



FEDERAL ELECTION COMMISSION
Washington, DC 20463

June 30, 1995

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1995-20

The Honorable Tim Roemer
Hoosiers for Tim Roemer
P.O. Box 4400
South Bend, Indiana 46634

Dear Mr. Roemer:

This refers to your two letters dated June 22 and May 24, 1995, concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the use of campaign funds for the travel-related expenses for your two-year old son.

Hoosiers for Tim Roemer ("the Committee") is your principal campaign committee. You state that your wife serves as your senior campaign advisor and is an integral part of your campaign team. Several times a year, she accompanies you back to your district in Indiana where she is directly involved in campaign-related activities. You state that you have two small children, one age two and the other ten months. You state that because of their ages, you feel it is necessary for the children to accompany you and your wife when you travel to Indiana on campaign-related business "even though they are not directly involved in campaign activities." Your June 22 letter further explains that "there are times when my children will be directly involved in campaign-related activities. For example, they will accompany my wife and me to Indiana when we take the photographs for our family Christmas card and for campaign-related mailings. I also plan to have my children with me when I attend certain political events such as picnics." You further state that because the oldest child is two, you are obligated to purchase an airline ticket for him. You ask, in light of the new regulations regarding the personal use of campaign funds, if it is permissible for your committee to use campaign funds to pay for your two-year old son's ticket.^{1/}

Under the Act and new Commission regulations, a candidate and the candidate's campaign committee have wide discretion in making expenditures to influence the candidate's

election, but may not convert excess campaign funds to personal use. 2 U.S.C. 431(9) and 439a; 11 CFR 113.1(g) and 113.2.

The Commission's revised regulations provide guidance regarding what would be considered personal use of campaign funds. Personal use is defined as "any use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign or duties as a Federal officeholder." 11 CFR 113.1(g).

Travel expenses are not listed among those expenditures that would be considered per se personal use.^{2/} The regulations state that the Commission will determine on a case by case basis whether uses of funds in a campaign account for travel purposes would fulfill a commitment, obligation or expense that would exist irrespective of the candidate's campaign or duties as a Federal officeholder, and, therefore, would be personal use. 11 CFR 113.1(g)(1)(ii). If a committee uses campaign funds to pay expenses associated with travel that involves both personal activities and campaign-related activities, the incremental expenses that result from the personal activities are personal use, unless any person benefiting from this use reimburses the campaign account within thirty days for the amount of the incremental expenses.

You have stated that your wife is your senior campaign advisor and will be traveling to your home district because she will be directly involved in campaign-related activities. Using the standard established by section 113.1(g)(1)(ii), her travel expenses for these campaign trips are clearly attributable to her participation in your campaign for re-election. Therefore, campaign funds could be used to pay for your wife's travel.

The situation regarding your children requires a different analysis. You state that because of their ages, the children need to accompany you and your wife when you both travel to the district for campaign events. On some occasions the children may participate in campaign events such as picnics, while on others they will only travel to remain near their parents. In this sense, the expenditure is (1) only required because of the campaign, and (2) campaign-related travel in that it is to the district in order for you and your wife to participate in campaign events. This is not the same as family travel to vacation locales, or other examples of personal uses of campaign funds.

For these reasons, and in these specific circumstances, the Commission concludes that travel by children accompanying their parents between the Washington, D.C. area and the candidate's district would not constitute the personal use of campaign funds provided that the parents are traveling for campaign purposes, and the children are minors.

The cost of airfare for travel consistent with this advisory opinion should be reported as an operating expenditure by your Committee, with the purpose noted. See 11 CFR 104.3(b)(2) and (b)(4)(i).

The Commission expresses no opinion regarding any tax ramifications of the proposed transaction, because these issues are not within its jurisdiction.

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,

(signed)

Danny L. McDonald
Chairman

1 The relevant regulations were published in the Federal Register on February 9, 1995, (60 Fed.Reg. 7862) with an effective date of April 5, 1995 (60 Fed.Reg. 17193). The rules will be published in the 1996 edition of the Code of Federal Regulations at 11 CFR 100.8(b)(22), 104.3(b)(4), 113.1(g), and 113.2.

2 Under section 113.1(g)(1)(i), personal use includes but is not limited to funds used for the following items: household food items; funeral, cremation or burial expenses; clothing; tuition payments not associated with training campaign staff; mortgage, rent or utility payments; tickets to non-campaign or non-officeholder entertainment; dues, fees or gratuities to nonpolitical organizations unless related to a specific fundraising event; and salary payments to family members unless paid for bona fide, campaign-related services.