

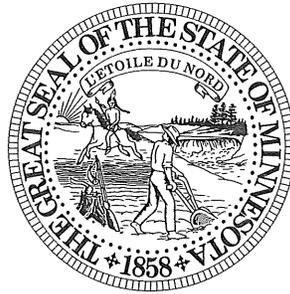
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ADVISORY OPINIONS

(Under Minn. Stat. § 10A.02, Subds. 8 and 12)

September 1994 - September 1995

Numbers 165 - 217



OCTOBER, 1995

MINNESOTA STATE ETHICAL PRACTICES BOARD

First Floor South, Centennial Building

658 Cedar Street

St. Paul, MN 55155-1603

612/296-5148

aocomp95

ABOUT ADVISORY OPINIONS

- The Ethical Practices Board is authorized to issue advisory opinions on the requirements of the Ethics in Government Act, Minn. Stat. Ch. 10A, enacted in 1974, (see Minn. Stat. §10A.02, subd. 12) and the Hennepin County Disclosure Law (see Minn. Stat. § 383B.055). Individuals or associations may ask for advisory opinions about these laws to guide their actions in compliance with Minn. Stat. Ch. 10A and Minn. Stats. §§ 383B.041 - 383B.058.
- Effective August 1, 1994:
A written advisory opinion issued by the Board is binding on the Board in any subsequent Board proceeding concerning the person making or covered by the request and is a defense in a judicial proceeding that involves the subject matter of the opinion and is brought against the person making or covered by the request unless:
.. the Board has amended or revoked the opinion before the initiating of the Board or judicial proceeding, has notified the person making or covered by the request of its action, and has allowed at least 30 days for the person to do anything that might be necessary to comply with the amended or revoked opinion;
.. the request has omitted or misstated material facts; or
.. the person making or covered by the request has not acted in good faith in reliance on the opinion.
- A request for an advisory opinion is nonpublic data and the advisory opinion to the requester is nonpublic data. The Board may publish an opinion that does not include the name of the requester or other identifying information unless the requester consents to the inclusion. The Board provides Consent for Release of Information forms to requesters. If the requester files a Consent form, the Board seeks public comment on the request before action is taken by the Board. Advisory opinion requests are discussed in meetings open to the public.

ABOUT THE BOARD

Mission Statement

- To promote public confidence in state government decision making through development and administration of disclosure, public financing, and enforcement programs which will ensure public access to information filed with the Board.

Members

- Six-member citizen body;
- Appointed by the governor; confirmed by a 3/5th vote of both houses of the legislature;
- One former legislator of each major party;
- Two individuals who have not been public officials, held any political party office other than precinct delegate, or been elected to public office for which party designation is required by statute in the three years preceding appointment to the Board;
- No more than three members of the Board shall support the same political party;
- No member of the Board may currently serve as a lobbyist.

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Approved: October 7, 1994

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: Gifts to Officials

ADVISORY OPINION #165

SUMMARY

165. The presentation of recognition awards to officials in the form of a plaque or similar memento recognizing individual services in a field of specialty by a lobbyist principal is within the exceptions to the gift prohibition in Minn. Stat. § 10A.071, subd. 3 (4) and (5).

FACTS

As a registered lobbyist for a lobbyist principal, you request an advisory opinion based on your statement of the following facts:

1. Every two years the lobbyist principal presents recognition awards to legislators who score well on the principal's voting record.
2. The award is a printed certificate inserted in an inexpensive frame costing approximately \$2.99.

QUESTION

Is a lobbyist principal's recognition award to legislators within the exceptions to the gift prohibition in Minn. Stat. § 10A.071, subd. 3 (4) and (5)?

OPINION

Yes. The gift prohibitions do not apply to a plaque or similar memento recognizing individual services in a field of specialty or to a trinket of insignificant value given by a lobbyist or lobbyist principal to an official. Minn. Stat. § 10A.071, subd. 3 (4) and (5).

Approved: October 14, 1994

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: Gifts to Officials

ADVISORY OPINION #166

SUMMARY

166. If an individual or an organization is a lobbyist or a lobbyist principal, the acceptance of complimentary admission to events by an official is prohibited. Minn. Stat. § 10A.071. The tickets would not be a gift if the lobbyist or lobbyist principal is paid contemporaneously for the tickets. If attendance at the events is necessary to perform official duties, reimbursement to the officials for the out-of-pocket payments for the tickets should be available from resources appropriated to the entity in which the officials serve.

FACTS

As a public official as defined in Minn. Stat. § 10A.01, subd. 18, and, therefore, an official as defined in Minn. Stat. § 10A.071, subd. 1 (c), you request an advisory opinion for yourself and other officials based on your statement of the following facts:

1. The officials frequently receive complimentary tickets to events related to their official responsibilities.
2. The officials accept a limited number of complimentary tickets under a policy adopted to avoid potential conflicts of interest.
3. At all times the officials are careful to avoid the appearance of conflict of interest related to their official responsibilities.

QUESTION

Are the officials correct in their view that sponsors of the events are not lobbyists or lobbyist principals as described in Laws of 1994, Chapter 377, and, therefore, the officials' limited and monitored acceptance of complimentary admission to events would not be prohibited under the Laws of 1994, Chapter 377?

OPINION

An individual or an organization does not become a lobbyist or a lobbyist principal simply because of the activities of the individual or the organization that relate to the officials' duties. However, if an individual or an organization is a lobbyist or a lobbyist principal because of activities unrelated to the entity, the acceptance of the complimentary tickets is prohibited. Officials are prohibited from accepting gifts from lobbyist or lobbyist principals, subject to certain exceptions defined in statute. The term "gift" is broadly defined by Minn. Stat. § 10A.071, subd. 1(b), and includes money and all property, whether real or personal, that is given and received without the giver receiving

consideration of equal or greater value in return. Tickets to events provided to the officials would not be a gift if the lobbyist or lobbyist principal is paid contemporaneously for the tickets. If attendance at the events is necessary to perform official duties, reimbursement for the out-of-pocket payments for the tickets should be available from resources appropriated to the entity in which the officials serve.

Issued to:
Theodore M. Thompson, Legislative Counsel
Minnesota Medical Association
Suite 300, Broadway Place East
3334 Broadway Street N.E.
Minneapolis, MN 55413-1761

RE: Gifts to Officials

ADVISORY OPINION #167

SUMMARY

167. Complimentary copies of publications by the Minnesota Medical Association, a lobbyist principal, are not within the exceptions to the gift prohibitions in Minn. Stat. § 10A.071. The Association must observe the prohibitions against providing gifts to officials when planning its biennial Day at the Capitol with the health screening services, refreshments, and reception that may be offered to officials without charge to cover the costs.

FACTS

As legislative counsel to the Minnesota Medical Association, a lobbyist principal, you ask the Ethical Practices Board for an advisory opinion based on your statement of the following facts:

1. The Minnesota Medical Association (MMA) publishes a monthly journal entitled Minnesota Medicine. The magazine is provided to the MMA members as part of their membership; individuals and organizations may subscribe to the magazine for \$36 per year or \$3 per copy. From January to June each year the MMA publishes a section of the magazine, The Monitor, twice monthly - the first issue as part of the magazine and the second issue mailed separately.
2. The MMA has provided complimentary copies of Minnesota Medicine and The Monitor to selected staff and members of the state legislature, the governor's office, and selected state departments. The MMA would like to continue providing these complimentary copies to officials and believes it is important that health care issues discussed in these publications be disseminated to a broad audience.
3. In years past, the MMA has conducted a biennial Day at the Capitol structured to begin with the distribution by the MMA Alliance (Alliance) of a reminder note with some sort of trinket, such as an apple, to each member of the legislature. The Alliance is an independent, dues-paying membership organization of physician spouses. The cost of the trinkets is borne by the Alliance. The MMA and the Alliance work together but are separate, independent entities. The Alliance is not a lobbyist or a lobbyist principal.

4. The Day at the Capitol includes a display with a variety of health screenings, informational materials, and refreshments, such as coffee, juice, cookies, and healthy-recipe foods. Volunteer physicians would tend the screening tables, and physicians and staff would be available to answer any questions and to assist people who stopped by.
5. The display area and refreshments are part of the Day at the Capitol; however, they are not exclusively for legislators. The MMA welcomes members of the public as well as legislators and staff.
6. Throughout the Day at the Capitol, individual physicians would be attending meetings with their legislators to discuss issues related to health care. After the day's activities, members of the legislature and the governor would be invited to a reception hosted by the MMA away from the Capitol. The reception is open to members of the MMA and the Alliance. Legislators are invited to the reception to speak with MMA members and every effort is made to assure that MMA and Alliance members are connected with their individual legislators.
7. The program at the reception generally consists of welcoming comments from the MMA president, who introduces the primary guest speaker and the other legislators in attendance. While not every legislator is provided an opportunity to address the entire audience, all legislators are in attendance with the primary purpose of meeting with constituents in an informal setting.

QUESTION ONE

May the Minnesota Medical Association, a lobbyist principal, distribute complimentary copies of Minnesota Medicine and The Monitor to officials?

OPINION

No. It is the opinion of the Board that complimentary copies of these publications provided to officials are not within the exceptions to the gift prohibitions in Minn. Stat. § 10A.071.

QUESTION TWO

- A. May members of the MMA Alliance (physician spouses) give a small trinket, such as an apple, to the officials with a note on it?
- B. Instead of an apple, could the item be a ceramic coffee cup with the Minnesota Medical Association logo imprinted on it?

OPINION

- A. Yes. Officials may accept gifts from individuals or associations who are not lobbyists or lobbyist principals.
- B. Yes, provided the cost of the ceramic coffee cups with the MMA logo is paid by the Alliance.

QUESTION THREE

May the Minnesota Medical Association sponsor display tables with literature on health-related topics that are open to the public and public officials alike?

OPINION

Yes, provided that any literature that may be distributed to officials is within the exception for informational materials of unexceptional value specified in Minn. Stat. § 10A.071, subd. (3)(a)(6).

QUESTION FOUR

May the Minnesota Medical Association make food and beverages available at the display, which would be open to the public and to officials?

OPINION

An organization that is a lobbyist principal may make food and beverages available to the public but may not provide food and beverages to officials unless the officials pay contemporaneously for the benefit. Minn. Stat. § 10A.071, subd. 1.

QUESTION FIVE

May physicians, who are not lobbyists and who are members of the MMA, as part of the event, provide screening services open to the public and to officials, including checking for conditions such as high blood pressure and skin cancer, as part of the event?

OPINION

If the MMA pays for overhead costs associated with the screening services, then the services are provided, at least in part, by a lobbyist principal, and, therefore acceptance is prohibited unless the official pays contemporaneously for such costs. Officials may accept screening services from physicians who are not lobbyists, provided the costs associated with the services are not paid by a lobbyist principal.

QUESTION SIX

May the MMA sponsor an evening reception at which legislators are invited to speak with constituents and respond to questions as part of a program highlighted by guest speakers, generally the governor or House and Senate leaders?

OPINION

The Minnesota Medical Association may sponsor the reception, but an official is prohibited from accepting complimentary admission to the reception unless the official appears to make a speech or answer questions as part of the program. Minn. Stat. § 10A.071, subd. 3 (a)(7).

Approved: October 7, 1994

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: Gifts to Official

ADVISORY OPINION #168

SUMMARY

168. An official is prohibited from accepting a gift from lobbyists and lobbyist principals in the form of payments to defray the costs of conferences that the official attends. Minn. Stat. § 10A.071. An official may accept payment of travel, hotel, and meal expenses for attendance at conferences when the payment is made from funds other than those paid by lobbyists or lobbyist principals.

FACTS

As a public official, as defined in Minn. Stat. § 10A.01, subd. 18, and, therefore, an official as defined in Minn. Stat. § 10A.071, subd. 1 (c), you ask the Ethical Practices Board for an advisory opinion based upon your statement of the following facts:

1. Two upcoming conferences will be sponsored by a nonprofit, bipartisan charitable organization organized under § 501 (c) (3) of the Internal Revenue Code, whose mission is to educate and support government leaders around the country on relevant issues.
2. Because officials cannot easily afford all of the travel, hotel, and meal expenses that are necessary in attending their conferences, the organization pays these expenses for all attenders.
3. You have been asked to be a speaker at one of the conferences. You attended a similar conference and found it to be an extremely beneficial experience.
4. The sponsor is a nation-wide organization that accepts contributions from many sources including either lobbyists or lobbyist principals in Minnesota. However, the organization is willing to fund your expenses from a special account maintained which does not include monies received from corporations. This account consists of membership dues collected from individual members exclusively.
5. The sponsor is able to confirm that none of the membership dues held in the special account, from which your expenses will be paid, has come from a lobbyist or principal in Minnesota.

QUESTION

If you attend two upcoming conferences sponsored by this organization, can your travel, hotel, and meal expenses for the conference paid by the organization from a special fund that consists of membership dues none of which has been paid by a lobbyist or principal in Minnesota?

OPINION

Minn. Stat. Ch. 10A prohibits gifts from lobbyists and lobbyist principals to an official. To the extent that any portion of the costs of the conferences are paid by a lobbyist or a lobbyist principal, you are prohibited from accepting the gift. The term "gift" is broadly defined by Minn. Stat. § 10A.071, subd. 1(b). Donations from a lobbyist or lobbyist principal to pay in whole or in part for the cost of the conferences are not within any exemption from the gift prohibition in Minn. Stat. § 10A.071. The Board advises you to pay contemporaneously for overhead costs of the conferences, paid from donations by lobbyists or lobbyist principals, that are attributable to your attendance at the conference.

Based on a review of the information submitted, it is the opinion of the Board that payment of your travel, hotel, and meal expenses for the conferences from funds other than those paid to the sponsoring organization by lobbyists or lobbyist principals is not prohibited by Minn. Stat. § 10A.071.

Approved: October 7, 1994

Issued to:
John F. Apitz, Esq.
Messerli & Kramer P. A.
1800 Fifth Street Towers
150 South Fifth Street
Minneapolis, MN 55401-4218

RE: Fee Charged to Attending Officials

ADVISORY OPINION #169

SUMMARY

169. A principal must charge a fee to attending officials that covers the cost of the food and beverage provided at the meeting and require contemporaneous payment of the fee by the officials. Otherwise, the acceptance of food and beverage by the officials is a gift prohibited by Minn. Stat. § 10A.071, subd. 1.

FACTS

As a lawyer advising a number of clients regarding the implications of the new Ethics in Government Act, 1994 Laws of Minnesota, Chapter 377, you ask the Ethical Practices Board for an advisory opinion based upon your statement of the following facts:

1. An official attends a meeting sponsored by a lobbyist principal at which food and beverage are provided. The food and beverage are defined as a gift as defined under the Act.
2. To assure compliance with the Act, the official is invoiced for the value of the food and beverage provided and is expected to reimburse the lobbyist principal for same.
3. The official fails to reimburse the lobbyist principal for the value of the food and beverage.

QUESTION

- A. Is the act of invoicing the official for the full value of the food and beverage provided at the meeting, regardless of whether the official reimburses the lobbyist principal for the same, sufficient to eliminate the principal's liability for providing the official with a gift as defined under the act?
- B. What steps must the principal take in seeking reimbursement from an official for gift items before the principal will no longer be considered liable for giving the gift?

OPINION

- A. No. The lobbyist principal must charge a fee to attending officials that covers the cost of the food and beverage provided at the meeting and require contemporaneous

payment of the fee. Otherwise, the acceptance of food and beverage by the officials is a gift prohibited by Minn. Stat. § 10A.071, subd. 1.

B. See Answer A., above.

ALTERNATE DISPOSITION OF ADVISORY OPINION REQUEST

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: Gifts to Officials

Advisory Opinion Request #170 dated September 1, 1994, was withdrawn by the requester as noted at the Ethical Practices Board Meeting of September 30, 1994.

Issued to:
Kelvin Johnson, President
Printing Industry of Minnesota, Inc.
450 North Syndicate, Suite 200
St. Paul, MN 55104-4194

RE: Gifts to Officials

ADVISORY OPINION #171

SUMMARY

171. The Printing Industry of Minnesota, Inc., a lobbyist principal, must observe the prohibitions against providing gifts to officials when planning its annual reception and dinner for Print Communication Week. Officials should pay contemporaneously the full price of the ticket for the evening event so that the transaction is not a gift prohibited by Minn. Stat. § 10A.071.

FACTS

As the president of The Printing Industry of Minnesota, Inc. ("the PIM"), a lobbyist principal, you ask the Ethical Practices Board for an advisory opinion based on your statement of the following facts:

1. The PIM is a trade organization whose members are companies doing business in the print communications industry in Minnesota. The government affairs activities of the association include monitoring, direct lobbying, and representation before legislative and regulatory committees on issues important to the continued expansion of the Minnesota printing industry.
2. The Printing Industry of Minnesota Education Foundation ("the Foundation") is a charitable organization organized under § 501 (c) (3) of the Internal Revenue Code. The Foundation board of directors is identical to the PIM board of directors; consequently, as president of the PIM, you are president of the Foundation, also.
3. The funds received by the Foundation are mostly company or corporate contributions; however, contributions are received from individuals or teachers participating in the programs sponsored by the Foundation.
4. The funding received by the Foundation is for the following designated areas: scholarship fund, education and training, career fair, career materials, industry outreach program, annual awards luncheon for students in graphic arts competition awards program, and Print Communication Week Banquet
5. Each January the Foundation sponsors Print Communication Week and provides a full day of programs for schools and executives in the industry that includes industry career tours, a luncheon, career fair, and an evening reception and dinner. The net proceeds from the event are used for career development for young people as well as funding scholarships for high school

students. In addition, many companies represented at the event will invite their state legislators to attend the event and sit at the company purchased tables.

6. In the past, the Foundation has sent letters of invitation to legislators inviting the legislator and spouse or significant other to be the guest of the Foundation for the evening program at no charge. No legislators or government officials speak at the event.
7. The individual ticket price for evening event is \$65, which includes \$21.50 for the dinner and \$43.50 for other costs such as marketing, postage, speaker fees, administrative overhead, complimentary tickets provided to legislators, and net profits for event planning, education scholarships, and educational materials for schools.

QUESTION ONE

May the Foundation invite as nonpaying guests elected officials or government employees to attend the evening reception and dinner?

OPINION

Yes, unless the costs of the officials' attendance at the event are paid by the PIM, a lobbyist principal. To the extent that any portion of the officials' expenses for the event is paid by a lobbyist or a lobbyist principal, the officials are prohibited from accepting the gift and the lobbyist or lobbyist principal is prohibited from providing the gift to the officials. Minn. Stat. § 10A.071.

QUESTION TWO

May the Foundation invite as nonpaying guests nongovernment employees accompanying the official, for example, spouse, significant other, children?

OPINION

Gifts to a spouse of an official or to a significant other of an official as defined in Minn. Stat. § 10A.071, subd. 1(c), from lobbyists or lobbyist principals are not addressed in Minn. Stat. Ch. 10A.

QUESTION THREE

- A. If a printing company sponsors a company table and pays the Foundation for the cost of a table, may the company invite as nonpaying guests officials and their guests?
- B. If the official must pay for the costs of the event, would the expenses be paid to the printing company or to the Foundation?

OPINION

- A. A printing company that is a lobbyist principal is prohibited from providing an official with a complimentary ticket to the banquet, and the official is prohibited from accepting the benefit. Minn. Stat. § 10A.071, subd. 1. The prohibition does not apply when the individual or printing company or individual paying for the official's ticket is not a lobbyist or a lobbyist principal.
- B. Assuming that overhead and other costs of the event are included in the cost that the printing company paid as sponsor of the table, the official should pay the printing company for the benefit of the event.

QUESTION FOUR

What happens if the official who attends the event is billed the appropriate costs but does not pay?

OPINION

The lobbyist principal should require contemporaneous payment of the charge for the event. Otherwise, the acceptance of food and beverage by the official is a gift prohibited by Minn. Stat. § 10A.071, subd.1.

QUESTION FIVE

If it is the advice of the Board that the official should pay for the event, what portion of the ticket price should the official be charged?

OPINION

The official should pay contemporaneously the full price of the ticket for the evening event. Otherwise, the acceptance of food and beverage by the official is a gift prohibited by Minn. Stat. § 10A.071, subd. 1. This response assumes that payment covers the cost of the event.

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: Gifts to Officials

ADVISORY OPINION #172

SUMMARY

172. An official is prohibited from accepting a gift from a lobbyist principal without the giver receiving consideration of equal or greater value in return regardless of the conduit through which the official receives the benefit.

FACTS

As a public official as defined in Minn. Stat. § 10A.01, subd. 18, and, therefore, an official as defined in Minn. Stat. § 10A.071, subd. 1 (c), you ask the Ethical Practices Board for an advisory opinion based upon your statement of the following facts:

1. A seminar established as a bipartisan effort to educate and inform officials about significant public policy issues has been funded by donations from corporations headquartered or doing business in Minnesota, almost all of whom would be considered lobbyist principals within the confines of Minn. Stat. § 10A.071.
2. Donations from the sponsors cover the cost of speakers' honoraria, printing, equipment, transportation, facility rental, and food and beverages for noon meals.
3. Donations are paid to a governmental body and held in an independent account managed by the governmental body. Admission to the event for invited officials is free.

QUESTION

Are donations to a governmental body which are solicited by officials from a lobbyist or a lobbyist principal considered gifts to officials as defined in Minn. Stat. §10A.071 if the donations are used to conduct a public policy seminar?

OPINION

Yes. An official is prohibited from accepting a gift from a lobbyist principal without the giver receiving consideration of equal or greater value in return regardless of the conduit through which the official receives the benefit.

Issued to:
Peter S. Wattson, Senate Counsel
G-17 State Capitol
St. Paul, MN 55155

Approved: October 7, 1994

RE: Gift to Official

ADVISORY OPINION #173

SUMMARY

173. A Minnesota official who is a member of either the National Conference of State Legislatures's Executive Committee or the Legislative Staff Coordinating Committee, or both committees, is not a member of a group within the meaning of Minn. Stat. § 10A.071, subd. 3(b)(1). The official must pay contemporaneously for food and beverages underwritten by lobbyists or lobbyist principals and offered to the official at joint meetings of the two committees. Otherwise, the acceptance of food and beverage by the official is a gift prohibited by Minn. Stat. § 10A.071, subd. 2.

FACTS

As an attorney in the office of Senate Counsel you are a public official as defined in Minn. Stat. § 10A.01, subd. 18 (n), and, therefore, an official as defined in Minn. Stat. § 10A.071, subd. 1 (c). You ask the Ethical Practices Board for an advisory opinion based upon your statement of the following facts:

1. The National Conference of State Legislatures (NCSL) is run by an Executive Committee of 57 members, all of whom are legislators or legislative staff from other states. When the Executive Committee meets, it is joined by the Legislative Staff Coordinating Committee (LSCC). The LSCC consists of the Executive Committee members who are legislative staff plus 29 members representing the various staff organizations within NCSL.
2. You are a member of both the Executive Committee and the LSCC and the only Minnesota public official, as defined in Minn. Stat. § 10A.01, subd. 18, in either the Executive Committee or the LSCC. There are two other employees of the Minnesota Legislature in the LSCC who are officials as defined in Minn. Stat. § 10A.071, subd. 1(c).
3. The Executive Committee and LSCC meet about four times a year. A typical meeting will include a reception and a dinner underwritten by corporate sponsors, both companies headquartered in the host state and national companies that lobby in Minnesota. All members of the Executive Committee and LSCC, including the one, two, or three Minnesotans present, are offered the same food and beverages at no cost to them.
4. The Minnesota officials, as defined in Minn. Stat. §§ 10A.01, subd. 18, and 10A.071, subd. 1 (c), are less than a majority of the Executive Committee, less than a majority of the LSCC, and less than a majority of the 86-member group that is formed when the Executive Committee and LSCC meet jointly.

QUESTION

Do the food and beverages underwritten by lobbyist principals and offered to the Minnesota officials at no cost, when the Executive Committee and LSCC meet jointly, fall within the exception in Minn. Stat. § 10A.071, subd. 3(b)(1), for a gift that 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?

OPINION

No. Based on the information presented in this request, a Minnesota official who is a member of either or both of these two committees is not a member of a group within the meaning of Minn. Stat. § 10A.071, subd. 3(b)(1). The official must pay contemporaneously for the food and beverages underwritten by lobbyists or lobbyist principals and offered to the official at joint meetings of the two committees. Otherwise, the acceptance of food and beverage by the official is a gift prohibited by Minn. Stat. § 10A.071, subd. 2.

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 to Official

ADVISORY OPINION #174

SUMMARY

174. An official is prohibited from accepting a gift from lobbyists and lobbyist principals in the form of payments to defray the costs of a conference that the official attends. Minn. Stat. § 10A.071.

FACTS

As a public official as defined in Minn. Stat. § 10A.01, subd. 18, and, therefore, an official as defined in Minn. Stat. § 10A.071, subd. 1 (c), you ask the Ethical Practices Board for an advisory opinion based upon your statement of the following facts:

1. The sponsors of a conference about issues of interest to your employer, a lobbyist principal, have asked you to attend the conference. Your traveling expenses and registration fee will be paid by the sponsors.
2. Among the sponsors are corporations who are also defined under the provisions of Minn. Stat. § 10A.071 as lobbyist principals.
3. A majority of the individuals who will be attending the conference will not be officials as defined in provisions of Minn. Stat. § 10A.071.

QUESTION ONE

Would the payment of your expenses by a lobbyist principal, other than your employer, to attend the conference be considered a gift to an official by a lobbyist principal under the provisions of Minn. Stat. § 10A.071 even though your presence at the conference is not connected with your duties as an official?

OPINION

Yes, if the sponsors, including lobbyists or lobbyist principals, pay your traveling expenses and registration fee. Minn. Stat. Ch. 10A does not prohibit you from participating in the conference you describe; however, the law restricts gifts from lobbyists and lobbyist principals to an official. To the extent that any portion of the costs of the conference are paid by a lobbyist or a lobbyist principal, you are prohibited from accepting the gift. Donations from a lobbyist or lobbyist principal to pay in whole or in part for the cost of the conference are not within any exemption from the gift prohibition in Minn. Stat. § 10A.071.

QUESTION TWO

If the answer to Question One is yes, would your attendance at the conference be considered a gift to an official within the meaning of Minn. Stat. § 10A.071 if:

- A. You paid for any portion of your expenses to this event which may have been paid for by a lobbyist principal?
- B. Your employer, a lobbyist principal, paid for any portion of your expenses to this event which may have been paid for by a lobbyist principal?

OPINION

- A. No.
- B. A salary is not a gift under the statute. If your attendance at the conference is in conjunction with your employment, then payment of expenses is not a gift because as an employee you are giving your employer consideration of equal or greater value in return. Minn. Stat. § 10A.071, subd. 1(b).

THE FOLLOWING PUBLICATION DOPES 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: Gifts to Officials

ADVISORY OPINION #175

SUMMARY

175. The acceptance by an official of a gift in the form of payments by a lobbyist or lobbyist principal to defray the costs of a conference is not within any exception to the gift prohibition in Minn. Stat. § 10A.071. An official is prohibited from accepting a gift from a lobbyist or a lobbyist principal without the giver receiving consideration of equal or greater value in return regardless of the conduit through which the official receives the benefit.

FACTS

As a public official as defined in Minn. Stat. § 10A.01, subd. 18, and, therefore, an official as defined in Minn. Stat. § 10A.071, subd. 1 (c), you ask the Ethical Practices Board for an advisory opinion based upon your statement of the following facts:

1. Costs of the annual meeting of a conference attended by a variety individuals representing governmental entities were paid from a combination of registration fees and corporate donations. Many of the registered attendees, such as guest speakers, host staff members and their spouses, were given complimentary registrations, thereby reducing the total number of paying registrants.
2. Corporate donations were used to provide the complimentary registrations and to reduce the amount of the fee for those who paid. Corporate sponsors included some national companies that lobby in Minnesota.
3. The Minnesota officials, as defined in Minn. Stat. § 10A.01, subd. 18, were less than a majority of the registrants attending the conference.

QUESTION

Do the registration fees paid by Minnesota officials to attend the conference fall within the exception in Minn. Stat. § 10A.071, subd. 3(b)(1), for a gift that 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?

OPINION

No. Based on the information presented in this request, the officials and the other individuals attended the conference and paid the registration fees as a matter of self selection rather than as members of a group for which membership requirements are specified. Consequently, the acceptance by an official of a gift in the form of payments by

a lobbyist or lobbyist principal to defray the costs of a conference is prohibited. Minn. Stat. § 10A.071.

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: Gifts to Official

ADVISORY OPINION #176

SUMMARY

176. Gifts given to an official by a lobbyist or lobbyist principal for distribution to foreign visitors are not within the exceptions to the gift prohibition and are thereby prohibited under Minn. Stat. § 10A.071.

FACTS

As a public official as defined in Minn. Stat. § 10A.01, subd. 18, and, therefore, an official as defined in Minn. Stat. § 10A.071, subd. 1 (c), you ask the Ethical Practices Board for an advisory opinion based upon your statement of the following facts:

1. As an official you frequently receive visitors from foreign countries in your office or address them at dinners or meetings.
2. A normal part of these visits is the exchange of gifts. You have found that the visitors appreciate receiving gifts made in Minnesota.
3. On occasion, you have requested Minnesota-made gifts from Minnesota companies to give to foreign visitors with the understanding that the gifts are not for your personal use or benefit, but only to be given to foreign visitors.
4. Some of the companies from whom you have requested and received gifts to be given to foreign visitors are lobbyist principals within the meaning of Minn. Stat. § 10A.071.

QUESTION

Does Minn. Stat. § 10A.071 prohibit you from acting as the agent for Minnesota companies in making gifts to foreign visitors?

OPINION

Yes. Officials are prohibited from accepting gifts from lobbyists or lobbyist principals, subject to certain exceptions defined in Minn. Stat. § 10A.071. Gifts given to an official by a lobbyist or lobbyist principal for distribution to foreign visitors are not within the exceptions and are thereby prohibited.

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: Lobbyist Principal

ADVISORY OPINION #177

SUMMARY

177. A member of the board of an association that is a lobbyist principal is not subject to Minn. Stat. § 10A.071, subd. 2, unless that member is a lobbyist or a lobbyist principal. A purely personal gift to an official by a member of the board of an association that is a lobbyist principal is not prohibited unless the gift is paid for or reimbursed by the association. This assumes that there is no violation of Minn. Stat. § 471.895 or any other state statute. Payment of an official's transportation and lodging by a lobbyist principal is prohibited. Minn. Stat. § 10A.071, subd. 1(b).

FACTS

As an officer of an association that is a lobbyist principal and on behalf of the association and its member organizations, you ask the Ethical Practices Board for an advisory opinion based upon your statement of the following facts:

1. Your association is a nonprofit organization whose purpose is to educate its members and the public about certain issues and to advocate for improvement in laws governing these issues.
2. The association's membership includes business firms and individuals.

QUESTION ONE

Is a member of the board of an association that is a lobbyist principal subject to Minn. Stat. § 10A.071, subd. 2, even though that member is not a lobbyist or a principal as defined in Minn. Stat. Ch. 10A in the member's own right?

OPINION

No.

QUESTION TWO

Would a purely personal gift to an official by an individual member of the board of an association that is a lobbyist principal be prohibited when the gift was neither motivated by or intended to advance the association's activities nor paid or reimbursed for by the association?

OPINION

No, if the member is not a lobbyist or a lobbyist principal and the member is not reimbursed by the association, a lobbyist principal. The motive or intent are not addressed by the statute. This response assumes that there is no violation of Minn. Stat. § 471.895, or any other state statutes.

QUESTION THREE

- A. Are the association and its member firms, which are lobbyist principals, prohibited from giving gifts to officials who are not legislators or employees of the legislature?
- B. Could the association or a member firm, which is a lobbyist principal, invite an official to speak to the association or the firm at an out-of-town seminar and provide that official with transportation and lodging in connection with that presentation?

OPINION

- A. Yes. Official as defined in Minn. Stat. § 10A.071, subd. 1(c), includes a public official as defined in Minn. Stat. § 10A.01, subd. 18; an employee of the legislature; or a local official of a metropolitan governmental unit as defined in Minn. Stat. § 10A.01 subds. 25 and 26. Copies of these statutes are attached.
- B. Yes, you may invite the officials. However, you may not provide transportation and lodging for the official in connection with the presentation. Minn. Stat. § 10A.071, subd. 1(b).

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: Tickets Sold to Officials

ADVISORY OPINION #178

SUMMARY

178. A lobbyist principal is prohibited from offering a service to officials, who are not season ticket holders, in the form of the opportunity to purchase tickets to an event operated by the lobbyist principal in advance of the sale of tickets to the general public. Minn. Stat. § 10A.071.

FACTS

As a registered lobbyist for an association that is a lobbyist principal, you ask the Ethical Practices Board for an advisory opinion based upon your statement of the following facts:

1. The association operates several annual events for which it offers tickets for sale to officials.
2. The price for the tickets offered to the officials is the same as the price paid by members of the general public.
3. The association's practice has been to send order blanks for the event to season ticket holders and to officials at the same time and to reserve a block of tickets for the event in anticipation of the advance sale to these individuals. After this advance sale is completed, the unsold tickets are released for sale to the public.

QUESTION

Is the advance sale of tickets to an event to officials by the association, a lobbyist principal, a gift from a lobbyist principal that is prohibited by Minn. Stat. § 10A.071?

OPINION

Yes. A lobbyist principal is prohibited from offering a service to officials, who are not season ticket holders, in the form of the opportunity to purchase tickets to an event operated by the lobbyist principal in advance of the sale of tickets to the general public. Minn. Stat. § 10A.071.

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 to Official

ADVISORY OPINION #179

SUMMARY

179. An official's acceptance of payments by a lobbyist or lobbyist principal to defray the costs of a conference is a gift and is prohibited under Minn. Stat. § 10A.071.

FACTS

As a public official as defined in Minn. Stat. § 10A.01, subd. 18, and, therefore, an official as defined in Minn. Stat. § 10A.071, subd. 1 (c), you ask the Ethical Practices Board for an advisory opinion based upon your statement of the following facts:

1. As an official you will sometimes attend a conference in another state conducted by a national organization.
2. You are a member of a nonprofit association of government officials from around the United States which holds regular conferences.
3. Typically your expenses for travel, meals, and registration for these conferences would be paid for your agency or from other resources available to you that are not paid by a lobbyist or a lobbyist principal.
4. The costs of some of the conferences to which you refer may, in part, be underwritten by corporate sponsors, some of whom may be lobbyist principals as defined in Minn. Stat. Ch. 10A.
5. The conferences to which you refer are attended by a great number of people, from around the nation, most of whom would not be an official as defined in Minn. Stat. § 10A.071, subd. 1(c).

QUESTION ONE

If the costs of a conference conducted by a national association are underwritten by a lobbyist or a lobbyist principal, as defined in Minn. Stat. Ch. 10A, would an official be

prohibited from attending such a conference unless that official pays the actual cost of the conference attributable of that individual's participation in the conference?

OPINION

Yes. Donations from a lobbyist or a lobbyist principal that pay in whole or in part the cost of travel, meals, and registration fees are not within any exception to the gift prohibition in Minn. Stat. § 10A.071.

QUESTION TWO

If the answer to Question One is, in general, yes, does the exception in Minn. Stat. § 10A.071, subd. 3(b)(1), apply, since this gift would be 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?

OPINION

No. The acceptance by an official of a gift in the form of payments by a lobbyist or lobbyist principal to defray the costs of a conference is not within any exception to the gift prohibition in Minn. Stat. § 10A.071.

Issued to:
Lynn Schoonmaker, Program Coordinator
Minnesota Coalition of Family Organizations
420 Vocational and Technical Education Building
1954 Buford Avenue
St. Paul, MN 55108

RE: Lobbyist Principal

ADVISORY OPINION #180

SUMMARY

180. The Minnesota Coalition of Family Organizations does not become a lobbyist principal because some of its members are lobbyist principals. Educational services provided to officials by Minnesota Coalition of Family Organizations that are funded in part by lobbyist principals are not within the exceptions to gift prohibitions in Minn. Stat. § 10A.071.

FACTS

As program coordinator for the Minnesota Coalition of Family Organizations ("the MN COFO") you ask the Ethical Practices Board for an advisory opinion based on your statement of the following facts and information provided:

1. The MN COFO is composed of six state affiliates of national family organizations and two local organizations.
2. The following organizations are represented in the MN COFO: Minnesota Council of Family Relations; Family Resources Coalition; Family Service America, including both Family Service of Greater St. Paul and Family and Children's Service of the Minneapolis Metro Area; Ramsey Action Programs, Head Start; Minnesota Home Economics Association; Upper Midwest Association of Marriage and Family Therapy; Amherst H. Wilder Foundation; and Minnesota Extension Service, University of Minnesota. Two of the eight member organizations are lobbyist principals.
3. Each member organization contributes funds for the staffing and expenses of the MN COFO. In addition foundations and the Minnesota Extension Service have provided services or funds or both, including funds for salary, office space, and equipment. Foundations have provided funds to sponsor speaker fees and expenses, video production, printing expenses, and staff salary.

4. The mission of the MN COFO is to provide policy makers with educational opportunities developed either in collaboration with current legislative bodies, professional organizations (e.g., the Association of Minnesota Counties, Minnesota School Board Association, University of Minnesota Consortium for Children Youth and Families), or through independent policy forums.
5. The MN COFO does not advocate for specific legislation or develop programming for the purpose of persuasion of specific legislation.

QUESTION ONE

Is MN COFO a lobbyist principal within the meaning of Minn. Stat. § 10A.01, subd. 28?

OPINION

No. The MN COFO does not become a lobbyist principal because some of its members are lobbyist principals.

QUESTION TWO

Are services or educational programs presented by the MN COFO and funded by outside funding considered a gift to officials within the meaning of Minn. Stat. § 10A.071?

OPINION

To the extent that funds from lobbyists or lobbyist principals are used by the MN COFO to underwrite the costs of its services or educational programs, the acceptance of complimentary admission to the events by an official is prohibited. Minn. Stat. § 10A.071. The admission would not be a gift if the official pays the MN COFO contemporaneously for the event.

QUESTION THREE

What would the MN COFO need to do to fall within the Ethics in Government Act, Minn. Stat. Ch. 10A?

OPINION

The Ethical Practices Board may issue advisory opinions on the requirements of Minn. Stat. Ch. 10A based on real or hypothetical situations. Question Three does not request the Board's opinion on a specific situation.

Issued to:
The Honorable Loren A. Solberg
115 Fifth Avenue, Box 61
Bovey, MN 55709

RE: Loan to Official

ADVISORY OPINION #181

SUMMARY

181. A loan from the Minnesota Deer Hunters Association, a lobbyist principal, in the form of a picture to be hung in an official's office is a gift prohibited by Minn. Stat. § 10A.071, subd. 1 (b) and (c).

FACTS

As a state representative you are a public official as defined in Minn. Stat. § 10A.01, subd. 18 (a), and, therefore, an official as defined in Minn. Stat. § 10A.071, subd. 1(c). You ask the Ethical Practices Board for an advisory opinion based on your statement of the following facts:

1. The Minnesota Deer Hunters Association, a lobbyist principal, loaned to you a picture to be hung in your legislative office; however, the picture has not yet been hung in your legislative office.
2. The Association loaned you the picture with the understanding that the picture is strictly on loan and that the Association may reclaim the picture at any time they so choose.
3. Upon your departure from the legislature, it would be your duty to return the picture to the Association.

QUESTION

May you accept the Minnesota Deer Hunters Association's loan of a picture to be hung in your legislative office?

OPINION

No. The Board believes that accepting a loan from the Minnesota Deer Hunters Association, a lobbyist principal, in the form of a picture to be hung in a legislator's office is a gift prohibited by Minn. Stat. § 10A.071, subd. 1 (b) and (c).

Issued to:
Alan W. Weinblatt, Esq.
Weinblatt & Associates
Suite 1616 Pioneer Building
336 North Robert Street
St. Paul, MN 55101

RE: Campaign Expenditure Limits

ADVISORY OPINION #182

SUMMARY

182. Betsey Whitbeck, Dee Long's opponent in the November 8, 1994, general election was nominated for the office of state representative in District 60A by nominating petition dated July 15, 1994, as Independent. The provisions in Minn. Stat. § 10A.25, which govern when a candidate is no longer bound by expenditure limits apply only with respect to an opponent who is a candidate of a major political party. Because Dee Long's opponent was nominated by petition as Independent and is not the nominee of a major political party, Dee Long will continue to be bound by the spending limits in Minn. Stat. §§ 10A.25 and 10A.324, subd. 1(C).

FACTS

As legal counsel for Dee Long, the incumbent candidate for re-election to the Minnesota House of Representatives from District 60A, you request an advisory opinion from the Ethical Practices Board based on the following facts, assumptions, and exhibits supplied:

1. Representative Long's opponent in the November 8, 1994, general election is Betsey Whitbeck.
2. On or about July 26, 1994, Ms. Whitbeck was unanimously endorsed for election by the Independent-Republican party. Exhibit A.
3. Ms. Whitbeck has identified herself as an Independent-Republican since at least January 4, 1991. Exhibit B.
4. Ms. Whitbeck's campaign committee includes the Independent-Republican chair from senate district 60 as her literature drop chair, and the chair of her campaign is former Republican Attorney General Douglas Head. Exhibit C.
5. Representative Long has signed and filed with the Board an agreement to be bound by the statutory spending limits as set forth in Minn. Stat. § 10A.25.

However, the spending limits imposed by Minn. Stat. § 10A.25 apply only to candidates whose major political party opponents agree to be bound by the limits and who themselves agree to be bound by the limits as a condition to receiving a public subsidy for their campaigns. Minn. Stat. § 10A.25, subd. 10(a).

6. Ms. Whitbeck has not filed an agreement with the Board to be bound by statutory spending limits even though she is otherwise eligible to receive a public subsidy. Exhibit D.

QUESTION ONE

Based on the foregoing facts, assumptions, and applicable law, is Representative Long bound by the spending limits in Minn. Stat. §§ 10A.25 and 10A.324, subd. 1(c)?

OPINION

Yes. Representative Long's opponent in the November 8, 1994, general election, Betsey Whitbeck, was nominated for the office of state representative in District 60A as Independent by nominating petition dated July 15, 1994, according to a copy of Ms. Whitbeck's Minnesota Affidavit of Candidacy submitted to the Ethical Practices Board by the Hennepin County filing officer under Minn. Stat. § 10A.09, subd. 2 (1992). The registration and statement of organization of a principal campaign committee, Friends of Betsey Whitbeck, received in the Board office on April 6, 1994, disclosed Ms. Whitbeck's party affiliation: Independent. The spending limits in Minn. Stat. §§ 10A.25 and 10A.324, subd. 1(c), apply to Representative Long because her opponent in the November 8, 1994, general election was nominated by petition as Independent and, therefore, is not the nominee of a major political party. Minn. Stat. § 10A.25, subd. 10 (1992). The Board reaffirms Advisory Opinion #144 issued June 3, 1994.

QUESTION TWO

Is Representative Long eligible to receive or list Ms. Whitbeck's share of the general account public subsidy under Minn. Stat. §§ 10A.25, subd. 10(b), and 10A.31?

OPINION

No. See response to Question One, above.

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 to Officials

ADVISORY OPINION #183

SUMMARY

183. A lobbyist principal is prohibited from providing complimentary breakfasts to officials in conjunction with an event. Minn. Stat. § 10A.071. The lobbyist principal should also review the applicability of Minn. Stat. § 471.895, a statute that is not within the jurisdiction of the Ethical Practices Board and with regard to which the Board may not issue advisory opinions, if the complimentary breakfasts are offered to local officials.

FACTS

As attorney for an association that is a lobbyist principal, you ask the Ethical Practices Board for an advisory opinion based upon your statement of the following facts:

1. The association has sponsored a breakfast in conjunction with a trade show to honor certain individuals related to the association's activities.
2. The individuals honored may be employees of a city, county, or a state agency.
3. The association invites also a commissioner and assistant commissioner of a state department and certain employees of another state department.
4. The association's guests described above are invited free of charge. All other individuals, including industry personnel, pay \$10.00 to attend.

QUESTION ONE

Is the association, a lobbyist principal, prohibited from providing a complimentary breakfast to certain city, county, or state employees in conjunction with the trade show?

OPINION

Yes. A lobbyist principal is prohibited from giving a local official a complimentary breakfast, and a local official in a metropolitan governmental unit is prohibited from

accepting a complimentary breakfast from a lobbyist principal. Minn. Stat. § 10A.071, subd. 1(b). The association also should review the applicability of Minn. Stat. § 471.895 (1994 Minn. Laws, ch. 377, sec. 6), a statute that is not within the Board's jurisdiction and with regard to which the Board may not issue advisory opinions. That statute prohibits gifts from interested persons to local officials as those terms are defined by Minn. Stat. § 471.895, subds. 1 (c) and (d), and it likely applies to the activities you describe if employees to whom the complimentary breakfast is offered are employed in cities and counties other than metropolitan governmental units. A copy is attached for your reference.

QUESTION TWO

Is the association, a lobbyist principal, prohibited from providing a complimentary breakfast to the commissioner, the assistant commissioner, and other personnel of state departments?

OPINION

Yes. A lobbyist principal is prohibited from giving an official a complimentary breakfast. The commissioner and assistant commissioner of a state department are officials and are prohibited from accepting a complimentary breakfast from a lobbyist principal. Minn. Stat. § 10A.071, subd. 1(b). The cited prohibition applies to other personnel of state departments who are public officials as defined in Minn. Stat. § 10A.01, subd. 18. A copy is attached for reference.

The Ethical Practices Board refers the requester to Advisory Opinion Nos. 155, 163, 167, 169, 175, and 177, in which the Board has answered similar questions.

Issued to:
John F. Apitz, Esq.
Messerli & Kramer P.A.
1800 Fifth Street Towers
150 South Fifth Street
Minneapolis, MN 55402-4218

RE: Membership Directory Distribution

ADVISORY OPINION #184

SUMMARY

184. The distribution of the annual membership directory of the Minnesota Government Relations Council, a nonprofit corporation which is neither a lobbyist principal nor a lobbyist as defined in Minn. Stat. Ch. 10A, is not prohibited. The distribution of the directory is within the exceptions to the gift prohibition for services to assist an official in the performance of official duties and informational material of unexceptional value, as set out in Minn. Stat. § 10A.071, subd. 3 (a)(2) and (6).

FACTS

As a member of the board of directors of the Minnesota Government Relations Council ("the MGRC"), you ask the Board for an advisory opinion based on your statement of the following facts and information provided:

1. The MGRC is a nonprofit corporation whose membership is composed of lobbyists registered with the Minnesota Ethical Practices Board ("the MEPB"); however, the MGRC is not a principal or a lobbyist and is not registered with the MEPB.
2. MGRC members pay dues to the organization which are used, in part, to produce an annual membership directory; however, the directory is a publication of the MGRC, a nonprofit corporation with independent legal status which is neither a lobbyist principal nor a lobbyist as defined in Minnesota law.
3. The annual membership directory published by MGRC includes members' pictures, addresses, telephone numbers, and with whom the members are associated.

4. Each MGRC member receives a copy of the directory as one of the benefits of membership. Nonmembers may purchase copies of the directory from the organization for \$12.00 per directory.

QUESTION

May the MGRC provide copies of its membership directories to state legislators free of charge to assist them in the performance of their legislative duties?

OPINION

Yes. The distribution to legislators of the annual membership directory of the MGRC, a nonprofit corporation which is neither a lobbyist principal nor a lobbyist as defined in Minn. Stat. Ch. 10A is not prohibited. Although requested by MGRC members, who are lobbyists, the distribution is within the exceptions to the gift prohibition for services to assist an official in the performance of official duties and for informational material of unexceptional value, as set out in Minn. Stat. § 10A.071, subd. 3 (a)(2) and (6).

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: Gifts to Officials

ADVISORY OPINION #185

SUMMARY

185. A lobbyist principal must charge a fee to attending officials that covers the cost of the event and require contemporaneous payment of the fee by the officials. Otherwise, the acceptance of the reception, dinner, and program is a gift prohibited under Minn. Stat. § 10A.071, subd. 1.

FACTS

As an officer of an association that is a lobbyist principal, you ask the Ethical Practices Board for an advisory opinion based on your statement of the following facts:

1. The association holds an annual reception, dinner, and program. Business people and local associations, as well as officials, are invited to attend.
2. In the past, the association members and others were encouraged to invite officials to be their guests at this event which included a reception, program, and dinner. The evening began with a reception, an address by an official, dinner, and a panel discussion in which certain officials participated as part of the program.
3. The next annual event will be similar to previous years; however, this year the association members and others will be asked to encourage officials to attend the event and to invite them to sit with their business or community.
4. The officials will be asked their views on issues during dinner. They will not make formal presentations.
5. The cost of the program includes the food and a contribution to the association.

QUESTION ONE

Must the association, a lobbyist principal, charge the officials to attend the program?

OPINION

Yes. The association, a lobbyist principal, must charge a fee to attending officials that covers the cost of the program, including the food and beverage provided at the event, and require contemporaneous payment of the fee by the officials. Otherwise, the acceptance of the reception, dinner, and program is a gift prohibited under Minn. Stat. § 10A.071, subd. 1. An official who appears at an event to make a speech or answer questions as part of a program does not have to pay for food or beverage at the event. Minn. Stat. § 10A.071, subd. 3(7).

QUESTION TWO

If the response to Question One is yes, may the association ask the officials to pay only for the food, while asking all other attenders pay for the food and the contribution to the association?

OPINION

Yes, provided all overhead is included in the amount that officials are asked to pay to attend the event.

The Ethical Practices Board refers the requester to Advisory Opinion Nos. 153, 159, 160, 169, and 171, in which the Board has answered similar questions.

Issued to:
Kevin G. Maas
c/o John F. Moon, Executive Director
Economic Development Association of Minnesota
One Appletree Square, Suite 201
Bloomington, MN 55425

RE: Gifts to Officials

ADVISORY OPINION #186

SUMMARY

186. The acceptance by an official of a gift in the form of payments by a lobbyist or a lobbyist principal to defray the costs of a conference is not within any exception to the gift prohibition in Minn. Stat. § 10A.071. An official is prohibited from accepting a gift from a lobbyist or a lobbyist principal without the giver receiving consideration of equal or greater value in return regardless of the conduit through which the official receives the gift.

FACTS

As a member of the Economic Development Association of Minnesota, a lobbyist principal, you ask the Ethical Practices Board for an advisory opinion based upon your statement of the following facts:

1. The Economic Development Association of Minnesota ("EDAM") is a nonprofit corporation organized by economic development professionals with both private sector and public sector members.
2. EDAM finances its educational opportunities and professional development activities through members' annual membership fees and two conferences each year.
3. EDAM generates revenues from its conferences through registration fees and from donations that are used to sponsor the conference in general or individual activities such as receptions or door prize drawings.
4. A majority of EDAM's members are not officials as defined in Minn. Stat. § 10A.071, subd. 1(c); however, because EDAM's conferences are open to its members and others, it is possible that at a given conference a majority of the attenders may be officials.

QUESTION ONE

May EDAM, a lobbyist principal, provide lunches, beverages, hors d'oeuvres, prizes, and other items of more than insignificant value to officials attending an EDAM conference if the source of funding for the items is the registration fees paid by members registered for the conference and if all attenders are offered similar access to such items?

OPINION

Yes. When an official provides a lobbyist or a lobbyist principal with consideration of equal or greater value than the item provided by the giver, then no gift is involved in the transaction. Minn. Stat. § 10A.071, subd. 1(b). This response assumes that the registration fees paid by attenders cover the full cost of the conference and that there is no violation of Minn. Stat. § 471.895 or any other state statute. See copy of Minn. Stat. § 471.895 attached.

QUESTION TWO

May EDAM, a lobbyist principal, provide lunches, beverages, hors d'oeuvres, prizes, and other items of more than insignificant value to an official attending an EDAM conference if the items are financed in part by donations received by EDAM from sources other than registration fees paid by persons in attendance?

OPINION

No. Donations from a lobbyist or lobbyist principal to pay in whole or in part for the cost of a conference attended by officials are not within any exception to the gift prohibition in Minn. Stat. § 10A.071. To the extent that any portion of the costs of a conference is paid by a lobbyist or a lobbyist principal, an official is prohibited from accepting the gift, and the lobbyist or lobbyist principal is prohibited from making the gift. EDAM also should review the applicability of Minn. Stat. § 471.895, a statute that is not within the Board's jurisdiction and with regard to which the Board may not issue advisory opinions. That statute prohibits gifts from interested persons to local officials as those terms are defined by Minn. Stat. § 471.895, subds. 1(c) and (d), and it likely applies to the activities you describe if individuals attending the conference are employed in cities and counties other than metropolitan governmental units. A copy is attached for your reference.

QUESTION THREE

Would the response to Questions One and Two be different if a majority of attenders at an EDAM conference were officials as defined in Minn. Stat. § 10A.071 even though a majority of the members of EDAM were not officials?

OPINION

No.

The Ethical Practices Board refers the requester to Advisory Opinion Nos. 142, 147, 148, 155, 157, 159, 160, 161, 163, 167, 168, 169, 171, 172, 173, 174, 175, 179, and 180, in which the Board has answered similar questions.

Issued to:
John W. Quarnstrom, Esq.
Bannigan & Kelly, P.A.
1750 North Central Life Tower
445 Minnesota Street
St. Paul, MN 55101

RE: Gifts to Officials

ADVISORY OPINION #187

SUMMARY

187. The gift prohibitions in Minn. Stat. § 10A.071 do not apply to the Minnesota Teamsters Public & Law Enforcement Employees Union, Local No. 320, unless or until activities of the union qualify the union as a lobbyist principal as defined in Minn. Stat. § 10A.01, subd. 28. Therefore, it is not necessary at this time to determine whether the pocket calendar or desk diary is within any of the exceptions to the prohibitions on gifts. Minn. Stat. § 10A.071.

The Minnesota Teamsters Local 320 should review the applicability of Minn. Stat. § 471.895, a statute that is not within the jurisdiction of the Ethical Practices Board and with regard to which the Board may not issue advisory opinions, if the pocket calendars or desk diaries are offered to local officials.

FACTS

As legal counsel to Minnesota Teamsters Public & Law Enforcement Employees Union, Local No. 320 ("Minnesota Teamsters Local 320"), you ask the Ethical Practices Board for an advisory opinion based upon your statement of the following facts and information provided:

1. Minnesota Teamsters Local 320 is a labor organization which represents public employees employed within the state of Minnesota and includes licensed police officers, correctional officers, courthouse employees, public works employees, certain classifications at the University of Minnesota, middle managers at the state university system, and middle managers and department heads for Minnesota municipalities.
2. Minnesota Teamsters Local 320 is represented by a lobbyist, who registered with the Ethical Practices Board and notified Board staff that the Minnesota Teamsters Local 320 is not lobbyist principal within the meaning of Minn. Stat. § 10A.01, subd. 28.

3. Minnesota Teamsters Local 320 has distributed for a number of years pocket calendars, wall calendars, and desk diaries to its members and to other officials, including legislators.

QUESTION ONE

Does the pocket calendar or desk diary distributed by Minnesota Teamsters Local 320, which is not a lobbyist principal, constitute informational material of unexceptional value, thereby falling within the exception to the gift prohibition stated in Minn. Stat. § 10A.071, subd. 3(a)(6)?

OPINION

Because the Minnesota Teamsters Local 320 is not identified currently as a lobbyist principal, the gift prohibitions in Minn. Stat. § 10A.071 do not apply. Therefore, it is not necessary at this time to determine whether the pocket calendar or desk diary are within any of the exceptions to the prohibitions on gifts. The Minnesota Teamsters Local 320 should review the applicability of Minn. Stat. § 471.895, a statute that is not within the jurisdiction of the Ethical Practices Board and with regard to which the Board may not issue advisory opinions, if the pocket calendars or desk diaries are offered to local officials. See copy attached for your reference.

QUESTION TWO

Does the pocket calendar or desk diary distributed by Minnesota Teamsters Local 320, which is not a lobbyist principal, constitute a trinket or memento of insignificant value, thereby falling within the exception to the gift prohibition stated in Minn. Stat. § 10A.071, subd. 3(a)(5)?

OPINION

See response to Question One, above.

QUESTION THREE

Which members of Minnesota Teamsters Local No. 320 are officials within the meaning of Minn. Stat. § 10A.071, subd. 1?

OPINION

An official within the meaning of Minn. Stat. § 10A.071, subd. 1, is a public official, as defined in Minn. Stat. § 10A.01, subd. 18; an employee of the legislature; or a local

official in a metropolitan governmental unit, as defined in Minn. Stat. § 10A.01, subds. 25 and 26. See copies of the statutes, below.

The Ethical Practices Board refers the requester to Advisory Opinion Nos. 141 and 167, in which the Board has answered similar questions.

QUESTION FOUR

Is Minnesota Teamsters Local No. 320 allowed to have cash drawings at membership meetings?

OPINION

Question Four is not within the jurisdiction of the Ethical Practices Board.

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: Value of Transportation

ADVISORY OPINION #188

SUMMARY

188. The value of transportation on a corporation's aircraft that is provided to an official by a corporation, that is a lobbyist principal, is determined by the amount the official would have to pay to obtain equivalent commercial airfare. Otherwise, the transportation offered to the official by the lobbyist principal is a gift prohibited under Minn. Stat. § 10A.071.

FACTS

As a public official as defined in Minn. Stat. § 10A.01, subd. 18, and, therefore, an official as defined in Minn. Stat. § 10A.071, subd. 1 (c), you ask the Ethical Practices Board for an advisory opinion based upon your statement of the following facts and information provided:

1. You and your spouse and have been invited to join two personal friends and other social friends for a skiing weekend next spring. Your host is an executive officer of a corporation which is a lobbyist principal; however, your host is not a lobbyist.
2. The invitation is to travel in an aircraft owned and operated by the corporation, a lobbyist principal.
3. Six passengers, plus two pilots, would be making the flight: the corporate executive and five guests.
4. State law provides that a gift from a lobbyist principal to an official must be given and received without the giver receiving consideration of equal or greater value in return. Therefore, you are prepared to pay the corporation for the air transportation being provided.
5. The round trip commercial coach airfare between Minneapolis and the destination is \$508.
6. You consider asking for corporate cost allocation information to be intrusive; however, you point out that the operating costs of flying a corporate aircraft,

on a pro rata passenger basis, jet or turbo prop, would be significantly in excess of the commercial airfare.

QUESTION ONE

Is the value of the transportation being provided to you, an official, by the corporation, a lobbyist principal, determined by the equivalent commercial airfare or by the pro rata cost to the corporation in conducting the flight?

OPINION

The value of the transportation is determined by what the official would pay to obtain equivalent commercial airfare. Based upon the facts presented, the payment would be most consistent if first class airfare, with no special discounts, including weekend discounts, were used as the measure of value.

QUESTION TWO

Is the corporation's cost determined by its direct flight expense, its overhead allocation, aircraft depreciation, or by some combination thereof?

OPINION

See response to Question One, above. Use of equivalent commercial airfare as the measure of value would eliminate inconsistencies that may result from a requirement that the corporation use any one of its cost accounting procedures to determine the value.

Issued to:
Robert E. Wetherille, Jr., Lobbyist
Minnesota State Fire Department Association
3600 Edmund Boulevard
Minneapolis, MN 55406

RE: Gifts to Officials

ADVISORY OPINION #189

SUMMARY

189. The provisions of Minn. Stat. § 10A.071 apply to the Minnesota State Fire Department Association, a lobbyist principal, and prohibit the association from distributing calendar books to officials. The Minnesota State Fire Department Association should review the applicability of Minn. Stat. § 471.895, a statute that is not within the jurisdiction of the Ethical Practices Board and with regard to which the Board may not issue advisory opinions, if the calendar books are offered to local officials.

FACTS

As a lobbyist for the Minnesota State Fire Department Association ("the Association"), you ask the Ethical Practices Board for an advisory opinion based upon your statement of the following facts and information provided:

1. The Association, a lobbyist principal, represents about 600 fire departments in Minnesota, both full time and volunteer departments.
2. The Association has prepared, published, and distributed a calendar book in the past to provide the names and addresses of the Association officers and directors to interested parties.
3. You supplied a sample of the calendar book, which covers 1995 and 1996 and is enclosed in a plastic cover.

QUESTION ONE

May the Association, a lobbyist principal, give the calendar book to a legislator, an official as defined in Minn. Stat. § 10A.071, subd. 1?

OPINION

No. A lobbyist principal is prohibited from giving a gift to an official, and an official is prohibited from accepting a gift from a lobbyist principal. If the Association receives contemporaneously from the legislator consideration of equal or greater value in return, then the book is not a gift. Minn. Stat. § 10A.071.

QUESTION TWO

May the Association, a lobbyist principal, give the calendar book to an employee of the legislature, an official as defined in Minn. Stat. § 10A.071, subd. 1?

OPINION

No. A lobbyist principal is prohibited from giving a gift to an official, and an official is prohibited from accepting a gift from a lobbyist principal. If the Association receives contemporaneously from the legislative employee consideration of equal or greater value in return, then the book is not a gift. Minn. Stat. § 10A.071.

QUESTION THREE

May the Association, a lobbyist principal, give the calendar book to a local elected person who is an official as defined in Minn. Stat. § 10A.071, subd. 1?

OPINION

No. A lobbyist principal is prohibited from giving a gift to a local official, including an elected official, in a metropolitan governmental unit, and the official is prohibited from accepting a gift from a lobbyist principal. If the Association receives contemporaneously from the local elected official consideration of equal or greater value in return, then the book is not a gift. Minn. Stat. § 10A.071. See the definitions of local official and metropolitan governmental unit, below. The Association should review the applicability of Minn. Stat. § 471.895, a statute that is not within the jurisdiction of the Ethical Practices Board and with regard to which the Board may not issue advisory opinions, if the calendar book is offered to local officials. See copy attached for your reference.

QUESTION FOUR

May the Association, a lobbyist principal, give the calendar book to an employee of the state who is a public official as defined in Minn. Stat. § 10A.01, subd. 18?

OPINION

No. A lobbyist principal is prohibited from giving a gift to an employee of the state who is a public official, and the official is prohibited from accepting a gift from a lobbyist principal. If the Association receives contemporaneously from the public official consideration of equal or greater value in return, then the book is not a gift. Minn. Stat. § 10A.071. See the definition of public official, below.

QUESTION FIVE

May the Association, a lobbyist principal, give the calendar book to an employee of a local government body?

OPINION

The Association should review the applicability of Minn. Stat. §471.895, a statute that is not within the jurisdiction of the Ethical Practices Board and with regard to which the Board may not issue advisory opinions, if the calendar book is offered to an employee of a local government body. See copy of this statute attached for your reference.

The Ethical Practices Board refers the requester to Advisory Opinion Nos. 141 and 167, in which the Board has answered similar questions.

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: Self-Employed Official

ADVISORY OPINION #190

SUMMARY

190. A public official who is self-employed must be aware of the possible application of laws prohibiting the official's acceptance of gifts from lobbyists or lobbyist principals. Minn. Stat. § 10A.071.

FACTS

As a public official as defined in Minn. Stat. § 10A.01, subd. 18, and, therefore, an official as defined in Minn. Stat. § 10A.071, subd. 1 (c), you ask the Ethical Practices Board for an advisory opinion on facts which you describe as follows:

1. You are self-employed in a consulting business. You attend a conference conducted by a state office that is required for you and other public officials and is funded by registration fees paid by attenders. After the conference you offer to be a speaker at future conferences as a consultant; if selected as a speaker, you may be addressing future clients. You would receive no pay for speaking at the conferences; however, some attenders could be lobbyist principals.
2. A lobbyist principal promises to enter into a consulting contract with your consulting practice. The lobbyist principal will pay market value for the service.
3. You serve on the board of directors for a community financial institution, such as a credit union, which is a lobbyist principal. Although directors receive no compensation for performing their duties, meals are provided for all directors at monthly meetings, and the financial institution pays for all costs associated with conferences and with annual strategic planning meetings held in a different city. Some of the conferences involve airfare and motel accommodations. All of the directors attend these conferences from time to time; however, you are the only director who is a public official.

QUESTION ONE

Is the opportunity to speak to prospective clients by virtue of your position as a public official, which in turn could benefit your business, a violation of Minn. Stat. Ch. 10A?

OPINION

No.

QUESTION TWO

Must your consulting practice reject the offer from the lobbyist principal?

OPINION

No. Based on the hypothetical situation presented, the Board concludes that no gift has been given or received that is prohibited by Minn. Stat. § 10A.071.

QUESTION THREE

Are the meals and reimbursement from the financial institution, a lobbyist principal, considered to be gifts from a lobbyist principal?

OPINION

Yes, but the gifts are not prohibited because of the recipient's membership in the board of directors, a majority of whose members are not officials, and an equivalent gift is given to the other members of the board of directors. Minn. Stat. § 10A.071, subd. 3 (b)(1).

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: Gifts to Officials

ADVISORY OPINION #191

SUMMARY

191. An association that is a lobbyist principal is prohibited from providing complimentary food and beverage to officials at an event. Minn. Stat. § 10A.071.

FACTS

As executive director for an association that is a lobbyist principal, you ask the Ethical Practices Board for an advisory opinion based on your statement of the following facts and information provided:

1. The association would like to sponsor a reception and invite officials. Food and beverage would be made available to those in attendance.
2. The association intends to have an admission fee of a minimum ten dollar donation, with the proceeds going to a charitable fund.
3. The minimum donation would be collected from every individual who would attend this two to three hour event; after the admission charge is paid, there would be no additional fees for food or beverage.

QUESTION ONE

May the association, a lobbyist principal, provide complimentary food and beverage to officials at an event?

OPINION

No. The association, a lobbyist principal, is prohibited from providing gifts to officials. Minn. Stat. § 10A.071. Officials are prohibited from accepting a gift from a lobbyist or a lobbyist principal without the giver receiving consideration of equal or greater value in return.

QUESTION TWO

Does the payment of the cost to host the reception come from the association's political fund or from the general fund of the association?

OPINION

See response to Question One, above.

The Ethical Practices Board refers the requester to Advisory Opinion Nos. 142, 147, 148, 155, 157, 159, 160, 163, 167, 168, 169, 171, 173, 174 175, 179, 180, 183, 185, and 186, in which the Board has answered similar questions.

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: Lobbyist Registration

ADVISORY OPINION #192

SUMMARY

192. An individual appointed by elected local officials to a public position, who meets the definition of lobbyist provided in Minn. Stat. § 10A.01, subd. 11 (b)(4), must register with and report to the Minnesota Ethical Practices Board. Minn. Stat. §§ 10A.03 and 10A.04.

FACTS

You are employed by a public body to perform duties that include presenting information to appointed and elected officials at the federal, state, and local levels that can be used in their decision-making and review. You recommend actions that those officials should take and also recommend the direction of their development of policy, regulations or rules, and laws.

During six to nine months of the year, you spend less than half of your reportable hours of employment providing information to federal, state, and local officials. In those years when the full legislative session is held you will spend about three-fourths of your reportable employment hours, during the in-session months, in the aforementioned activities.

You state that you are either an employee or local official of a political subdivision or public body acting in an official capacity, and believe that you are exempt from lobbyist registration and reporting. You further state that the law is unclear to you in this area and that you would appreciate an advisory opinion of the Board on whether you are considered a lobbyist and would, therefore, be required to file as such under Minn. Stat. § 10A.04 or other provisions.

QUESTION

Do your activities on behalf of your employer, a public body, require you to register as a lobbyist under Minn. Stat. § 10A.03 and report under Minn. Stat. § 10A.04?

OPINION

Yes, if your activities meet the definition of lobbyist in Minn. Stat. § 10A.01, subd. 11 (b)(4). See copies attached for your reference.

It is the opinion of the Board that because you are appointed to your position by elected local officials, you are a nonelected local official, and if you spend more than 50 hours in any month attempting to influence state legislative or administrative action or the official action of a metropolitan governmental unit by communicating or urging others to communicate with public or local officials, the requirements imposed by Minn. Stat. § 10A.01, subd. 11 (b)(4), you must register as a lobbyist and report under Minn. Stat. §§ 10A.03, and 10A.04, respectively.

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: Gifts to Officials

ADVISORY OPINION #193

SUMMARY

193. An organization, which is funded in part by an organization that is a lobbyist principal, must charge a fee to legislators that covers the cost of a meal provided to the legislators and require contemporaneous payment of the fee. Otherwise, the acceptance of the meal is a gift prohibited under Minn. Stat. § 10A.071, subd. 1.

FACTS

As the head of an organization that is lobbyist principal and the head of another organization that includes the lobbyist principal, you ask the Ethical Practices Board for an advisory opinion based on your statement of the following facts and information provided:

1. The other organization is composed of several organizations in Minnesota, including an organization that is a lobbyist principal.
2. The other organization serves a meal each year to officials and selected members from its organizations, which has cost less than \$10.00 per plate and is provided to the attenders at no charge.
3. During the meal the other organization distributes a brochure and provides volunteer speakers about its legislative priorities.

QUESTION ONE

May the organization, which includes an organization which is a lobbyist principal, provide a meal to officials without charge?

OPINION

No. The organization must charge a fee to attending officials that covers the cost of the meal provided at the event and require contemporaneous payment of the fee by the officials.

Otherwise, the acceptance by an official of the meal, which is paid in part by a lobbyist principal, is a gift prohibited under Minn. Stat. § 10A.071, subd. 1. An official who appears at an event to make a speech or answer questions as part of a program does not have to pay for food or beverage at the event. Minn. Stat. § 10A.071, subd. 3 (7).

QUESTION TWO

If the response to Question One is no, what steps must the organization take to conform to the law prohibiting gifts to officials from a lobbyist or a lobbyist principal?

OPINION

Please see response to Question One, above. The brochure about the legislative priorities of the organization described in the request is within the exception from the gift prohibition for services to assist an official in the performance of official duties, including information and communication in connection with legislation. Minn. Stat. § 10A.071, subd. 3 (2).

The Ethical Practices Board refers the requester to Advisory Opinion Nos. 142, 147, 148, 155, 163, 168, 167, 171, 172, 172, 174, 175, 179, 183, and 185, in which the Board has answered similar questions.

ALTERNATE DISPOSITION OF ADVISORY OPINION REQUEST

Advisory Opinion Request #194 dated November 30, 1994, from
Todd Rapp
1961 James Avenue
St. Paul, MN 55105

RE: Employment of Officials

On February 24, 1995, the Board notified Mr. Rapp that the Board voted not to issue an advisory opinion on whether employment of legislative staff members by a lobbyist or a lobbyist principal for off-hours, part-time contract work is a prohibited acceptance of a gift for the purpose of Minn. Stat. § 10A.071. Instead, the Board voted to advise the Legislature that the interpretation of "promise of future employment" as this phrase appears in Minn. Stat. § 10A.071, subd. 1 (1994) is an issue on which the Board needs guidance.

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: Gifts to Officials

ADVISORY OPINION #195

SUMMARY

195. A corporation established for the sole purpose of coordinating and presenting certain events must charge a fee to attending officials that covers the full costs of an event and require contemporaneous payment of the fee, regardless of any contribution from a lobbyist or lobbyist principal that may have been used to defray some or all of the costs of the event. Otherwise, the official's payment of a reduced ticket price for the event is a gift prohibited under Minn. Stat. § 10A.071, subd. 1.

FACTS

You represent a Minnesota nonprofit corporation ("Corporation") established for the sole purpose of coordinating and presenting certain events. You ask the Ethical Practices Board for an advisory opinion based on your statement of the following facts and information provided:

1. A public official is not an officer, director, or employee of the Corporation.
2. Although most of the events will be paid for by revenues from ticket sales, the Corporation needs seed money and operations money to organize the events.
3. The Corporation is seeking contributions from individuals and organizations, some of whom may be lobbyists or lobbyist principals, to help defray event costs.
4. Contributions in excess of expenditures will be given to the general fund of the state or to a fund administered by the state department of administration.
5. All events staged or presented by the Corporation will be open to any who wish to attend and who purchase the appropriate tickets.

QUESTION ONE

- A. May the Corporation accept contributions from lobbyists and lobbyist principals to defray costs of the events?
- B. May the Corporation offer tickets to the events for sale to officials at prices that are less than the cost of the event because of contributions to the Corporation from lobbyists or lobbyist principals?

OPINION

- A. Yes, provided the contributions are not used to defray the costs of tickets to the events that are offered for sale to officials.
- B. No. The Corporation must charge a fee to attending officials that covers the full costs of an event, including overhead, and require contemporaneous payment of the fee by the officials. Otherwise, the official's acceptance and payment of a ticket price that was defrayed by contributions by a lobbyist or a lobbyist principal is a transaction prohibited under Minn. Stat. § 10A.071, subd. 1.

The Ethical Practices Board refers the requester to Advisory Opinion Nos. 142, 147, 148, 155, 163, 168, 167, 171, 172, 172, 174, 175, 179, 183, and 185, in which the Board has answered similar questions.

QUESTION TWO

Does Minn. Stat. § 10A.071 operate to prohibit lobbyists and lobbyist principals from making gifts to the state of Minnesota pursuant to Minn. Stat. §§ 7.09, 7.10, and 7.12 ?

OPINION

No. Gifts to the state are governed by Minn. Stat. §§ 7.09, 7.10, and 7.12.

ALTERNATE DISPOSITION OF ADVISORY OPINION REQUEST

Advisory Opinion Request #196 dated December 2, 1994, from
Sarah Janecek, Esq.
Minnesota Political Press Inc.
525 Park Street, Suite 211
St. Paul, MN 55103

RE: Employment of Officials

On January 27, 1995, the Board notified Ms. Janecek that the Board was unable to approve an advisory opinion by the required four votes on the issue of whether employment of legislative staff members for off-hours, part-time contract work is a prohibited acceptance of a gift for the purposes of Minn. Stat. § 10A.071.

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: Requested Gift

ADVISORY OPINION #197

SUMMARY

197. A lobbyist principal or a lobbyist is prohibited from requesting another to pay for food and beverage provided to legislators at a reception held by a lobbyist principal to which legislators are invited. A legislator is prohibited from accepting a gift that a lobbyist principal or a lobbyist has requested another to give to the legislator. Minn. Stat. § 10A.071, subds. 1 and 2.

FACTS

As a lawyer advising clients regarding the implications of Minn. Stat. § 10A.071, you ask the Ethical Practices Board for an advisory opinion on facts which you describe as follows:

1. A trade association with business members located throughout the state of Minnesota is conducting a "day on the hill" event, a portion of which is a reception where food and beverage will be served.
2. The trade association, a lobbyist principal, invites legislators to the reception, and those in attendance will be offered food and beverage. Legislators will not be asked to make any formal presentations at the reception.
3. Payment for the food and beverage of attending legislators is planned as follows:
 - a) Individual legislators will be invited to the reception by individual members of the trade association who are neither principals nor lobbyists as defined in Minnesota statutes.
 - b) In each instance where an invited legislator attends the reception, the non-principal or nonlobbyist individual or company that invited the legislator will pay for the cost of the food and beverage provided to the legislator and will not be reimbursed by the trade association.
 - c) The cost paid by the individual or company who invited the legislator will meet or exceed the value of the food or beverage provided.

4. A trade association, as described above, at some time in the past organized a nonprofit foundation for educational or other similar purposes that is legally separate and distinct from the trade association, having been organized as a separate organization or entity subject to the laws applicable to the organization of a separate foundation.
5. The foundation, neither a principal nor a lobbyist as defined in Minnesota statutes, would either:
 - a) put on the entire event at its own expense;
 - b) put on the reception at its own expense; or
 - c) separately invite legislators to the event and pay for the food and beverage of any such legislator that actually attends, at the expense of the foundation.
6. The foundation is not reimbursed for the expenses it incurs.

QUESTION ONE

Does the payment for food and beverage of attending legislators planned by the trade association, a lobbyist principal, violate the provisions of Minn. Stat. § 10A.071?

OPINION

Yes, if a lobbyist principal or a lobbyist requests another to pay for food and beverage provided to a legislator at the reception. A lobbyist principal or a lobbyist is prohibited from requesting another to give a gift to an official; an official is prohibited from accepting a gift that a lobbyist principal or a lobbyist has requested another to give to the official. Minn. Stat. § 10A.071, subs. 1 and 2.

QUESTION TWO

Does the payment for food and beverage of attending legislators planned by the foundation, neither a principal nor a lobbyist, violate the provisions of Minn. Stat. § 10A.071?

OPINION

Yes, if a lobbyist principal or a lobbyist requests the foundation to pay for food and beverage provided to attending legislators at the reception. A lobbyist principal or a

lobbyist is prohibited from requesting another to give a gift to an official; an official is prohibited from accepting a gift that a lobbyist principal or a lobbyist has requested another to give to the official. Minn. Stat. § 10A.071, subds. 1 and 2.

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 to Official

ADVISORY OPINION #198

SUMMARY

198. The acceptance of an award from an association that is a lobbyist principal in the form of a scenic photograph with an inscription plate personally recognizing by name an official's services in a field of specialty or charitable cause is within the exceptions to the gift prohibition in Minn. Stat. § 10A.071, subd. 3 (4), for a plaque or similar memento.

FACTS

As a public official as defined in Minn. Stat. § 10A.01, subd. 18, and, therefore, an official as defined in Minn. Stat. § 10A.071, you ask the Ethical Practices Board for an advisory opinion based on your statement of the following facts and information provided:

1. An association that is a lobbyist principal has awarded you the association's annual award for public service.
2. The association has offered you a scenic photograph in recognition of the award.
3. The photograph with inscription plate is estimated in value by the association as costing \$50 to \$60. The inscription plate will bear your name and identify the recognition awarded to you.

QUESTION

Is the photograph with a personalized inscription plate, presented to you by the Sierra Club, a lobbyist principal, within the exception to the gift prohibition in Minn. Stat. § 10A.071, subd. 3 (a) (4)?

OPINION

Yes. Based upon the information provided in this request, the Board concludes that the personalized inscription plate is a plaque or memento recognizing individual services in a

field of specialty or to a charitable cause in accordance with the provisions of Minn. Stat. § 10A.071, subd. 3 (a)(4).

The Ethical Practices Board refers the requester to Advisory Opinion No. 165, in which the Board has answered similar questions.

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: Political Party Organization

ADVISORY OPINION #199

SUMMARY

199. A political party does not include an association that uses the political party's name, other than substate units as defined in Minn. Stat. § 10A.27, subd. 4.

FACTS

As chairman of a nonprofit organization ("NPO") with a name which includes the name of a political party ("Party"), you ask the Ethical Practices Board for an advisory opinion based on the following facts and information provided:

1. The NPO is one of several affiliates officially recognized and created by the IR Party's constitution and bylaws.
2. The NPO maintains its own bank account and operating budget, which relies primarily on annual membership dues, an annual fundraising banquet, and private contributions.
3. Although contributions to the NPO include contributions from the Party from time to time, the Party does not otherwise finance the NPO.
4. The NPO has not contributed money to any principal campaign committees or other political committees.
5. The NPO wishes to register a political committee with the Board that is a political party unit under Minn. Stat. § 10A.14, subd. 2 (f), and receive distribution of official refund receipt forms in accordance with Minn. Stat. § 10A.322, subd. 4.

QUESTION ONE

Does an affiliate of a major party qualify as a political party unit for purposes of registration under Minn. Stat. § 10A.14?

OPINION

No. An affiliate of a political party is not a category of substate units as defined in Minn. Stat. § 10A.27, subd. 4, namely the party organization within each house of the

legislature, within congressional districts, counties, legislative districts, municipalities, and precincts.

QUESTION TWO

Does an affiliate of a major party qualify for distribution of official refund receipt forms under Minn. Stat. § 10A.322, subd. 4?

OPINION

No. The Board distributes a supply of official refund receipt forms to a political party upon request; however, an affiliate of a political party is not among the categories of substate units listed in the definition of political party as set out in Minn. Stat. §§ 10A.01, subd. 12, 13, and 17, 10A.27, subd. 4.

QUESTION THREE

Does an affiliate of a major party qualify as a "subsidiary" and the major political party qualify as a "parent" for purposes of Minn. Stat. § 10A.15, subd. 3c?

OPINION

Yes. If a political party establishes an affiliate that raises or spends more than \$100 in a calendar year to influence state elections, then the affiliate must register a political committee or political fund as a subsidiary of the parent political party. Any contributions made by the affiliate must be attributed to the parent political party and counted toward the contribution limits in Minn. Stat. § 10A.27 of the parent as well as to the contribution limits of the affiliate. Minn. Stat. § 10A.15, subd. 3c.

QUESTION FOUR

If an affiliate of a major party qualifies as a "subsidiary" of the "parent" major political party for purposes of Minn. Stat. § 10A.15, subd. 3c, does this authorize the affiliate to distribute official refund receipts under Minn. Stat. § 10A.322, subd. 4, to individuals who contribute to the affiliate?

OPINION

No. Please see response to Question Two, above. The Board affirms the provisions of Minn. Rules pt. 4500.1700, which state that the organization of a political party does not include an association that uses a political party name and is not among the categories of substate units listed in Minn. Stat. § 10A.27, subd. 4.

Issued to:
Harold Thomas High
17870 County Road 34
Norwood, MN 55378

RE: Gift to Legislators

ADVISORY OPINION #200

SUMMARY

200. A lobbyist is prohibited from providing a gift to a legislator and from requesting another to give a gift to a legislator. Legislators are prohibited from accepting a gift from a lobbyist or a lobbyist principal or a gift that a lobbyist or a lobbyist principal has requested another to give to a legislator. Minn. Stat. § 10A.071, subds. 1 and 2. The complimentary copy of a book described in this request is not within the exceptions to the gift prohibitions in Minn. Stat. § 10A.071, subd. 3.

FACTS

As a lobbyist who is registered to represent himself, you ask the Ethical Practices Board for an advisory opinion based on your statement of the following facts and information provided:

1. You would like to arrange for a gift to all 201 Minnesota legislators in the form of a copy of a book, The Parental Alienation Syndrome, for the purpose of providing information to the legislators about forthcoming legislative proposals regarding family law.
2. You do not represent any official group or organization in this endeavor; you represent yourself.
3. You plan to contact private citizens who will send money to the publisher of the book, not to you. In no case will any private citizen send more than \$250 to the publisher. You estimate that the number of private citizens contributing will be about 300 to 400.
4. You estimate that the price per copy will be about \$20 to \$25; the book retails for \$30, plus \$5 shipping.

5. Any legislator who chooses to refuse the gift is free to forward the book to your home address. Each book returned to you will be forwarded to a U. S. congressman.

QUESTION

Does it make any difference whether the publisher mails each copy to each legislator or the publisher mails each copy to you, a registered lobbyist, for delivery to each legislator's office?

OPINION

No. As a lobbyist, you are prohibited from providing a gift to a legislator and from requesting another to give a gift to a legislator. Minn. Stat. § 10A.071, subds. 1 and 2. Legislators are prohibited from accepting a gift from a lobbyist or a lobbyist principal or a gift that a lobbyist or a lobbyist principal has requested another to give to a legislator. Based on the information presented in this request, the Board concludes that the complimentary copy of the book is not within the exceptions to the gift prohibitions in Minn. Stat. § 10A.071, subd. 3.

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: Requested Gift

ADVISORY OPINION #201

SUMMARY

201. A lobbyist principal or a lobbyist is prohibited from requesting another to pay for an event for a legislator. An official is prohibited from accepting a gift that a lobbyist principal or a lobbyist has requested another to give to the official. Minn. Stat. § 10A.071, subds. 1 and 2. A purely personal gift to an official by an officer, member of the board, or employee of a company that is a lobbyist principal is not prohibited unless the gift is paid for or reimbursed by the company or is requested by a lobbyist principal or a lobbyist or both. Minn. Stat. § 10A.071.

FACTS

As president of an association ("Association"), you ask the Ethical Practices Board for an advisory opinion on facts which you describe as follows:

1. The Association is a nonprofit corporation whose purpose is to promote the ethical and professional standards. Its membership is composed of government relations professionals who represent clients before the Minnesota legislature and administrative agencies.
2. Many of the members' clients are lobbyist principals who ask your members whether members of the principals' board of directors, officers, or other employees are regulated by Minn. Stat. § 10A.071 even though the individuals are neither lobbyists nor lobbyist principals.
3. The Association members also question what, if anything, they can ask their clients to do that may be governed by Minn. Stat. § 10A.071.
4. A typical situation confronting members of the Association and their clients might be:
 - a) The vice-president of marketing for Acme Widgets, Inc. ("the company"), an association that is a lobbyist principal, takes a legislator out for lunch and a round of golf. The vice-president pays for the

outing out of his or her own funds; the company does not reimburse the vice-president for these expenses.

- b) The vice-president and the legislator may or may not have a prior professional or personal relationship; the vice-president may or may not be the legislator's constituent; the vice-president and the legislator may or may not talk business, the company's business or public business, during the outing; the company may or may not have any issue currently before the legislature or the individual legislator; the two individuals may or may not discuss the current issue; the company's issue may or may not be within the responsibility of the vice-president; the vice-president may or may not supervise the company's government relations activity.

QUESTION ONE

Is the vice-president violating Minn. Stat. Ch. 10A?

OPINION

The vice-president may not be violating Minn. Stat. Ch. 10A; however, if a lobbyist principal or a lobbyist requested the vice-president to pay for an official's golf outing, the law prohibits a lobbyist principal or a lobbyist from requesting another to give a gift to an official. An official is prohibited from accepting a gift that a lobbyist principal or a lobbyist has requested another to give to the official. Minn. Stat. § 10A.071, subds. 1 and 2.

QUESTION TWO

Is the legislator violating Minn. Stat. Ch. 10A?

OPINION

The legislator may not be violating Minn. Stat. Ch. 10A; however, if a lobbyist principal or a lobbyist asked the vice-president to pay for the legislator's golf outing, the legislator is prohibited from accepting the gift. See response to Question Two, above.

Issued to:
Samuel Brunelli, Executive Director
American Legislative Exchange Council
910 17th Street N.W., Fifth Floor
Washington, DC 20006

RE: Issues Forum

ADVISORY OPINION #202

SUMMARY

202. The American Legislative Exchange Council's sponsorship and proposed operation of an issues forum that is available to the public is within the exceptions to the gift prohibition in Minn. Stat. § 10A.071, subd. 3 (a)(2) and (3). However, the American Legislative Exchange Council's disbursements in this endeavor may require disclosure under the lobbyist registration and reporting laws in Minnesota. Minn. Stat. § 10A.01, subd. 11; Minn. Rules pt. 4510.0100, subs. 4 and 5.

FACTS

As executive director of the American Legislative Exchange Council ("ALEC") you ask the Ethical Practices Board for an advisory opinion based on your statement of the following facts and information provided:

1. ALEC is a national bipartisan organization composed of members who are individual legislators from all 50 states and members who are corporations and other business associations from across the country.
2. ALEC's activities include the sponsoring of educational seminars throughout the country designed for legislators and other interested persons.
3. ALEC receives its operating funds in the form of dues and contributions from its members, some of whom are lobbyist principals as defined by Minn. Stat. § 10A.01, subd. 28.
4. ALEC does not now have a lobbyist registered in Minnesota and does not otherwise fall within the definition of lobbyist principal. ALEC recognizes that the issues forum described herein may constitute lobbying under Minnesota law and may thereby require that ALEC register a lobbyist with the Board, although the forum is not designed to influence any specific legislation.

5. ALEC proposes sponsoring an issues forum for which the target audience would be primarily members of the Minnesota legislature, but ALEC business members and other Minnesota businesses, and any interested person could attend.
6. Presentations at the forum would be designed to provide information to legislators or other officials to assist them in the performance of their official duties.
7. Persons could attend the forum at no cost; persons who choose to attend the dinner would pay a charge of \$19, with advance or contemporaneous payment required. This charge equals the per-plate amount the event facility would be charging ALEC.
8. General operating funds of ALEC would cover the costs of the speakers' expenses and honoraria, printing costs, facility rental, and other expenses not related to the dinner itself. Attendees would be given photocopied outlines for several of the presentations at the forum.
9. Agenda sheets and invitations that have been sent contain a statement that advice on this matter will be sought from the Ethical Practices Board. ALEC will notify persons that the event has been canceled if the Board finds that the program is a prohibited gift.

QUESTION ONE

Does ALEC's sponsorship and operation of the issues forum require ALEC to register a lobbyist with the Board?

OPINION

Yes, in the event that the issues forum and any written materials distributed include information that communicates with or urges others to communicate with officials in attempts to advocate a particular position to an official about legislative or administrative action, or which requests initiation of any particular legislative or administrative action. If ALEC authorizes the expenditure of more than \$250 for the costs of the issues forum, a lobbyist must register with the Ethical Practices Board to represent ALEC and report on ALEC's disbursements for lobbying purposes in Minnesota. Minn. Stat. § 10A.01, subd. 11; Minn. Rules pt. 4510.0100, subs. 4 and 5.

QUESTION TWO

Does ALEC's sponsorship and proposed operation of the issues forum as described in this request constitute a gift to officials that is prohibited by Minn. Stat. § 10A.071?

OPINION

No. The issues forum as described in this request is offered without charge to officials and any others who may wish to attend. Officials and others who choose to attend the dinner each would pay the amount that the facility would charge ALEC for the dinner. The operation of the issues forum is a gift that is within the exception from the gift prohibition for services to assist an official in the performance of official duties. Minn. Stat. § 10A.071, subd. 3 (a) (2).

QUESTION THREE

Is the distribution of photocopied outlines of the presentations at the issues forum to legislators, other officials, and other attenders at no charge prohibited by Minn. Stat. § 10A.071?

OPINION

No, provided that any photocopied materials that may be distributed to legislators or officials are within the exception for informational material of unexceptional value specified in Minn. Stat. § 10A.071, subd. 3 (a)(6).

Issued to:
Colleen Fjelstad, Director of Administration
Minnesota Society of Certified Public Accountants
1230 Northwestern Financial Center
7900 Xerxes Avenue South
Minneapolis, MN 55431-1183

RE: Gift to Legislators

ADVISORY OPINION #203

SUMMARY

203. The publication and complimentary distribution of a "Tax Guide for Minnesota Legislators" to legislators by the Minnesota Society of Certified Public Accountants, a lobbyist principal, is not within the exceptions to the laws prohibiting a lobbyist principal from giving a gift to a legislator. A legislator is prohibited from accepting the tax guide unless the giver receives contemporaneous payment of equal or greater value in return. Minn. Stat. § 10A.071.

FACTS

As director of administration for the Minnesota Society of Certified Public Accountants ("the MNCPA"), a lobbyist principal, you ask the Board for an advisory opinion based on your statement of the following facts and information provided:

1. The publication of a Tax Guide for Minnesota Legislators ("tax guide") has been an annual project of the federal & state tax committee of the MNCPA for the past seventeen years (copy of 1994 publication enclosed for reference.)
2. The tax guide is designed to be responsive to specific questions relating to federal income tax treatment of travel and other expenses incurred by legislators because of their membership in the legislature.
3. The tax guide does not deal with itemized deductions of a personal nature or expenses of other businesses with which a legislator may be associated and suggests that tax or accounting questions about these matters should be directed to a legislator's certified public accountant.
4. The MNCPA has distributed the tax guide to all legislators without charge; the cost of printing the guide, \$6 per copy, is paid by the MNCPA; members donate their time in compiling the data.

5. The MNCPA considers the tax guide a community service to be available as a source of tax information for the legislature and the public.

QUESTION

Is the distribution to all Minnesota legislators of a complimentary copy of the tax guide by the MNCPA, a lobbyist principal, a gift that is permitted under Minn. Stat. § 10A.071?

OPINION

No. The assembling and distribution of information about the application of federal income tax laws, such as the tax guide described in this request, is not within the exceptions to the laws prohibiting a lobbyist principal from giving a gift to a legislator. A legislator is prohibited from accepting a gift from a lobbyist principal, such as the tax guide described in this request, unless the MNCPA receives contemporaneous payment of equal or greater value in return. Minn. Stat. § 10A.071.

Issued to:
Jim Wychor, Executive Director
Minnesota Broadcasters Association
3517 Raleigh Avenue
P. O. Box 16030
St. Louis Park, MN 55416-0030

RE: Membership Directory Distribution

ADVISORY OPINION #204

SUMMARY

204. The distribution to legislators and other state government officials of the annual membership directory of the Minnesota Broadcasters Association, a lobbyist principal, is within the exceptions to the gift prohibition for services to assist an official in the performance of official duties and for informational material of unexceptional value, as set out in Minn. Stat. § 10A.071, subd. 3 (a)(2) and (6).

FACTS

As the executive director of the Minnesota Broadcasters Association ("the Association"), a lobbyist principal, you ask the Board for an advisory opinion based on your statement of the following facts and information provided:

1. The Association publishes a membership directory listing the names, addresses, phone and fax numbers as well as the names of news directors and managers of radio and television stations.
2. The Association membership directories have historically been distributed free of charge to all state and federal agencies, public libraries, members of Congress, members of the legislature as well as to all of the public communication directors in all public offices in the state.
3. The Association membership directory provides a central source for legislators and other government officials so they will know whom to call at the radio and television stations in their districts with information for their constituents.
4. Each Association member receives a copy of the directory as one of the benefits of membership. Nonmembers may purchase copies of the directory from the Association for \$25.00 per directory.

QUESTION

May the Association provide copies of its annual membership directory to legislators and other state government officials free of charge to assist them in the performance of their legislative duties?

OPINION

Yes. The distribution to legislators and other state government officials of the annual membership directory of the Minnesota Broadcasters Association, a lobbyist principal, is within the exceptions to the gift prohibition for services to assist an official in the performance of official duties and for informational material of unexceptional value, as set out in Minn. Stat. § 10A.071, subd. 3 (a)(2) and (6).

Issued to:
Greg Reigstad, President
Minnesota Information & Referral Alliance
First Call for Help
P. O. Box 542
St. Cloud, MN 56302

RE: Information Directory Distribution

ADVISORY OPINION #205

SUMMARY

205. The Minnesota Information & Referral Alliance, a membership association which is neither a lobbyist principal nor a lobbyist as defined in Minn. Stat. Ch. 10A may distribute to legislators copies of its directory. Minn. Stat. § 10A.071, subd. 3 (a)(2) and (6).

FACTS

As the president of the Minnesota Information & Referral Alliance ("MIRA"), you ask the Board for an advisory opinion based on your statement of the following facts and information provided:

1. MIRA is an membership association established to provide access to comprehensive, professional information and referral services for Minnesotans that compiles an annual directory of information and referral services.
2. MIRA's directory provides information about social services, human resources, emergency services throughout the state grouped by subject matter, geographical location, and alphabetically by agency.
3. MIRA is funded by membership dues paid by individual members and member organizations, by grants from municipalities and corporations, some of whom are lobbyist principals; however, MIRA is not a lobbyist principal, and no lobbyist is registered to represent MIRA.
4. MIRA prepares the text of its annual directory in camera ready form using time and resources of member associations and provides the text to a corporation that is a lobbyist principal for printing free of charge and distribution throughout the state through sale of the directory at \$20 per copy.

5. MIRA plans to prepare additional copies of the camera-ready text of its annual directory using MIRA's membership dues money for distribution free of charge to state legislators to assist the legislators in providing information to their constituents.

QUESTION

May MIRA provide specially-prepared copies of its information and referral directory, paid from MIRA funds, to state legislators free of charge?

OPINION

Yes. The distribution to legislators of the information and referral directory of MIRA, a membership association which is neither a lobbyist principal nor a lobbyist as defined in Minn. Stat. Ch. 10A is not prohibited. Minn. Stat. § 10A.071, subd. 3 (a)(2) and (6).

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 to Official

ADVISORY OPINION #206

SUMMARY

206. An official is prohibited from accepting a gift from a lobbyist principal in the form of complimentary transportation, and the lobbyist principal is prohibited from providing the gift. Minn. Stat. § 10A.071. If travel is necessary to perform official duties, payment of the expenses should be available from resources appropriated to the entity in which the official serves or other entities charged with responsibilities related to the event.

FACTS

As counsel to a public official as defined in Minn. Stat. § 10A.01, subd. 18 (b), and, therefore, an official as defined in Minn. Stat. § 10A.071, subd. 1 (c), you ask the Ethical Practices Board for an advisory opinion based upon your statement of the following facts and information provided:

1. The official will be accompanying a lobbyist principal on a trip to promote business for the state.
2. The lobbyist principal has offered to provide or pay for the official's transportation.
3. It is your understanding that promoting business for the state is an activity that is expected of the official.

QUESTION ONE

May the official accept transportation services provided by a lobbyist principal that are offered to facilitate the official promoting and recruiting business for the state?

OPINION

No. An official is prohibited from accepting a gift from a lobbyist or a lobbyist principal; the lobbyist or lobbyist principal is prohibited from giving a gift to an official. If travel with a lobbyist principal is necessary to perform official duties, payment of the expenses should

be available from resources appropriated to the entity in which the official serves or other entities charged with responsibilities related to the event.

QUESTION THREE

Can the official's spouse accept the lobbyist principal's offer of free transportation on the trip?

OPINION

Gifts to spouses of officials as defined in Minn. Stat. § 10A.071, subd. 1(c), from lobbyists or lobbyist principals are not addressed in Minn. Stat. Ch. 10A.

QUESTION FOUR

What is the definition of "official duties" for the purposes of Minn. Stat. § 10A.071, subd. 3(2)?

OPINION

Minn. Stat. § 10A.071, subd. 3(2) does not define official duties.

Approved: March 1, 1995

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: Loan Limit

ADVISORY OPINION #207

SUMMARY

207. A candidate who accepts a public subsidy must not contribute or loan to the candidate's principal campaign committee amounts which in aggregate exceed the contribution limits set out in Minn. Stat. § 10A.27, subd. 10. Minn. Stat. § 10A.27, subs. 1, 8, and 10.

FACTS

As a candidate who has a valid public subsidy agreement, you have requested an interpretation of Minn. Stat. § 10A.27, subd. 10, which limits the amount of contributions which a candidate who accepts a public subsidy may make to his or her campaign. You ask the Board to answer the following question:

QUESTION

Is there a difference between the candidate who accepts a public subsidy and who contributes to his or her campaign as opposed to the candidate who accepts a public subsidy and who loans money to the campaign?

OPINION

No. A candidate who accepts a public subsidy must not contribute or loan to the candidate's principal campaign committee amounts which in aggregate exceed the contribution limits set out in Minn. Stat. § 10A.27, subd. 10. It is the opinion of the Board that the loan limits expressed in Minn. Stat. § 10A.27, subd. 8, must be read together with any applicable contribution limits imposed by Minn. Stat. § 10A.27.

Approved: April 10, 1995

Issued to:
Katherine E. Sasseville, General Counsel
Otter Tail Power Company
215 South Cascade Street
P. O. Box 496
Fergus Falls, MN 56538-0496

RE: Lobbyist Registration

ADVISORY OPINION #208

SUMMARY

208. Time spent by an employee of an association other than a political subdivision monitoring legislation is not considered communicating or urging others to communicate with public or local officials for purposes of lobbyist registration and reporting. The costs of presenting factual material without comment are not reportable as lobbying disbursements. Minn. Stat. §§ 10A.01, subd. 11, 10A.03, and 10A.04; Minn. Rules pt. 4510.0100, subp. 5.

FACTS

As general counsel for the Otter Tail Power Company, a lobbyist principal, you ask the Ethical Practices Board for an advisory opinion based on your statement of the following facts and information provided:

1. The statutory requirement for registration as a lobbyist is that an individual employed by an association such as Otter Tail Power Company be authorized to spend money and devote five hours or more in a month for the purpose of attempting to influence legislative or administrative action... "by communicating or urging others to communicate with public or local officials... ." You state that the meaning of "communicating" in this context is not clear.
2. You state that a closely related question is whether advertising, brochures, forums, or seminars provided to the general public which are designed to educate the public about a general legislative matter, but without overt efforts to bring the public to communicate with the legislature, are activities that require lobbyist registration and reporting.

QUESTION ONE

Is time that an Otter Tail Power Company employee spends observing or monitoring legislative activity considered to be "communicating or urging others to communicate with public or local officials" even though the employee never speaks to a legislator or an official?

OPINION

No. Although time spent by an employee of a political subdivision monitoring legislative or administrative action and related research, analysis, and compilation or dissemination of information relating to legislative or administrative policy in Minnesota must be included in calculating the hourly standard that requires registration as a lobbyist, the present law does not impose this requirement on other individuals. Minn. Stat. §§ 10A.01, subd. 11 (b)(4), 10A.03.

QUESTION TWO

If an Otter Tail Power Company employee who monitors legislative or administrative action for forty hours a week, but communicates, orally or in written form only twice, totalling one hour of the employee's time, is the employee required to register as a lobbyist?

OPINION

No. Please see response to Question One, above.

QUESTION THREE

Are the costs of advertising, brochures, forums, or seminars provided to the general public which are designed to educate the public about a general legislative matter, but without overt efforts to bring the public to communicate with the legislature, considered to be reportable lobbying activities?

OPINION

No. The presentation of factual material without comment does not fall within the definition of "urging/urges others to communicate" with public or local officials. This term as used in Minn. Stat. § 10A.01, subd. 11, means any written or oral communication by a lobbyist or a lobbyist principal which requests that an individual or association advocate a particular position to public or local officials concerning legislative or administrative action. Also included are requests by a lobbyist or lobbyist principal that an individual or association advocate that a public or local official initiate any particular legislative or administrative action. Minn. Rules pt. 4510.0100, subp. 5. See copy attached for reference.

COMMENT

It is the opinion of the Board that a series of questions in your letter about the application of certain lobbyist registration and reporting laws to the activities of a grass-roots organization do not constitute a request for an advisory opinion to guide your company's disclosure obligations under Minn. Stat. § 10A.02, subd. 12 (a).

Approved: April 10, 1995

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: Campaign Finance Disclosure

ADVISORY OPINION #209

SUMMARY

209. The purchase of computer equipment from funds that have been contributed to a principal campaign committee must be reported as campaign expenditures on the committee's periodic report that covers the period in which the equipment was purchased. Minn. Stat. § 10A.01, subd. 10, 10A.20, 10A.25. Campaign expenditures, including in-kind donations or approved expenditures, and noncampaign disbursements by a candidate's principal campaign committees for more than one office are subject to the applicable contribution and expenditure limits for each office and must be reported on the committees' respective periodic reports. Minn. Stat. § 10A.19, 10A.25, 10A.27; Minn. Rules pt. 4500.1200.

FACTS

As a legislator who filed for office in a special election, you have a committee registered for each office registered with the Ethical Practices Board. You state that you intend to keep both campaign committees open until such time as you make a decision whether to run for re-election to the office you hold or to run for election to the other office in 1996. You ask the Board for an advisory opinion based upon your statement of the following facts and information provided:

1. You recently purchased computer equipment from the funds of one of the committees which you intend to use for both campaign and noncampaign related activities.
2. One of the major reasons for purchasing this equipment is to assist you in working on issues related to the office you hold, such as data analysis, mapping, correspondence, and other work related to your current office.
3. You will use the equipment, also, for campaigns, such as mailing lists and registered voter files.

QUESTION ONE

Are you permitted to use funds contributed to your committee established to seek another office for noncampaign disbursements related to your service in the office you hold?

OPINION

No. Minn. Stat. § 10A.01, subd. 10c (j).

QUESTION TWO

Are you permitted to make campaign expenditures from both principal campaign committees for the respective offices between now and filing for office for nomination or election to one of the two offices?

OPINION

Yes. Campaign expenditures for each office must be paid from the committee you established to seek the respective office. For example, the purchase of computer equipment from funds that have been contributed to committee established for the office you hold must be reported as campaign expenditures on that committee's periodic report for the period in which the equipment was purchased.

If your other committee uses the computer purchased and owned by the committee for the office you hold, your other committee must pay the committee owning the equipment for the fair market value of the use of the equipment, otherwise the use of the equipment is an in-kind donation from your committee for the office you hold, which is prohibited. A principal campaign committee is prohibited from accepting a contribution from another principal campaign committee, including an in-kind donation in the form of use of a principal campaign committee's computer. Minn. Stat. § 10A.27, subd. 9(a)

QUESTION THREE

Are you required to sign and file a separate public subsidy agreement for the other committee upon signing a public subsidy agreement for the committee established for the office you hold?

OPINION

Yes. A public subsidy agreement for the office you hold signed and filed after December 31, 1994, remains in effect until December 31, 1996, when the election cycle for that office ends or the termination of that committee, whichever occurs first. A public subsidy agreement for the other committee filed during a special election expires 60 days after the

special election was held for that office. You may file a public subsidy agreement for your other committee at any time after the special election cycle ends to September 1, 1996, which will remain in effect until December 31, 1996, when the regular election cycle for that office ends or the termination of your other committee, whichever occurs first. Minn. Stat. § 10A.322.

QUESTION FOUR

Do the contribution and expenditure limits in Minn. Stat. Ch. 10A apply separately to each of your principal campaign committees?

OPINION

Yes. See copy of Minn. Rules pt. 4500.1200 reprinted below.

Approved: April 10, 1995

Issued to:
The Honorable Cal Larson
145 State Office Building
St. Paul, MN 55155

RE: Exception to Gift Prohibition

ADVISORY OPINION #210

SUMMARY

210. Meals and reimbursement for travel costs paid by BlueCross BlueShield Minnesota, a lobbyist principal, to an official who serves as a member of their advisory councils are gifts that are within the exception to the gift prohibition in Minn. Stat. § 10A.071 because a majority of the advisory council members are not officials and an equivalent gift is given to the other advisory council members. Minn. Stat. § 10A.071, subd. 3 (b)(1).

FACTS

As a member of the Minnesota Senate you are a public official as defined in Minn. Stat. § 10A.01, subd. 18 (a), and, therefore, an official as defined in Minn. Stat. § 10A.071, subd. 1 (c). You ask the Ethical Practices Board for an advisory opinion based on your statement of the following facts and information provided:

1. For the past 25 years you have been affiliated with BlueCross BlueShield of Minnesota ("BCBSM"), a lobbyist principal, and served on their advisory council for many years.
2. You have been asked now to serve on another of BCBSM's boards, the Northwest Council and the Agent Advisory Council.
3. At the most recent advisory council meeting you paid \$11.50 for your lunch because a 1994 law prohibits a lobbyist or a lobbyist principal from giving a gift to an official and prohibits an official from accepting a gift from a lobbyist or a lobbyist principal.
4. A majority of the individuals who serve with you on BCBSM advisory councils are not officials as defined in Minn. Stat. § 10A.071. Although advisory council members receive no compensation for performing their duties, BCBSM provides complimentary meals for the members at their meetings and pays travel costs for the members to attend meetings.

QUESTION

Are the complimentary meals and reimbursement for travel costs from BCBSM, a lobbyist principal, provided to you as a member of BCBSM's advisory councils considered to be gifts from a lobbyist principal?

OPINION

Yes, but the gifts are not prohibited because you are a member of the BCBSM's advisory council, a majority of whose members are not officials, and an equivalent gift is given to the other advisory council members. Minn. Stat. § 10A.071, subd. 3 (b)(1).

Approved: April 10, 1995

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: Campaign Finance Disclosure

ADVISORY OPINION #211

SUMMARY

211. The purchase of computer equipment from funds that have been contributed to a principal campaign committee must be reported as a campaign expenditure on the committee's periodic report that covers the period in which the equipment was purchased. Minn. Stat. §§ 10A.01, subd. 10, 10A.20, 10A.25. The committee treasurer must approve the purchase and maintain records on the transaction, including invoices, bills, worksheets, and receipts in sufficient detail to support the report of receipts and expenditures disclosing the transaction. Minn. Stat. § 10A.17, 10A.22.

FACTS

As a legislator you have a principal campaign committee registered with the Ethical Practices Board. You ask the Board for an advisory opinion based upon your statement of the following facts and information provided:

1. You would like to have your campaign committee purchase a computer and printer from your family's business. The equipment will no longer be used by your family's business.
2. The equipment will be appraised by a third party involved in the computer business to put a fair market value on the equipment.
3. You intend to locate the equipment in your home and use the equipment in your work as a legislator for correspondence and record keeping.

QUESTION ONE

How should you proceed with this transaction so that you comply with the requirements of Minn. Stat. Ch. 10A, the Ethics in Government Act?

OPINION

The treasurer of your principal campaign committee must keep records of the purchase including the bill presented to your committee for the equipment showing the fair market value at which the equipment was purchased and on which the bill from your family's business is based. Your family's business must render in writing to the treasurer of your principal campaign committee the bill for the equipment within 60 days after the equipment is provided. Your treasurer must maintain records on the transactions involving the equipment, including invoices, bills, worksheets, and receipts in sufficient detail to support the report of receipts and expenditures disclosing the transaction. Minn. Stat. § 10A.17, 10A.18, 10A.20, 10A.22.

Upon purchase by your committee the computer becomes a physical asset of your committee. If an asset is used for other than committee business, your committee must be compensated at fair market value for the use. Physical assets must be listed at their fair market value when dissolving or terminating your principal campaign committee. To meet the statutory requirements for dissolution, a committee must settle all its debts, dispose of all its assets in excess of \$100, and file a termination report. Minn. Stat. §§ 10A.20, 10A.24.

QUESTION TWO

Is your principal campaign committee's purchase of a computer and printer to be reported as a campaign expenditure and, therefore, to be subject to the applicable campaign expenditure limit?

OPINION

Yes. Generally, the funds from which a candidate's principal campaign committee may elect to purchase equipment for the committee have accumulated as the result of contributions made to the committee to influence the nomination or election of the candidates. Your campaign committee's purchase of computer equipment from contributions made to your committee must be reported as a campaign expenditure on your committee's periodic report that covers the period in which the equipment was purchased. Minn. Stat. § 10A.01, subd. 10, § 10A.25.

Approved: June 6, 1995

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, subs. 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.

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: Clients of Public Official

ADVISORY OPINION #213

SUMMARY

213. Individuals or associations who are lobbyists or lobbyist principals and who use commercial services at a public official's establishment and who pay no more than the prices charged to others are clients of the official's business.

FACTS

As a public official as defined in Minn. Stat. § 10A.01, subd. 18, and, therefore, an official as defined in Minn. Stat. § 10A.071, subd. 1 (c), you ask the Ethical Practices Board for an advisory opinion based upon your statement of the following facts:

1. You have operated a commercial service for many years.
2. During this time, and before you became a public official, you have had individuals, companies, and business groups who paid your prices for the services as they would at any other commercial operation.
3. You are receiving communication recently from some clients that they are not returning to your establishment because they are concerned that they may be perceived as somehow breaking the law prohibiting certain gifts to public officials, Minn. Stat. § 10A.071, subd. 1 (c).
4. Your response to the clients has been that your public service is part-time and that the commercial service you operate is your business and your livelihood.

QUESTION

Does Minn. Stat. § 10A.071 prohibit individuals or others with whom you are acquainted from continuing to come to your establishment and pay your current prices for service?

OPINION

No. The prohibition about gifts to officials in Minn. Stat. § 10A.071, subd. 1 (b), is against lobbyists and lobbyist principals. You are in the business of operating a

commercial service. Consequently, individuals or associations who are lobbyists or lobbyist principals and who use services at your establishment and who pay no more than your current prices are clients of your business. In the transactions you describe no gift is given or received within the meaning of Minn. Stat. § 10A.071, subd. 1 (b).

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: Exception to Gift Prohibition

ADVISORY OPINION #214

SUMMARY

214. A donation by a lobbyist or a lobbyist principal to a 501(c)(3) charitable organization that is personally requested by a public official who is a volunteer member of the organization's board of directors is a gift within the meaning of Minn. Stat. § 10A.071. The gift prohibitions in Minn. Stat. § 10A.071 do not apply to a request from the charitable organization which has a public official on the board of directors as a volunteer member.

FACTS

You are a public official as defined in Minn. Stat. § 10A.01, subd. 18 (a), and, therefore, an official as defined in Minn. Stat. § 10A.071, subd. 1 (c). You ask the Ethical Practices Board for an advisory opinion based on your statement of the following facts and information provided:

1. You have been approached by a group of persons who have requested your participation as a founding board member of a start up charitable organization organized under § 501 (c) (3) of the Internal Revenue Code.
2. The organization proposes to deal with public issues, but not for partisan purposes.
3. One of your responsibilities in the organization would be to raise funds for the organization through solicitations either directly as a member of the board or collectively through direct mail solicitations as a group. Some of the solicitations would be made to lobbyists or lobbyist principals.
4. There would be no compensation for any of the volunteer activities associated with this organization.

QUESTION ONE

Is a financial donation by a lobbyist or a lobbyist principal to a charitable organization organized under § 501 (c) (3) of the Internal Revenue Code that is requested by a public

official who is a volunteer member of the organization's board of directors considered to be a gift to the official within the meaning of Minn. Stat. § 10A.071?

OPINION

Yes. A request personally made by a public official to a lobbyist or lobbyist principal which results in a donation is a gift within the meaning of Minn. Stat. § 10A.071.

QUESTION TWO

Is a donation by a lobbyist or a lobbyist principal to a charitable organization organized under § 501 (c) (3) of the Internal Revenue Code that is requested by a public official who is a volunteer member of the organization's board of directors considered to be a gift to the official if a majority of the organization's board of directors are not public officials as defined in Minn. Stat. § 10A.071?

OPINION

Yes. Please see response to Question One, above.

QUESTION THREE

Is a donation by a lobbyist or a lobbyist principal to a charitable organization organized under § 501 (c) (3) of the Internal Revenue Code that is requested by the organization's board of directors considered to be a gift to a official if the request were made in the form of a letter signed by all the members of the board of directors and you were the only public official on that board?

OPINION

No. Under the circumstances described, Minn. Stat. § 10.071 does not apply to a solicitation made by an organization that has a public official on the board of directors.

QUESTION FOUR

Is a donation by a lobbyist or a lobbyist principal to a charitable organization a gift to a public official under Minn. Stat. § 10A.071 when the donation is solicited by the public official as a volunteer member of the organization, provided that the letterhead of the solicitation contains the names of the board of directors (including the public official's) and a majority of the board of directors are not public officials?

OPINION

Yes. See response to Question One, above. The donation does not qualify as an exception under Minn. Stat. § 10A.071, subd. 3(b)(1) because an equivalent gift is not being given to other members of the group.

The Ethical Practices Board refers the requester to Advisory Opinion Nos. 190 and 210, in which the Board has answered similar questions.

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: Contractual Relationship

ADVISORY OPINION #215

SUMMARY

215. A public official employed by a lobbyist principal who receives an increase in salary, a promotion or moves from a part-time to a full-time position is not in violation of Minn. Stat. § 10A.071. A public official engaged in a contractual relationship to provide services to a lobbyist principal for monetary compensation is not in violation of Minn. Stat. § 10A.071 (1994).

FACTS

As a public official as defined in Minn. Stat. § 10A.01, subd. 18, and, therefore, an official as defined in Minn. Stat. § 10A.071, subd. 1 (c), you ask the Ethical Practices Board for an advisory opinion concerning the provisions of Minn. Stat. § 10A.071, which the Board is charged with administering. You state that you are specifically concerned with Minn. Stat. § 10A.071, subd. 1 (b), which cites that a gift to an official from a lobbyist or a lobbyist principal includes a promise of future employment. You further state that you have several questions concerning the Board's definition and application of the term a promise of future employment as it may apply to your personal employment situation.

QUESTION ONE

If a public official, as defined in Minn. Stat. § 10A.01, subd. 18, or as defined in Minn. Stat. § 10A.071, subd. 1, were working for a principal as defined in Minn. Stat. § 10A.01, subd. 28, prior to the enactment of Minn. Stat. § 10A.071 in 1994 and subsequently received from that employer either an increase in salary or a promotion with an increased salary, would either instance be a violation of the provisions outlined in Minn. Stat. § 10A.071 dealing with a promise of future employment?

OPINION

No.

QUESTION TWO

If a public official, as defined in Minn. Stat. § 10A.01, subd. 18, or as defined in Minn. Stat. § 10A.071, subd. 1, were working for a principal as defined in Minn. Stat. § 10A.01, subd. 28, on a limited basis such as a part-time employee working less than 40 hours a week and were offered a full-time position with that employer, would the acceptance of full-time position with additional salary, responsibilities, and benefits, be construed as a violation of Minn. Stat. § 10A.071, subd. 1 (b)?

OPINION

No.

QUESTION THREE

If a public official, as defined in Minn. Stat. § 10A.01, subd. 18, or as defined in Minn. Stat. § 10A.071, subd. 1, were to engage in a contractual relationship as an independent contractor to provide services rendered to a principal as defined in Minn. Stat. § 10A.01, subd. 28, receiving monetary compensation for such services, would such a contractual relationship be a violation of Minn. Stat. § 10A.071, subd. 1 (b), as it relates to a promise of future employment?

OPINION

No.

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: Political Fund Registration

ADVISORY OPINION #216

SUMMARY

216. An association whose major purpose is other than to influence elections and that makes contributions to candidates must register its political organization as a political fund.

FACTS

You state that you have been asked by an association and its political organization to request an advisory opinion to clarify the appropriate registration category for the political association. You state that the political organization is currently registered as a political fund. You advise that the political organization receives administrative support from the association using funds derived from dues.

QUESTION

Should the political organization be registered as a political committee or a political fund?

OPINION

The political organization must be registered as a political fund. Minn. Rule 4500.3300, subp. 1, provides that an association whose major purpose is one other than to influence nominations or elections, shall register as a political fund.

Issued to:
Erin T. Roth
Suite 260
8 Pine Tree Drive
St. Paul MN 55112

RE: Gift to Legislative Employee

ADVISORY OPINION #217

SUMMARY

217. A lobbyist is prohibited from giving a gift to a legislative employee. Legislative employees are prohibited from accepting a gift from a lobbyist. Minn. Stat. § 10A.071, subs. 1 and 2. The wedding gift described in this request is not a prohibited gift if the giver receives consideration of equal or greater value in return. Minn. Stat. § 10A.071, subd. 1(b). Although the Board may take enforcement action, Chapter 10A provides no monetary penalty for violations of Minn. Stat. § 10A.071.

FACTS

As a registered lobbyist, you ask the Ethical Practices Board for an advisory opinion based on your statement of the following facts:

1. You have been asked and accepted the invitation to be best man in a friend's wedding. The friend is employed by the Minnesota Legislature. You would like to give a wedding gift to the bride and groom.
2. Your friendship with the legislative employee has nothing to do with your being a lobbyist.

QUESTION ONE

Is it acceptable for you, a lobbyist, to give a close friend, a legislative employee, and the legislative employee's spouse a wedding gift?

OPINION

No. As a lobbyist, you are prohibited from providing a gift to a legislative employee. Legislative employees are prohibited from accepting a gift from a lobbyist. However, if the giver receives consideration of equal or greater value in return for a gift, the prohibition does not apply.

QUESTION TWO

If this is a violation, are there any penalties which apply to myself and the groom if we chose to ignore the statute?

OPINION

There are no monetary civil penalties for violation of Minn. Stat. § 10A.071. However, you should be aware that the Board or a county attorney may take action under Minn. Stat. § 10A.34, subd. 2, to enforce the provision.