

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: Event for Officials

ADVISORY OPINION #212

SUMMARY

212. An association which is not a lobbyist principal may host an event for officials provided payment of expenses for the event was not made by or requested by a lobbyist or a lobbyist principal. A lobbyist or a lobbyist principal is prohibited from making certain gifts to officials, including requesting another to pay for an event for officials. Officials are prohibited from accepting certain gifts from a lobbyist or a lobbyist principal, including a gift that a lobbyist or lobbyist principal has requested another to give to the officials. Minn. Stat. § 10A.071, subds. 1, 2.

FACTS

As the chief operating officer of an association that is not a lobbyist principal, you ask the Ethical Practices Board for an advisory opinion on facts which you describe as follows:

1. The association would like to have a joint family event for certain Minnesota state officials, their family members, and your association as part of an event your association is conducting this summer.
2. A businessperson who is neither a principal nor a lobbyist has offered to underwrite the expenses for the joint family event.
3. A lobbyist has volunteered to assist the association with the logistics of the event.

QUESTION ONE

Does Minn. Stat. Ch. 10A permit the association to offer hospitality to officials when the expenses for the event are paid by a businessperson who is neither a principal nor a lobbyist?

OPINION

Yes, unless the lobbyist who volunteered to assist the association with the event or any other lobbyist or lobbyist principal requested the businessperson to pay the expenses for the event.

A lobbyist or a lobbyist principal is prohibited from making certain gifts to officials, including requesting another to make a gift to officials. Officials are prohibited from accepting certain gifts from a lobbyist or a lobbyist principal, including a gift that a lobbyist or lobbyist principal has requested another to give to the legislators. Minn. Stat. § 10A.071, subds. 1 and 2.

The Ethical Practices Board refers the requester to Advisory Opinion Nos. 197, 200, and 201, in which the Board has answered similar questions. A lobbyist may provide volunteer services to assist an official; see Advisory Opinion No. 151.

QUESTION TWO

On the invitation to the officials, may the association acknowledge the businessperson's generosity and the lobbyist's assistance?

OPINION

See response to Question One, above.

QUESTION THREE

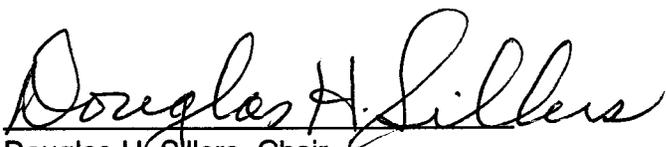
If the association is not permitted to accept the businessperson's offer to pay the costs of the picnic, how should the association determine the amount to be charged per official to attend the event?

OPINION

Disposition of the funds of an association that is not a lobbyist principal, is not within the authority of the Ethical Practices Board. See response to Question One, above.

The Ethical Practices Board refers the requester to Advisory Opinion Nos. 159, 160, 161, 169, 171, 173, 174, 185, 193, and 195, in which the Board has addressed similar questions.

Issued: 5/6/95


Douglas H. Sillers, 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. 18. "Public official" means any:

- (a) member of the legislature;
- (b) constitutional officer in the executive branch and the officer's chief administrative deputy;
- (c) member, chief administrative officer or deputy chief administrative officer of a state board or commission which has at least one of the following powers: (i) the power to adopt, amend or repeal rules, or (ii) the power to adjudicate contested cases or appeals;
- (d) commissioner, deputy commissioner, or assistant commissioner of any state department as designated pursuant to section 15.01;
- (e) individual employed in the executive branch who is authorized to adopt, amend or repeal rules or adjudicate contested cases;
- (f) executive director of the state board of investment;
- (g) executive director of the Indian affairs intertribal board;
- (h) commissioner of the iron range resources and rehabilitation board;
- (i) commissioner of mediation services;
- (j) deputy of any official listed in clauses (e) to (i);
- (k) judge of the workers' compensation court of appeals;
- (l) administrative law judge or compensation judge in the state office of administrative hearings or referee in the department of jobs and training;
- (m) solicitor general or deputy, assistant or special assistant attorney general;
- (n) individual employed by the legislature as secretary of the senate, 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;
- (o) member, regional administrator, division director, general counsel, or operations manager of the metropolitan council;
- (p) the director of the racing commission, the director of the gambling control board, the director of the state lottery, and the deputy director of the state lottery;
- (q) director or the division of gambling enforcement in the department of public safety;
- (r) member or executive director of the higher education facilities authority; or
- (s) member of the board of directors or president of the Minnesota world trade center corporation.
- (t) member or chief administrator of a metropolitan agency.

...

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 governmental units, as described in section 10A.04, subdivision 6.

Minn. Stat. § 10A.071 CERTAIN GIFTS BY LOBBYISTS AND PRINCIPALS PROHIBITED 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 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 sections 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 by 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.