



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

August 19, 2005

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 2005-09

Marc E. Elias, Esq.  
Perkins Coie LLP  
607 14th Street, N.W.  
Washington, D.C. 20005-2011

Dear Mr. Elias:

We are responding to your advisory opinion request on behalf of Friends of Chris Dodd 2004 (“the Committee”) regarding whether, under the Federal Election Campaign Act of 1971, as amended (“the Act”), and Commission regulations, the Committee may use campaign funds to pay for certain travel expenses of Senator Dodd’s minor children.

The Commission concludes that the Committee may use campaign funds to defray the costs of travel by Senator Dodd’s minor children to accompany their parents between their home in Connecticut and Washington, D.C., provided that the parents are traveling to participate in a function directly connected to the Senator’s *bona fide* official responsibilities.

***Background***

The facts of this request are presented in your letter received on June 27, 2005 and in your e-mail communication received on July 15, 2005.

Senator Dodd is a United States Senator from Connecticut. His principal campaign committee is Friends of Chris Dodd 2004.

Senator Dodd travels regularly between his home in Connecticut and Washington, D.C. in connection with his official duties, and his travel expenses are paid for in accordance with Senate rules and Commission regulations. Senator Dodd’s wife travels from their home in

Connecticut to participate in events taking place in Washington, D.C. relating to Senator Dodd's official duties, "such as fact-finding events, speaking engagements, and constituent meetings."

Senator Dodd and his wife have two daughters: one is three years old, and the other is an infant. Due to the daughters' young ages, they accompany Senator Dodd and his wife when both parents travel between Connecticut and Washington, D.C.

### ***Question Presented***

*May Friends of Chris Dodd 2004 use campaign funds to pay for the travel expenses of Senator Dodd's minor children when the purpose of the travel is to attend officially connected events?*

### ***Legal Analysis and Conclusion***

Yes, the Committee may use campaign funds to pay for the travel expenses of Senator Dodd's minor children to accompany the Senator and his wife when the purpose of the travel is to attend or participate in events officially connected to Senator Dodd's status as a Federal officeholder.

The Act identifies six categories of permissible uses of contributions accepted by a Federal candidate. They are (1) otherwise authorized expenditures in connection with the candidate's campaign for Federal office; (2) ordinary and necessary expenses incurred in connection with the duties of the individual as a holder of Federal office; (3) contributions to organizations described in 26 U.S.C. 170(c); (4) transfers, without limitation, to national, State or local political party committees; (5) donations to State and local candidates subject to the provisions of State law; and (6) any other lawful purpose not prohibited by 2 U.S.C. 439a(b). *See* 2 U.S.C. 439a(a); *see also* 11 CFR 113.2(a)-(c).

Contributions accepted by a candidate may not, however, be converted to "personal use" by any person. 2 U.S.C. 439a(b)(1); 11 CFR 113.2. Commission regulations define "personal use" 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); *see also* 2 U.S.C. 439a(b)(2).

The Act and Commission regulations list a number of expense categories that would constitute personal use, such as household food items or supplies, clothing, tuition payments, home mortgage, rent, and utility payments. *See* 2 U.S.C. 439a(b)(2); 11 CFR 113.1(g)(1)(i). The list does not include travel expenses. The Commission considers on a case-by-case basis whether specific, unlisted uses constitute "personal use." *See* 11 CFR 113.1(g)(1)(ii). Accordingly, the Commission analyzes the payment of travel expenses, including subsistence expenses incurred during travel, on a case-by-case basis under 11 CFR 113.1(g)(1)(ii)(C).

Commission regulations further specify that certain travel costs qualify as "ordinary and necessary expenses incurred in connection with" one's duties as a Federal officeholder.

11 CFR 113.2(a), (a)(1). These expenses specifically include the costs of travel for a Federal officeholder and an accompanying spouse to participate in a function directly connected to *bona fide* official responsibilities, such as a fact-finding meeting or an event at which the officeholder's services are provided through a speech or appearance in an official capacity.

11 CFR 113.2(a)(1). In explaining the application of the travel cost provision, the Commission recognized "that an officeholder's spouse is often expected to attend these functions with the officeholder." Explanation and Justification, Final Rules on Personal Use of Campaign Funds, 60 FR 7862, 7872 (1995). The Commission noted that the spouse's attendance alone constitutes a form of participation in the function. *Id.*

Section 113.2(a) of the Commission's regulations does not specifically include the costs of travel for accompanying children. The facts in this case, however, are similar to those in Advisory Opinion 1995-20. In Advisory Opinion 1995-20, a Federal candidate and his wife, who served as the candidate's senior campaign advisor, traveled to their home district for campaign events. Because of their ages, the candidate's minor children accompanied the candidate and his wife on their travels, even though the children themselves participated only occasionally in campaign events. The Commission specifically approved the use of campaign funds to pay for the travel expenses of the Federal candidate's minor children, finding that the expenditure was required only because of the candidate's campaign. The Commission concluded that the expenditure was for travel in connection with a campaign for Federal office, in that it was to the Congressman's home district in order for him and his wife to participate in campaign events.

Similarly, here, Senator Dodd and his wife travel between their home in Connecticut and Washington, D.C. to participate in functions directly related to Senator Dodd's *bona fide* official responsibilities as a holder of Federal office. When Senator Dodd's minor children accompany him and his wife on these trips, the costs of the children's travel arise from Senator Dodd's duties as a Federal officeholder. Such travel is to be contrasted, for example, with family travel to vacation locales, or other examples of personal uses of campaign funds.

For these reasons, the Commission concludes that the Committee may use campaign funds to defray the costs of travel by Senator Dodd's minor children to accompany their parents between their home in Connecticut and Washington, D.C., provided that the parents are traveling to participate in a function directly connected to the Senator's *bona fide* official responsibilities.

Because the proposed disbursements by the Committee do not constitute expenditures in connection with a campaign for Federal office, they should be reported as "other disbursements" with the purpose of the disbursements noted. *See* 11 CFR 104.3(b)(2)(vi), (4)(vi).

The Commission expresses no opinion regarding the application of any rules of the United States Senate to, or any tax ramifications of, the proposed activity, because these issues are not within its jurisdiction.

This response constitutes an advisory opinion concerning the application of the Act and Commission regulations to the specific transaction or activity set forth in your request. *See* 2 U.S.C. 437f. The Commission emphasizes that if there is a change in any of the facts or assumptions presented, and such facts or assumptions are material to a conclusion presented in this advisory opinion, then the requestor may not rely on that conclusion as support for its proposed activity.

Sincerely,

(signed)

Scott E. Thomas  
Chairman

Enclosure (AO 1995-20)