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The Honorable Carl D. Perkins Chairman, Committee on Education and Labor House of Representatives

Dear Mr. Chairman:

This is in response to your letter of September 16, 1981, inquiring whether for purposes of protocol, spouses of committee members and staff members of the House of Representatives may legally accompany them in authorized foreign travel and, if it is legal, how the travel expenses would be handled.

The statutory provisions relating to travel and subsistence expenses of Federal employees generally may be found in Chapter 57 of Title 5, United States Code. Under that authority, it is clear that an officer or employee of the United States who is traveling on official business is not entitled to be accompanied at Government expense by his or her spouse. Travel by Members of Congress or congressional committee staff is not governed by the provisions of Chapter 57, since an "agency" as referred to in 5 U.S.C. Sec. 5701(1) (1976) excludes "a Member of Congress. and "an office or committee of either House of Congress or of the Houses." Nevertheless, as discussed hereafter, it appears to us that while a Member or staff member may be accompanied by his or her spouse while on committee travel, no authority exists for expenses incurred by or on behalf of a spouse to be paid from Federal funds.

The Rules of the House of Representatives and of the individual committees govern travel by Members and staff members in the discharge of official congressional committee business. Travel outside the United States requires prior authorization from the chairmen of the respective committees. If prior authorization is given, appropriations made to the individual committees from the contingent fund of the House of Representatives, sanctioned and approved by the Committee on House Administration, are then used to fund such travel.

The Chairman may apparently also determine that, for protocol purposes, Members and staff may be accompanied by their spouses. This determination makes the spouses a part of the official committee dele gation. However, expenses incurred by the spouses may not be paid or reimbursed from appropriated funds. Federal funds may only be used for the purposes for which they were appropriated and none other, 31 U.S.C. Sec. 628 (1976). With a few statutorily established exceptions, we are not aware of any authority to pay the travel and per diem ex penses of individuals who are not Federal officers or employees. This is true even though the presence of spouses might in some way enhance the achieving of the purposes of the trips.

Therefore, Federal funds may not be used to pay the travel expenses of the spouses of Members of Congress or committee staff. Personal funds must be used to pay, for example, the spouses' transportation costs, meals, and the differential between the cost of a single and double hotel room. Similarly, should a Government agency furnish services to the spouses, personal funds must be used to reimburse the agency involved.

You specifically inquire about the group's receiving transportation from the Department of the Air Force. This travel is governed by Department of Defense Regulation 4515.13-R, January 1, 1980. Insofar as relevant here, paragraph 14-3 provides that the Secretary of Defense or his designee may approve travel of:

"c. members and employees of the Congress when the request for travel is submitted in writing to the SECDEF over the signature of the chairman of the Congressional committee on which the member or employee serves and states that the purpose of travel is of primary interest to the DOD and that the expenditure of funds by the DOD is authorized by Section 1314 of the Supplemental Appropriations Act of 1954 or, if not so authorized, such other provisions of law as authorizes the expenditure by the DOD;

"d. dependents stipulated in paragraph 14-4b [set out below] when the travel is other than within the 50 United States but is for the purpose stipulated in that paragraph, to include travel of medical personnel to accompany a member when the provisions of paragraph 14-4b are met;

"e. members and employees of the Congress when travel is of official concern to the Congress and the request shows the appropriation fund chargeable, or other clear indication of the method by which reimbursement is to be made, provided US commercial carriers cannot meet the official requirements. (The Secretary of a military department may also receive and approve such a request.)

Dependent travel described in paragraph 14-3d is set forth in paragraph 14-4b as follows:

"b. dependents of members of the Congress and employees of the Congress, to permit them to accompany their principal within the 50 United States when essential to the proper accomplishment of the mission, desirable because of diplomatic or public relations, or necessary for the health of the individual concerned. When reimbursement is appropriate, it shall be at the same rate as applicable to the principal. Medical personnel may be authorized to accompany a member of the Congress where necessary for the health of the member; * * *.

In other words, if the chairman of a congressional committee includes spouses in the delegation on the basis that it is essential to the proper accomplishment of the mission or desirable because of diplomatic or public relations, the Defense Department will consider the spouses as part of the delegation in determining if it can provide transportation. DOD Reg. 4515.13-R.

The Department of Defense has informally advised us that the Air Force will provide transportation to a congressional delegation, properly authorized by the committee chairman pursuant to House Rules, only on a "space available" basis Since the aircraft would be going anyway, the Department reasons that it does not incur any additional costs by reason of providing this transportation and thus does not charge the delegation for the flight. However, if there are in-flight expenses, such as the serving of meals, a charge will be made. While

the cost of meals served to the Members of Congress and committee staff may be paid from funds appropriated to the Congress for this purpose, costs incurred on behalf of the spouses must be paid from private funds. It is primarily the responsibility of the congressional delegation to assure that a proper allocation of costs is made.

Therefore, it is up to the chairman to determine whether inclusion of spouses in the official delegation is primarily for protocol or other official purposes or whether it is primarily for the benefit of the Members, the staff, and the spouses. Once the chairman concludes that the spouses should be included as a part of the official delegation, the Department of Defense will provide transportation to them along with the rest of the delegation without charge on a "space available basis. If there is no "space available" the Department will decline the request.

For more information on Defense Department policies and procedures, you may with to contact Ms. Mary Mann, Congressional Travel Office in the Office of the Assistant to the Secretary of Defense for Legislative Affairs. Her phone number is 697-9166.

We trust we have been responsive to your inquiry.

Sincerely yours,

Milton J. Socolar Comptroller General of the United States