

ETHICAL PRACTICES BOARD

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

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.

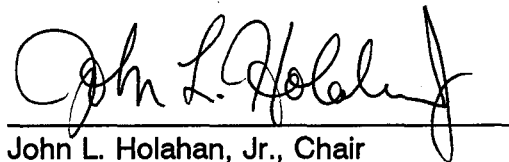
QUESTION THREE

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: 11-4-1994



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. 18. "Public official" means any:

- (a) member of the legislature;
- (b) constitutional officer in the executive branch and the officer's chief administrative deputy;
- (c) member, chief administrative officer or deputy chief administrative officer of a state board or commission which has at least one of the following powers: (i) the power to adopt, amend or repeal rules, or (ii) the power to adjudicate contested cases or appeals;
- (d) commissioner, deputy commissioner, or assistant commissioner of any state department as designated pursuant to section 15.01;
- (e) individual employed in the executive branch who is authorized to adopt, amend or repeal rules or adjudicate contested cases;
- (f) executive director of the state board of investment;
- (g) executive director of the Indian affairs intertribal board;
- (h) commissioner of the iron range resources and rehabilitation board;
- (i) commissioner of mediation services;
- (j) deputy of any official listed in clauses (e) to (i);
- (k) judge of the workers' compensation court of appeals;
- (l) administrative law judge or compensation judge in the state office of administrative hearings or referee in the department of jobs and training;
- (m) solicitor general or deputy, assistant or special assistant attorney general;
- (n) individual employed by the legislature as secretary of the senate, chief clerk of the house, revisor of statutes, or researcher, legislative analyst, or attorney in the office of senate counsel and research or house research;
- (o) member or chief administrative officer of the metropolitan council, regional transit board, metropolitan transit commission, metropolitan waste control commission, metropolitan parks and open spaces commission, metropolitan airports commission or metropolitan sports facilities commission;
- (p) the director of the racing commission, the director of the gambling control board, the director of the state lottery, and the deputy director of the state lottery;
- (q) director or the division of gambling enforcement in the department of public safety;
- (r) member or executive director of the higher education facilities authority; or

(s) member of the board of directors or president of the Minnesota world trade center corporation.

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 473.121, subdivision 2, a regional railroad authority established by one or more of those counties under section 398A.03, a city with a population of over 50,000 located in the seven-county metropolitan area, the metropolitan council, a metropolitan agency as defined in section 473.121, subdivision 5a, the Minnesota state high school league, and Minnesota Technology, Inc.

Subd. 27. **Political subdivision.** "Political subdivision" means the metropolitan council, a metropolitan agency as defined in section 473.121, subdivision 5a, a municipality as defined in section 471.345, subdivision 1, the Minnesota state high school league, and Minnesota Technology, Inc.

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 without the giver receiving consideration of equal or greater value in return.
(c) "Official" means a public official, an employee of the legislature, or a local official of a metropolitan governmental unit.

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

Subd. 3. **Exceptions.** (a) The prohibitions in this section do not apply if the gift is:
(1) a contribution as defined in section 10A.01, subdivision 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.

Laws of 1994, Ch. 377, Sec. 6, created Minn. Stat. § 471.895 CERTAIN GIFTS BY INTERESTED PERSONS PROHIBITED which provides:

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

(b) "Gift" has the meaning given it in section 10A.071, subdivision 1.

(c) "Interested person" means a person or a representative of a person or association that has a direct financial interest in a decision that a local official is authorized to make.

(d) "Local official" means an elected or appointed official of a county or city or of any agency, authority, or instrumentality of a county or city.

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

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

(1) a contribution as defined in section 211A.01, subdivision 5;

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

(3) services of insignificant monetary value;

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

(5) a trinket or memento of insignificant value;

(6) informational material of unexceptional value; or

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

answer questions as part of a program.

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

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

(2) by an interested person 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.