

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN • SECRETARY OF STATE

STATE TREASURY BUILDING

LANSING
MICHIGAN 48918

October 16, 1984

Ms. Wilma E. Randall
 Administrative Assistant to the President
 Mid Michigan Community College
 1375 S. Clare Avenue
 Harrison, Michigan 48625

Dear Ms. Randall:

This is in response to your letter requesting a ruling with respect to whether community college presidents are required to register and report pursuant to the lobby act, 1978 PA 472 (the "Act").

I am enclosing a copy of a declaratory ruling directed to Kenneth F. Light, President of Lake Superior State College and dated January 24, 1984, and an interpretive statement sent to George N. Holcomb on March 1, 1984. While relevant, neither of these documents directly answers the question you raise -- that is, whether the president(s) of community colleges are exempt from the Act.

The Community College Act of 1966, 1966 PA 331 (MCL 389.1 et seq.), provides generally that control and supervision of community college districts are vested in their Boards of Trustees. More specifically, section 124 of this Act provides, in relevant part, that the board of trustees may:

"(a) Contract with, appoint and employ a suitable person, not a member of the board, as administrator or director of the community college . . . who shall perform such duties as the board may determine

(b) Select and employ such administrative officers, teachers and employees and engage such services as shall be necessary to effectuate its purposes."

The Act provides an exemption from registration and reporting for individuals who are public officials. This exemption is found in section 5(7)(b) of the Act (MCL 4.415). The exemption is limited by section 5(7)(c). The relevant portions of these provisions are as follows:

"Sec. 5. (7) Lobbyist or lobbyist agent does not include:

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(b) All elected or appointed public officials of state or local government who are acting in the course or scope of the office for no compensation, other than that provided by law for the office.

(c) For the purposes of this act, subdivision (b) shall not include:

(i) Employees of public or private colleges, community colleges, junior colleges or universities."

The rules promulgated to implement the Act clarify the application of the exemption by defining the term "elected or appointed official of state or local government." Rule 1(1)(c), (1981 AACS R4.411), provides:

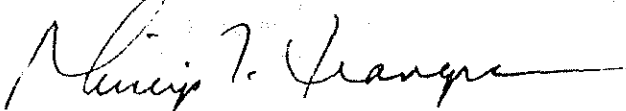
"Rule 1. (1) As used in the Act or these rules:

(c) 'Elected or appointed public officials of state or local government' means officials whose term of office is prescribed by statute, charter, ordinance, or the state constitution of 1963 or who serve at the pleasure of their appointing authority."

In the enclosed declaratory ruling to Kenneth F. Light it was pointed out that the legislative intent was to exempt individuals occupying policymaking positions from the Act's requirements. Like the presidents of colleges or universities, community college presidents appear to be the only appointees of a community college who have the wide range of duties and discretionary authority a prerequisite to being exempt pursuant to 5(7)(b). Therefore, a community college president is exempt from the registration and reporting provisions of the Act, provided the president only lobbies in the course or scope of the office for no additional compensation.

This response is informational only and does not constitute a declaratory ruling.

Sincerely,



Phillip T. Frangos
Director
Office of Hearings and Legislation

PTF/cw
Enc