

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: Gift of a dinner to legislators

ADVISORY OPINION # 252

SUMMARY

Informal statements and conversation at tables prior to a dinner with legislators do not trigger an exception to the gift prohibition even if event programs and invitations indicate that participants are expected to engage in this interaction.

FACTS

As a registered lobbyist representing an association which is a lobbyist principal, you request an advisory opinion from the Ethical Practices Board ("Board") based on the following facts:

- 1. The association represents the professional individuals at facilities located at several locations throughout the state.**
- 2. The association would like to sponsor and pay for a legislative dinner to be held in a downtown St. Paul hotel in January or February, 1997.**
- 3. Several of the association's members from each of the facilities would attend the dinner. Legislators from the districts where the facilities are located would be invited as would some members of the legislative leadership.**
- 4. The event would include the dinner, followed by a featured speaker. During a period of about 30 minutes prior to the dinner, attending legislators would be asked to speak to the association members at their tables about issues pending at the legislature which would be of interest to your members.**
- 5. The invitations to the dinner and the program would indicate that attending legislators will be expected to speak to, and answer questions from, association members sitting at their tables.**

ISSUE

Is the gift of a dinner permitted under an exception to the gift prohibition of Minn. Stat. § 10A.071 if attending legislators are asked to speak to other guests at their tables before dinner and to answer their questions?

OPINION

No, the gift you describe is a gift from a lobbyist principal to an official which does not fall within an exception provided in Minn. Stat. § 10A.071.

The statutory exception established in Minn. Stat. § 10A.071, subd. 3(a)(7), for "food or a beverage given at a . . . meal . . . by an organization before whom the recipient appears to make a speech or answer questions as part of a program" is not applicable under the facts you present. The statutory language implies that the individual recipient will make a presentation to the organization as a whole as a formal part of the program.

The guest legislators are not appearing before the organization, but are invited dinner guests. Informal conversation or remarks to others at the legislators' tables before dinner, even if encouraged or expected, does not constitute an appearance before the organization to make a speech or answer questions.

It would be normal for guests at a legislative dinner to engage in discussions about legislative matters at their tables before the dinner begins. Formalizing this normal occurrence in writing on a program or invitation does not elevate it to the status of an appearance before the organization to make a speech or answer questions.

In your request, you suggest that previous advisory opinion #153, in which the Board reached a different conclusion, may be relevant. Advisory Opinion # 153 was based on facts different from those considered today and should not be read to suggest that informal discussion can serve as the basis for a Subdivision 3(a)(7), exception to the gift prohibition.

Issued: 11-22-96


Carolyn D. Rodriguez, Chair
Ethical Practices Board

CITED STATUTES

10A.071 CERTAIN GIFTS BY LOBBYISTS AND PRINCIPALS PROHIBITED.

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 and received 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:

(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.