



FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 11, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1979-73

Mr. John E. Nolan, Jr.
General Counsel
Kennedy for President Committee
1250 22nd Street, N.W.
Washington, D.C. 20037

Dear Mr. Nolan:

This responds to your letter of December 4, 1979 requesting an advisory opinion on behalf of the Kennedy for President Committee ("the Committee") regarding application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the allocation of advance staff salary and per diem costs.

According to your letter the Committee is trying to establish a reasonable allocation method for salaries and per diem of candidate advance people. You explain that the advance staff are hired by, are responsible to, and paid by national headquarters. Candidate advance staff are not under the control of any state organization and are not assigned to a permanent state or geographical area. Once advance staff is assigned by national headquarters to handle a particular candidate event, the advance staff has the responsibility of handling all logistical arrangements for the candidate and the immediate campaign staff traveling with the candidate. You thus ask what would be the proper allocation of costs of candidate advance staff. Specifically, should all of the costs of the candidate advance staff salaries and per diem be allocated to the national limit; should salary be allocated to the national limit and per diem to the state limit; or should both salary and per diem be allocated to the state limit?

As you are aware, Commission regulation §106.2 addresses allocation of expenditures among states by candidates for Presidential nomination. As explained in the Explanation and Justification of Commission regulations, H.R. Doc. No. 44, 95th Cong. 1st Sess. 49 (1977) 106.2 means: "generally, expenditures must be attributed to the individual states based on the voting age population likely to be influenced by the expenditure. There are two exceptions: (1) expenditures relating to a national campaign headquarters need not be attributed to individual states and (2) expenditures for travel between states need not be attributed to individual states."

Commission regulation 106.2(b) specifically states that "expenditures for administrative, staff, and overhead costs directly relating to the national campaign headquarters shall be reported but need not be attributed to individual States." On the other hand, "expenditures for staff, media, printing, and other goods and services used in a campaign in a specific State should be attributed to that State."

Based on the foregoing the Commission concludes that both salary and per diem should be allocated to the state with respect to which campaign services are rendered. Thus, expenditures for advance staff salaries should be attributed to each state in proportion to the time that the advance person spends working, either out of national headquarters or in the field, in connection with the campaign in such state. Per diem is to be allocated to the state where the advance person is assigned for a particular event and using the per diem. Expenses for travel between states and per diem for the days of interstate travel, however, need not be attributed to any individual state. Of course, all expenditures attributed to any state are attributed to the overall national expenditure limit as well.

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

Sincerely yours,

(signed)

Robert O. Tiernan
Chairman for the
Federal Election Commission