

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: Gift of a dinner to legislators

ADVISORY OPINION # 259

SUMMARY

Informal discussion, including questions and answers at a dinner, does not meet the requirements to except the dinner from the gift prohibition, even if invitations indicate that participants are expected to engage in this interaction.

FACTS

As a legislator, and thus an official as defined in Minn. Stat. § 10A.071, you request an advisory opinion from the Ethical Practices Board ("Board") based on the following facts:

1. The Minnesota Beer and Wine Wholesalers Association, a lobbyist principal, intends to sponsor and pay for a dinner to which certain legislators and their staff members, also public officials under Minn. Stat. § 10A.071, will be invited.
2. The event is being held as a way for the Association's members to stay in touch with these legislators.
3. The event is to include informal discussion concerning legislation that might affect Association members. At some point during the event, a microphone will be brought around and each attending official will be expected to give some brief biographical information and make comments about legislative matters related to the Association's interests. At that time Association members may ask questions of the official. The program for the evening will also consist of an open dialog between the attending officials and the Association members.

4. The invitations to the dinner will indicate the intended expectations about the invitee's participation, as described above.

ISSUE

Is the gift of a dinner permitted under an exception to the gift prohibition of Minn. Stat. § 10A.071 if attending officials participate in a program consisting of an informal, open dialog, which includes questions and answers?

OPINION

No, the gift you describe is a gift from a lobbyist principal to an official which does not fall within an exception provided in Minn. Stat. § 10A.071.

The statutory exception established in Minn. Stat. § 10A.071, subd. 3(a)(7), for "food or a beverage given at a . . . meal . . . by an organization before whom the recipient appears to make a speech or answer questions as part of a program" is not applicable under the facts you present. The statutory language implies that the individual recipient will make a presentation to the organization as a whole as a formal part of the program.

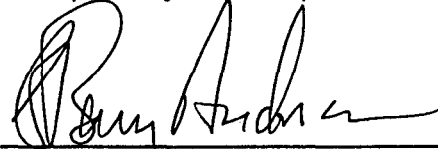
The guest officials are not appearing before the organization to make a speech or answer questions, but are invited dinner guests. Informal, open dialog, even if it includes questions and answers, does not constitute an appearance before the organization to make a speech or answer questions as a part of a program.

The exception provided in Minn. Stat. § 10A.01, subd 3(a)(7), is applicable only to an official who is specifically asked "to make a speech or answer questions as part of a program". The official asked to make the speech or appear to answer questions must formally accept the request and accept the obligation to be a part of the program.

An blanket invitation to a dinner, extended to a group of officials, is not sufficient to bring the event within the exception even if it indicates that those officials who accept, and then ultimately attend, are expected to make brief remarks or possibly answer questions.

Issued: _____

3/6/97



G. Barry Anderson, Vice Chair
Ethical Practices Board

CITED STATUTES

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.** (a) The prohibitions in this section do not apply if the gift is:

.....
(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.