

**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 #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

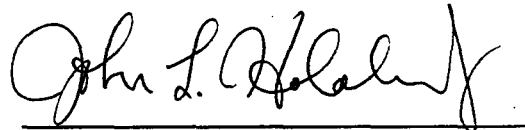
If the response to Question One is yes, may the association ask the officials to pay only for the food, while asking all other attendees pay for the food and the contribution to the association?

## 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: 11-22-1994



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. 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.