

Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. memo	Memorandum for Melanne Verveer, Shirley Sagwa, and Patti Sollis Doyle from Cheryl Mills. Subject: Payment of Expenses Associated with Exploratory or Campaign Travel. (12 pages)	10/02/1999	P5 1429
001b. memo	Memorandum for Chris Szymanski from Dawn Chirwa. Subject: Billing for the First Lady's June 9-10, 1999 (#F90609) Trip. (2 pages)	10/14/1999	P5 1430
002. memo	Memorandum for Harold Ickes, Jack Quinn, Jodie Torkelson, and Billy Webster from Abner J. Mikva and Cheryl Mills. Subject: Payment of Expenses Associated with Presidential and Vice Presidential Travel during the campaign. (12 pages)	04/27/1995	P5 1431

COLLECTION:

Clinton Presidential Records
Travel Office
Tammy Mayberry
OA/Box Number: 23610

FOLDER TITLE:

HRC Exploratory Campaign Travel Memos

Adam Bergfeld
2006-0224-F
ab734

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

RM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

R. Document will be reviewed upon request.

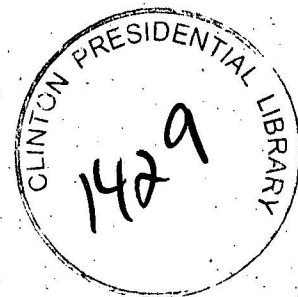
Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

COPY

THE WHITE HOUSE
WASHINGTON

October 2, 1999



MEMORANDUM FOR: MELANNE VERVEER
CHIEF OF STAFF, OFFICE OF THE FIRST LADY

SHIRLEY SAGAWA
DEPUTY CHIEF OF STAFF, OFFICE OF THE FIRST LADY

PATTI SOLIS DOYLE
DIRECTOR OF SCHEDULING, OFFICE OF THE FIRST LADY

FROM: CHERYL MILLS 
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Payment of Expenses Associated with Exploratory or Campaign Travel

This memorandum provides general guidance regarding the payment of expenses associated with travel by the First Lady, once she forms an exploratory or campaign committee and should she become a candidate for the United States Senate seat for New York.

General Legal Principles

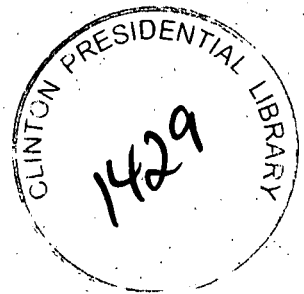
When considering payment of expenses associated with travel by the First Lady as potential or actual candidate for the New York Senate seat, three principles govern. First, appropriated funds may be spent only for the purposes for which they have been appropriated. 31 U.S.C. § 1301, 52 Comp. Gen. 504 (1972), 50 Comp. Gen. 534 (1971). Accordingly, funds appropriated for the official functions of the White House may be used for travel expenses only if the travel is reasonably related to an official purpose. If an expense is incurred purely for partisan political purposes, official funds may not be used to pay the expense.

The second basic principle is that, in general, official activities should be paid only from funds appropriated for such purposes, unless Congress has authorized the support of those activities by other means. This principle prevents unauthorized augmentation of appropriations.

Third, the principle of the separation of powers requires that the President's official functions be supported by the Executive Branch, not by the legislative or judicial branches. 11 C.F.R. § 100.7(b)(1).

¹ Travel associated with "testing-the-water" activity qualifies as campaign-related travel. 11 C.F.R. § 100.7(ii).

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Political and Official Travel

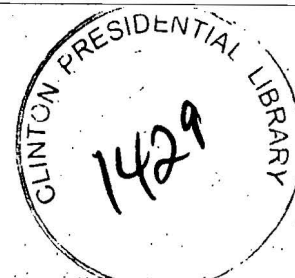
Before an allocation of travel expenses for the First Lady's travel can be made, a determination must first be made as to whether an appearance is official or political; and, if it is political, whether it is campaign-related or non-campaign related. Thus, for purposes of allocating travel costs, there are three categories: 1) official travel, e.g., for a commencement address; 2) campaign-related political travel, i.e., for a Hillary Rodham Clinton for Senate fundraising event; and 3) non-campaign related political travel, e.g., for party-building events (Democratic National Committee, State Committee, etc.) or for fundraising events for other candidates.

Generally speaking, appearing at party functions, fundraising and campaigning for specific candidates should be considered political. In addition, any event that involves solicitation of campaign funds or express advocacy for a candidate or candidates for office will be political. Travel for meetings, conferences, non-partisan addresses, and the like, ordinarily should be considered official travel, even though it may have partisan consequences or concern matters on which opinion is politically divided. If the First Lady might be addressing what otherwise might be defined as an official event in a substantially partisan political manner, that activity should be considered political.

In determining whether an activity is political or official, all relevant factors should be considered, including, but not limited to, the identity of the sponsor of the event, the timing of the event, the group or organization being addressed, other participants, whether the speech being delivered is partisan and political in nature, or whether it is a factual presentation or defense of the Administration's position on the issues. This determination is necessarily made on a case-by-case basis.

There clearly is considerably room for discretion in determining whether an activity giving rise to an expense is political or official. Ultimately, the question is a factual one that can only be answered by those most familiar with the facts of a given event, trip or situation. Particular questions about specific activities should be directed to the Counsel's Office for advice.

In allocating costs between political and official activities, three additional points should be kept in mind. First, there are some persons whose official duties require them to be with the First Lady, whether or not she is on official business. Traditionally, this group of individuals has included, among others, the First Lady's personal aide/trip director, the White House photographer, and Secret Service agents responsible for her protection. Expenses incurred during travel with the First Lady by this group of individuals are official regardless of the character of the event that may be involved. See Official Traveler's Memorandum (January 10, 1994).



Similarly, on an otherwise entirely official trip, an individual may accompany the First Lady for purely political reasons. Any expenses specifically incurred by such an individual should be considered political expenses, and should be allocated among the appropriate political entities, regardless of the purpose of the First Lady's travel.

Finally, expenses associated with individuals who are not necessarily serving in either a wholly official or wholly political capacity should normally be judged to be official or political depending on the character of the travel giving rise to the expenses.

"Campaign-Related" and "Non-Campaign Related" Travel

Given the aforementioned general principles, the First Lady's potential candidacy for the Senate raise certain unique considerations. In particular, most of the First Lady's travel to and from New York from Washington, D.C., will likely be campaign-related unless all of activity in New York on a given trip is official (e.g., an address to the United Nations) or demonstrably unrelated to her campaign.

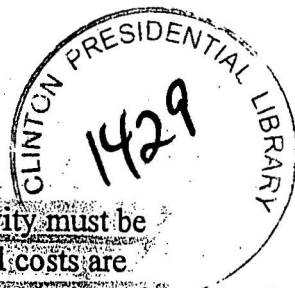
2000).

Under the FEC regulations, campaign committees for other candidates may not pay for part of the costs of "campaign-related" travel by the First Lady. For example, if a House candidate schedules a fundraiser back-to-back with a Hillary Rodham Clinton for Senate fundraiser and the First Lady attends both events, the First Lady's exploratory or campaign committee must pay the travel expenses for the First Lady's entire trip as if both events were organized by Hillary Rodham Clinton for Senate. *Id.* If others travel with the First Lady, their travel expenses may be allocated between the respective political committees based upon the percentage of time the First Lady spends in each event. *Id.* at § 106.3(c)(1).2

Allocation of Travel Expenses

As a rule, the cost of travel in conjunction with wholly official activity must be paid from

² Event costs, such as the cost of advertising the fundraisers, the cost of the banquet room, and other similar costs, also may be allocated between the First Lady's exploratory or campaign committee and the other candidate's campaign committee on an appropriate basis.



appropriated funds, and expenses for travel in conjunction with wholly political activity must be paid for by the appropriate political entities. In those instances where the same travel costs are incurred in conjunction with official and exploratory or campaign-related activity, the portion of the travel costs for the First Lady allocable to her campaign committee is determined by using the "hypothetical trip formula" calculating what the trip would have cost from the point of origin to each subsequent campaign-related stop and back to the point of origin for the candidate. The travel costs for everyone else accompanying the First Lady, excluding official travelers and exploratory committee or campaign staff, may be apportioned using the "hard-time formula" (using first class airfare when government aircraft is used) based upon the percentage of time Mrs. Clinton spends in the various events. The government pays the travel costs of official travelers and the exploratory or campaign committee generally pays the travel costs of its staff. Where travel includes only non-campaign-related political and official activity, the portion of the trip allocable to the political entities is determined according to the "hard-time formula" (using coach airfare if government conveyance is used). 5 C.F.R. § 734.503.

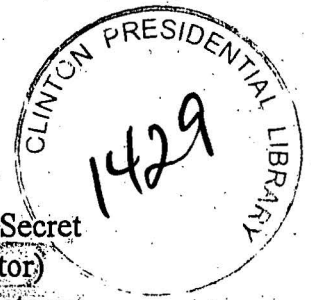
A summary of the rules of allocation are as follows:³

1. All official travel must be paid from appropriated funds.
2. All political travel must be paid from appropriate political entities under Federal and State election laws.

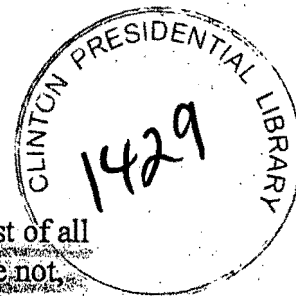
3. The First Lady's travel costs for campaign-related activity are paid under FEC regulations. For travel costs that are not campaign-related, the First Lady's travel costs are paid from the appropriate political entity. The portion of the First Lady's travel costs allocable to the campaign committee is determined by using the "hypothetical trip formula" calculating what the trip would have cost from the point of origin to each subsequent campaign-related stop and back to the point of origin for the candidate. The travel costs for everyone else accompanying the First Lady, excluding official travelers and exploratory committee or campaign staff, may be apportioned using the "hard-time formula" (using first class airfare when government aircraft is used) based upon the percentage of time Mrs. Clinton spends in the various events. The government pays the travel costs of official travelers and the exploratory or campaign committee generally pays the travel costs of its staff. Where travel includes only non-campaign-related political and official activity, the portion of the trip allocable to the political entities is determined according to the "hard-time formula" (using coach airfare if government conveyance is used). 5 C.F.R. § 734.503.

4. If people accompany the First Lady on campaign-related travel, the travel costs are paid from the appropriate political entity. If people accompany the First Lady on non-campaign-related travel, the travel costs are paid from the appropriate political entity. The portion of the travel costs allocable to the campaign committee is determined by using the "hypothetical trip formula" calculating what the trip would have cost from the point of origin to each subsequent campaign-related stop and back to the point of origin for the candidate. The travel costs for everyone else accompanying the First Lady, excluding official travelers and exploratory committee or campaign staff, may be apportioned using the "hard-time formula" (using first class airfare when government aircraft is used) based upon the percentage of time Mrs. Clinton spends in the various events. The government pays the travel costs of official travelers and the exploratory or campaign committee generally pays the travel costs of its staff. Where travel includes only non-campaign-related political and official activity, the portion of the trip allocable to the political entities is determined according to the "hard-time formula" (using coach airfare if government conveyance is used). 5 C.F.R. § 734.503.

³ Examples applying these allocation rules are attached to the end of this memorandum.



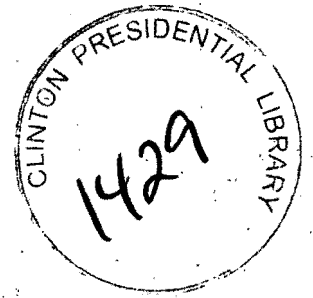
5. The government must pay the travel costs of official travelers (e.g., Secret Service, White House photographer, doctor, personal aide/trip director) accompanying the First Lady on campaign-related travel; the exploratory committee or campaign committee pays the travel costs of exploratory or campaign committee staff accompanying her on campaign-related travel.
6. During 2000, any political activity in New York, other than "incidental contacts," will be presumed to be "campaign-related." Thus, for example, an appearance at a fundraiser for the DNC will be presumed to be "campaign-related" in 2000.
7. During 1999, if the political activity that occurs on a trip is non-campaign-related, the costs of the trip are allocated according to the hard-time formula. However, if any campaign-related activity (i.e., fundraising for the First Lady's campaign) occurs on a trip, the costs of the "campaign-related" stops must be allocated according to the hypothetical trip formula for the First Lady and any exploratory or campaign staff and the hard-time formula for others accompanying the First Lady (excluding official travelers; see note 5).
8. [REDACTED]
9. A candidate's spouse and family are not considered to be traveling for campaign purposes unless they engage in campaign activity during the trip. If they engage in such activities, their travel expenses must be allocated using the hard-time formula (using first class airfare). *Id.* at § 106-3(c)(1).
10. Representatives of the media traveling on government aircraft will always be required to reimburse the government in the appropriate amount, whether the trip is official, political or mixed.
11. Finally, to document adequately these travel allocations, we should: a) prepare, or



otherwise have available, an itinerary for each trip, and b) prepare a list of all passengers, along with a designation as to which passengers are, or are not, campaign-related. These requirements will necessitate close coordination between the White House Office and any exploratory or campaign committee.

Attached are several sample trip illustrations. If you have questions about a specific trip, please call Cheryl Mills (66611) or Dawn Chirwa (67963) for assistance.

cc: Steve Richetti
Maria Echaveste
Stephanie Streett
Dan Rosenthal
Mark Lindsay
Charles Burson
Lisa Brown



Sample Trip Cost Allocations

I. Mixed Official and Campaign-Related Travel

Day 1: The First Lady departs AAFB en route to New York City for a Hillary Rodham Clinton campaign fundraiser. The First Lady overnights in New York City.

Day 2: The First Lady departs New York City en route to Buffalo for an official event and a Hillary Rodham Clinton campaign event, then returns to Washington, D.C.

Rule: Apply hypothetical trip formula for campaign-related travel costs.

A. Allocation of Aircraft Costs

The First Lady's campaign committee would be billed the cost of a first class airfare ticket for a round-trip between Washington, D.C., New York City, Buffalo, and back for the First Lady and campaign officials. For each person traveling on the First Lady's aircraft who is not an official traveler or a campaign official, the campaign would be billed first class airfare from Washington D.C. to New York City (100% of the airfare) to Buffalo (50% of the airfare assuming the official and campaign event are of equal duration) and back to Washington, D.C.

B. Allocation of Other Costs

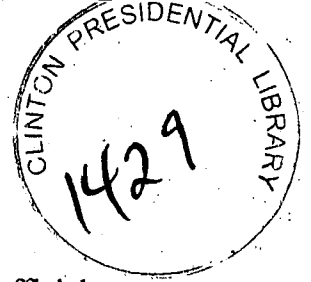
The First Lady's campaign committee must pay all event costs related to the fundraising event in New York City and the campaign event in Buffalo.

The First Lady's campaign committee must pay the government the equivalent rate for a large rental car to compensate for the use of the government vehicle transporting the First Lady to and from the campaign events. If any other government vehicles are used in the motorcade for reasons unrelated to the First Lady's security, the campaign committee must pay the government the rental value for such vehicles.

Any per diem for traveling staff must be paid by the campaign committee for New York City and may be split between the campaign committee and the government for travel to Buffalo.

The First Lady's campaign committee must pay all transportation, hotel and any per diem expenses for advance persons staffing the New York City event, and for advance persons advancing the Buffalo campaign event.

All costs solely associated with the official event in Buffalo may be paid from official funds.



Travel, lodging and per diem expenses for advance staff working in Buffalo on the official event may be paid from official funds.

II. Mixed Official and Political Non-Campaign Related Trip in 1999

Day 1: The First Lady departs AAFB en route to New York City. The First Lady proceeds to a New York City residence for down time; accompanying travelers stay at a hotel.

Day 2: The First Lady attends an hour DNC fundraiser at the St. Regis Hotel and returns to a New York City Residence for the rest of the day.

Day 3: The First Lady departs New York City en route to Rochester. The First Lady makes a speech to the Trial Lawyer's Association on tort reform. The First Lady departs Rochester and returns to AAFB.

Rule: Apply the hard-time formula for allocation of travel expenses.

A. Allocation of Aircraft Costs

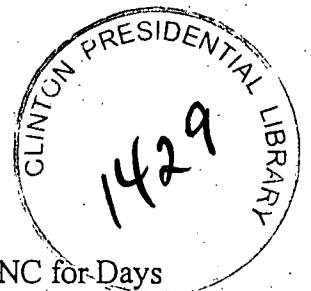
The reimbursement for the cost of the government aircraft is determined based upon the hard-time formula, using official and political event times. The DNC must pay a percentage, based upon the hard-time formula, of the costs of coach airfare for each person traveling (including the First Lady) to New York City who is not an official traveler (Rochester is not included because all activities there were "official").

B. Allocation of Other Costs

The DNC must pay all hotel costs for each individual traveling to New York City who are not official travelers.

The DNC also must pay all event costs related to the fundraising event.

The DNC must pay the government the equivalent rate for a large rental car to compensate for the use of the government vehicle transporting the First Lady from the New York City residence to the fundraising event and back. If any other government vehicles are used in the motorcade for reasons unrelated to the security of the First Lady, the DNC must pay the government the rental value for such vehicles.



Any per diem, except for official travelers, for traveling staff must be paid by the DNC for Days 1 and 2.

The DNC must pay all transportation, hotel and any per diem expenses for advance staff working in New York City on the fundraising event.

All costs solely associated with official aspects of the First Lady's to Rochester may be paid from official funds. Travel, lodging and per diem expenses for all advance persons working only on the Rochester event may be paid from official funds.

III. Political Trip, Campaign-Related Activities Only

Day 1: The First Lady departs AAFB en route to New York City. Upon arrival, the First Lady enters a motorcade to the St. Regis Hotel for a Hillary Rodham Clinton campaign fundraising dinner. The First Lady overnights in New York City.

Day 2: The First Lady departs New York City en route to Elmira. Upon arrival in Elmira, the First Lady enters a motorcade to a local hotel for a Hillary Rodham Clinton for Senate campaign fundraising lunch. After lunch, the First Lady meets with local campaign officials. Following the meeting, the First Lady departs Elmira en route to AAFB.

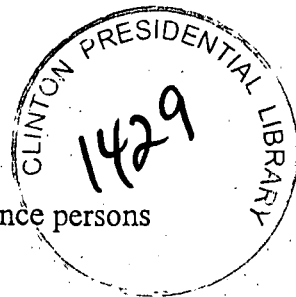
Rule: Apply the hypothetical trip formula for allocation of travel costs.

A. Allocation of Aircraft Costs

The campaign committee must pay first class airfare for travel from Washington, D.C., to New York City, Elmira and return to Washington, D.C., for each person on the plane who is not designated as an official traveler.

B. Allocation of Other Costs

The campaign committee must pay all other travel and event costs associated with this trip (except those for official travelers), including hotel and motorcade costs. For the motorcades, the campaign would reimburse the government rental costs for one large rental car for the First Lady's use in the motorcades and rental costs for any other motorcade cars that are not solely related to the First Lady's security.



The campaign committee must pay all travel, hotel and any per diem costs for advance persons working on this trip.

IV. Mixed Political Travel in 1999: Campaign & Non-Campaign

Day 1: The First Lady departs AAFB en route to New York City. Upon arrival, the First Lady enters a motorcade to the Plaza Hotel to speak at Democratic National Committee Dinner. The First Lady overnights in New York City.

Day 2: The First Lady attends a Hillary Rodham Clinton campaign fundraising breakfast at the St. Regis Hotel in New York City.

The First Lady departs New York City for Albany. Upon arrival in Albany, the First Lady speaks at a New York State Democratic party luncheon.

Following the luncheon, the First Lady departs Albany in route to Washington, D.C.

Rule: Apply the hypothetical formula for campaign-related travel expenses; apply the hard-time formula for party-building travel.

A. Allocation of Aircraft I Costs

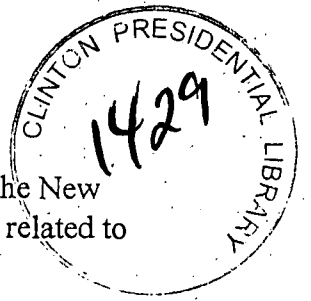
The campaign committee must pay first class airfare for a round-trip ticket for the First Lady from Washington, D.C., to New York City and return to Washington, D.C. For all other travelers, excluding official travelers, the campaign committee must pay first class airfare for the hypothetical trip from Washington, D.C. to New York City and back to Washington, D.C., with the campaign committee and the DNC paying its pro rate of the air fare share based upon the percentage of time the First Lady spends in the respective events.

The New York State party committee must pay the coach airfare of each person on the plane (excluding official travelers), including the First Lady, for travel from New York City to Albany.

B. Allocation of Other Costs

The campaign committee must pay the hotel expenses for all persons, excluding official travelers, who stay overnight in New York City.

The campaign committee must pay any per diem for individuals traveling with the First Lady from Washington, D.C., through New York City.



The campaign committee must pay appropriate motorcade costs for motorcades for the New York City breakfast event. The campaign committee must pay all event costs solely related to the New York City fundraising breakfast.

The DNC may pay appropriate motorcade costs and event costs in New York City for the fundraising dinner.

The DNC may pay the hotel expenses, per diem and airfare of advance persons advancing its dinner. The campaign committee must pay the travel, lodging, and any per diem expenses for all other advance personnel in New York City.

The expenses of advance personnel in Albany (transportation, hotel, per diem) may be paid by the New York State party committee.

Any per diem costs for the quarters of the day from which the First Lady left New York City, traveled to Albany, and returned to Washington, D.C., may be paid by the New York State party committee.

All motorcade and event costs in Albany may be paid for by the New York State party committee.

IV. Mixed Political Travel in 2000: Campaign & Non-Campaign

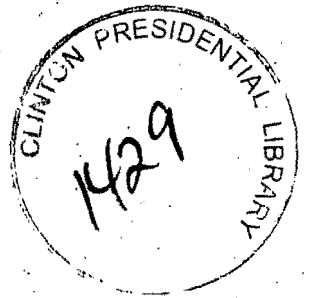
The First Lady takes the same trip as above, except that the trip occurs in 2000 instead of 1999.

Rule: In 2000, all political travel is presumed to be campaign-related by the FEC. As a result, unless the FEC presumption can be overcome, all political events will be treated as campaign-related and the hypothetical trip rule will apply.

A. Allocation of Aircraft Costs

The campaign committee must pay first class airfare for a round-trip ticket for the First Lady from Washington, D.C., to New York City, Albany and return to Washington, D.C.

For all other travelers accompanying the First Lady, excluding official travelers, the campaign committee must pay first class airfare for the trip from Washington, D.C., to New York City to Albany and back to Washington, D.C. (Note that Albany is treated as campaign-related for the other travelers too because it is an election year and the stop is presumed to be 100% campaign-related for the First Lady.)



B. Allocation of Other Costs

The campaign committee must pay the hotel expenses for the First Lady's overnight stay in New York City; the hotel costs for all other persons who are not official travelers and who stay overnight in New York City may be allocated between the campaign committee and the DNC based upon the percentage of time the First Lady spends in the respective political events there.

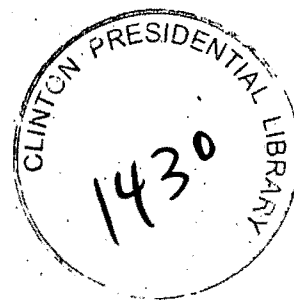
The campaign committee must pay the travel, lodging and any per diem expenses for all the advance personnel in New York City working on the campaign fundraiser and those advance personnel working in Albany.

The campaign committee must pay any per diem for all individuals traveling with the First Lady from Washington, D.C., to New York City, Albany and back to Washington, D.C.

The campaign committee must pay appropriate motorcade costs for in New York City and Albany. The campaign committee must pay all event costs solely related to the New York City fundraising breakfast. All other event costs in New York City and Albany may be paid for by the respective party committees.

October 14, 1999

Example



MEMORANDUM FOR CHRIS SZYMANSKI

FROM: DAWN CHIRWA

SUBJECT: Billing for the First Lady's June 9-10, 1999 (#F90609) Trip

You have requested information on the appropriate method for billing airfare and related expenses associated with the First Lady's June 9-10 Trip to New York and New Jersey. The following method should be used as guidance for billing for this trip.

The First Lady's exploratory committee will be billed the cost of a first class airfare ticket for the following hypothetical trip:

- Washington, D.C. to Binghamton, New York
- Binghamton, New York to New York City, New York
- New York City, New York to Washington, D.C.

For each person traveling on the First Lady's aircraft, who is not an official traveler, the exploratory committee must pay a pro-rata share of the first class airfare for the same hypothetical trip:

- Washington, D.C. to Binghamton, New York
- Binghamton, New York to New York City, New York
- New York City, New York to Washington, D.C.

The exploratory committee and the appropriate political committees through the Democratic National Committee must pay the pro-rata share of the first class airfare based upon the percentage of time the First Lady spends in respective events in Binghamton and New York City combined. The time spent on different events is: 146 minutes of official time; 75 minutes of exploratory committee time; 125 minutes of political non-exploratory committee time. The percentage breakout for this trip is: 43% official; 22% exploratory committee; 36% political.

The exploratory committee must pay the hotel expenses for all persons, excluding official travelers, who stayed overnight in New York City.

The exploratory committee must pay the per diem for individuals traveling with the First Lady from Washington D.C. through Binghamton and New York City.

The exploratory committee must pay appropriate motorcade costs for motorcades to the exploratory event in Binghamton and to the exploratory event in New York City. Likewise, the

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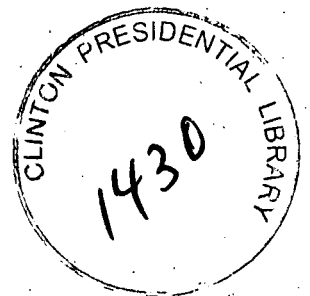
exploratory committee must pay all event costs solely related to the exploratory committee events.

The appropriate political committee through the DNC must pay the coach airfare costs for the trip from New York City to Lawrenceville, New Jersey and from Lawrenceville to Washington, D.C. based on the 'hard time' formula.

The appropriate political committee through the DNC may pay costs associated with the Hinchey event, the DNC event and the Holt event, including motorcade costs for travel to the events, event costs and hotel, per diem and airfare of advance persons advancing only those events.

Travel, hotel and per diem costs for advance personnel in Binghamton, New York City and Lawrenceville who work on more than one event should be apportioned according to the "hard-time" formula.

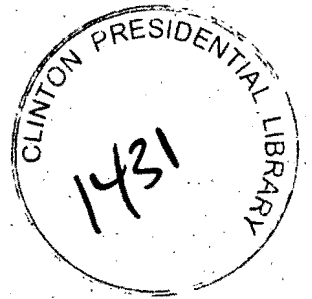
Again, keep in mind that any costs that are determined to be solely "official," "exploratory committee" or "political" in nature must be paid accordingly.



COPY

THE WHITE HOUSE
WASHINGTON

April 27, 1995



MEMORANDUM FOR HAROLD ICKES
DEPUTY CHIEF OF STAFF

JACK QUINN
CHIEF OF STAFF, OFFICE OF THE VICE PRESIDENT

JODIE TORKELSON
DEPUTY ASSISTANT FOR MANAGEMENT AND ADMINISTRATION

BILLY WEBSTER
DEPUTY ASSISTANT FOR SCHEDULING AND ADVANCE

FROM: ABNER J. MIKVA *AM*
COUNSEL TO THE PRESIDENT

CHERYL MILLS *CM*
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Payment of Expenses Associated with Presidential
and Vice Presidential Travel During the Campaign

This memorandum provides guidance for the payment of expenses associated with travel and other activities of the President and Vice President, now that the President has become a candidate for re-election under the Federal Election Commission (FEC) regulations.

General Legal Principles

When considering payment of expenses associated with Presidential and Vice Presidential travel while the President is a candidate for re-election, three principles govern. First, appropriated funds may be spent only for the purposes for which they have been appropriated. 31 U.S.C. § 1301; 52 Comp. Gen. 504 (1972); 50 Comp. Gen. 534 (1971). Accordingly, funds appropriated for the official functions of the offices of the President and Vice President may be used for travel expenses only if the travel is reasonably related to an official purpose. If an expense is incurred purely for partisan political purposes, official funds may not be used to pay the expense.

The second basic principle is that, in general, official activities should be paid only from funds appropriated for such purposes, unless Congress has authorized the support of those activities by other means. This principle prevents unauthorized augmentation of appropriations.

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The third principle, involving the requirement of the Federal election laws, is that now that the President is a "candidate" for re-election, all Presidential or Vice Presidential travel that is "campaign-related" must be paid for by the President's authorized campaign committee. 11 C.F.R. § 9034.7.

Political and Official Travel

Before an allocation of travel expenses for Presidential and Vice Presidential travel can be made, a determination must first be made as to whether an appearance is official or political; and, if it is political, whether it is campaign-related or non-campaign related. Thus, for purposes of allocating travel costs, there are three categories: 1) official travel, i.e., for a commencement address; 2) campaign-related political travel, i.e., for a Clinton/Gore '96 fundraising event; and 3) non-campaign related political travel, i.e., for party-building (Democratic National or State Committee) activities.

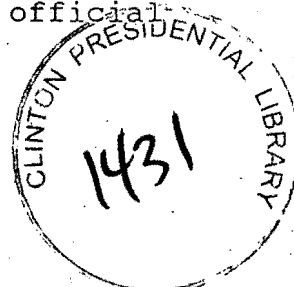
Generally speaking, appearing at party functions, fundraising and campaigning for specific candidates should be considered political. In addition, any event that involves solicitation of campaign funds or express advocacy for a candidate or candidates for office will be political. Travel for inspections, meetings, non-partisan addresses, and the like, ordinarily should be considered official travel, even though it may have partisan consequences or concern matters on which opinion is politically divided. If the President and Vice President are addressing what otherwise might be defined as an official event in a substantially partisan political manner, that activity should be considered political.

In determining whether an activity is political or official, all relevant factors should be considered, including, but not limited to, the identity of the sponsor of the event, the group or organization being addressed, other participants, whether the speech being delivered is partisan and political in nature, or whether it is a factual presentation or defense of the Administration's position on the issues. This determination will necessarily have to be made on a case-by-case basis.

There clearly is considerably room for discretion in determining whether an activity giving rise to an expense is political or official. Ultimately, the question is a factual one that can only be answered by those most familiar with the facts of a given event, trip or situation. Particular questions about specific activities should be directed to the Counsel's Office for advice.

In allocating costs between political and official activities, three additional points should be kept in mind. First, there are some persons whose official duties require them to be with the President, whether or not the President is himself on official

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business. Traditionally, this group of individuals has included, among others, the President's doctor, his Military Aide, his personal aide and the Secret Service agents responsible for his protection. A similar group exists for the Vice President. Expenses incurred during travel with the President or Vice President by this group of individuals are official regardless of the character of the event that may be involved. See Official Traveller's Memorandum (January 10, 1994).

Similarly, on an otherwise entirely official trip, an individual may accompany the President or Vice President for purely political reasons. Any expenses specifically incurred by such an individual should be considered political expenses, and should be allocated among the appropriate political entities, regardless of the purpose of the President's or Vice President's travel.

Finally expenses associated with individuals who are not necessarily serving in either a wholly official or wholly political capacity should normally be judged to be official or political depending on the character of the travel giving rise to the expenses.

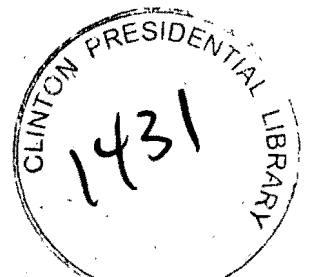
"Campaign-Related" and "Non-Campaign Related" Travel

FEC presidential campaign travel allocation regulations state that expenditures for "campaign-related" travel of a Presidential candidate are qualified campaign expenses that count against a candidate's expenditure limitations. 11 C.F.R. § 9034.7(a) and § 9035.1. In addition, "if any campaign activity, other than incidental contacts, is conducted at a stop, that stop shall be considered campaign related." Id. at § 110.8(e). However, in a non-election year (i.e., 1995), party-building activities (i.e., DNC activities) by Presidential candidates are presumed to be non-campaign related. Id.

Under the FEC regulations, campaign committees for other candidates may not pay for part of the costs of "campaign-related" Presidential travel. For example, if a Senatorial candidate schedules a fundraiser back-to-back with a Clinton/Gore '96 fundraiser and the President attends both events, the President's campaign committee must pay the travel expenses for the entire trip as if both events were organized by Clinton/Gore '96. The rules that allow non-Presidential candidates to allocate expenses in a reasonable manner between their campaign committees do not apply to the travel expenses of "campaign-related" travel by a Presidential candidate.¹ See 11 C.F.R.

¹ Event costs, such as the cost of advertising the fundraiser, the cost of the banquet room, and other similar costs, may be allocated between a non-Presidential candidate's campaign committee and the President's campaign committee on an

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§ 106 & § 9004.7. As a result, travel by the President or Vice President to political events in 1996 will have to be paid for by the President's authorized campaign committee, except where the FEC presumption can be overcome.²

Allocation of Travel Expenses

As a rule, the cost of travel in conjunction with wholly official activity must be paid from appropriated funds, and expenses for travel in conjunction with wholly political activity must be paid for by outside political entities. In those instances where the same travel costs are incurred in conjunction with official and campaign-related activity, the portion of the trip allocable to the candidate's campaign committee is determined by using the "hypothetical trip formula": calculating what the trip would have cost from the point of origin to each subsequent campaign-related stop and back to the point of origin. 11 C.F.R. § 9034.7(b)(2). Where travel includes only non-campaign related political and official activity, the portion of the trip allocable to political entities is determined according to the "hard-time formula".

The rules of allocation are as follows:³

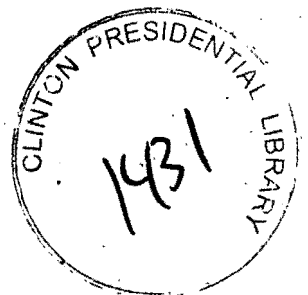
1. All official travel must be paid from appropriated funds.
2. All political travel must be paid from political sources allowed under Federal and State election laws.
3. The President's principal campaign committee must, under FEC regulations, pay all "campaign-related" travel costs using the "hypothetical trip formula."
4. During 1996, any political activity in a city, other than "incidental contacts," will be presumed to be "campaign-related". Thus, for example, a Presidential appearance at a fundraiser for the DNC will be presumed to be "campaign-related" in 1996.

appropriate basis.

² It may be possible, in some cases, to overcome the presumption that all 1996 political events are "campaign-related". However, there currently are no FEC regulations or decisions discussing what showing is necessary to overcome the presumption.

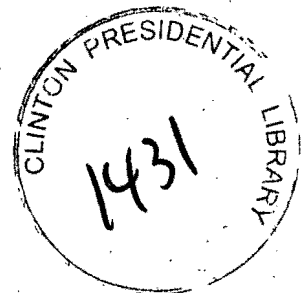
³ Examples applying these allocation rules are attached to the end of this memorandum.

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5. During 1995, if the political activity that occurs on a trip is non-campaign related, the costs of the trip are allocated according to the hard-time formula. However, if any campaign-related activity (i.e., fundraising for his campaign) occurs on a trip, the costs of the "campaign-related" stops must be allocated according to the hypothetical trip formula.
6. If government conveyance is used for campaign-related travel, the campaign committee must pay the appropriate government entity the first-class commercial airfare for each traveller (except official travellers) in the case of travel to a city served by regularly scheduled commercial service. The campaign committee must pay the commercial charter rate in the case of travel to a city not served by regularly scheduled commercial service. If government helicopters are used for campaign-related travel, the government shall be reimbursed the commercial cost of those services on the same basis as used for government airplanes. If government cars are used for campaign-related travel, the government shall be reimbursed the commercial rental cost of the automobiles (except those required for security purposes).
7. A candidate's spouse and family are not considered to be travelling for campaign purposes unless they engage in campaign activity during the trip; if they engage in such activities, their travel expenses must be allocated on the same basis as the candidate's expenses. 11 C.F.R. § 9034.7(b)(6).
8. Representatives of the media travelling on government aircraft will always be required to reimburse the government in the appropriate amount, whether the trip is official, political or mixed. 11 C.F.R. § 9034.6.
9. Finally, to document adequately these travel allocations, the FEC requires a campaign committee:
 - a) to prepare, or otherwise have available, an itinerary for each trip, and
 - b) if government conveyance is used, to prepare a list of all passengers, along with a designation as to which passengers are, or are not, campaign-related.This documentation must be available to the FEC for inspection and audit. 11 C.F.R. §§ 9034.7(b)(3) & (4). These requirements will necessitate close coordination between the White House Office and the campaign committee.

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Sample Trip Cost Allocations

I. Mixed Official and Campaign-Related Travel

- Day 1: President departs AAFB en route to Little Rock, Arkansas. President proceeds to Rodham home for down time; accompanying staff stay at hotel.
- Day 2: President attends an hour campaign fundraiser at Excelsior Hotel; returns home for down time for the rest of the day.
- Day 3: President departs Little Rock for New Orleans, Louisiana. President makes 20 minute speech to Trial Lawyer's Association on tort reform. President departs New Orleans and returns to AAFB.
- Rule: Apply hypothetical trip formula for campaign-related travel costs.

A. Allocation of Air Force I

The President's campaign committee would be billed the cost of a first class airfare ticket for a round-trip between Washington, D.C., and Little Rock, for each person travelling on Air Force I who is not an official traveller (New Orleans is not included because all activities there were "official").

B. Allocation of Other Costs

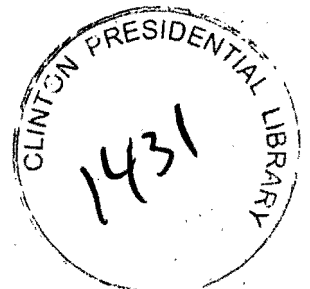
The President's campaign committee must pay all hotel costs for each individual travelling to Little Rock who is not designated as an official traveller.

The President's campaign committee also must pay all event costs related to the fundraising event.

The President's campaign committee must pay the government the equivalent rate for a large rental car to compensate for the use of the government vehicle transporting the President from his home in Little Rock to the fundraising event and back. If any other government vehicles are used in the motorcade for reasons unrelated to the security of the President, the President's campaign committee must pay the government the rental value for such vehicles.

Any per diem for travelling staff must be paid by the campaign committee for Days 1 and 2.

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The President's campaign committee must pay all transportation, hotel and any per diem expenses for advance staff working in Little Rock.

All costs solely associated with the New Orleans appearance may be paid from official funds.

Travel, lodging and per diem expenses for all advance staff working only in New Orleans may be paid from official funds.

II. Mixed Official and Political Non-Campaign Related Trip

1995 Day 1: President departs AAFB en route to Little Rock, Arkansas. President proceeds to Rodham home for down time; accompanying staff stay at hotel.

Day 2: President attends an hour DNC fundraiser at Excelsior Hotel; returns home for down time for the rest of the day.

Day 3: President departs Little Rock for New Orleans, Louisiana. President makes 20 minute speech to Trial Lawyer's Association on tort reform. President departs New Orleans and returns to AAFB.

Rule: Apply the hard-time formula for allocation of travel expenses.

A. Allocation of Air Force I

The costs of Air Force I is determined based upon the hard-time formula, using official and political event times. The DNC must pay a percentage, based upon the hard-time formula, of the costs of coach airfare for each person travelling to Little Rock who is not an official traveller (New Orleans is not included because all activities there were "official").

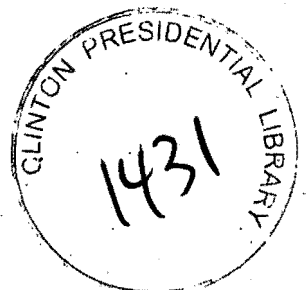
B. Allocation of Other Costs

The DNC must pay all hotel costs for each individual travelling to Little Rock who are not designated as an official traveller.

The DNC also must pay all event costs related to the fundraising event.

The DNC must pay the government the equivalent rate for a large rental car to compensate for the use of the government vehicle transporting the President from his home in Little Rock to the fundraising event and back. If any other government vehicles are used in the motorcade for reasons unrelated to the security of the President, the DNC must pay the government the rental value for such vehicles.

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Any per diem, except for official travellers, for travelling staff must be paid by the DNC for Days 1 and 2.

The DNC must pay all transportation, hotel and any per diem expenses for advance staff working in Little Rock on the fundraising event.

All costs solely associated with official aspects of the President's visit to Little Rock (i.e., all activities excluding the fundraiser) and the New Orleans appearance may be paid from official funds.

Travel, lodging and per diem expenses for all advance staff working only on New Orleans or on non-political Presidential activities in Little Rock may be paid from official funds.

III. Political Trip, Campaign-Related Activities Only

Day 1: President departs AAFB en route to Los Angeles, California. Upon arrival in Los Angeles, the President enters motorcade to Downtown Hyatt for a campaign fundraising dinner. President overnights in Los Angeles.

Day 2: President departs Los Angeles en route to Albuquerque, New Mexico. Upon arrival in Albuquerque, President enters motorcade to the Downtown Hilton for a campaign fundraising lunch. After lunch, President meets with campaign officials. Following the meeting, President departs Albuquerque en route to AAFB. Upon arrival, the President travels by motorcade to the White House.

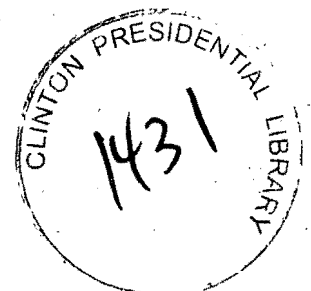
Rule: Apply the hypothetical trip formula for allocation of travel costs.

A. Allocation of Air Force I

The campaign committee must pay first class airfare for travel from Washington, D.C., to Los Angeles to Albuquerque and return to Washington, D.C., for each person on the plane who is not designated as an official traveller.

B. Allocation of Other Costs

The campaign committee must pay all other travel and event costs associated with this trip, including hotel and motorcade costs. For the motorcades, the campaign would reimburse the government rental costs for one large rental car for the President's use in the motorcades and rental costs for any other motorcade cars that are not solely related to the President's security.



The campaign committee must pay all travel, hotel and any per diem costs for advance persons working on this trip.

Note: If the President travels by helicopter (instead of motorcade) to the White House from AAFB, the campaign committee must reimburse the government for the airfare of each traveller, including the President, who is not an official traveller.

IV. Mixed Political Travel in 1995: Campaign & Non-Campaign

Day 1: President departs AAFB en route to Cincinnati, Ohio. Upon arrival in Cincinnati, President enters a motorcade to Downtown Hyatt to speak at Ohio Democratic Party Dinner. President overnights in Cincinnati.

Day 2: President attends a campaign fundraising breakfast at the Downtown Hyatt.

President departs Cincinnati for Cleveland. Upon arrival in Cleveland, President speaks at a Cleveland Democratic party luncheon.

Following the luncheon, President departs Cleveland in route to Washington, D.C.

Rule: Apply the hypothetical formula for campaign-related travel expenses; apply the hard-time formula for party-building travel.

A. Allocation of Air Force I Costs

The campaign committee must pay first class airfare for round-trip tickets from Washington, D.C., to Cincinnati and back for each person on the plane who is not an official traveller.

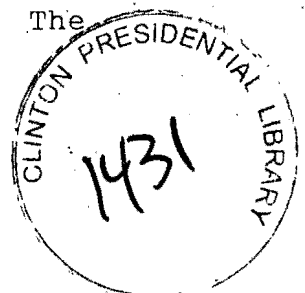
The Cleveland party committee must pay the coach airfare of each person on the plane who is not an official traveller from Cincinnati to Cleveland.

B. Allocation of Other Costs

The campaign committee must pay the hotel expenses for all persons who are not designated as official travellers and who stay overnight in Cincinnati.

The campaign committee must pay any per diems for individuals travelling with the President from Washington, D.C., through Cincinnati.

The campaign committee must pay appropriate motorcade costs for motorcades within Cincinnati for the breakfast event. The



campaign committee must pay all event costs solely related to the Cincinnati fundraising breakfast.

The Ohio Democratic Committee may pay appropriate motorcade costs and event costs in Cincinnati for the fundraising dinner.

The Ohio Democratic Party may pay the hotel expenses, per diem and airfare of advance persons designated as responsible for its dinner. The campaign committee must pay the travel, lodging, and any per diem expenses for all other advance personnel in Cincinnati.

The expenses of advance personnel in Cleveland (transportation, hotel, per diem) may be paid by the Cleveland Democratic party committee.

Any per diem costs for the quarters of the day from which the President left Cincinnati, travelled to Cleveland, and returned to Washington, D.C., may be paid by the Cleveland party committee.

All motorcade and event costs in Cleveland may be paid for by the Cleveland party committee.

IV. Mixed Political Travel in 1996: Campaign & Non-Campaign

The President takes the same trip as above, except that the trip occurs in 1996 instead of 1995.

Rule: In 1996, all political travel is presumed to be campaign-related by the FEC. As a result, unless the FEC presumption can be overcome, all political events will be treated as campaign-related and the hypothetical trip rule will apply.

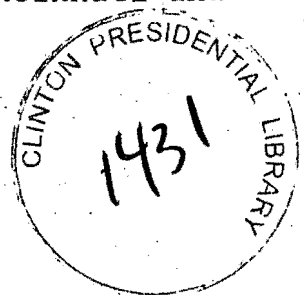
A. Allocation of Air Force I Costs

The campaign committee must pay first class airfare for round-trip tickets from Washington, D.C., to Cincinnati to Cleveland and back for each person on the plane who is not an official traveller.

B. Allocation of Other Costs

The campaign committee must pay the hotel expenses for all persons who are not designated as official travellers and who stay overnight in Cincinnati.

The campaign committee must pay the travel, lodging and any per diem expenses for all the advance personnel in Cincinnati and Cleveland.



The campaign committee must pay any per diems for all individuals travelling with the President from Washington, D.C., to Cincinnati through Cleveland and back to Washington, D.C.

The campaign committee must pay appropriate motorcade costs for motorcade within Cincinnati and Cleveland. The campaign committee must pay all event costs solely related to the Cincinnati fundraising breakfast. All other event costs in Cleveland and Cincinnati may be paid for by the respective party committees.

V. Mixed Political Travel: Official, Campaign-Related and Non-Campaign Related in 1996

Day 1: President departs AAFB en route to Denver, Colorado. Upon arrival in Denver, President enters a motorcade to deliver the commencement address to the University of Colorado. President then attends a campaign fundraising dinner at the Downtown Hyatt and overnights in Denver.

Day 2. President departs Denver for Des Moines, Iowa. Upon arrival in Des Moines, President speaks at a fundraising luncheon for the Democratic State Party Committee of Iowa. Following the luncheon, President departs Des Moines en route to Washington, D.C.

Rule: In 1996, all political travel is presumed to be campaign-related by the FEC. As a result, unless the FEC presumption can be overcome, all political events will be treated as campaign-related and the hypothetical trip rule will apply.

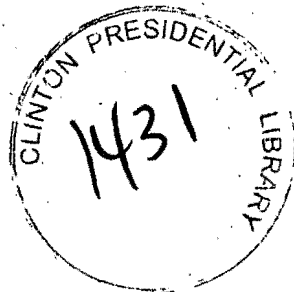
A. Allocation of Air Force I Costs

The campaign committee must pay first-class airfare for round trip tickets from Washington, D.C., to Denver to Des Moines and back for each person on the plane who is not an official traveller.

B. Allocation of Other Costs

The campaign committee must pay the hotel expenses for all persons who are not designated as official travellers and who stay overnight in Denver.

The campaign committee must pay the travel, lodging and any per diem expenses for all the advance personnel in Denver and Des Moines, except for those advance personnel who work only on the advance of the President's commencement address.



The campaign committee must pay the per diems for all individuals travelling with the President from Washington, D.C., to Denver, through Des Moines and back to Washington, D.C.

The campaign committee must pay appropriate motorcade costs for motorcades within Denver and Des Moines. The campaign committee must pay all costs solely related to the Denver fundraising dinner. The event costs solely related to the commencement address must be paid for from official funds. The events costs solely related to the fundraising luncheon in Des Moines may be paid for by the candidate's re-election campaign committee.

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