



FEDERAL ELECTION COMMISSION
Washington, DC 20463

April 11, 2022

VIA EMAIL

ccordero@cnas.org

Carrie Cordero
Center for a New American Security
1152 15th Street NW
Suite 950
Washington, DC 20005

RE: MUR 7816
Center for a New American Security

Dear Ms. Cordero:

On October 19, 2020, the Federal Election Commission notified Center for a New American Security of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your organization at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on April 5, 2022, voted to dismiss this matter. The Factual and Legal Analysis, which more fully explains the Commission's decision, is enclosed for your information.

Documents related to the case will be placed on the public record within 30 days. See Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016).

If you have any questions, please contact Amanda Andrade, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Peter J. Blumberg

Peter Blumberg
Assistant General Counsel

Enclosure
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

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6 RESPONDENT: Daniel Feehan MUR: 7816
7 Friends of Dan Feehan and Meghan
8 Maes in her official capacity as treasurer
9 Leadership for Educational Equity
10 New Politics Leadership Academy
11 Center for New American Security
12
13

I. INTRODUCTION

14
15 The Complaint alleges that congressional candidate Daniel Feehan and his authorized
16 committee received prohibited contributions from Feehan’s employers in the form of excessive
17 compensation for the purpose of supporting his campaign.¹ Respondents Feehan, Friends of Dan
18 Feehan and Meghan Maes in her official capacity as treasurer (the “Committee”), and the
19 organizations that employed Feehan — Leadership for Educational Equity (“LEE”), New
20 Politics Leadership Academy (“NPLA”), and Center for New American Security (“CNAS”) —
21 deny the allegations, claiming that Feehan was paid for *bona fide* services rendered. Because the
22 available information does not raise a reasonable inference that the payments to Feehan were
23 impermissible under Commission regulations governing compensation from candidate
24 employment, the Commission dismisses the allegations that Feehan’s compensation constituted
25 prohibited contributions in violation of 52 U.S.C. § 30118(a).

¹ The Complaint also appears to allege that Feehan publicly misrepresented his employment in a debate and that one of the organizations that employed him hired only Democrats despite purporting to be non-partisan. As neither of these allegations implicate the Act, this Report does not discuss them further.

1 II. FACTUAL BACKGROUND

2 On July 1, 2017, Feehan filed his Statement of Candidacy for U.S. Congress in the First
3 District of Minnesota and designated the Committee as his principal campaign committee.²
4 Feehan lost the November 2018 election and subsequently declared his candidacy for the 2020
5 election on October 1, 2019, again naming the Committee as his principal campaign committee.³

6 The Complaint alleges that Feehan’s financial disclosure reports filed with the House of
7 Representatives show that between 2017 and 2019, Feehan was paid over \$475,000 to run for
8 Congress by several entities.⁴ In particular, the Complaint argues that Feehan was paid “an
9 extraordinary \$184,000” from August 13 through December 31, 2018 by LEE and NPLA.⁵ The
10 Complaint also attaches a copy of Feehan’s financial disclosure reports showing a payment of
11 \$55,412 from CNAS in 2018.⁶

12 The Response from Feehan and the Committee argues that the Complaint’s attached
13 financial disclosure report was an erroneous filing overstating Feehan’s income, and that it was
14 amended prior to the filing of the Complaint.⁷ All of the Respondents assert that Feehan’s

² Daniel Feehan, Statement of Candidacy (July 1, 2017).

³ Daniel Feehan, Statement of Candidacy (Oct. 1, 2019).

⁴ Compl. at 1 (Oct. 9, 2020).

⁵ *Id.*

⁶ *Id.* at Attach 2.

⁷ Resp. of Feehan and Friends of Dan Feehan at 1 (Nov. 9, 2020) [hereinafter “Feehan Resp.”]. Feehan amended his financial disclosures on September 28, 2020. *See id.* at Attach; Office of the Clerk, U.S. House of Representatives, Am. Financial Disclosure Report of Daniel Feehan (Sept. 28, 2020), https://disclosures-clerk.house.gov/public_disc/financial-pdfs/2019/10039145.pdf. On the same day that Feehan amended his financial disclosures, the Complainant submitted a Complaint with the Commission that did not meet the statutory requirements. Complainant submitted a proper complaint on October 9, 2020. There is no explanation in the Complaint or the Responses for this synchronous timing, although it appears the Complainant, Feehan’s opponent in the 2018 and 2020 general election, raised the compensation issue during the campaign. *See, e.g.,* Trey Mewes, *Accusations Fly at Feehan-Hagedorn Debate*, MANAKOTA FREE PRESS (Sept. 27, 2020), https://www.mankatofreepress.com/news/local_news/accusations-fly-at-feehan-hagedorn-debate/article_fc6d99ac-010c-11eb-a75f-f306a20172d0.html (“Hagedorn claimed Feehan has been paid \$500,000 by organizations tied to

1 compensation was for *bona fide* services that were independent of his campaign.⁸ In support,
2 Feehan submitted an affidavit describing his work for LEE, NPLA, and CNAS on his financial
3 disclosures. The three employers each submitted responses as well, all asserting that Feehan was
4 paid for services that were independent of his campaign, describing Feehan’s work for the
5 organization, and explaining why he was well suited to the position.

6 Specifically, LEE states that it is a “nonprofit leadership development organization
7 inspiring and supporting a network of civic leaders to end the injustice of educational inequity.”⁹
8 LEE asserts that it first hired Feehan as an independent contractor in May 2017 — two months
9 before he announced his plan to run for Congress — and his work was completed by the end of
10 2017.¹⁰ According to LEE, Feehan was one of nearly 150 contractors or vendors the
11 organization retained, and his project, implementing a leadership development program for
12 veterans, was particularly well suited for Feehan, who previously served as Acting Assistant
13 Secretary of Defense and was a former member of the military himself.¹¹ LEE did not employ
14 Feehan in 2018 but retained him again as a “temporary employee” from May 1, 2019, to
15 September 30, 2019 — a time during which Feehan was not a candidate. LEE argues that it paid
16 Feehan what it thought his services were worth,¹² and apparently paid \$50,000 for the work he
17 did in 2017 and \$120,000 for the work he did in 2019.¹³

Democratic operatives during the past two years to run for Congress rather than doing work for those organizations.”).

⁸ See Feehan Resp. at 3; Resp. of LEE at 3-5 (Nov. 17, 2020); Resp. of NPLA at 3 (Jan. 5, 2021); Resp. of CNAS at 1-2 (Feb. 3, 2021).

⁹ Resp. of LEE at 3.

¹⁰ *Id.* at 5.

¹¹ *Id.*

¹² *Id.*

¹³ Feehan Financial Disclosure (Nov. 28, 2017); Am. Feehan Financial Disclosure (Sept. 28, 2020).

1 NPLA states that it is a charitable corporation organized under Section 501(c)(3) of the
2 Internal Revenue Code and is thus prohibited from engaging in any partisan intervention.¹⁴
3 NPLA states that it “recruits military veterans and national service alumni to run for public
4 office” regardless of party affiliation and that Feehan worked as a fellow under an established
5 fellowship program.¹⁵ According to NPLA, Feehan’s fellowship ran from December 2018 to
6 September 30, 2019,¹⁶ which, according to his 2020 Statement of Candidacy, is entirely outside
7 the time during which Feehan was a candidate. The organization described Feehan’s work
8 during the fellowship as consisting of a research project on the “urban-rural” divide using his
9 experience as a congressional candidate, leading trainings, and participating in weekly
10 sessions.¹⁷ NPLA submitted the “Welcome Letter” given to all fellows setting forth the
11 responsibilities of the position, including a timeline for developing research projects and a
12 scheduled conference at which fellows would be expected to present their research.¹⁸ The
13 stipend for the entire fellowship appears to have been \$64,000 (\$8,500 in 2018 and \$55,500 in
14 2019).¹⁹

15 Finally, CNAS describes itself as “a non-profit research and policy institution.”²⁰ It
16 appears CNAS is organized as a charitable corporation under Section 501(c)(3) of the Internal
17 Revenue Code²¹ and thereby prohibited from political activity. According to its Response,

¹⁴ Resp. of NPLA at 2; NPLA, IRS Form 990 for FY 2019.

¹⁵ Resp. of NPLA at 1-3.

¹⁶ *Id.* at 3-4.

¹⁷ *Id.* at 4.

¹⁸ *Id.* at Attach.

¹⁹ *Id.* at 3. Feehan reported that NPLA paid him \$9,000 in 2018, a discrepancy of \$500.

²⁰ Resp. of CNAS at 1.

²¹ CNAS, IRS Form 990 for FY 2019.

1 CNAS engaged Feehan as an adjunct senior fellow in “late 2017” based on a research and
 2 writing proposal “that was solely in connection with his subject matter expertise relevant to the
 3 CNAS Military, Veterans & Society program.”²² CNAS states that Feehan’s professional
 4 experience included having served as Principal Deputy Assistant Secretary of Defense as well as
 5 a number of other positions in the military, and that based on this experience, Feehan drafted a
 6 book proposal “suitable for pursuing a publication opportunity.”²³ CNAS paid Feehan \$7,916 in
 7 2017,²⁴ \$55,412 in 2018,²⁵ and nothing in 2019.²⁶

8 In total, Feehan’s amended financial disclosures show the following income from these
 9 employers during the time period implicated by the Complaint:²⁷

Employer	2017	2018	2019
LEE	\$50,000 ²⁸		\$120,000 ²⁹
CNAS	\$7,916 ³⁰	\$55,412 ³¹	
NPLA		\$9,000 ³²	\$55,500 ³³
Subtotal	\$57,916	\$64,412	\$175,500
Total for Three Years			\$297,828

²² Resp. of CNAS at 1-2.

²³ *Id.* at 2.

²⁴ Feehan Financial Disclosure (Aug. 13, 2018).

²⁵ *Id.*

²⁶ Am. Feehan Financial Disclosure (Sept. 28, 2020).

²⁷ Feehan disclosed compensation from two additional sources under \$1,000 each and explained the work he did for those groups. *See* Feehan Resp. at Attach (Declaration of Dan Feehan). As this Office has not named those organizations as Respondents, they are not included in this chart.

²⁸ Feehan Financial Disclosure (Nov. 28, 2017).

²⁹ Am. Feehan Financial Disclosure (Sept. 28, 2020).

³⁰ Feehan Financial Disclosure (Aug. 13, 2018).

³¹ *Id.*

³² Am. Feehan Financial Disclosure (Sept. 28, 2020).

³³ *Id.*

1 According to his amended filings, Feehan’s income during this three-year period was just under
 2 \$300,000 – substantially less than the \$475,000 reported in the Complaint. Below is a chart
 3 comparing material portions of the two filings.

Employer	Original Filing		Amended Filing	
	Aug. 14, 2018- Dec. 31, 2018 ³⁴	Jan. 1, 2019- Oct. 31, 2019 ³⁵	Aug. 14, 2018- Dec. 31, 2018	Jan. 1, 2019- Dec. 31, 2019 ³⁶
LEE	\$120,000	\$120,000	--	\$120,000
CNAS	--	--	--	--
NPLA	\$64,000	\$55,500	\$9,000	\$55,500
Subtotal	\$184,000	\$175,500	\$9,000	\$175,500

4 There are two adjustments of note during this period. The first is that Feehan’s original filing
 5 reported that he received \$120,000 from LEE in both 2018 and 2019, while his amended filing
 6 reports receiving this amount only in 2019.³⁷ This adjustment is consistent with the Responses
 7 from both LEE and Feehan, which state that Feehan did not receive any compensation from LEE
 8 in 2018. The second adjustment is that Feehan originally reported his 2018 salary from NPLA as
 9 \$64,000, which appears to be roughly his total compensation from the entire fellowship rather
 10 than the \$9,000 he allegedly received in 2018.³⁸ This adjustment is likewise consistent with the
 11 Response from NPLA.³⁹ As a result, in the specific period highlighted by the Complaint –

³⁴ The amounts in this column are reported in Feehan’s 2019 Financial Disclosure as “amount preceding year.” Feehan filed a 2018 financial disclosure report on August 13, 2018, that did not report this activity. The Complaint therefore infers that these payments occurred in the four-and-a-half months between August 14, 2018 and the end of 2018.

³⁵ Feehan’s original 2019 Financial Disclosure was filed on October 31, 2019.

³⁶ Feehan’s Amended 2019 Financial Disclosure was filed on September 28, 2020, and the Commission therefore infers that it covers the entire year 2019. It does not, however, report any new income not previously reported.

³⁷ *Compare* Compl., Attach (Feehan Financial Disclosure (Oct. 31, 2019)), *with* Am. Feehan Financial Disclosure (Sept. 28, 2020).

³⁸ *Compare* Compl., Attach (Feehan Financial Disclosure (Oct. 31, 2019)), *with* Am. Feehan Financial Disclosure (Sept. 28, 2020).

³⁹ Resp. of NPLA at 3.

1 August 13, 2018, through the end of 2018 – Feehan’s amended financial disclosure shows that he
2 made \$9,000 rather than \$184,000.

3 **III. LEGAL ANALYSIS**

4 Corporations are prohibited from making contributions to federal candidates or their
5 authorized committees, and candidates and authorized committees are prohibited from
6 knowingly receiving or accepting such contributions.⁴⁰ Under Section 30118 of the Act, the
7 term “contribution” includes “any gift, loan, advance, or deposit of money or anything of value
8 made by any person for the purpose of influencing any election for Federal office,” and “any
9 direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services,
10 or anything of value . . . to any candidate, campaign committee, or political party or
11 organization,” in connection with any election to any Federal office.⁴¹

12 Under 11 C.F.R. § 113.1(g)(6)(iii), payments of “compensation” to a candidate “shall be
13 considered contributions” from the payor to the candidate unless: (A) The compensation results
14 from *bona fide* employment that is genuinely independent of the candidacy; (B) The
15 compensation is exclusively in consideration of services provided by the employee as part of this
16 employment; and (C) The compensation does not exceed the amount of compensation which
17 would be paid to any other similarly qualified person for the same work over the same period of
18 time.⁴² In numerous advisory opinions, the Commission has concluded that compensation made

⁴⁰ 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(a), (b)(1).

⁴¹ 52 U.S.C. § 30118(b)(2); 11 C.F.R. § 114.2(b)(1).

⁴² 11 C.F.R. § 113.1(g)(6)(iii).

1 by third parties to candidates did not constitute contributions because the payments in question
2 satisfied the requirements at Section 113.1(g)(6)(iii).⁴³

3 Here, the available information does not indicate that Feehan’s compensation should be
4 considered a prohibited corporate contribution. First, as to whether the compensation results
5 from *bona fide* employment that is genuinely independent of his candidacy, the information in
6 the record indicates that it likely was. With respect to his compensation from LEE, Feehan
7 began working for LEE approximately two months before he declared his candidacy in 2017 and
8 his work was completed in 2017, roughly a year before the election. Feehan did not work for
9 LEE at all in 2018. Accordingly, the timing of his work does not suggest that Feehan’s
10 employment with LEE was dependent on his candidacy. Further, LEE argues that Feehan was
11 particularly well-qualified to work at the organization developing a leadership program for
12 veterans based on his own leadership experience in the military.⁴⁴ CNAS retained Feehan after
13 he declared his candidacy but argues that Feehan was especially well suited to be a fellow in the
14 organization’s “Military, Veterans & Society program” based on his experience serving in high-
15 level military positions and a specific research proposal he drafted.⁴⁵ Although it does not
16 appear that Feehan was a candidate at all during his employment with NPLA, the organization
17 similarly argues that Feehan was well qualified for its fellowship program, which focuses on
18 recruiting former political candidates who served in the military to “publish, speak, advocate,

⁴³ See Advisory Opinion 2013-03 (Bilbray-Kohn) (applying Section 113.1(g)(6)(iii) to determine whether compensation paid to candidate would be contribution); Advisory Opinion 2011-27 (New Mexico Voices for Children) (same); Advisory Opinion 2006-13 (Spivack) (same); Advisory Opinion 2004-17 (Klein) (same); Advisory Opinion 2004-08 (American Sugar Cane League) (same).

⁴⁴ Resp. of LEE at 4-5.

⁴⁵ Resp. of CNAS at 1-2.

1 and conduct policy research . . . [and] help recruit more servant leaders to participate in the
2 political process.”⁴⁶

3 The Commission has previously approved similar arrangements where an apparently
4 well-qualified candidate served as a consultant. In Advisory Opinion 2013-03 (Bilbray Kohn),
5 for example, the Commission found that a candidate’s consulting arrangement was *bona fide* and
6 independent, where the candidate quit her job as Executive Director of a non-profit “in
7 anticipation of her potential candidacy,” and was re-hired by the same non-profit as a part-time
8 consultant. The Commission concluded that the non-profit had genuine reasons for hiring the
9 candidate as a consultant independent of her campaign, including her expertise, her experience,
10 and the difficulty of finding a replacement.⁴⁷ Similarly, the record here suggests that all three
11 organizations had legitimate reasons for hiring Feehan based on his experience and expertise.

12 As to the second element, whether the compensation is exclusively in consideration of
13 services provided by the employee as part of this employment, it appears that Feehan was paid
14 only for services rendered. All three employers argue that Feehan was compensated exclusively
15 for the services he provided, and Feehan submitted a detailed affidavit attesting to his work. For
16 LEE, both the organization and Feehan maintain that he worked to implement a leadership
17 program for veterans. For NPLA, it appears he fulfilled the criteria for serving as a fellow by
18 conducting a research project geared to his expertise and participating in various calls and
19 events. And for CNAS, it appears he completed work as a fellow by performing research
20 relevant to the organization’s mission. The Complaint does not make any allegation that Feehan

⁴⁶ Resp. of NPLA at 3.

⁴⁷ Advisory Opinion 2013-03 (Bilbray-Kohn) at 5; *see also* Advisory Opinion 2004-17 (Klein) (finding that a candidate’s part-time consulting services for a law firm, which began during her campaign, were genuinely independent of the campaign because the candidate was paid on an hourly basis for services rendered, and not for any campaign-related reason).

1 failed to provide the required services to any of these organizations, and there is no information
2 in the record to suggest that he did.

3 The allegations in the Complaint most directly implicate the third element — whether the
4 compensation paid to Feehan was excessive for his position. The Complaint’s primary support
5 for its allegation is that Feehan was paid “an extraordinary \$184,000” in the four-and-a-half-
6 month period between August 13, 2018, and December 31, 2018, which would mean Feehan was
7 paid \$271 per hour assuming he was working eight hours a day seven days a week in the midst
8 of a full-time campaign for Congress.⁴⁸ The Complaint arrived at this figure based on Feehan’s
9 original financial disclosures, as explained in the chart at the end of Section II. As noted above,
10 however, it does not appear that Feehan actually made \$184,000 during this period. Instead,
11 Feehan’s amended filings indicate that he made only \$9,000 during this period. Moreover, this
12 \$9,000 appears to be compensation for work that began in December 2018,⁴⁹ which was after the
13 election.

14 Although the Responses lack details that would have assisted the Commission in this
15 determination — such as copies of Feehan’s written work products for these fellowships or other
16 records showing the value he provided to these organizations — there is not enough information
17 before the Commission to justify further action. In previous matters, the Commission has
18 generally accepted the representations of the employer that the compensation paid to a candidate
19 was not excessive for the position given the responsibilities of the employee,⁵⁰ particularly in
20 cases such as this one where there is no information in the Complaint or public record to refute

⁴⁸ Compl. at 1.

⁴⁹ Resp. from NPLA at 3.

⁵⁰ *See, e.g.*, Advisory Opinion 2013-03 (Bilbray-Kohn) (finding salary of \$5,000 per month for 20 hours per week consulting not excessive).

1 the employer’s information.⁵¹ Here, all three employers have argued that Feehan was paid
2 commensurate with his responsibilities. In addition, Feehan appears to have earned most of the
3 money implicated in the Complaint during the period between his November 2018 election loss
4 and his October 2019 declaration of candidacy, when he was not a candidate. In the sixteen
5 months he was a candidate for the 2018 election, Feehan earned over \$60,000 from CNAS and
6 under \$50,000 from LEE. There is no information in the record suggesting that these amounts
7 were excessive.

8 Because Feehan’s compensation appears to satisfy the regulation’s standards for *bona*
9 *fide* employment, the Commission dismisses the allegation that Respondents violated 52 U.S.C.
10 § 30118(a) by making or receiving a prohibited corporate contribution.

⁵¹ See Factual & Legal Analysis at 5, MUR 7044 (Jodey Cook Arrington) (finding \$220,000 salary for company’s President not excessive, in part because the employer “states that it paid Arrington the same salary as his previous employer for similar work, and neither the Complaint nor publicly available information refutes [the employer’s] statements”); Factual & Legal Analysis at 5, MUR 6855 (Justin Amash, *et al.*) (finding \$100,000 year-end bonus from family-owned firm not excessive in part because, “although the Respondents do not provide a detailed breakdown of Amash’s duties for [the employer] throughout 2010, neither does the Complaint supply evidence that Amash was being compensated by [the employer] for something other than the services he provided”).