

## MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN • SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

48918-2110

August 11, 1993

Mark R. Fox  
 Fraser Trebilcock Davis & Foster, P.C.  
 1000 Michigan National Tower  
 Lansing, Michigan 48933

Dear Mr. Fox:

This is in response to your request for an interpretation of the Michigan Campaign Finance Act (the Act), 1976 PA 388, as amended. Specifically, you ask whether a contribution from a minor to a gubernatorial candidate committee is a "qualifying contribution" which may be matched with money from the state campaign fund.

Pursuant to the Act's public funding provisions, a gubernatorial candidate in a primary election is required to raise \$75,000 in qualifying contributions before he or she may receive money from the state campaign fund. The candidate may then obtain \$2.00 from the state campaign fund for each \$1.00 of qualifying contribution, up to a maximum of \$990,000.

"Qualifying contribution" is defined as follows:

"Sec. 12. (1) 'Qualifying contribution' means a contribution of money made by a written instrument by a person other than the candidate or the candidate's immediate family, to the candidate committee of a candidate for the office of governor which is \$100.00 or less and made after April 1 of the year preceding a year in which a governor is to be elected. Not more than \$100.00 of a person's total aggregate contribution may be used as a qualifying contribution in any calendar year. Qualifying contribution does not include a subscription, loan, advance, deposit of money, in-kind contribution or expenditure, or anything else of value except as prescribed in this act." [MCL 169.212(1)]

This definition does not limit "qualifying contribution" to a contribution received from a person who has reached the age of majority. However, as you suggest in your letter, the dispositive issue is whether the minor must exercise ownership and control over the funds used to make the contribution.

You point out that under the Federal Election Campaign Act, a minor "may contribute to Federal candidates subject to the limits generally applicable to all persons" if the funds are owned and controlled exclusively by the minor and the decision to contribute is made knowingly and voluntarily. (Federal Election Commission Advisory Opinion 1976-13.) Exclusive ownership and control is required to ensure that a parent or guardian does not exceed his or her own contribution limitation by contributing additional funds in the



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minor's name.

Section 53 of the Campaign Finance Act (MCL 169.253) states as follows:

"Sec. 53. For purposes of sections 49 to 53 a contribution or expenditure by a dependent minor shall be reported in the name of the minor but shall be counted against the contribution limitations of the minor's parent or guardian, as set forth in section 52."

Contributions to a publicly funded gubernatorial candidate committee are subject to the contribution limitations of section 69 of the Act (MCL 169.269). Therefore, section 53 of the Act, which is limited in its application to sections 49 to 53, does not apply to a minor's contributions to a gubernatorial candidate committee. As a consequence, the minor's contribution is not automatically counted against the contribution limitation of the minor's parent or guardian.

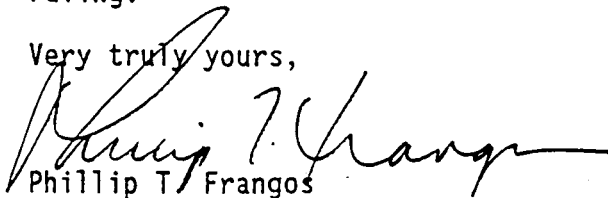
However, notwithstanding the self-limiting clause of section 53, section 70 of the Act (MCL 169.231) makes it clear that a contribution from a minor that is directed or controlled by a parent or guardian is attributable to both the minor and parent. This section provides:

"Sec. 70. A contribution or expenditure which is controlled by, or made at the direction of, another person, including a parent organization, subsidiary, division, committee, department, branch, or local unit of a person, shall be reported by the person making the expenditure or contribution, and shall be regarded as an expenditure or contribution attributable to both persons for purposes of expenditure or contribution limits."

Thus, in answer to your question, a contribution from a minor is matchable under the Act's public funding provisions and subject to the contribution limitation applicable to other individuals (\$3,400 in an election cycle) if the contribution is made from funds directed and controlled solely by the minor.

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

Very truly yours,



Phillip T. Frangos  
Deputy Secretary of State  
State Services