

ETHICAL PRACTICES BOARD

First Floor South, Centennial Building . 658 Cedar Street . St. Paul, MN 55155-1603

THE FOLLOWING PUBLICATION DOES NOT IDENTIFY
THE REQUESTER OF THE ADVISORY OPINION, WHICH IS NONPUBLIC DATA
under Minn. Stat. § 10A.02, subd. 12(b) (1994 Minn. Laws, ch. 377, sec.1)

RE: Gifts to Officials

ADVISORY OPINION #193

SUMMARY

193. An organization, which is funded in part by an organization that is a lobbyist principal, must charge a fee to legislators that covers the cost of a meal provided to the legislators and require contemporaneous payment of the fee. Otherwise, the acceptance of the meal is a gift prohibited under Minn. Stat. § 10A.071, subd. 1.

FACTS

As the head of an organization that is lobbyist principal and the head of another organization that includes the lobbyist principal, you ask the Ethical Practices Board for an advisory opinion based on your statement of the following facts and information provided:

1. The other organization is composed of several organizations in Minnesota, including an organization that is a lobbyist principal.
2. The other organization serves a meal each year to officials and selected members from its organizations, which has cost less than \$10.00 per plate and is provided to the attenders at no charge.
3. During the meal the other organization distributes a brochure and provides volunteer speakers about its legislative priorities.

QUESTION ONE

May the organization, which includes an organization which is a lobbyist principal, provide a meal to officials without charge?

OPINION

No. The organization must charge a fee to attending officials that covers the cost of the meal provided at the event and require contemporaneous payment of the fee by the officials. Otherwise, the acceptance by an official of the meal, which is paid in part by a lobbyist principal, is a gift prohibited under Minn. Stat. § 10A.071, subd. 1. An official who appears at an event to

make a speech or answer questions as part of a program does not have to pay for food or beverage at the event. Minn. Stat. § 10A.071, subd. 3 (7).

QUESTION TWO

If the response to Question One is no, what steps must the organization take to conform to the law prohibiting gifts to officials from a lobbyist or a lobbyist principal?

OPINION

Please see response to Question One, above. The brochure about the legislative priorities of the organization described in the request is within the exception from the gift prohibition for services to assist an official in the performance of official duties, including information and communication in connection with legislation. Minn. Stat. § 10A.071, subd. 3 (2).

The Ethical Practices Board refers the requester to Advisory Opinion Nos. 142, 147, 148, 155, 163, 168, 167, 171, 172, 172, 174, 175, 179, 183, and 185, in which the Board has answered similar questions.

Issued: 12-21-1994



John L. Holahan, Jr., Chair
Ethical Practices Board

PERTINENT STATUTES

Minn. Stat. § 10A.01 DEFINITIONS provides:

...

Subd. 11. (a) "Lobbyist" means an individual:

(1) engaged for pay or other consideration, or authorized to spend money by another individual, association, political subdivision, or public higher education system, who spends more than five hours in any month or more than \$250, not including the individual's own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative action or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials.

...

Subd. 28. **Principal.** "Principal" means an individual or association that:

(1) spends more than \$500 in the aggregate in any calendar year to engage a lobbyist, compensate a lobbyist, or authorize the expenditure of money by a lobbyist; or

(2) is not included in clause (1) and spends a total of at least \$50,000 in any calendar year on efforts to influence legislative action, administrative action, or the official action of metropolitan governmental units, as described in section 10A.04, subdivision 6.

Laws of 1994, Ch. 377, sec. 5, created Minn. Stat. § 10A.071 CERTAIN GIFTS BY LOBBYISTS AND PRINCIPALS PROHIBITED which provides:

Subdivision 1. Definitions. (a) The definitions in this subdivision apply to this section.

(b) "Gift" means money, real or personal property, a service, a loan, a forbearance or forgiveness of indebtedness, or a promise of future employment, that is given without the giver receiving consideration of equal or greater value in return.

(c) "Official" means a public official, an employee of the legislature, or a local official of a metropolitan governmental unit.

Subd. 2. Prohibition. A lobbyist or principal may not give a gift or request another to give a gift to an official. An official may not accept a gift from a lobbyist or principal.

Subd. 3. Exceptions. (a) The prohibitions in this section do not apply if the gift is:

- (1) a contribution as defined in section 10A.01, subdivision 7;
- (2) services to assist an official in the performance of official duties, including but not limited to providing advice, consultation, information, and communication in connection with legislation, and services to constituents;
- (3) services of insignificant monetary value;
- (4) a plaque or similar memento recognizing individual services in a field of specialty or to a charitable cause;
- (5) a trinket or memento of insignificant value;
- (6) informational material of unexceptional value; or
- (7) food or a beverage given at a reception, meal, or meeting away from the recipient's place of work by an organization before whom the recipient appears to make a speech or answer questions as part of a program.

(b) the prohibitions in this section do not apply if the gift is given:

- (1) because of the recipient's membership in a group, a majority of whose members are not officials, and an equivalent gift is given to the other members of the group; or
- (2) by a lobbyist or principal who is a member of the family of the recipient, unless the gift is given on behalf of someone who is not a member of that family.