presented in your request.

Therefore, the Commission is of the opinion that any costs incurred for maintaining a "hospitality room" at the described Convention would constitute expenditures subject to disclosure under the Act. Also, any funds donated for this purpose would be "contributions" under the Act. See 2 U.S.C. 431, 434, 441a, and 441b.

This response constitutes an advisory opinion concerning application of a general rule of law as stated in the Act or prescribed as a Commission regulation to the specific factual situation set forth in your letter. See 2 U.S.C. 437f.

Sincerely yours,

(signed)

Thomas E. Harris
Chairman for the
Federal Election Commission