

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

January 20, 1987

Mr. Donald L. Correll
 820 N. Washington Avenue
 Lansing, Michigan 48906

Dear Mr. Correll:

This is in response to your inquiry regarding the applicability of the Campaign Finance Act (the Act), 1976 PA 388, as amended, to the Democratic Leadership Fund, an independent committee. Specifically, you ask whether the committee is required to itemize fund raising expenditures which are not made to support or oppose a particular candidate or ballot question.

In general, an independent committee must report contributions received and expenditures made for the purpose of influencing elections. "Expenditures" is defined in section 6 (1) of the Act (MCL 169.206) as the payment of anything of ascertainable monetary value to assist or oppose the nomination or election of a candidate or the qualification, passage or defeat of a ballot question. However, according to section 6(3)(c):

"Sec. 6. (3) Expenditure does not include:

* * * * *

(c) An expenditure for communication on a subject or issue if the communication does not support or oppose a ballot issue or candidate by name or clear inference or an expenditure for the establishment, administration, or solicitation of contributions to a fund or independent committee." (Emphasis added.)

The definition of "fund raising event" is set out in section 7(4) of the Act (MCL 169.207):

"Sec. 7. (4) 'Fund raising event' means an event such as a dinner, reception, testimonial, rally, auction, bingo, or similar affair through which contributions are solicited or received by purchase of a ticket, payment of an attendance fee, donations or chances for prizes, or through purchase of goods or services." (Emphasis added.)

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According to section 4(2) (MCL 169.204), "contribution" includes the purchase of tickets or payment of an attendance fee for a fund raising event.

Section 6(3)(c) suggests that an independent committee's solicitation costs are excluded from the Act's requirements. However, such a broad interpretation conflicts with the specific reporting requirements for fund raising events found in section 26 (MCL 169.226). In particular, section 26(g)(v) provides that an independent committee shall reports its "expenditures incident to a [fund raising] event." The apparent conflict between these sections must be resolved in order to answer your questions.

Two well established rules of statutory construction are useful in this regard. First, inconsistencies within a statute must be resolved so that each provision is given meaning and effect, People v Stinson, 113 Mich App 719 (1982), and second, specific statutory provisions control over general provisions. Capps v Department of Social Services, 115 Mich App 10 (1982). With respect to the latter rule, the Supreme Court has stated:

"Where there is in the same statute a specific provision, and also a general one which in its most comprehensive sense would include matters embraced in the former, the particular provision must control, and the general provision must be taken to affect only such cases within its general language as are not within the provisions of the particular provision." Evanston YMCA Camp v State Tax Commission, 369 Mich 1, 8; quoting with approval 5U Am Jur, Statutes, §367, p. 371.

Section 26(g) is a specific provision which goes beyond the Act's general disclosure requirements. It creates detailed reporting obligations which apply to fund raising events. Section 6(3)(c), on the other hand, is a more general term which applies to expenditures for the solicitation of contributions and not simply to contributions received at fund raisers. Applying the rule discussed above, it must be concluded that the specific requirements of section 26(g) control, and section 6(3)(c) "must be taken to affect only such cases within its general language as are not within the provisions of the particular provision."

You state that, in addition to holding fund raisers, the Democratic Leadership Fund engages in "non-particularized forms" of fund raising activities, such as general mailings to potential contributors. The above analysis indicates that expenditures for general activities whose purpose is to solicit contributions to an independent committee are not subject to the Act's specific reporting requirements. Consequently, only those expenditures which are incident to a particular fund raising event must be reported in the detail required by section 26.

However, while the Act does not require an independent committee to itemize general solicitation costs, section 26(b) provides that a committee shall report "the total amount of expenditures made during the period covered by the campaign statement." In order to comply with this provision, an independent committee such as the Democratic Leadership Fund must report its total fund raising expenditures for the reporting period in question as a single line item in campaign statements filed with the Department.

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Your letter did not include a specific statement of facts describing the Democratic Leadership Fund's fund raising activities. Therefore, this response is an interpretative statement and does not constitute a declaratory ruling.

Very truly yours,



Phillip T. Frangos
Director
Office of Hearings and Legislation

PTF:bk