

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48913

February 6, 1980

Ms. Karen Bush Schneider
Foster, Swift, Collins & Coey
313 South Washington Square
Lansing, Michigan 48933

Dear Ms. Schneider:

This is in response to your request for a declaratory ruling concerning the applicability of the Campaign Finance Act ("the Act"), 1976 PA 388, as amended, to leave days designated as "association days."

You state the following factual situation:

"The Carman School District entered into a collective bargaining agreement with the Carman Education Association, the certified bargaining representative for the teaching personnel employed by said school district. Pursuant to the collective bargaining agreement between the parties, teachers may be excused from classroom duties for a school day at the request of the Association. These leave days are called 'association days,' and the Education Association has a total of 50 days available as 'association days.' Teachers utilizing such leave days receive their normal salary from the district."

"Several teachers have asked that the Carman Education Association request 'association days' so that they (the teachers) might voluntarily work in several aspects of either an election or a campaign."

You note the Carman Education Association is incorporated under state law. You indicate the Michigan Education Association (MEA) also has a number of affiliated local education associations which are unincorporated. In requesting the declaratory ruling, you ask that it address unincorporated as well as incorporated associations.

As concerns the above facts, you ask four questions.

- 1) Is a request by an incorporated or unincorporated local association for "association days" permissible under sections 54 and 55 of the Act (MCLA §169.254 and 169.255) to enable teachers to do volunteer work in the following capacities:
 - a) Election challengers for a ballot question committee.
 - b) Election challengers for a candidate committee.
 - c) Election inspectors.
 - d) Campaign workers for a ballot question committee.
 - e) Campaign workers for a candidate committee.

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- 2) If the request is permissible, are these association days to be reported as expenditures and who, if anyone, is responsible for reporting them--the school district, the individual teacher, the local association, or the IO-B Coordinating Council PAC of which the Carman Education Association is a constituent member?
- 3) If the local association were to expend time to actively seek volunteers for any of the activities identified in the first question, would the answer differ and, if so, how?
- 4) If teachers utilize, for election or campaign activities, other leave provisions available to them under a collective bargaining agreement, such as "personal leave days," does this usage become a "corporate contribution" by the local association which negotiated the contract or by the school district which agreed to the contract?

"Contribution" is defined generally in section 4 of the Act (MCLA §169.204) as anything of ascertainable monetary value made for the purpose of influencing an election. Section 4(3) provides, however, that a "contribution" does not include volunteer personal services provided without compensation.

Your statement of facts indicates that teachers performing volunteer work will receive their normal salary from the district during any "association day" requested and assigned by the local association. In other words, the teachers are compensated while rendering volunteer personal services, with the compensation provided at the direction of the local association. Although the school district is the source of the salary, the local association has control of when and for what purpose to request an "association day." Accordingly, a request by the local association for an "association day" so that a teacher may provide volunteer services for a committee constitutes a "contribution" to the committee.

Turning to your first question, an incorporated association may not request an "association day" for a teacher to function as an election challenger or campaign worker for a candidate committee since this constitutes an illegal campaign contribution prohibited by section 54 of the Act. An incorporated association may request an "association day" for a teacher to function as an election challenger or campaign worker for a ballot question committee subject to the limitations prescribed in section 54. In the instance of teachers working as official election inspectors, an incorporated association may request "association days" without limitation since there is no "contribution" to any committee.

If a local association is not incorporated, it is free to ask for an "association day" to enable a teacher to do volunteer work in any of the identified activities regardless of the salary compensation provided to the teacher.

In regard to your second question concerning how requests for "association days" are to be reported, it should be stated initially that if the association contributes or expends an amount equivalent to \$200 or more in a calendar year to influence elections, it becomes subject to the committee reporting provisions of the Act. Consequently, if an association requests an "association day" for a teacher, it must be reported as an in-kind expenditure by the association if the association is a "committee" pursuant to the Act. The recipient committee must report the services received pursuant to the request as an in-kind contribution and as an in-kind expenditure. If the association is not a "committee," only

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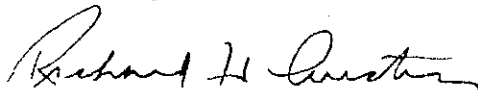
the recipient committee must report. The school district, the individual teacher, and the IOB Coordinating Council PAC have no reporting obligations under the Act in these circumstances. The value of the services that must be reported is the actual gross compensation rate.

With respect to your third question, the preceding statements remain valid even if the local association actively seeks volunteers to perform any of the listed activities. The contribution to the recipient committee is the compensation paid for the work of the teacher, and the value of the time or effort and any resources expended by the association in obtaining that assistance.

In answer to your last question, usage by teachers of other leave provisions available to them under a collective bargaining agreement, such as "personal leave days," to work in election or campaign activities does not constitute "contribution" by the association or school district. Under normal circumstances, neither the association nor the school district has control over when or how the individual may use his or her "personal leave days." The individual using "personal leave time" may use the time as he or she sees fit. Services rendered without compensation to a candidate or ballot question committee are exempted by section 4(3)(a) from the definition of "contribution" and need not be reported.

This response constitutes a declaratory ruling concerning the applicability of the Act to the facts enumerated in your request.

Sincerely,



Richard H. Austin
Secretary of State

RHA/s