

State of Minnesota  
Campaign Finance & Public Disclosure Board  
First Floor South, Centennial Building. 658 Cedar Street. St. Paul, MN 55155-1603

**THIS ADVISORY OPINION IS PUBLIC DATA PURSUANT TO A  
CONSENT FOR RELEASE OF INFORMATION SIGNED BY THE REQUESTOR**

Issued to: Daron Van Helden  
Public Affairs Representative  
AAA Minnesota/Iowa  
600 West Travelers Trail  
Burnsville, MN 55337-2594

**RE: Gifts to groups that may contain public officials.**

**ADVISORY OPINION 335**

**SUMMARY**

A lobbyist principal may provide gifts to officials if the officials are members of a group, a majority of whose members are not officials, and an equivalent gift is given to the other members of the group.

**FACTS**

As the lobbyist for AAA Minnesota/Iowa (the AAA), you ask the Campaign Finance and Public Disclosure Board (the Board) for an advisory opinion based on the following facts:

1. The AAA is a lobbyist principal, as defined in Minn. Stat. §10A.01, subd. 33.
2. The AAA wishes to provide a gift (a year membership in the organization) with a value of \$55.00 to every member of five Minnesota based associations.
3. The membership of the associations almost certainly includes public and local officials.

## ISSUE

May the AAA provide a gift of more than insignificant value to members of an association if the membership includes individuals who are public officials?

## OPINION

Minn. Stat. §10A.071, subd. 3, provides limited exceptions to the general prohibition of gifts from lobbyists or lobbyist principals to public officials, employees of the legislature, and local officials of a metropolitan governmental unit (officials). In particular the statute provides that a lobbyist principal may provide a gift to officials if the gift is because of the official's membership in a group, the majority of the members of the group are not officials, and if every member in the group is given a gift of equivalent value.

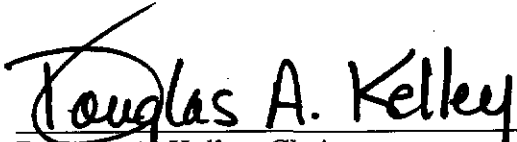
As provided in the facts of the request, the intended gifts are of equivalent value, and are being provided because of membership in a group. What the Board cannot ascertain from the facts provided is the membership composition of each association. The Board suggests that the AAA contact each association for a list of members that are officials. The Board maintains a list of positions that have been designated as "local officials" by metropolitan governmental units. This list is available to the public, and may be of use in determining the makeup of the associations.

If you determine that the majority of the association(s) membership are not officials as defined in Minn. Stat. §10A.071, subd. 1, (c), and the gifts are provided, the AAA must disclose information about the gifts to the Board. The designated lobbyist for the AAA is required to report the name and office of each official who received the gift, as well as a description of the gift and its monetary value. This disclosure is provided in the Lobbyist Disbursement Report for the reporting period in which the gift is made (Minn. Stat. §10A.04, subd. 4, (c)).

The Board also notes that this advisory opinion is based solely on the provisions of Minnesota Statutes Chapter 10A. The AAA may wish to confer with legal counsel about the existence of other laws that may apply to the proposed gift including, but not limited to, Minn. Stat. § 471.895, which is reprinted below.

Issued

12/11/01

  
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Douglas A. Kelley, Chair  
Campaign Finance and Public Disclosure Board

## Cited Statutes and Rules

### 10A.01 DEFINITIONS.

**Subd. 22. Local official.** "Local official" means a person who holds elective office in a political subdivision or who is appointed to or employed in a public position in a political subdivision in which the person has authority to make, to recommend, or to vote on as a member of the governing body, major decisions regarding the expenditure or investment of public money.

**Subd. 24. Metropolitan governmental unit.** "Metropolitan governmental unit" means any of the seven counties in the metropolitan area as defined in section 473.121, subdivision 2, a regional railroad authority established by one or more of those counties under section 398A.03, a city with a population of over 50,000 located in the seven-county metropolitan area, the metropolitan council, or a metropolitan agency as defined in section 473.121, subdivision 5a.

**Subd. 35. Public official.** "Public official" means any:

- (1) member of the legislature;
- (2) individual employed by the legislature as secretary of the senate, legislative auditor, chief clerk of the house, revisor of statutes, or researcher, legislative analyst, or attorney in the office of senate counsel and research or house research;
- (3) constitutional officer in the executive branch and the officer's chief administrative deputy;
- (4) solicitor general or deputy, assistant, or special assistant attorney general;
- (5) commissioner, deputy commissioner, or assistant commissioner of any state department or agency as listed in section 15.01 or 15.06;
- (6) member, chief administrative officer, or deputy chief administrative officer of a state board or commission that has either the power to adopt, amend, or repeal rules, or the power to adjudicate contested cases or appeals;
- (7) individual employed in the executive branch who is authorized to adopt, amend, or repeal rules or adjudicate contested cases;
- (8) executive director of the state board of investment;
- (9) deputy of any official listed in clauses (7) and (8);
- (10) judge of the workers' compensation court of appeals;
- (11) administrative law judge or compensation judge in the state office of administrative hearings or referee in the department of economic security;
- (12) member, regional administrator, division director, general counsel, or operations manager of the metropolitan council;

(13) member or chief administrator of a metropolitan agency;

(14) director of the division of alcohol and gambling enforcement in the department of public safety;

(15) member or executive director of the higher education facilities authority;

(16) member of the board of directors or president of Minnesota Technology, Inc.; or

(17) member of the board of directors or executive director of the Minnesota state high school league.

#### **10A.04 LOBBYIST REPORTS**

##### **Subd. 4. Content.**

(c) A lobbyist must report the amount and nature of each gift, item, or benefit, excluding contributions to a candidate, equal in value to \$5 or more, given or paid to any official, as defined in section 10A.071, subdivision 1, by the lobbyist or an employer or employee of the lobbyist. The list must include the name and address of each official to whom the gift, item, or benefit was given or paid and the date it was given or paid.

#### **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:

(1) a contribution as defined in section 10A.01, subdivision 11;

(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.

#### **471.895 Certain gifts by interested persons prohibited.**

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

(b) "Gift" has the meaning given it in section [10A.071](#), subdivision 1.

(c) "Interested person" means a person or a representative of a person or association that has a direct financial interest in a decision that a local official is authorized to make.

(d) "Local official" means an elected or appointed official of a county or city or of an agency, authority, or instrumentality of a county or city.

Subd. 2. **Prohibition.** An interested person may not give a gift or request another to give a gift to a local official. A local official may not accept a gift from an interested person.

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

(1) a contribution as defined in section [211A.01](#), subdivision 5;

(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 local officials, and an equivalent gift is given or offered to the other members of the group;

(2) by an interested person 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; or

(3) by a national or multistate organization of governmental organizations or public officials, if a majority of the dues to the organization are paid from public funds, to attendees at a conference sponsored by that organization, if the gift is food or a beverage given at a reception or meal and an equivalent gift is given or offered to all other attendees.