

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)

**RE: Lobbyist principal definition
Lobbyist definition**

ADVISORY OPINION # 224

SUMMARY

Under Minnesota Statutes, §10A.01, subd. 28, the University of Minnesota is not included in the types of entities which may be lobbyist principals. The University of Minnesota is a public higher education system, whose employees cannot be defined as lobbyists based on their activities as University employees.

FACTS

You request an advisory opinion from the Ethical Practices Board based on the following facts:

1. This opinion is requested on behalf of a public official as defined in Minn. Stat. § 10A.01, subd. 18.
2. The University of Minnesota is a public university created by the Minnesota Legislature.

ISSUE ONE

Is the University of Minnesota a lobbyist principal under Minn. Stat. § 10A.01, subd. 28?

OPINION

No, the University of Minnesota ("University") is not a lobbyist principal under Minn. Stat. § 10A.01, subd. 28.

Under Minn. Stat. § 10A.01, subd. 28, a "lobbyist principal means an individual or association" (emphasis added).

The University is a constitutionally established institution which is recognized as a unique entity of state government. It is more than "an association" as that phrase is defined in Minn. Stat. § 10A.01, subd. 3. The definition of "association" does not include the state's public higher education systems, or the University specifically.

While the phrase "public higher education system" is not statutorily defined, the plain language of the phrase suggests that the University is included within the entities it encompasses.

In 1990, when the definition of lobbyist principal was established and the definition of lobbyist was revised, the legislature used different language in each of the definitions. A lobbyist principal was "an individual or association . . ." while a lobbyist was an "individual engaged by another individual, association, political subdivision or public higher education system . . .". It is the Board's opinion that the two definitions require consideration of different entities. Under the Minn. Stat. § 10A.01, subd. 28, a public higher education system is not included within the entities which may be lobbyist principals.

ISSUE TWO

Are all employees of the University of Minnesota, regardless of position, excluded from the definition of a lobbyist?

OPINION

An individual cannot become a lobbyist based on the individual's activities as an employee of the University of Minnesota.

Minn. Stat. § 10A.01, subd. 11 (b)(2) excludes from the definition of a lobbyist "an employee of the state, including an employee of any of the public higher education systems".

Based on the Board's conclusion above, that the University of Minnesota is one of the state's public higher education systems, the statutory exclusion applies to all employees of the University, regardless of their positions or job classifications.

The exclusion is limited to lobbyist status based on the individual's activities as a University employee. A University employee would be a lobbyist if the individual meets the statutory definition of a lobbyist based on activities outside of the individual's University employment.

Issued: 1/26/96

D.H. Sillers
Douglas H. Sillers, Chair
Ethical Practices Board

CITED STATUTES

10A.01 DEFINITIONS.

...

Subd. 3. "Association" means business, corporation, firm, partnership, committee, labor organization, club, or any other group of two or more persons, which includes more than an immediate family, acting in concert.

...

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 . . .

...

Subd. 28. Principal. "Principal" means an individual or association . . .