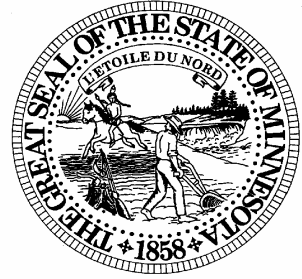


Minnesota

# *Campaign Finance and Public Disclosure Board*

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**THE FOLLOWING PUBLICATION DOES NOT IDENTIFY THE  
REQUESTER OF THE ADVISORY OPINION, WHICH IS NON PUBLIC DATA  
under Minn. Stat. § 10A.02, subd. 12(b)**

**RE: Gift Prohibition; Registration Fees for an Educational Program**

## **ADVISORY OPINION 380**

### **SUMMARY**

Lobbyist principals may provide educational programs without cost to legislators if the subject of the programs will assist the legislators in the performance of their official duties.

### **FACTS**

On behalf of an association that is a lobbyist principal, its legal counsel asks the Campaign Finance and Public Disclosure Board (the Board) for an advisory opinion based on the following.

1. The association is holding a symposium. Persons who attend the symposium are charged a registration fee.
2. The subject matter of the forum is a subject often before the legislature, and the provision of the forum to legislators may be of service to assist them in connection with legislation and services to constituents.
3. The association is aware of Advisory Opinion 162 in which the Board advised that if a lobbyist principal waived a conference registration fee for a public official the result would be a violation of the gift ban provided in Minnesota Statutes, chapter 10A.

## **ISSUE ONE**

Would attendance by a legislator at the planned symposium without payment of the registration fee be a violation of the gift prohibition as provided in Minnesota Statutes, section 10A.071, subdivision 2?

## **OPINION ONE**

No. The general prohibition on gifts to public officials that is made by section 10A.071, subdivision 2, is subject to the exception provided by subdivision 3, clause (2), which allows the gift of:

“...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....”

That exception includes services of the kind proposed by the association. The Board has addressed this issue recently in Advisory Opinion 364, which approved the provision of similar educational sessions to legislators, noting that the lobbyist principal may not provide complimentary food or beverages to the legislators with the educational sessions. Minnesota legislation relating to the issues discussed at the symposium must be coordinated with federal law. In the present fact situation, the education provided by the symposium will assist legislators in their official duties, legislation in particular.

The Board’s older Advisory Opinion 162 did not allow participation without a fee in presentations that, in part, would have expanded the general knowledge of an official rather than having a direct bearing on issues currently under consideration.

## **ISSUE TWO**

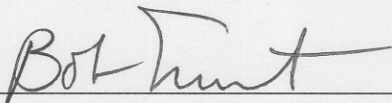
Would the gift ban be avoided if the program were sponsored by another entity that is not a lobbyist principal?

## OPINION TWO

No. In view of the answer to issue one, the Board does not need to reach this question, but it notes that the definition of "principal" by Minnesota Statutes, section 10A.01, subdivision 33, refers to an association. Subdivision 6 of that section defines an "association" as persons acting in concert. To change the answer to the question, it would be necessary for the association to demonstrate:

- (1) that the other entity does not act in concert with the association;
- (2) that the other entity had not been requested to make the gift, an action prohibited by Minnesota Statutes, section 10A.071, subdivision 2.

Issued May 16, 2006

A handwritten signature in cursive script, appearing to read "Bob Milbert", is written over a horizontal line.

Bob Milbert, Chair  
Campaign Finance and Public Disclosure Board

## Cited Statutes

### 10A.01 Definitions.

Subd. 6. **Association.** "Association" means a group of two or more persons, who are not all members of an immediate family, acting in concert.

Subd. 33. **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.** (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 costing \$5 or less;
- (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.