



AGENDA DOCUMENT NO. 99-61-A

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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AGENDA ITEM
For Meeting of: 5-20-99

SUBMITTED LATE

MEMORANDUM

TO: The Commission
FR: Commissioner Sandstrom *KS*
RE: Amendment to Draft Advisory Opinion 1999-11

I propose the following amendment to Draft Advisory Opinion 1999-11 to replace the language at page 4, line 6 through page 6, line 11:

In determining whether expenses for events in which federal candidates participate are being incurred "for the purpose of influencing a Federal election," the Commission has examined the stated purpose of these activities. The Commission has concluded that events in which Federal officeholders participate in their capacities as officeholders are not for the purpose of influencing a Federal election simply because the officeholders may be candidates for election to Federal office. Thus, payments associated with the expenses of such events are not contributions to that officeholder's campaign, absent any campaign activity at that event.¹

¹ See, Advisory Opinions 1994-15 and 1992-5 (Member of Congress hosting public affairs cable program); Advisory Opinion 1991-17 (Congressman's participation in a voter education video program); Advisory Opinion 1988-27 (involving a speech at a PAC fundraiser by a Congressman in return for an honorarium within four months of an election, where the PAC, in an unrelated action, might also contribute to his campaign). See also Advisory Opinions 1981-37 (corporate and union purchases of tickets for a series of public affairs forums to be moderated by a Member of Congress) and 1980-89 (donation of refreshments to

Your situation is similar to those presented in prior advisory opinions. The fact that these opinions concerned Federal rather than State officeholder activities is not a significant distinction since the basic expectations, duties and obligations of both levels of public service are similar.²

You have represented that the purpose of these disbursements is to support Ms. Byrum in her state legislative capacity.³ The facts as represented to the Commission bear this out. You stated that neither she nor any of her representatives will solicit any contribution or expressly advocate her election during the course of this activity. Discussion at the events will be limited to issues relating to her constituents' needs or issues affecting her State senatorial district.⁴ No advertising of the events will take place outside her senate district. The scope of advertising and the frequency of the events will be unchanged from previous years. Information relating to participants at the events will not be provided to nor made available for use by her Congressional campaign committee.

Under these facts, the Commission concludes that the costs related to these events are neither contributions nor expenditures for the purposes of the Federal Election

a reception held by a Member of Congress for his advisory committee on the arts). In contrast, the Commission determined in Advisory Opinion 1999-2 that a candidate's participation in an event as a candidate would cause the Commission to determine the event was in connection with an election.

² Michigan law similarly describes the activities of an officeholder versus those of a candidate. See, Michigan Campaign Finance Act §169.221a ("[a] candidate committee of a candidate who is elected to an elective office may make an expenditure for an incidental expense for the elective office to which that candidate was elected").

³ You also stated that Ms. Byrum made disbursements for the billboards and "coffees" for the past several years. The Commission notes that there is nothing in the continuation of this long-standing practice which would make these disbursements "for the purpose of influencing" her election to federal office simply because Ms. Byrum has become a federal candidate.

⁴ The Commission also assumes, as in the above opinions, that at the events themselves, the organizers will not place banners, posters or any similar item advertising Ms. Byrum's candidacy for Congress. See Advisory Opinions 1994-15, 1992-6, and 1992-5.

Campaign Act. Thus, Ms. Byrum is not required to pay for the billboards using funds raised for her Federal campaign.