

ETHICAL PRACTICES BOARD

First Floor South, Centennial Building . 658 Cedar Street . St. Paul, MN 55155-1603

THE FOLLOWING PUBLICATION DOES NOT IDENTIFY
THE REQUESTER OF THE ADVISORY OPINION, WHICH IS NONPUBLIC DATA
under Minn. Stat. § 10A.02, subd. 12 (b) (1994 Minn. Laws, ch. 377, sec. 1)

RE: Gifts to Officials

ADVISORY OPINION #157

SUMMARY

157. A training session about the operation of computer products provided to officials by the vendor is not a gift to the officials regardless of whether the vendor is a lobbyist principal. Training in the operation of computer products is within the exception from the gift prohibition for services by a lobbyist principal to assist an official in the performance of official duties. However, officials must not accept meals given by a vendor at a training session unless the meals are part of the purchase agreement with the vendor. Minn. Stat. § 10A.071.

FACTS

As a local official as defined in Minn. Stat. § 10A.01, subds. 25 and 26, 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 lobbyist principal, from which computer products and services have been purchased, is sponsoring a training session for its customers about the operation of computer systems and has invited local officials to attend.
2. In addition to information and advice, the principal has proposed to provide the attenders with meals during the training session at no cost.
3. Based on information provided by the principal, it is your understanding that a majority of the persons composing the group who have been invited are not officials as defined in Minn. Stat. § 10A.071. Officials as defined in Minn. Stat. §§ 10A.01, subd. 25, and 10A.071, subd. 1(c) have been invited.
4. Minn. Stat. § 10A.071 prohibits an official from accepting gifts from a lobbyist or principal.

QUESTION

If the training session constitutes a gift under Minn. Stat. § 10A.071, subd. 1(b), is all or part of

the gift exempt from the prohibition of Minn. Stat. § 10A.071, subd. 2, on the basis of the exemption in Minn. Stat. § 10A.071, subd. 3(a)(2) and/or because the gift is given to a group, in the manner described in Minn. Stat. § 10A.071, subd. 3(b)(1), a majority of whose members are not local officials?

OPINION

No. The training session as described in this advisory opinion request is not a gift prohibited under Minn. Stat. § 10A.071, which prohibits an official from accepting a gift from a lobbyist or principal unless the giver receives full or equal consideration in return. The training session is not a gift to the officials if the training was provided under a computer purchase agreement with the vendor. If the training session was not part of a computer purchase agreement with the principal, the training session is exempt from the gift prohibition because it is within the exception for services to assist officials in the performance of official duties pursuant to Minn. Stat. § 10A.071, subd. 3(a)(2).

The officials who participate in the training session are prohibited from accepting the meals offered by the principal unless the meals are specifically part of the training purchased from the principal.

Issued: 8/22/94



John L. Holahan, Jr., Chair
Ethical Practices Board

PERTINENT STATUTES

Minn. Stat. § 10A.01 DEFINITIONS provides:

Subd. 11. (a) "Lobbyist" means an individual:

(1) engaged for pay or other consideration, or authorized to spend money by another individual, association, political subdivision, or public higher education system, who spends more than five hours in any month or more than \$250, not including the individual's own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative action or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials.

Subd. 25. **Local official.** "Local official" means a person who holds elective office in a political subdivision or who is appointed to or employed in a public position in a political subdivision in which the person has authority to make, to recommend, or to vote on as a member of the governing body, major decisions regarding the expenditure or investment of public money.

Subd. 26. **Metropolitan governmental unit.** "Metropolitan governmental unit" means any of the seven counties in the metropolitan area as defined in section 472.121, subdivision 2, . . .

Subd. 28. **Principal.** "Principal" means an individual or association that:

(1) spends more than \$500 in the aggregate in any calendar year to engage a lobbyist, compensate a lobbyist, or authorize the expenditure of money by a lobbyist; or

(2) is not included in clause (1) and spends a total of at least \$50,000 in any calendar year on efforts to influence legislative action, administrative action, or the official action of governmental units, as described in section 10A.04, subdivision 6.

Laws of 1994, Ch. 377, Sec. 5, created Minn. Stat. § 10A.071 CERTAIN GIFTS BY LOBBYISTS AND PRINCIPALS PROHIBITED which provides:

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

(b) "Gift" means money, real or personal property, a service, a loan, a forbearance or forgiveness of indebtedness, or a promise of future employment, that is given and received without the giver receiving consideration of equal or greater value in return.

(c) "Official" means a public official, an employee of the legislature, or a local official of a metropolitan governmental unit.

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

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

(1) a contribution as defined in section 10A.01, subdivision 7;

(2) services to assist an official in the performance of official duties, including but not limited to providing advice, consultation, information, and communication in connection with legislation, and services to constituents;

(3) services of insignificant monetary value;

(4) a plaque or similar memento recognizing individual services in a field of specialty or to a charitable cause;

(5) a trinket or memento of insignificant value;

(6) informational material of unexceptional value; or

(7) food or a beverage given at a reception, meal, or meeting away from the recipient's place of work by an organization before whom the recipient appears to make a speech or

answer questions as part of a program.

(b) The prohibitions in this section do not apply if the gift is given:

(1) because of the recipient's membership in a group, a majority of whose members are not officials, and an equivalent gift is given to the other members of the group; or

(2) by a lobbyist or principal who is a member of the family of the recipient, unless the gift is given on behalf of someone who is not a member of that family.