



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

January 21, 1983

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1982-60

Jack Howell, Director  
Federal Government Relations  
The American Society of Mechanical Engineers  
2029 K Street, N.W.  
Washington, D.C. 20006

Dear Mr. Howell:

This responds to your letter of December 10, 1982, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the establishment and operation of a Congressional Fellowship Program.

Your letter states that the American Society of Mechanical Engineers ("ASME") has had a Congressional Fellowship Program ("Program") for the past ten years. You state a Fellow who participates in the Program is a member of ASME (a non-profit professional society) who takes a year's leave of absence from his or her company and, with financial support from both the ASME and the company, serves full time as a Congressional staff member. In the past, ASME Fellows have served on the staffs of Congressional committees and on personal staffs of individual Members of Congress.

You state that one of the 1983 Fellows has been asked by a Member of Congress to serve on his legislative staff. The Fellow's corporate employer is concerned that this service could be interpreted as a campaign contribution by the employer (a corporation) to the Congressman. You ask whether participation by the Fellow in the capacity of a legislative staff assistant would give rise to a prohibited contribution by the Fellow's employer or by ASME. The Commission answers this in the negative.

Under the Act, the term "contribution" includes the "payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose." 2 U.S.C. 431(8)(A)(ii), emphasis added; and see 11 CFR 100.7(a)(3). Moreover, it is unlawful for any corporation to make a contribution or expenditure in connection with any election to Federal office. 2 U.S.C. 441b and 11 CFR Part 114. If the compensation

paid by a corporation to an ASME Fellow is for services rendered to a Member of Congress in the performance of legislative staff duties, a corporate contribution would not result.

The Commission has previously concluded that internship programs (similar to that presented here) and, specifically, payments by corporations to participants in such programs, do not give rise to a corporate contribution so long as the intern does not engage in activity related to the election campaign of the sponsoring Member of Congress. See, Advisory Opinions 1979-67 and 1982-31, copies enclosed. Accordingly, so long as the ASME Fellow is not compensated for campaign-related activity on behalf of the sponsoring Member, or on behalf of any candidate for Federal office or political committee, payments by the Fellow's employer or by ASME would not constitute contributions or expenditures under the Act by either the employer or by ASME. If that condition is satisfied, no contribution or expenditure would result from the described activity, and the Program would not come under the purview of the Act. This advisory opinion overrules and supersedes the opinion issued to ASME by the Commission's General Counsel in 1975, OC 1975-63, which concluded that 18 U.S.C. 610 (now 2 U.S.C. 441b) prohibited corporate financing for Fellows who were assigned to the staff of an individual Member, as distinguished from the staff of a Congressional committee. It also supersedes a similar Opinion of Counsel, OC 1975-33, issued to the Conference Board.

The Commission expresses no opinion as to the applicability, if any, of House or Senate Rules to the described activity, since those issues are outside 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 yours,

(signed)

Danny L. McDonald  
Chairman for the Federal Election Commission

Enclosures (AO 1979-67 and 1982-31)