

## MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

March 31, 1989

Robert Brown, Jr., Director  
Department of Corrections  
P.O. Box 30003  
Lansing, Michigan 48909

Dear Mr. Brown:

This is in response to your inquiry concerning the applicability of the lobby act (the Act), 1978 PA 472, as amended, to contacts between Department of Corrections employees and various state legislators. Specifically, you ask whether a staff member's contact with a legislator who is visiting an institution is considered lobbying which must be reported under the Act.

Pursuant to sections 5(5) and (7) of the Act (MCL 4.415), an employee of a state executive department is a "lobbyist agent" if the employee is compensated or reimbursed more than \$375.00 in any 12 month period for lobbying. (The original monetary amount of \$250.00 has been adjusted annually as required by section 19a of the Act [MCL 4.419].) The definition of "lobbying", set out in section 5(2), includes direct communications with a member of the Legislature for the purpose of influencing legislative action. "Legislative action" and "influencing" are defined as follows:

"Sec. 5. (1) 'Legislative action' means introduction, sponsorship, support, opposition, consideration, debate, vote, passage, defeat, approval, veto, delay, or an official action by an official in the executive branch or an official in the legislative branch on a bill, resolution, amendment, nomination, appointment, report, or any matter pending or proposed in a legislative committee or either house of the legislature. Legislative action does not include the representation of a person who has been subpoenaed to appear before the legislature or an agency of the legislature."

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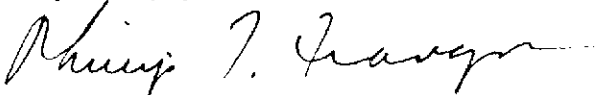
"(3) 'Influencing' means promoting, supporting, affecting, modifying, opposing or delaying by any means, including the providing of or use of information, statistics, studies, or analysis."

As these definitions indicate, the Act does not regulate all contacts or communications with legislative officials. Although an employee may provide information or advance an opinion during a legislator's visit to an institution, reportable lobbying occurs only if the employee directly communicates with the legislator for the purpose of influencing an action described in section 5(1). If the communication is not for the purpose of influencing legislative action, neither the employee nor the Department of Corrections is required to file a disclosure report under the Act. However, if a communication is lobbying as defined in the Act, it is immaterial whether the communication is initiated by the public official or by the employee.

The Department is unable to provide a more specific response because your inquiry does not include a concise statement of facts. However, enclosed for your benefit are copies of letters to Dr. Martha Bigelow dated February 7, 1984, and Mr. Rossi Ray Taylor, dated July 13, 1984, which may further clarify the Act's application to the employer-employee relationship.

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

Very truly yours,



Phillip T. Frangos, Director  
Office of Hearings and Legislation

PTF:cw:rlp  
attachments