

State of Minnesota
Campaign Finance & Public Disclosure Board
Suite 190, 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: John A. Knapp
Winthrop & Weinstine, P.A.
Suite 3500
225 South Sixth Street
Minneapolis, MN 55402

RE: Membership in a Group as an Exception to the Gift Prohibition.

ADVISORY OPINION 361

SUMMARY

A lobbyist principal may partially fund an event at which a gift is provided to officials if the officials are members of a group, the majority of the members of the group are not officials, and an equivalent gift is given to all members of the group.

FACTS

As an attorney representing a corporation (the Lobbyist Principal) that employs lobbyists registered with the Campaign Finance and Public Disclosure Board (the Board), you ask for an advisory opinion based on the following facts, which were included in your request letter or verbally conveyed to Board staff:

1. The Lobbyist Principal is planning to co-sponsor an event (the Event) during the national convention of a major political party.
2. The Event is a dinner and speaking program at which a Minnesota public official will be honored.
3. The Event will not be used as a fundraiser.
4. All members of the Minnesota delegation to the national convention will be invited to the Event.
5. The Minnesota public official to be honored at the Event is a member of the Minnesota delegation.

6. The Minnesota delegation includes several members that are "officials" as defined in Minn. Stat. 10A.071, subd. 1 (c), (public official, employee of the legislature, or a local official of a metropolitan governmental unit), but these officials make up less than one half of the members of the delegation.
7. The major political party that selected the members of the Minnesota delegation has a formal organization, rules for the management of party business, and conducts a series of meetings at which members of the Minnesota delegation are selected.

ISSUE ONE

May the Lobbyist Principal provide a gift at the Event to officials under the exception for members of a group?

OPINION

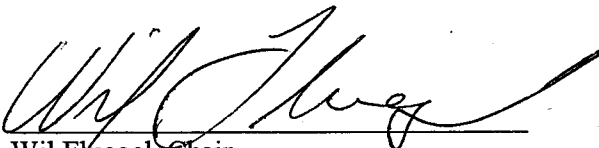
Yes. The exception to the gift prohibition contained in Minn. Stat. §10A.071, subd. 3 (b)(1) states that a lobbyist principal may give a gift to an official if the gift is provided because of the official's membership in a group, and if the majority of the group's members are not officials, and if an equivalent gift is provided to all members of the group.

In Advisory Opinions 220 and 273 the Board found that to qualify for the "membership in a group" exception, the group could not be ad hoc or self-selecting in nature. Membership must be well defined and have a certain level of formality. Further the group must have some organization and definition to be legitimate for the purposes of Minn. Stat. §10A.071, subd. 3 (b)(1). Being a part of the Minnesota delegation to a major party national convention qualifies as "membership in a group" because of the process established by the political party to select delegates.

As provided in the facts of this advisory request, the other tests to the exception in Minn. Stat. §10A.071, subd. 3 (b)(1), are met because the majority of the Minnesota delegation are not officials and all members of the Minnesota delegation will be provided the gift.

The Board reminds the Lobbyist Principal that gifts provided to officials must be reported to the Board by the designated lobbyist on the applicable periodic Report of Lobbyist Disbursements. The disclosure is required by Minn. Stat. §10A.04, subd. 4 (c), and includes the amount and nature of each gift, with a value of \$5 or greater, given or paid to any official. The list must include the name and address of each official to whom the gift was given and the date on which it was received.

Issued July 22, 2004


Wil Fluegel, Chair
Campaign Finance and Public Disclosure Board

Cited Statutes and Administrative Rules

10A.04 Lobbyist reports.

Subd. 4. **Content.** (a) A report under this section must include information the board requires from the registration form and the information required by this subdivision for the reporting period.

(b) A lobbyist must report the lobbyist's total disbursements on lobbying, separately listing lobbying to influence legislative action, lobbying to influence administrative action, and lobbying to influence the official actions of a metropolitan governmental unit, and a breakdown of disbursements for each of those kinds of lobbying into categories specified by the board, including but not limited to the cost of publication and distribution of each publication used in lobbying; other printing; media, including the cost of production; postage; travel; fees, including allowances; entertainment; telephone and telegraph; and other expenses.

(c) A lobbyist must report the amount and nature of each gift, item, or benefit, excluding contributions to a candidate, equal in value to \$5 or more, given or paid to any official, as defined in section 10A.071, subdivision 1, by the lobbyist or an employer or employee of the lobbyist. The list must include the name and address of each official to whom the gift, item, or benefit was given or paid and the date it was given or paid.

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:

(1) a contribution as defined in section 10A.01, subdivision 11;

(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.

4512.0100 DEFINITIONS.

Subp. 3. **Gift.** In addition to those categories specified in Minnesota Statutes, section 10A.071, subdivision 1, the following are included within the definition of gift:

A. meals and entertainment;

B. loans of personal property for less than payment of fair market value;

C. giving preferential treatment for purchases;

D. honoraria; and

E. payment of loans or other obligations.