

State of Minnesota  
Campaign Finance & Public Disclosure Board  
Suite 190, Centennial Building. 658 Cedar Street. St. Paul, MN 55155-1603

**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:     Application of Gift Prohibition to Random Drawings**

**ADVISORY OPINION 393**

**SUMMARY**

A public official who is a member of a formal group, the majority of whose members are not officials, may enter a random drawing offered by a lobbyist principal.

**FACTS**

As a public official you ask for an advisory opinion from the Campaign Finance and Public Disclosure Board (the Board), based on the following facts:

1. The state agency in which you serve is a member of a national organization. The national organization has a formal organization with officers, a mission, a protocol for becoming a member of the organization, and membership from across the country.
2. The national organization holds an annual conference. The public officials from Minnesota who attend the annual conference are a minority of the total membership in attendance.
3. The conference provides areas for vendors to set up display booths for the products and services they offer. Many of the vendors provide the opportunity for conference attendees to enter a random drawing for a prize at the display booth. The conference attendees may enter the drawing by placing their business card in a container, filling out an entry slip, or other similar methods. Any conference attendee may enter the drawing. The prize given to the person selected in the drawing varies from nominal value (pen, golf balls, etc.) to items with substantial value (personal electronics, etc.).
4. Some of the vendors who maintain display booths and offer the random drawings for prizes may be a lobbyist “Principal”, as defined in Minnesota Statutes, section 10A.01, subdivision 33. The officials who attend the conference may not know if a vendor is a lobbyist principal in Minnesota.

## **ISSUE ONE**

May a public official enter a random drawing held by a lobbyist principal while attending the conference described in the facts of this opinion?

### **OPINION**

Yes. While gifts from lobbyists and lobbyist principals to public officials are generally prohibited Minnesota Statutes, section 10A.071, subdivision 3 (b)(1), provides an exception for gifts that are given because of the official's membership in a group. This statute further provides that to qualify for the exception the majority of members of the group must not be "officials" as defined in Chapter 10A, and that an equivalent gift is given to the other members of the group.

In prior opinions (see Advisory Opinions 220, 273, 335 and 361) the Board has provided that to qualify for this exception to the gift prohibition a group must have a formal organization and purpose and a membership that is well defined and not self selecting. As provided in the facts of this advisory opinion the nature of the national organization and its membership meet this standard.

While formulating this opinion the Board considered whether a drawing was an equivalent gift given to all members of the group. While it is unlikely that all members of the group in attendance at the conference will enter any given drawing the opportunity to do so is extended to all attendees. As originally provided in Advisory Opinion 273 and restated here, making a gift available to all members of the group is sufficient to meet this requirement, it is not necessary for all members to accept the gift. The "gift" offered by the vendor is the benefit of entering a drawing with the potential right to receive a prize if selected.

As with all advisory opinions issued by the Board this opinion applies only to the fact situation provided by the requestor. The gift prohibition would apply, for example, for an official winning a prize from a drawing held by a lobbyist principal at a trade show where the attendees are not members of any formal group, or where the majority of the members of a group are public officials.

## **ISSUE TWO**

Does the value of the potential chance to win change the answer to Issue One?

### **OPINION**

No. The exception to the gift prohibition provided for membership in a group provided in Minnesota Statutes, section 10A.071, Subdivision 3 (b)(1) is not limited to gifts of a particular value.

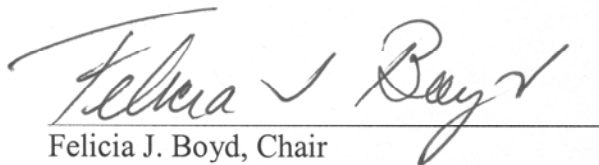
### ISSUE THREE

If an official wins a prize from a random drawing while attending a conference in an official capacity does the official or the governmental entity that the official represents own the prize?

### OPINION

Minnesota Statutes Chapter 10A does not contain provisions that relate to this issue. Therefore, the Board has no opinion on Issue Three. The requestor may wish to confer with their legal counsel on other state statutes that may apply.

Issued October 9, 2007

A handwritten signature in cursive script that reads "Felicia J. Boyd". The signature is written in black ink and is positioned above a horizontal line.

Felicia J. Boyd, Chair  
Campaign Finance and Public Disclosure Board

## Cited Statutes and Administrative Rules

### 10A.01 DEFINITIONS.

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.