

ETHICAL PRACTICES BOARD

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

**THIS ADVISORY OPINION IS PUBLIC DATA
pursuant to a consent for release of information signed by the requester**

**Issued to: Peter J. Orput
14900 61st St. North
P. O. Box 6
Stillwater, MN 55082**

RE: Gift exception for members of a group

ADVISORY OPINION # 258

SUMMARY

The gift prohibition of Minn. Stat. § 10A.071 does not apply to gifts given to members of an association if the gifts are given because of membership in the association; the same gift is given to each member; and a majority of the members are not officials as defined in the statute.

FACTS

As the representative of the Minnesota Chiefs of Police Association, you request an advisory opinion from the Ethical Practices Board based on the following facts:

1. The Minnesota Chiefs of Police Association ("the Association") is a membership organization which is not a lobbyist principal as defined in Minnesota Statutes.
2. The Association's members are police and security professionals.
3. In order to become a member of the association, an individual must apply for membership, meet the membership criteria, and pay the required membership fees. Only chiefs of police in Minnesota may be full members with the right to vote. Other individuals in the police or security profession may be eligible to become associate members.
4. Some of the Association's members are police chiefs in "metropolitan governmental units" as defined in Minn. Stat. § 10A.01, subd. 26. These

members are likely to be "local officials" of those metropolitan governmental units, as that term is defined in Minn. Stat. § 10A.01, subd. 25.

5. A majority of the members of the Association are not local officials in metropolitan governmental units.
6. The Association holds an annual meeting for its members at which it conducts business and provides a meal with entertainment. At the meeting, the Association would also like to provide a souvenir memento to each member.
7. If any memento is provided, the same item would be given to each member.
8. The Association would like to solicit financial support for the entertainment and mementos from other associations, some of which may be lobbyist principals as defined in Minn. Stat. § 10A.01, subd. 28.

ISSUE ONE

Are entertainment and mementos purchased by the Minnesota Chiefs of Police Association with a contribution from a lobbyist principal prohibited by Minn. Stat. § 10A.071 when they are provided to Association members who are local officials of metropolitan governmental units?

OPINION

No. The described gifts fall within an exception to the general prohibitions of Minn. Stat. § 10A.071.

Minn. Stat. § 10A.071, subd. 3(b), states:

"The provisions in this section [§ 10A.071] 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"

We find that the described gifts meet the criteria for an exemption under this subdivision. Thus, the provisions of Minn. Stat. § 10A.071 which prohibit certain gifts are not applicable.

ISSUE TWO

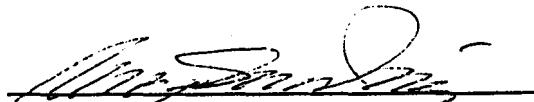
Are the described gifts prohibited by Minn. Stat. § 471.895?

OPINION

Minn. Stat. § 471.895 is not within the Board's jurisdiction.

The requester is cautioned that Minn. Stat. § 471.895 is applicable to a group of officials which is different from that regulated by Chapter 10A. Minn. Stat. § 471.895 also covers a different scope of regulated givers. For these reasons, this advisory opinion, based solely on Chapter 10A, should not be considered applicable to the same questions under Minn. Stat. § 471.895.

Issued: 2-28-97


Carolyn D. Rodriguez, Chair
Ethical Practices Board

CITED STATUTES

10A.01 DEFINITIONS.

Subdivision 1. For the purposes of sections 10A.01 to 10A.34, the terms defined in this section have the meanings given them unless the context clearly indicates otherwise.

. . . .

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. 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 metropolitan governmental units, as described in section 10A.04, subdivision 6.

10A.071 CERTAIN GIFTS BY LOBBYISTS AND PRINCIPALS PROHIBITED.

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.**

(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;

. . . .