

State of Minnesota
Campaign Finance & Public Disclosure 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)

RE: Definition of Lobbyist

ADVISORY OPINION 288

SUMMARY

An individual is not required to register as a lobbyist based on activities undertaken within the scope of the individual's employment by a public higher education system.

FACTS

As the representative of an organization, you ask the Campaign Finance and Public Disclosure Board for an advisory opinion based on the following facts:

1. The organization you represent is a public higher education system (hereinafter referred to as the Public Higher Education System), as that term is used in Minn. Stat. § 10A.01, subd. 11, which defines a lobbyist.
2. One of the Public Higher Education System's employees is the director of a nonprofit council dedicated to educational issues.
3. Serving as director of this nonprofit council is a part of this individual's responsibilities as an employee of the Public Higher Education System. Both the employer and the employee consider this activity to be within the scope of the employment.
4. The employee's activities as director of the nonprofit council include spending time communicating with legislators to influence legislative action. The employee may spend more than 5 hours in a month engaged in such communications.
5. These communications are not on behalf of the Public Higher Education System, but are on behalf of the nonprofit council.

ISSUE

May an employee of a public higher education system be required to register as a lobbyist based on activities undertaken within the scope of the individual's employment, although not specifically on behalf of the employer?

OPINION

An individual does not become a lobbyist based on the individual's activities as an employee of a public higher education system.

Minn. Stat. § 10A.01, subd. 11 (b)(2) excludes from the definition of a lobbyist "an employee of the state, including an employee of any of the public higher education systems".

The statutory exclusion applies to employees of public higher education systems, while acting within the scope of their employment, regardless of the nature of the lobbying type activities they undertake.

The exclusion is limited to lobbyist status based on the individual's activities within the scope of employment as a public higher education system employee. Such an employee would be a lobbyist if the individual meets the statutory definition of a lobbyist based on activities outside of the individual's public higher education system employment.

Issued: 8/27/98



G. Barry Anderson, Chair
Campaign Finance and Public Disclosure Board

CITED STATUTES

Minn. Stat. § 10A.01 Definitions

Subd. 11. Lobbyist. (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 or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials; or

(2) who spends more than \$250, not including the individual's own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials.

(b) "Lobbyist" does not include:

- (1) a public official;
- (2) an employee of the state, including an employee of any of the public higher education systems;