FEDERAL ELECTION COMMISSION
Washington, DC 20463

July 13, 1979

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1979-33

Miriam Gafni
1200 Walnut Street, 6th Floor
Philadelphia, Pennsylvania 19107

Dear Ms. Gafni:

This is in response to your letter of June 6, 1979, requesting an advisory opinion on behalf of the District 1199-C Political Action Fund ("Fund"), which is the separate segregated fund of District 1199-C, National Union of Hospital and Health Care Employees ("the Union"), concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the reimbursement by the Union from its general treasury of certain costs initially paid by the Fund.

Your letter explains that District 1199-C purchased $1,050 in banquet tickets to attend the Philadelphia AFL-CIO Council COPE Banquet in 1978. Since it was thought that the dinner constituted a political campaign activity, the Fund purchased the tickets. Following the dinner, however, the chairman of the Council indicated to District 1199-C leadership that the COPE banquet proceeds were used exclusively for and contributed to a "segregated non-partisan register and vote campaign fund."

You further explain that since District 1199-C is a member of the AFL-CIO Council, and is thus a member of a "union organization that has a non-partisan register and vote campaign directed towards its members and their families," you advised the Union that such activity could be subsidized through union dues monies. Hence the Union reimbursed the Political Action Fund from its general fund treasury for the costs of the banquet tickets in the amount of $1,050. Your specific question is whether it was lawful for the Union to transfer the $1,050 to the Fund as reimbursement for the amount the Union spent due to a mistake of fact concerning the purpose of the disbursement.

As you recognize in your letter, financial support for non-partisan registration and get-out-the-vote campaigns by a labor organization aimed at its members and their families is

exempt from the Act's definition of a "contribution or expenditure". See 2 U.S.C. 441b(b)(2)(B). Since payment in support of such activities is not a prohibited contribution by a labor organization, the Union could have paid the amounts for such purposes directly without violating the Act. The fact that the Fund, under a mistaken belief, paid this initially does not change the characterization of the $1,050 as a payment other than a contribution provided that the proceeds of the banquet were used for exempt activity under 441b. See 11 CFR 114.3(c)(4).

The Commission previously held in a similar situation involving an error that a union could reimburse its separate segregated fund in the exact amount of an administrative cost "inadvertently" paid by the fund which could have been paid initially by the union. See Re: AOR 1976-111, copy enclosed. Thus, the Commission concludes that since the $1,050 paid by the Fund for the tickets was not a contribution for purposes of the Act, as was initially believed, the Union may reimburse the Fund in the amount of $1,050.

This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act, or prescribed as a Commission regulation, to the specific factual situation set forth in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)

Robert O. Tiernan
Chairman for the
Federal Election Commission

Enclosure