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Gift Ban for Public Officials

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I. Introduction

Since 1994, public officials in Minnesota have been subject to the "gift ban" found in Minnesota Statutes § 10A.071. With some exceptions, the gift ban prohibits public officials from receiving gifts from lobbyists or principals. At the same time, lobbyists and principals are prohibited from giving gifts to officials. For purposes of the gift ban, officials include public officials, employees of the legislature, local officials, and some charter school officials. There are many types of public officials who are subject to the gift ban, including members of the legislature, constitutional officers in the executive branch, and state agency or department commissioners. For a complete listing of public officials, refer to Minnesota Statutes § 10A.01, subd. 35. This memo provides an overview of the gift ban, including statutes, rules and Advisory Opinions issued by the Campaign Finance and Public Disclosure Board.

II. Campaign Finance and Public Disclosure Board Advisory Opinions and Enforcement

The Campaign Finance and Public Disclosure Board[1] ("Board") may issue advisory opinions on the provisions of Chapter 10A, including the gift ban, to any person who is subject to the provisions of Chapter 10A. The request for an opinion may be based on real or hypothetical situations. Minn. Stat. § 10A.02. Advisory opinions are available on the Board's website[2].

A written advisory opinion issued by the Board is binding on the Board in all later Board proceedings concerning the issue in the opinion. A written advisory opinion is also a defense in a judicial proceeding that involves the subject matter of the opinion and is brought against the person that made the request for the opinion or is covered by the opinion. Because of these protections, an advisory opinion is often referred to as a "safe harbor" if it is obtained and followed. There are three exceptions to these safe harbor protections:

(1) the Board amends or revokes the opinion before the initiation of board or judicial proceeding, has notified the appropriate people, and has allowed at least 30 days for the person to comply with the amended or revoked opinion;
(2) the request for the opinion omitted or misstated material facts; or
(3) the person making the request or covered by the request did not act in good faith in relying on the opinion. Minn. Stat. § 10A.02, subd. 12.

While advisory opinions offer safe harbor to the individual or individuals covered by the opinion, they are not binding on other individuals or entities or on other situations. However, advisory opinions do provide useful guidance because they indicate how the Board might handle a similar situation.

While there is no enforcement mechanism mentioned in Minnesota Statutes § 10.071, the Board is authorized to investigate any alleged violation of chapter 10A, including the gift ban. Minn. Stat. § 10A.022. There is no specific civil or criminal fine or penalty for violating the gift

[1] Prior to July 1, 1997, the Campaign Finance and Public Disclosure Board was known as the Ethical Practices Board.
[2] The full website address to access advisory opinions is: www.cfb.mn.gov/citizen-resources/the-board/board-decisions/advisory-opinions

ban, but the board or a county attorney may seek an injunction in the district court to restrain its violation. Minn. Stat. § 10A.34, subds. 2 and 3; Eth. Prac. Bd. Op. No. 217 (1995).

III. Who is Covered?

A. Gift Ban Language

The operative language of the gift ban is very simple: "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." Minn. Stat. § 10A.071, subd. 2.

B. Givers

1. Lobbyists

The prohibition is limited to gifts given to officials by lobbyists and principals. A lobbyist is defined as "an individual:

(1) engaged for pay or other consideration of more than $3,000 from all sources in any year:
   (i) for the purpose of attempting to influence legislative or administrative action, or the official action of a political subdivision, by communicating with public or local officials; or
   (ii) from a business whose primary source of revenue is derived from facilitating government relations or government affairs services if the individual's job duties include offering direct or indirect consulting or advice that helps the business provide those services to clients; or

(2) who spends more than $3,000 of the individual's personal funds, not including the individual's own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a political subdivision, by communicating with public or local officials." Minn. Stat. § 10A.01, subd. 21.

The definition of lobbyist also provides a list of types of individuals that are not considered lobbyists for purposes of the law, such as public officials, elected local officials, and state employees.

Lobbyists must register annually with the Board and make annual reports to the Board. Minn. Stat. § 10A.03 and § 10A.04. As part of the biannual lobbyist report, a lobbyist must report the amount and nature of each gift equal to $5 or more that the lobbyist gives to any official subject to the gift ban. The report must include the name and address of each official to whom a gift was given and the date it was given. Minn. Stat. § 10A.04.

2. Principals

A principal is defined as "an individual or association that:

(1) spends more than $3,000 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) spends a total of at least $50,000 in any calendar year to influence legislative action, administrative action, or the official action of political subdivisions, as described in section 10A.04, subdivision 6." Minn. Stat. § 10A.01, subd. 33.

The Board has held that the following entities are not principals and therefore the gift ban does not apply: the University of Minnesota, Eth. Prac. Bd. Op. No. 224 (1996) and Camp. Fin. Bd. Op. No. 451 (2020); political subdivisions, Camp. Fin. Bd. Op. No. 297 (1998); and the Minnesota Zoo, Camp. Fin. Bd. Op. 441 (2016).

If a lobbyist is an employee of a political subdivision and purchases food or beverages for an official of the same political subdivision, it is not a gift if the lobbyist is reimbursed by the political subdivision. Camp. Fin. Bd. Op. No. 402 (2009).

An individual who is not a lobbyist or a principal, but who is a member of an association that is a principal, may make a gift to an official from the individual's own funds, but not from the funds of the association. Eth. Prac. Bd. Op. No. 177 (1994). The gift from the individual's own funds must not be requested or reimbursed by the association. Eth. Prac. Bd. Op. No. 201 (1995).

An association is not made a principal simply because some of its members may themselves be principals. Eth. Prac. Bd. Op. Nos. 180 (1994) and 220 (1995).

3. Third Parties

A lobbyist or principal may not request another to give a gift to an official. Minn. Stat. § 10A.071, subd. 2. An official may not accept a gift given as the result of a request by a lobbyist or principal. Minn. Rules, part 4512.0200. A gift is considered to have been requested by a lobbyist or principal if the gift is "the direct result of a request, suggestion, or other affirmative effort by the lobbyist or lobbyist or principal." Minn. Rules, part 4512.0500.

If a trade association that is a principal invites legislators to a reception, the legislators may not be given free food and beverages, even if the food and beverages are paid for by individual members of the trade association who are not lobbyists or principals or by a nonprofit foundation that is not a lobbyist or principal. Eth. Prac. Bd. Op. No. 197 (1995). (Note that the situation in the opinion did not meet any exception relating to giving food or beverage.)

A lobbyist or principal may not request others to donate money or services to a legal defense fund established for the benefit of public officials. Eth. Prac. Bd. Op. No. 242 (1996).

An association that is not a principal may not host an event for officials that is paid for by a businessperson who is not a lobbyist or principal if the association was requested to do so by a lobbyist. Eth. Prac. Bd. Op. No. 212 (1995).

A donation made (or requested) by a lobbyist or principal for a gift to a public official is prohibited. In this case the gift was for an official who was retiring from one position but had taken another position that was also covered by the gift ban. Because the retiring official was still an official in the new position, gifts from lobbyists and principals were prohibited. Camp. Fin. Bd. Op. No. 309 (1999).

An association that is not a principal or a lobbyist may give copies of its information and referral directory to legislators. Eth. Prac. Bd. Op. No. 205 (1995).

C. Recipients

1. Officials

For purposes of the gift ban, an "official" is "a public official, an employee of the legislature, a local official, a member of a charter school board, or a charter school director or chief administrator." Minn. Stat. § 10A.071, subd. 1(c). There are many types of public officials who are subject to the gift ban, including members of the legislature, constitutional officers in the executive branch, and state agency or department commissioners. For a complete listing of public officials, refer to Minnesota Statutes § 10A.01, subd. 35. Minn. Stat. § 10A.071 does not prohibit gifts to executive branch employees who are not within the definition of "public official;" gifts to executive branch employees are governed by Minn. Stat. § 43A.38. Camp. Fin. Bd. Op. No. 316 (1999).

The gift ban does not prohibit a gift to the spouse of an official. Eth. Prac. Bd. Op. No. 206 (1995). However, if the gift is given to the spouse with the understanding that the spouse will give the gift to the official, this may be considered an indirect gift and may be prohibited. See the discussion in section IV, C, 3 "Indirect Gifts."

A gift to the Commissioner of Health as agent for the State is not a gift to a public official. In this particular situation, the Commissioner had a statutory authority to accept gifts for "public health purposes." The gift was for this purpose and not for influencing official action. Camp. Fin. Bd. Op. No. 283 (1997).

2. Local Officials

Local officials are subject to the gift ban.[3] A "local official" for purposes of chapter 10A is "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:

(1) the authority to make major decisions regarding the expenditure or investment of public money;
(2) the responsibility to make recommendations to a chief executive or the governing body about major decisions regarding the expenditure or investment of public money; or
(3) the authority to vote as a member of the governing body on major decisions regarding the expenditure or investment of public money." Minn. Stat. § 10A.01, subd. 22.

A county or city may accept gifts for the benefit of their citizens. Minn. Stat. § 465.03.[4] In order to accept the gift, the county board or city council must adopt a resolution by a two-thirds

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[3] There is also a gift ban for local officials in Minn. Stat. 471.895. For purposes of this statute, "local official" means "(1) an elected or appointed official of a county or city or of an agency, authority, or instrumentality of a county or city; and (2) an elected or appointed member of a school board, a school superintendent, a school principal, or a district school officer of any independent school district." This memo does not address the gift ban for local officials in chapter 471.

[4] Prior to the enactment of Minn. Stat. § 465.03, the Board opined that the governing body of a metropolitan governmental unit may not accept a gift directed to a specific local official of the metropolitan governmental

majority of its members. Minn. Stat. § 465.03. A local official subject to the gift ban may not use a gift given to the metropolitan governmental unit until after the gift has been formally accepted by the county board or city council. Minn. Rules, part 4512.0200, subp. 2.[5]

IV. What is a Gift?

A. Definition of a "Gift"

A "gift" is "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." Minn. Stat. § 10A.071, subd. 1 (b). The following are also defined as gifts: meals and entertainment; loans of personal property for less than payment of fair market value; giving preferential treatment for purchases; honoraria; and payment of loans or other obligations. Minn. Rule. 4512.0100, subp. 3.

The Board has determined that the following items are prohibited gifts under the gift ban: an opportunity for public officials to purchase athletic tickets in advance of their sale to the general public, Eth. Prac. Bd. Op. No. 178 (1994); offering an official the right to sit in a private box at an athletic event, even though the official must also buy a ticket to the event, Camp. Fin. Bd. Op. No. 287 (1998); the opportunity to purchase tickets to a baseball game through a process not available to the general public, Camp. Fin. Bd. Op. No. 407 (2010); a loan of a picture to be hung in a legislator's office, Eth. Prac. Bd. Op. No. 181 (1994); a wedding present, Eth. Prac. Bd. Op. No. 217 (1995); and hosting a baby shower for an official and asking those to attend the shower to give the official gifts for the baby. Eth. Prac. Bd. Op. No. 232 (1996).

The Board has determined that the following items are not gifts under the gift ban: purchase of services from an official's commercial business at current prices, Eth. Prac. Bd. Op. No. 213 (1995); and referral from a client of an attorney who is a lobbyist to an attorney who is an official, Camp. Fin. Bd. Op. No. 289 (1998).

B. Determining Value

Determining the value of the gift depends on the type of gift. The statute sets forth the method in some instances. The value of plaques and informational material is the resale value, while the value of a trinket or memento is the cost the giver paid for the item. Minn. Stat. § 10A.071, subd. 3.

The Board suggests the following method to determine the fair market value of goods and services provided to an official: add the cost of the food, beverage, entertainment,

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unit. Accepting the gift after it was used does not change the nature of a gift that was prohibited by the gift ban. Camp. Fin. Bd. Op. No. 348 (2003).

[5] Prior to the adoption of Minn. Rules, part 4512.0200, subp. 2, a Minnesota Court of Appeals opinion from 2004 held that a mayor did not violate the gift ban in accepting a trip on behalf of the city where the city did not officially accept the trip until after the mayor returned. *Kelly v. Campaign Fin. & Pub. Disclosure Bd.*, 679 N.W.2d 178 (Minn. Ct. App. 2004).

decoration, and wait staffing provided by the lobbyist or principal and divide the total by the number of individuals that attended the party. Camp. Fin. Bd. Op. No. 330 (2001). Where a gift is given to a group of officials, the value of the gift to each official is the total value divided by the number of officials to whom the gift was given. Eth. Prac. Bd. Op. No. 160 (1994). Reimbursement must be made to the lobbyist or principal at the time the meal is provided in order not to be an illegal gift. Eth. Prac. Bd. Op. No. 159 (1994). Accord, Eth. Prac. Bd. Op. Nos. 169, (1994), 171 (1996).

Where the cost of goods or services provided to an official has been paid partly with contributions from a lobbyist or other interested person and partly from other sources, the official must contemporaneously reimburse a lobbyist or principal for the fair market value of any part of a gift paid for by the lobbyist or principal. Minn. Rules, part 4512.0400.

The value of transportation in a corporation's aircraft is the amount the official would have to pay to obtain equivalent commercial air transportation, not the cost to the corporation of operating the aircraft. Eth. Prac. Bd. Op. No. 188 (1994). The value of food and lodging provided by a principal to public officials on a tour of a construction site is the cost to obtain similar services from a commercial establishment, not necessarily the cost charged by the tour operator to the private party. Camp. Fin. Bd. Op. No. 276 (1997).

A public official may attend a party paid for by a principal without violating the gift ban if the public official either:

(1) directly reimburses the principal for the official's fair share of the expenses for the party; or
(2) contributes something to the party that has a value that is equal to or greater than the official's fair share of the expenses for the party. Camp. Fin. Bd. Op. No. 330 (2001).

C. Issues Relating to Certain Types of Transactions

1. Consideration in Return

To be a gift, the item of value must be "given and received without the giver receiving consideration of equal or greater value in return." Minn. Stat. § 10A.071, subd. 1 (b). The term "consideration" is not defined in this statute, but according to Black's Law Dictionary, consideration is defined as "Something (such as an act, a forbearance, or a return promise) bargained for and received by a promisor from a promisee; that which motivates a person to do something, esp. to engage in a legal act." Black's Law Dictionary (11th ed. 2019). Consideration and its value cannot always be subject to mathematical calculations and intangible benefits can, under some situations, constitute consideration. Camp. Fin. Bd. Op. No. 394 (2007).

Payment of the regular price for goods or services provided by an official or an official's business is not a gift to the official. Minn. Rules 4512.0600, subp 1.

If a meal is provided to officials registered at a conference sponsored by a principal, but the meal is paid for by the registration fee charged to attend the conference, the meal is not a gift. Eth. Prac. Bd. Op. No. 186 (1994). If public officials reimburse a principal for the value of food

and lodging provided to them on a tour of a construction site, the food and lodging is not a gift. Camp. Fin. Bd. Op. No. 276 (1997).

Requiring attendees to make a minimum donation to a charitable fund is not consideration, and the gift of food and beverages to the attendees is prohibited. Eth. Prac. Bd. Op. No. 191 (1994).

Reimbursement of expenses incurred by an official who is a member of the board of directors of a corporation that is a principal is not a gift, since the corporation receives the services of the official as consideration for the expense reimbursement. Eth. Prac. Bd. Op. No. 234 (1996).

Similarly, payment for travel, lodging, and food may or may not be a gift, depending on the circumstances. In one situation considered by the Board, the governor was asked to appear in television or radio advocacy messages produced by a lobbyist or principal. The lobbyist or principal would pay the costs of reasonable travel, lodging, and meals for the governor related to his participation in the television or radio message. The governor would not be paid for his appearance. In this situation, the payment for travel, lodging, and food is not considered a gift because consideration is exchanged between the two parties. The governor receives free travel, lodging, and food directly related to his appearance in the message, but in return the lobbyist or principal receives the value of the right to use the governor's image, voice, and reputation in the message. Camp. Fin. Bd. Op. No. 394 (2007).

2. Honoraria

Payment to an official for making a speech may or may not be a gift, depending on the circumstances. The Board has not issued an opinion on this issue. On one hand, payment for a speaking engagement is often referred to as "honoraria." An honorarium is "A payment of money or anything else of value made to a person for services rendered for which fees cannot legally be or are not traditionally paid." Black's Law Dictionary (11th ed. 2019). As discussed above, an honorarium is a gift pursuant to Minn. Rule 4512.0100, and is therefore prohibited unless one of the gift ban exceptions applies. On the other hand, if payment is made to the speaker as part of a contract or agreement, the payment is consideration paid to the official for speaking. In this case, it seems that the payment may not be a gift and would be permissible.

3. Employees

A promise of future employment is a prohibited gift. However, that does not mean that all employment related raises, promotions, or offers of employment are prohibited. A salary increase, promotion, or change from part-time to full-time status for an official who is an employee is not a gift to the official. Minn. Rules, 4512.0600, subpart 2; Eth. Prac. Bd. Op. No. 215 (1995). A contract for services is not a "promise of future employment" and payments for services provided under a bona fide contract are not gifts. Eth. Prac. Bd. Op. No. 231 (1996). Bona fide employment search activities, including making and accepting offers of employment, are not prohibited. Eth. Prac. Bd. Op. No. 236 (1996).

It is not a gift if an official's employer (who is a lobbyist principal) paid for the official's travel expenses and registration costs for attending a conference because attendance was part of

the official's employment. The payment of expenses is not a gift because the employee is giving the employer consideration in return for the payment. On the other hand, if a lobbyist principal (other than the principal's employer) paid the official's travel expenses and registration fee, it is considered a prohibited gift to the official. This is true even though the official's attendance at the conference was unrelated to the official's position. It is not considered a gift if the official paid for the portion of expenses which would have been paid for by a lobbyist principal. Eth. Prac. Bd. Op. No. 174 (1994).

The Board has issued opinions about situations where an official's spouse is employed by a lobbyist or principal. In one situation, the Board determined it was not a gift for the official to attend a function paid for by the spouse's employer if the official contemporaneously paid for the benefit the official received. Similarly, the Board determined that if the official accompanies the official's spouse on a business trip paid for by the spouse's employer, the official must contemporaneously pay for the benefit received. If the official does not pay for the benefit received, it is a prohibited gift. Eth. Prac. Bd. Op. No. 164 (1994). In another situation, the official's spouse worked for a lobbyist principal and was awarded a trip for two for superior job performance. The Board determined that the trip was a form of in-kind compensation to the spouse. The Board held that the official could participate in the trip and that it was not a gift to the official. Eth. Prac. Bd. Op. No. 229 (1996).

4. Indirect Gifts

Gifts that are not given directly from a lobbyist or principal to an official, but rather are passed through an intermediary with an express or implied condition or understanding that they will be given to an official, are subject to the gift ban. A gift is considered to be given by the individual or association that pays for the gift or reimburses another for the gift. Minn. Rules, part 4512.0300.

A gift of travel and lodging from a principal to a public official is prohibited, even if the gift is passed through an entity that is not a lobbyist or principal. Camp. Fin. Bd. Op. No. 277 (1997).

The Board considered one situation where the Minnesota Association of County Officers requested an opinion on whether it could continue to accept contributions from lobbyists or lobbyists' principals to help defray the costs of group breakfasts, hospitality rooms, snacks, and refreshments. The Board advised that the Association could not accept those contributions, unless the officials reimbursed the lobbyists or lobbyists' principals for the value of the benefits received. Eth. Prac. Bd. Op. No. 142 (1994).

In a different situation, an official wanted to provide Minnesota-made gifts to visitors from other countries. The official asked the Board for an opinion on whether the official could ask Minnesota companies, some of which were principals, to provide the gifts to the official, who would then give the gifts to the visitors. The Board determined that these were gifts to an official and no exception to the gift ban applied. Eth. Prac. Bd. Op. No. 176 (1994).

In a third situation, the Board considered a scenario where a nonprofit corporation that is not a lobbyist principal wished to pay for legislators to travel as part of a program to encourage members of the legislature to build relationships with members from the opposite party in their home districts. The nonprofit corporation received funding from a variety of sources,

including foundations, corporations, and organizations that are lobbyist principals. The board found that the nonprofit organization may pay for travel expenses for a public official if a lobbyist or lobbyist principal did not request that the public official receive the travel and that a lobbyist or lobbyist principal did not provide funding for the travel expenses. Camp. Fin. Bd. Op. No. 466 (2025).

5. Gifts to Nonprofits

The Board has issued opinions about gifts or donations given to nonprofit corporations when a public official is also involved. The ban applies whether the contributions are given to the organization itself or to a private nonprofit charitable organization that hosts an event on behalf of the organization. Eth. Prac. Bd. Op. No. 163 (1994).

In 1994, the Board considered a situation where a public official hosted an annual event and the proceeds of the event went to a nonprofit corporation. The event solicited prizes from individuals and corporations. The prizes would be awarded at the event to participants demonstrating certain skills. Tickets would be sold for the event. A ticket would allow the ticket holder to a lunch, participate in the event, and an opportunity to win the donated prizes. The price of the ticket included both the cost of the event and a contribution to the nonprofit. The Board determined that if a lobbyist or principal donated prizes to the event that the public official sponsored, that would be a prohibited gift under the gift ban. The Board further determined that a full-priced ticket purchased by a lobbyist or principal from their personal funds does not constitute a gift. Finally, the Board held that prizes presented to other public officials based on their demonstrated skill in an event are not gifts. Eth. Prac. Bd. Op. No. 161 (1994).

In 1996, the Board considered a similar issue relating to nonprofits. In this case, the opinion addresses multiple issues related to the potential formation of a nonprofit corporation where public officials would serve on the board. The Board held that an official that serves on a board of directors of a nonprofit corporation is not prohibited by the gift ban from soliciting donations to the corporation as long as the official does not directly benefit from the gift and no part of the gift is transferred to the official. The Board distinguished this situation from that in Advisory Opinion 161 because in that opinion, the public official received the prizes and maintained control of them; they were never given to the nonprofit corporation. In this case, the gifts would be given to the nonprofit corporation and not to an individual public official. Eth. Prac. Bd. Op. No. 234 (1996).[6]

Where a principal made a gift of airline tickets to a nonprofit corporation that was not a principal without an expectation that the tickets might be given to an official, a gift of the tickets from the nonprofit corporation to an official was not prohibited. Eth. Prac. Bd. Op. No. 268 (1997).

[6] In Advisory Opinion 214, the Board found that a gift to a charitable organization was prohibited because it was personally solicited by an official. Eth. Prac. Bd. Op. No. 214 (1995). In Advisory Opinion 234, the Board indicated that Advisory Opinions 161 and 214 came to contradictory conclusions on this point and concluded that Advisory Opinion 161 was correct. Eth. Prac. Bd. Op. No. 234 (1996).

6. Gifts Given Outside the State

The gift ban applies to officials, lobbyists, and principals regardless of where the gift was given. In one opinion, the Board determined that a lobbyist or principal must not provide hospitality suites, travel, or refreshments at a national conference to Minnesota attendees that are subject to the gift ban. Eth. Prac. Bd. Op. No. 160 (1994).

7. Accounting for Gifts

A careful accounting for receipts and disbursements may help determine whether something is a prohibited gift. Where an organization plans to host an event with money received from various sources, some of which may come from lobbyists or other interested persons, the organization may wish to segregate the receipts and make sure that none of the money from lobbyists or interested persons is used to provide a gift to covered officials. If the receipts are properly segregated, a gift from a non-lobbyist donor is not prohibited. Eth. Prac. Bd. Op. No. 168 (1994). See also Camp. Fin. Bd. Op. No. 466 (2025).

V. Exceptions

There are several exceptions to the gift ban, found in Minnesota Statutes § 10A.071, subd. 3. Each exception is discussed in detail below.

A. Campaign Contributions

The gift ban does not apply to campaign contributions. Minn. Stat. § 10A.071, subd. 3(a)(2). A donation of volunteer services to a candidate's principal campaign committee is not a gift to the candidate. Camp. Fin. Bd. Op. No. 282 (1997).

B. Services to Assist in the Performance of Official Duties

Services to assist an official in their performance of official duties are not considered a gift. These services include providing advice, consultation, information, and communication in connection with legislation, and services to constituents. Minn. Stat. § 10A.071, subd. 3(a)(2).

The Board has advised that the following gifts are services to assist in the performance of official duties: providing legislators with copies of their home newspapers during the legislative session, Eth. Prac. Bd. Op. No. 143 (1994); providing officials with a periodical publication on public policy issues related to transportation, Eth. Prac. Bd. Op. No. 156 (1994); training legislators in the operation of computer systems, Eth. Prac. Bd. Op. No. 157 (1994); providing legislators with a brochure about the legislative priorities of an organization, Eth. Prac. Bd. Op. No. 193 (1994); educating legislators at an issues forum, provided that the officials pay for the meals provided at the issues forum, Eth. Prac. Bd. Op. No. 202 (1995); providing legislators with copies of the annual membership directory of the Minnesota Broadcasters Association, Eth. Prac. Bd. Op. No. 204 (1995); providing legislators with research and analysis materials relating to pending or recommended areas of legislation, Eth. Prac. Bd. Op. No. 234 (1996); providing legislators with copies of "Politics in Minnesota: The Directory," Eth. Prac. Bd. Op. No. 246 (1996); providing legislators with copies of their home district telephone directories, Camp. Fin. Bd. Op. No. 280 (1997); sponsoring educational

sessions for legislators, Camp. Fin. Bd. Op. No. 364 (2005); providing training in the use of specialized equipment, Camp. Fin. Bd. Op. No. 372 (2005); attendance at a symposium without paying the registration fee if the subject of the program will assist the legislators in performing their official duties, Camp. Fin. Bd. Op. No 380 (2006); a book in which the lobbyist or principal had a significant role in the creation, development, or production of the information, Camp. Fin. Bd. Op. No 445 (2018); mental health training for legislators and legislative staff, Cam. Fin. Bd. Op. No. 469 (2025).

The Board has found the following gifts are not services to assist in the performance of official duties: educational programs that do not have a direct bearing on issues currently under consideration by an official, but that expand the official's general knowledge of the subject matter, Eth. Prac. Bd. Op. No. 162 (1994); a bipartisan seminar to educate and inform officials about significant public policy, even when the lobbyist contributions are paid to a governmental body that controls the format and content of the seminar, Eth. Prac. Bd. Op. No. 172 (1994); services and educational programs sponsored by the Minnesota Coalition of Family Organizations, Eth. Prac. Bd. Op. No. 180 (1994); transportation to enable an official to travel and promote business for the state, Eth. Prac. Bd. Op. No. 206 (1995); transportation to travel on governmental business and promote a metropolitan governmental unit, Camp. Fin. Bd. Op. No. 348 (2003); and purchasing a commercial documentary DVD to give to an official in which the lobbyist or principal had no significant role in creating, developing, or producing, Camp. Fin. Bd. Op. No. 396 (2008).

C. Services of Insignificant Monetary Value

Services of insignificant monetary value are an exception to the gift ban. Minn. Stat. § 10A.071, subd. 3(a)(3). There is no dollar threshold to define "insignificant."

A lobbyist or principal must not request others to provide complementary professional services to public officials because this service is not of "insignificant monetary value." Eth. Prac. Bd. Op. No. 250 (1996).

D. Plaques

A plaque with a resale value of $5 or less is exempted from the gift ban. Minn. Stat. § 10A.071, subd. 3(a)(4) A "plaque" is "a decorative item with an inscription recognizing an individual for an accomplishment." Minn. Stat. § 10A.071, subd. 1(d).

The Board has found that an engraved decorative axe was a plaque with a resale value of $5 or less and therefore was excepted from the gift ban. Camp. Fin. Bd. Op. No. 414 (2010).[7]

[7] This exception was amended in 2008 to add the $5 resale value limitation. Prior to 2008, the Board issued several opinions on plaques. The Board includes a cover letter for each of these advisory opinions that says these opinions are "obsolete" because of the change of language that permits most gifts of plaques. See Eth. Prac. Bd. Ops. No. 198 (1995), 218 (1995), 238 (1996) and 245 (1996). There is an opinion from 1994 that was not specifically revoked, but it is similarly based on the older version of the law. See Eth. Prac. Bd. Op. No. 165 (1994).

E. Trinkets or Mementos

Trinkets or mementos costing $5 or less are exempted. Minn. Stat. § 10A.071, subd. 3(a)(5). The $5 limitation was added in 2005. Since this change was made in 2005, there have been no advisory opinions on this point.

Before the addition of the $5 limitation in law, the Board issued several opinions.[8] While these opinions are based on a previous version of the law, they may still be instructive in understanding how the Board interprets this exception. The Board interpreted this exception to cover the following: a computer mouse pad imprinted with a lobbyist's name, address, phone number, and other promotional information, with a retail value of $3 to $6, Eth. Prac. Bd. Op. No. 235 (1997); and a coffee mug inscribed with the principal's logo and Web site address that cost about $4.75 to produce and retails for $4 to $6, Camp. Fin. Bd. Op. No. 337 (2002). An earlier opinion of the Board had denied an exception to a ceramic coffee cup with the logo of the Minnesota Medical Association printed on it. Eth. Prac. Bd. Op. No. 167 (1994). The Board's new opinion did not overrule, or even mention, the earlier one.

Before the addition of the $5 limitation in law, the Board determined that the following items were not within the exception: a leatherette pocket calendar and insert, valued at just over $11, or a $2 pocket calendar, Eth. Prac. Bd. Op. No. 141 (1994); and the annual calendar book from the Minnesota State Fire Department Association, Eth. Prac. Bd. Op. No. 189 (1994).

F. Informational Material

Informational material with a resale value of less than $5 is exempt. Minn. Stat. § 10A.071, subd. 3(a)(6).

Using this exception, a principal may give to a public official a book that is available as a free download on the principal's website. The book may be given as a link to the website or as a printed book. Camp. Fin. Bd. Op. No. 445 (2018).

The $5 limitation was added in 2010.[9] Before this change, the law referred to "informational material of unexceptional value." The Board issued several opinions based on this previous language. While these opinions are based on a previous version of the law, they may still be instructive in understanding how the Board interprets this exception. The Board found that gifts of the following items fall within the exception for informational material of unexceptional value: a periodical publication on public policy issues related to transportation (also within the exception for services to assist an official in the performance of official duties), Eth. Prac. Bd. Op. No. 156 (1994); the annual membership directory of the Minnesota Broadcasters Association, Eth. Prac. Bd. Op. No. 204 (1995); a black and white calendar containing informational material and selling for $5, Eth. Prac. Bd. Op. No. 226 (1996); an audio tape costing $1.50 to produce and available to the public for $4 to $6, Eth. Prac. Bd. Op.

[8] Unlike the opinions on plaques, the Board has not indicated that the older opinions on trinkets or mementos are obsolete.
[9] Unlike the opinions on plaques, the Board has not indicated that the older opinions on informational material are obsolete.

No. 269 (1997); an informational booklet costing $4.60 to produce and intended to be available to the public in limited quantities without charge, Camp. Fin. Bd. Op. No. 286 (1998); and a book summarizing the history of a corporation and its contributions to the growth of Minnesota that is distributed free to the public, Camp. Fin. Bd. Op. No. 317 (1999).

Before the addition of the $5 limitation in law, gifts of the following informational materials were found not to be within this exemption: copies of the Minnesota Medical Association's monthly journal and twice-monthly newsletter, Eth. Prac. Bd. Op. No. 167 (1994); a book intended to give legislators information about forthcoming legislative proposals on family law, Eth. Prac. Bd. Op. No. 200 (1995); a tax guide for legislators that was intended to help legislators compile their own income taxes, Eth. Prac. Bd. Op. No. 203 (1995); and a commercial documentary DVD with a retail cost of approximately $19, Camp. Fin. Bd. Op. No. 396 (2008).

G. Food or Beverages

There are two exceptions that may apply when food or beverages are given at a reception, meal, or meeting. One exception applies to a gift of food or beverage to a member or employee of the legislature if an invitation to attend the reception, meal, or meeting was provided to all members of the legislature at least five days prior to the date of the event. There have been no Board advisory opinions on this exception, which was added in 2013.

The other exception applies to a gift of food or beverage if the reception, meal, or meeting is held 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. The Board has issued several opinions on this exception based on the particular situation. The outcome of similar situations may now be different if all members of the legislature have been invited to attend the event in advance.

Complimentary breakfasts given to legislators who appear at a chamber of commerce meeting to speak or respond to questions as part of a program have been approved. Eth. Prac. Bd. Op. No. 153 (1994). Meals provided to legislators as part of a research study are not prohibited gifts if the funding for the meals is from a source that is not a principal in Minnesota and the meals were not provided to legislators at the request of a lobbyist or principal. Cam. Fin. Bd. Op. No. 451 (2020).

The Board has found the following not to be within this exemption: meals and lodging provided to officials who participate in workshops where all participants provide each other with advice, consultation, and information, and answer each other's questions, Eth. Prac. Bd. Op. No. 155 (1994); food and beverages provided as part of a program where legislators simply mingle with their constituents and respond to their questions, Eth. Prac. Bd. Op. No. 167 (1994); complimentary breakfasts in conjunction with a trade show, where officials do not make a speech or answer questions as part of a program, Eth. Prac. Bd. Op. No. 183 (1994); a dinner where an official sits with the official's constituents during dinner to talk about the official's views but there is no formal presentation, Eth. Prac. Bd. Op. No. 185 (1994); a meal provided while an organization distributes a brochure and explains its legislative priorities, Eth. Prac. Bd. Op. No. 193 (1994); a dinner where legislators answer the

questions of others at their table before dinner, Eth. Prac. Bd. Op. No. 252 (1996); legislators making comments and answering questions using a microphone passed around the room at a dinner, Eth. Prac. Bd. Op. No. 259 (1997); an event where legislators are given an opportunity to share issues of importance to their districts at dinner, Camp. Fin. Bd. Op. No. 278 (1997); and merely offering legislators an opportunity to make statements or answer questions, Camp. Fin. Bd. Op. No. 364 (2005).

If another exception to the gift ban applies, that does not mean that food and beverages may be provided on the basis of that exception. The Board has held that educational sessions, conferences, and trainings may be exceptions to the gift ban, but that does not allow the lobbyist or principal to provide food unless the food exceptions are also met. Camp. Fin. Bd. Op. Nos. 364 (2005) and 372 (2005).

VI. Situations Where the Gift Ban Does Not Apply

A. Gifts to Groups

The prohibitions of the gift ban do not apply if the gift is given "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." Minn. Stat. § 10A.071, subd. 3(b)(1). It is sufficient to make a gift available to all members of a group; it is not necessary that all members accept the gift. Camp. Fin. Bd. Op. Nos. 273 (1997) and 393 (2007).

Groups of nonofficials that the Board has found to fall within this exception include the following: the board of directors of a local credit union that provides free travel, lodging, and meals to those board members who attend board meetings, Eth. Prac. Bd. Op. No. 190 (1994); an advisory council to Blue Cross Blue Shield of Minnesota that provides meals and reimburses travel costs to its members, Eth. Prac. Bd. Op. No. 210 (1995); a lobbying organization that reimburses members of its board of directors for their expenses incurred on behalf of the organization, Eth. Prac. Bd. Op. No. 234 (1996); the Minnesota Chiefs of Police Association, which provides entertainment and mementos to members attending its annual meeting, Eth. Prac. Bd. Op. No. 258 (1997); five Minnesota-based associations to whose members AAA Minnesota/Iowa gives a free one-year AAA membership worth $55, Camp. Fin. Bd. Op. No. 335 (2001); a delegation to a major party national convention, Camp. Fin. Bd. Op. No. 361 (2004); and a member of a group entering a random drawing sponsored by a principal at an annual conference for the group, Camp. Fin. Bd. Op. No. 393 (2007).

Because the gift ban uses an objective test, rather than a subjective one, it is necessary to meet the objective requirement of membership in a group, rather than showing subjective evidence of the giver's intent. A "group" must have certain incidents of formality or organization, such as a name, an organizational structure, meetings, and business to conduct. Eth. Prac. Bd. Op. No. 220 (1995). Being a former member of a law firm does not constitute membership in a "group." Eth. Prac. Bd. Op. No. 220 (1995).

1. National Conferences

Questions sometimes arise about an official attending regional or national conferences with their counterparts from other states and where lobbyists or principals have provided financial support for that conference. Two common examples of these conferences or meetings are those offered by the National Conference of State Legislatures (NCSL) and the Council of State Governments (CSG). Oftentimes at these conferences, a majority of the group will usually not be "officials" within the meaning of the law. This is because the definition of "official" in Minn. Stat. § 10A.071, subd. 2(c), refers to specific Minnesota offices, not to official positions generally. A gift given to all attendees at the conference, including food and reduced registration rates, will be to a group and a majority of the members of that group are not officials so the gift falls within this exception. This applies regardless of whether the gift was paid for directly or indirectly by a Minnesota lobbyist or principal. Camp. Fin. Bd. Ops. No. 273 (1997) and 315 (1999).[10]

2. Gifts Available to the Public Generally

Simply making a gift available to the public generally may not avoid the gift ban. In one situation, the Minnesota Medical Association asked the Board about making health screenings available in the Capitol to any person asking for a screening. Because the Minnesota Medical Association is a principal and no exception applied, this was a prohibited gift. Eth. Prac. Bd. Op. No. 167 (1994).

On the other hand, where a principal helped to underwrite the cost of a theatrical production by a nonprofit organization that presented it in performances that were free and open to the public, without any express or implied condition or understanding that the performances would be for the particular benefit of an official or group of officials, officials were not prohibited from attending the performances. Eth. Prac. Bd. Op. No. 227 (1996).

B. Gifts by Family Members

The gift ban does not apply to gifts given "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." Minn. Stat. § 10A.071, subd. 3(b)(2). "Family" is not defined in the law and the Board has not yet defined the term in an advisory opinion or by rule.

VII. Conclusion

While the concept of the gift ban is relatively simple, the application of the gift ban to particular circumstances can be complex and often requires careful analysis. There are a variety of resources to consult, including "The Gift Ban – A Quick Look"[11], which provides a FAQ style discussion of the gift ban and includes a flowchart to assist public officials in

[10] The Board previously issued opinions with contrary conclusions. Eth. Prac. Bd. Op. Nos. 173 (1994), 175 (1994) and 179 (1994). The Board later reversed itself in Advisory Opinion 273, where the Board determined that the result of Advisory Opinion 173 is abandoned; that Advisory Opinion 175 should have reached the opposite conclusion; and the outcome in Advisory Opinion 179 could result in a different conclusion under the reasoning of the opinion. Camp. Fin. Bd. Op. No. 273 (1997).

[11] The website address to access this memo is: www.senate.mn/storage/scrfa/Gift-Ban-A-Quick-Look.pdf.

evaluating a particular situation. Also, the Campaign Finance and Public Disclosure Board publishes a guide called the "Gift Ban Primer."[12]

Within the Senate, Alexis Stangl, and attorneys in the office of Senate Counsel, Research, and Fiscal Analysis, are available to assist Senators and Senate employees in reviewing gift ban issues. Supervisors, managers, or caucus leaders are also valuable resources when considering these issues. Finally, The Campaign Finance and Public Disclosure Board can answer questions related to the gift ban. The Board may be reached at (651) 539-1180 or toll free (800) 657-3889 or cf.board@state.mn.us.

Senate Counsel, Research, and Fiscal Analysis provides nonpartisan legislative, legal, fiscal, and analytical services to the Minnesota Senate. This document can be made available in different formats upon request.

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[12] The website address to access this memo is: www.cfb.mn.gov/pdf/quicklinks/gift_ban_primer.pdf.