

State of Minnesota
Campaign Finance and Public Disclosure Board
Suite 190, 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: Superintendent Patricia Harvey
Saint Paul Public Schools
360 Colborne Street
St. Paul, MN 55102-3299

RE: Gift Prohibition; Educational Sessions, Food and Beverages

ADVISORY OPINION 364

SUMMARY

Lobbyist principals may pay for the cost of educational sessions for legislators that provide information used by the legislators in the performance of their official duties. Lobbyist principals may not provide complementary food and beverages to legislators who attend the educational sessions.

FACTS

On behalf of the Saint Paul Public Schools, an association that has lobbyists registered with the Campaign Finance and Public Disclosure Board (the Board), you ask for an advisory opinion based on the following facts:

1. The Minneapolis Foundation and Independent School District 625 are Lobbyist “Principals” as defined in Minn. Stat. §10A.01, subd. 33, because the associations have engaged lobbyists who are registered with the Board.
2. The Minneapolis Foundation and Independent School District 625 are planning to sponsor a series of educational sessions at the Minnesota History Center. The sessions will present nationally recognized experts in the field of education, and will provide an opportunity for discussions on educational policy.
3. Attendance at the sessions will be limited to legislators. Members of the legislature are “Public Officials” as defined in Minn. Stat. §10A.01, subd. 35.
4. You intend to provide legislators with food and beverages at the educational sessions.

ISSUE ONE

Are the educational sessions as described in the facts of this advisory opinion request a violation of the gift prohibition contained in Minnesota Statutes Chapter 10A?

OPINION ONE

No. While Minn. Stat. §10A.071 generally prohibits lobbyists and lobbyist principals from providing gifts to public officials, the statute does provide a limited list of exceptions to the gift prohibition. In particular Minn. Stat. §10A.071, subd. 3(2), exempts “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;”. As described, the sessions will provide information and advice that will assist legislatures in the performance of an official duty, namely the drafting and passage of legislation related to education. Therefore, the sessions fall within this exception to the gift prohibition.

ISSUE TWO

May the Minneapolis Foundation and Independent School District 625 provide food and beverages to legislators at the sessions?

OPINION TWO

No. Minn. Stat. §10A.071, subd. 3 (7) does provide that food and beverages may be an exception to the gift prohibition if “...the recipient appears to make a speech or answer questions as part of a program.” As provided in this advisory request, the format of the sessions is for the legislators to be the audience for a presentation; and then at their option ask questions or participate in a discussion of the presentation. The Board has consistently held (see Advisory Opinions 252, 259, 278, and 330) that a function that merely offers an opportunity for a public official to make a statement or answer questions does not meet the standard needed to trigger the exception for providing complimentary food and beverages.

Issued January 25, 2005
Modified February 22, 2005



Terri Ashmore, Chair
Campaign Finance and Public Disclosure Board

Cited Statutes and Administrative Rules

10A.01 Definitions.

Subd. 33. **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.

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 under chapter 14, or the power to adjudicate contested cases or appeals under chapter 14;

(7) individual employed in the executive branch who is authorized to adopt, amend, or repeal rules under chapter 14 or adjudicate contested cases under chapter 14;

(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.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.