

## MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN • SECRETARY OF STATE  
STATE TREASURY BUILDING



LANSING  
MICHIGAN 48918

August 31, 1988

Corinne M. Price  
50625 Barber  
Paw Paw, Michigan 49079

Dear Ms. Price:

This is in response to your recent letter to Representative James Mick Middaugh questioning the propriety of a political contribution made by the Michigan Education Association (MEA), to which you belong. Specifically, it appears that MEA made a \$30,000 contribution from membership dues to the Committee for the Protection of Michigan Lives, a ballot question committee formed to oppose 1987 PA 59. You object to the use of "dues I am forced to pay . . . to support a cause I oppose."

The use of money to influence Michigan elections is regulated by the Campaign Finance Act (the Act), 1976 PA 388, as amended. Contributions and expenditures made by corporations are specifically governed by sections 54 and 55 of the Act (MCL 169.254 and 169.255). MEA, as a non-profit corporation, is subject to the restrictions imposed by these sections.

Section 54 of the Act prohibits a corporation from making a contribution or expenditure to support or oppose a candidate for elective office. However, a corporation is specifically authorized to make contributions to a ballot question committee. In addition, corporate money may be used to administer and solicit contributions to a separate segregated fund established by the corporation, as provided in section 55. A separate segregated fund established under this section may receive contributions from a limited group of persons and may make contributions to, and expenditures on behalf of, candidate committees, ballot question committees, political party committees, and independent committees.

MEA has, in fact, established a separate segregated fund, known as the Michigan Education Association Political Action Council (MEA-PAC). MEA-PAC is funded through the voluntary contributions of its members with the

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express understanding that the funds collected will be used for political purposes. The MEA-PAC contribution system, which operates as a reverse-checkoff, is described in detail in a declaratory ruling issued to Mr. Peter F. McNenly on August 4, 1987. A copy of the McNenly ruling is enclosed for your convenience.

According to your letter and supporting documentation, MEA's contribution to the Committee for the Protection of Michigan Lives was not made with PAC funds but from membership dues. However, there is nothing in the Act which requires MEA to support or oppose a ballot question through its PAC account. Similarly, there is nothing in section 54 or section 55 which prevents MEA from using its dues money to make a contribution or expenditure to a ballot question committee. Consequently, MEA's contribution to the Committee for the Protection of Michigan Lives is not prohibited by the Act.

However, as the cases cited in the McNenly letter indicate, the federal courts have held that the use of union dues to support ideological positions may have constitutional implications. For example, in Abood v Detroit Board of Education, 431 US 209; 97 S Ct 1782; 52 L Ed 2d 261 (1977), the Supreme Court considered the validity of an agency shop clause negotiated by the Detroit Federation of Teachers and the Detroit Board of Education pursuant to the Michigan Public Employment Relations Act. The agency shop provision required non-members to pay to the union, as a condition of employment, a service fee equal to the amount of union dues. The Court ruled that service fees could be used to finance union expenditures for purposes of collective bargaining, contract administration and grievance procedures. However, they could not be used to support ideological causes:

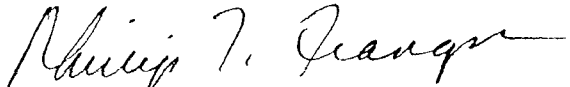
"We do not hold that a union cannot constitutionally spend funds for the expression of political views, on behalf of political candidates, or toward the advancement of other ideological causes not germane to its duties as collective-bargaining representative. Rather, the Constitution requires that such expenditures be financed from charges, dues, or assessments paid by employees who do not object to advancing those ideas and who are not coerced into doing so against their will by the threat of loss of governmental employment." Abood, supra, pp 235-236.

It must be emphasized that the Abood decision applied only to agency fee payers and not to members of the Detroit teachers' union. The extent to which members may be constitutionally protected from their union's expression of political views, however, is outside the authority of this office to determine.

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This response is informational only and does not constitute a declaratory ruling. If you have any questions or comments regarding this matter, please contact the Department's Compliance and Rules Division at 517/373-8252.

Very truly yours,



Phillip T. Frangos, Director  
Office of Hearings and Legislation

PTF:cw:rlp  
attachment  
cc w/att: Representative James M. Middaugh