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THE WHITE HOUSE

WASHINGTON

February 17, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Speaking Engagement in France
for Morton Blackwell

Attached is the Morton Blackwell package, with a fresh memorandum to Blackwell for your signature. I have enclosed a copy of the OLC opinion we discussed this morning for your information.

Attachment

THE WHITE HOUSE

WASHINGTON

February 17, 1983

MEMORANDUM FOR MORTON C. BLACKWELL
SPECIAL ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Invitation to Appear Before Mouvement des
Jeunes Pour la Liberte de l'Enseignement

You have inquired whether it would be appropriate for you to accept the invitation of the Mouvement des Jeunes Pour la Liberte de l'Enseignement (MJLE) to appear before a group of student leaders in Paris, and whether it would be appropriate to accept reimbursement for expenses from MJLE. Since MJLE appears to be the French equivalent of the sort of domestic organization within the purview of your official liaison duties, the contemplated trip must be considered official travel. You may not accept reimbursement of expenses for official travel, since doing so would constitute an unauthorized supplementation of appropriations.

It is often difficult to draw the line between official and personal travel, but, as noted in my August 24, 1981 memorandum to the White House Staff on acceptance of transportation and travel-related expenses, "any doubt as to the appropriateness of accepting travel expenses or reimbursement . . . must be resolved in favor of not accepting." (Emphasis in original). While there is an exception to the general rule for reimbursement from 501(c)(3) organizations, 5 U.S.C. § 4111, the exception does not apply to foreign organizations, no matter how similar they may be to domestic 501(c)(3) organizations.

If the trip is undertaken as official travel, it must be paid for out of appropriated funds. Although the trip must be considered official for purposes of determining if reimbursement is appropriate, I think you will agree that a serious appearance problem would be raised by official travel to Paris to appear before MJLE.

In light of the foregoing, I must advise against acceptance of the invitation.

Thank you for bringing this matter to our attention.

FFF:JGR:aw 2/19/83 ✓
cc: FFFielding/JGRoberts/Subj./Chron

THE WHITE HOUSE

WASHINGTON

February 17, 1983

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SPECIAL ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Invitation to Appear Before Mouvement des
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It is often difficult to draw the line between official and personal travel, but, as noted in my August 24, 1981 memorandum to the White House Staff on acceptance of transportation and travel-related expenses, "any doubt as to the appropriateness of accepting travel expenses or reimbursement . . . must be resolved in favor of not accepting." (Emphasis in original). While there is an exception to the general rule for reimbursement from 501(c) (3) organizations, 5 U.S.C. § 4111, the exception does not apply to foreign organizations, no matter how similar they may be to domestic 501(c) (3) organizations.

If the trip is undertaken as official travel, it must be paid for out of appropriated funds. Although the trip must be considered official for purposes of determining if reimbursement is appropriate, I think you will agree that a serious appearance problem would be raised by official travel to Paris to appear before MJLE.

In light of the foregoing, I must advise against acceptance of the invitation.

Thank you for bringing this matter to our attention.

FFF:JGR:aw 2/19/83
cc: FFFielding/JGRoberts/Subj./Chron

JUN 9 1977

MEMORANDUM FOR THE HONORABLE DOUGLAS HURON
Associate Counsel to the PresidentAug 6/9
10:3Re: Acceptance by [REDACTED] of Expenses of travel
to Germany

By your memorandum of May 17, 1977, you requested our opinion regarding the propriety of [REDACTED], [REDACTED] to the President, accepting transportation and other expenses associated with his attendance at a conference to be held in Berlin, Germany, to which he has been invited by one of the sponsoring organizations, The American Council on Germany (hereafter "American Council"). You specifically requested our opinion as to whether [REDACTED] could accept reimbursement for that travel were he in a leave status during the trip and whether he could accept such reimbursement "without taking leave." For reasons stated hereafter, we conclude that he may, on the basis of the facts known to us, accept reimbursement for his travel expenses, including subsistence, if in a leave status. We also conclude that the expenses of his trip, if that trip is regarded as official business, may be reimbursed to him by the American Council but not by its German counterpart, Atlantik-Bruecke.

I. Background

In a letter dated April 29, 1977 and addressed to [REDACTED] at his office as [REDACTED] to the President, [REDACTED] has been invited to attend a conference in Berlin between August 14-18, 1977. The stated purpose of this conference is "to bring together interesting young people . . . to examine and discuss a wide variety of urgent political and economic issues facing all of us." That letter, from the American Council, states that the Council will pay [REDACTED] transportation and that the co-sponsoring group, Atlantik-Bruecke, "will provide the hotel accommodations and support services in Germany." The letter further states that "[a]ll delegates attend as individuals and speak for themselves."

We are informed by the Internal Revenue Service that the American Council is currently a tax exempt organization under §501(c)(3) of the Internal Revenue Code. We are also informed by the American Council that Atlantik-Bruecke is a privately funded organization in Germany with interests similar to those of the Council and having no connection with the government of the Federal Republic of Germany and having no direct dealings with the Government.

II. Applicability of Conflict of Interest Laws

Because none of the reimbursement anticipated here would come from a foreign government and hence not implicate Art. 1, §9, cl. 8, we think that the only statutory provisions directly relevant to the issues presented are 18 U.S.C. §209 and 5 U.S.C. §4111. Under the former, the salary of a federal employee must be paid by the Government or by a state or local governmental unit. Thus, if ██████████ attendance at the conference were to be characterized as part of his official duties, he would be prohibited from accepting reimbursement for his expenses other than from the federal government or, by virtue of 5 U.S.C. §4111, from an organization tax exempt under §501(c)(3) of the Internal Revenue Code. If, on the other hand, ██████████ attendance at the conference is seen as unrelated to his official duties, he would be free to accept reimbursement so long as he were in a leave status because there are no statutory restrictions placed on the acceptance of such gifts by federal employees.

The question whether ██████████ attendance should be viewed as part of his official duties presents more a question of judgment than of law. The standards of conduct currently effective for White House personnel, specifically 3 C.F.R. §100.735-14 & 15, do not resolve this question with any clarity. Under 3 C.F.R. §100.735-15(d)(1), an employee may, by implication, accept the payment of expenses for his participation in unofficial activities that are not incompatible with his government service and which are not otherwise reimbursed by the Government. To the extent that these provisions deal with unofficial activity, they permit ██████████ to accept reimbursement for the expenses he would incur in going to the conference in a leave status.

The White House code of conduct, however says nothing about when an employee's activities might be thought of as so closely related to his official duties that his acceptance of reimbursement for his expenses might constitute a violation of 18 U.S.C. §209.

While it may be reasonable for you and [REDACTED] to conclude that his attendance would not be related to his official duties, in making that determination you might want to consider the guidelines applied by other agencies. For example, the Department of Commerce regulations regarding this subject, 15 C.F.R. §0.735-12(b)(3), provide that an

"activity shall ordinarily be considered to be in the course of . . . an employee's official responsibilities if it is performed as a result of an invitation or request which is addressed . . . to an employee at his office at the Department . . . or which there is reason to believe is extended partly because of the official position of the employee concerned."

Under the Commerce Department standard, [REDACTED] could be reimbursed for any expenses incurred by the American Council, because of its tax exempt status, but by Atlantik-Bruecke he may not.

John M. Harmon
Acting Assistant Attorney General
Office of Legal Counsel

Speaking Eng.
by WH Emp.

THE WHITE HOUSE

WASHINGTON

January 19, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Speaking Engagement in France
for Morton Blackwell

Morton Blackwell has inquired whether he may accept an invitation to speak to a conference of French student leaders in Paris, and accept reimbursement for travel and lodging. Mouvement des Jeunes Pour la Liberte de L'Enseignement (MJLE), a student group dedicated to non-public schools, is holding a seminar for its leaders to study American methods of organization and leadership. The group describes itself as non-partisan, and Blackwell has been told it is the French equivalent of a 501(c)(3) organization. Blackwell would not receive an honorarium.

If Blackwell's activities in connection with his appearance in Paris are part of his official duties, acceptance of reimbursement would constitute an unauthorized supplementation of appropriations. If Blackwell's activities are unofficial, he could accept reimbursement, provided (as seems likely) MJLE does no business with Blackwell's office and has no other interests that may be affected by performance or non-performance of Blackwell's official duties.
3 C.F.R. 100.735.

My impression is that MJLE is a French equivalent of the sort of group Blackwell is responsible for liaison with here in the United States, particularly with regard to issues such as tuition tax credits. I talked with Blackwell briefly as to whether the trip would be in connection with his official duties or would be personal, and he was unable to say. I think the visit is at least sufficiently related to Blackwell's official duties to raise a doubt concerning the appropriateness of acceptance of reimbursement, and, as pointed out in your memorandum of August 24, 1981, to the White House Staff, "any doubt as to the appropriateness of accepting travel expenses or reimbursement . . . must be resolved in favor of not accepting." (Emphasis in original.)

Of course, if MJLE were a domestic group, Blackwell could accept reimbursement under 5 U.S.C. § 4111, which permits acceptance of travel and subsistence expenses from 501(c)(3) organizations. There is, however, no analogous statutory provision for foreign charitable groups.

I recommend advising Blackwell (1) that he may not accept reimbursement, because the invitation is too closely related to his official duties, and (2) that he not accept the invitation as official travel, paid for out of appropriated funds, because of appearance problems. In essence, the trip is too official to permit reimbursement, but not official enough to permit government payment without appearance problems. This is exactly the sort of "Catch 22" situation 5 U.S.C. § 4111 was designed to avoid, but, as noted, that statute is of no help here.

I am not entirely comfortable with this conclusion, because of the 5 U.S.C. § 4111 analogy, and because I think it would create less of an appearance problem if MJLE paid for the trip than if the government did. I do not, however, see any other conclusion, unless it be the somewhat artificial one that Blackwell only has domestic liaison duties, and foreign visits are ipso facto personal.

Attachment

THE WHITE HOUSE

WASHINGTON

January 19, 1983

MEMORANDUM FOR MORTON C. BLACKWELL
SPECIAL ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Invitation to Appear Before Mouvement des
Jeunes Pour la Liberte de l'Enseignement

You have inquired whether it would be appropriate for you to accept the invitation of the Mouvement des Jeunes Pour la Liberte de l'Enseignement (MJLE) to appear before a group of student leaders in Paris, and whether it would be appropriate to accept reimbursement for expenses from MJLE. Since MJLE appears to be the French equivalent of the sort of domestic organization within the purview of your official liaison duties, the contemplated trip must be considered official travel. You may not accept reimbursement of expenses for official travel, since doing so would constitute an unauthorized supplementation of appropriations.

It is often difficult to draw the line between official and personal travel, but, as noted in my August 24, 1981 memorandum to the White House Staff on acceptance of transportation and travel-related expenses, "any doubt as to the appropriateness of accepting travel expenses or reimbursement . . . must be resolved in favor of not accepting." (Emphasis in original). While there is an exception to the general rule for reimbursement from 501(c)(3) organizations, 5 U.S.C. § 4111, the exception does not apply to foreign organizations, no matter how similar they may be to domestic 501(c)(3) organizations.

If the trip is undertaken as official travel, it must be paid for out of appropriated funds. Although the trip must be considered official for purposes of determining if reimbursement is appropriate, I think you will agree that a serious appearance problem would be raised by official travel to Paris to appear before MJLE.

In light of the foregoing, I must advise against acceptance of the invitation.

Thank you for bringing this matter to our attention.

FFF:JGR:aw 1/19/83
cc: FFFielding/JGRoberts/Subj./Chron

FG006-9

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

GR

- O - OUTGOING
- H - INTERNAL
- I - INCOMING
Date Correspondence Received (YY/MM/DD) 1 / 1 /

Name of Correspondent: Morton Blackwell / Eric M. Lebec

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Speaking Engagement in France to a conference of student leaders for Morton Blackwell

ROUTE TO: Office/Agency (Staff Name)	ACTION		DISPOSITION	
	Action Code	Tracking Date YY/MM/DD	Type of Response Code	Completion Date YY/MM/DD
<u>CU HOLLAND</u>	<u>ORIGINATOR</u>	<u>83 101 / 13</u>		<u> 1 / 1 </u>
<u>WATIS</u>	<u>D</u>	<u>83 101 / 13</u>	<u>S</u>	<u>83 101 / 23</u>
		<u> 1 / 1 </u>		<u> 1 / 1 </u>
		<u> 1 / 1 </u>		<u> 1 / 1 </u>
		<u> 1 / 1 </u>		<u> 1 / 1 </u>

- ACTION CODES:**
- A - Appropriate Action
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 - D - Draft Response
 - F - Furnish Fact Sheet to be used as Enclosure
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 - R - Direct Reply w/Copy
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 - X - Interim Reply
- DISPOSITION CODES:**
- A - Answered
 - B - Non-Special Referral
 - C - Completed
 - S - Suspended

FOR OUTGOING CORRESPONDENCE:
 Type of Response = Initials of Signer
 Code = "A"
 Completion Date = Date of Outgoing

Comments: _____


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 Send all routing updates to Central Reference (Room 75, OEOB).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

THE WHITE HOUSE

WASHINGTON

January 7, 1983

MEMORANDUM FOR FRED FIELDING

FROM: MORTON BLACKWELL 
SUBJECT: Speaking Engagement in France

I have been invited by a French organization to speak to a conference of student leaders in early March. Attached is a copy of their letter of invitation. They have offered to pay my expenses but not an honorarium.

Would it be appropriate for me to accept this invitation and receive reimbursement for travel and lodging? Since they are preparing the printed program, they would appreciate prompt word as to whether or not I will be able to attend.

Enclosure

January 5, 1983

Mr. Morton Blackwell
The White House
Washington, D.C.

119641 000

Dear Mr. Blackwell:

On behalf of the Director of Mouvement des Jeunes Pour la Liberte de l'Enseignement, M. Remy Lescure, I am authorized to invite you to participate in a conference in Paris on the development of youth activities in the public policy field.

The MJLE is a youth movement of 15,000 students whose purpose is the preservation and support of non-public education in France. The MJLE believes that an alternative educational system provides a healthy environment for the growth of quality education, and an important set of options for the young people of France in an atmosphere of academic freedom.

M. Lescure, a university student himself, has asked me to develop contacts with U.S. experts so that the experience of youth groups in America might foster international cooperation, and assist French youth in reaching their goals with greater efficiency. The MJLE is therefore organizing a seminar for a select group of MJLE leaders to study American methods of organization and leadership development. The conference will be held in Paris, and is tentatively scheduled for March 4th, 5th, and 6th.

The MJLE is a student organization which is non-partisan and devoted to educational concerns. MJLE will, of course, pay for your travel, lodging, and other necessary expenses, but will be unable to pay an honorarium.

We hope to hear from you soon. We would like to welcome you as a guest to Paris.

Sincerely,

Eric M. Lebec

Eric M. Lebec
President

Culture et Promotion Populaire
15 Rue de Grenelle
Paris 7

THE WHITE HOUSE

WASHINGTON

October 4, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Invitation from American Bar Association
to Robert F. Turner to Speak on War Powers
Resolution

Robert F. Turner, Counsel to the President's Intelligence Oversight Board, has asked you and Bob Kimmitt if you have any objections to him accepting an invitation to speak on the War Powers Resolution at a breakfast "for movers and shakers in the American Bar Association." The invitation was sent by W.C. Mott for the ABA's Standing Committee on Law and National Security. The breakfast is scheduled for October 21. Turner would advise the audience that "I was wearing my ABA hat rather than my White House hat."

I do not think that much can be gained by having an official in Turner's position speaking on the War Powers Resolution so soon after the delicate compromise reached on Lebanon. Despite disclaimers Turner will be viewed as representing Administration policy, and the audience could be influential enough that Turner's statements will have some impact. I think we should let the waters settle somewhat before sailing forth with our views on war powers before any forum. If you disagree, at the very least we should review a draft of Turner's proposed remarks.

Attachment

THE WHITE HOUSE

WASHINGTON

October 5, 1983

MEMORANDUM FOR ROBERT F. TURNER
COUNSEL TO THE PRESIDENT'S INTELLIGENCE
OVERSIGHT BOARD

FROM: FRED F. FIELDING *Orig. copy*
COUNSEL TO THE PRESIDENT

SUBJECT: American Bar Association Invitation to
Speak on War Powers Resolution

Thank you for your memorandum of September 28, asking if we had any objections to your accepting an invitation to address an ABA breakfast on the subject of the War Powers Resolution. I am inclined to think that any remarks you might make would, despite disclaimers, be viewed as representing Administration policy. I do not consider it an opportune time for unnecessary pronouncements on the War Powers Resolution, so soon after the delicate compromise on Lebanon. It strikes me as preferable to avoid controversy on this subject as much as possible while the waters settle. Accordingly, I recommend that you decline the ABA invitation.

Thank you again for raising this matter with us.

FFF:JGR:aea 10/5/83

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

October 4, 1983

MEMORANDUM FOR ROBERT F. TURNER
COUNSEL TO THE PRESIDENT'S INTELLIGENCE
OVERSIGHT BOARD

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: American Bar Association Invitation to
Speak on War Powers Resolution

Thank you for your memorandum of September 28, asking if we had any objections to your accepting an invitation to address an ABA breakfast on the subject of the War Powers Resolution. I am inclined to think that any remarks you might make would, despite disclaimers, be viewed as representing Administration policy. I do not consider it an opportune time for unnecessary pronouncements on the War Powers Resolution, so soon after the delicate compromise on Lebanon. It strikes me as preferable to avoid controversy on this subject as much as possible while the waters settle. Accordingly, I recommend that you decline the ABA invitation.

Thank you again for raising this matter with us.

FC006-20

**WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET**

- O - OUTGOING
- H - INTERNAL
- I - INCOMING

(JR)

Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Robert F. Turner

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Speaking Invitation -- American Bar Association breakfast October 21, 1983, from H.C. Matt

ROUTE TO: Office/Agency (Staff Name)	ACTION		DISPOSITION	
	Action Code	Tracking Date YY/MM/DD	Type of Response	Completion Date YY/MM/DD
<u>CULL011</u>	ORIGINATOR	<u>83,09,30</u> <i>WS</i>		<u>1 1</u>
<u>CVAT18</u>	<u>D</u>	<u>83,09,30</u> <i>WS</i>		<u>3 83,10,10</u> <i>WS</i>
	Referral Note:			
		<u>1 1</u>		<u>1 1</u>
	Referral Note:			
		<u>1 1</u>		<u>1 1</u>
	Referral Note:			
		<u>1 1</u>		<u>1 1</u>
	Referral Note:			

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- Type of Response = Initials of Signer
- Code = "A"
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Comments: _____

Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, OEOB).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

American Bar Association

September 28, 1983

Robert F. Turner, Esq.
Counsel
President's Intelligence Oversight Board
Room 531, OEOB
The White House
Washington, D.C. 20500

Dear Bob:

Our Chairman, John Norton Moore, would like to have you speak on the War Powers Resolution at our next breakfast for movers and shakers in the American Bar Association. It will be held on Friday, October 21, at 8 a.m. at the Army and Navy Club. At the last breakfast, which was attended by leaders in the Bar hierarchy, it was suggested that we should expand the guest list. That is because they were so impressed with Jim Woolsey's scholarly dissertation on the problems of nuclear balance and arms control.

You already know the format - 20 to 25 minutes of talk followed by questions and answers. You can, of course, as Jim did once or twice, duck political questions.

We want to get an announcement letter out as soon as possible so we would appreciate it if you would call Mary Lee (543-5445 or 543-4994) as quickly as you can get clearance.

All the best.

Sincerely,

Bill

W. C. Mott
For the Committee

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School of Law
Charlottesville, VA 22901
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Chicago, IL
Rita E. Hauser
New York, NY
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