

Advisory Opinion

IECDB AO 2001-10

July 5, 2001

TO ALL INTERESTED PERSONS:

Pursuant to Iowa Code section 68B.32A(11), the Iowa Ethics and Campaign Disclosure Board takes the opportunity to issue its opinion on whether "working lunches" are subject to the \$3.00 gift limit. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 56 and 68B and rules in Iowa Administrative Code chapter 351. Whether some other statutory system, common law theory or agency rule applies to this issue is not covered by this opinion.

OPINION:

We first note our jurisdiction in interpreting the gift law is limited to executive branch officers and employees, candidates for statewide office, and the immediate family members of those individuals.

Iowa Code section 68B.22 prohibits the receipt of gifts by a public official, employee, candidate, or that person's immediate family member from a "restricted donor" (see Iowa Code section 68B.2(24) for a definition of "restricted donor"). The issue has been raised whether the exception in Iowa Code section 68B.22(4)"g" permits the receipt of meals from "restricted donors" at a "working lunch".

Iowa Code section 68B.22(1)"g" provides the following exception to the \$3.00 gift law:

"Actual expenses of a donee for food, beverages, registration, travel, and lodging for a meeting, which is given in return for participation in a panel or speaking engagement at the meeting when the expenses relate directly to the day or days on which the donee has participation or presentation responsibilities."

The Board sees a distinction between participating on a panel or a speaking engagement and situations such as a "working lunch". We do not believe that a "working lunch" falls within the exception contemplated in the statute. To allow the receipt of meals over \$3.00 in such situations would serve to frustrate the very purpose of the gift law statute. Persons subject to the gift law could receive meals without monetary limitation from restricted donors by merely asserting that state business was discussed or conducted.

We believe that the language of Iowa Code section 68B.21 supports our position:

"It is the goal of the general assembly that public officials and public employees of the state be extremely cautious and circumspect about accepting a gratuity or favor,

especially from persons that have a substantial interest in the legislative, administrative, or political actions of the official or employee. Even where there is a genuine personal friendship, the acceptance of personal benefits from those who could gain advantage by influencing official actions raises suspicions that tend to undermine the public trust. It is therefore the intent of the general assembly that the provisions of this division be construed to discourage all gratuities, but to prohibit only those that create unacceptable conflicts of interest or appearance of impropriety."

By accepting a free meal from a "restricted donor" while discussing or conducting state business creates an unacceptable conflict of interest and an appearance of impropriety. The gift law was enacted to promote the public's trust and confidence in government by prohibiting the receipt of gifts from "restricted donors".

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair
1st Vice-Chair Geraldine Leinen
2nd Vice-Chair Gwen Boeke
Mark McCormick
Bernie McKinley
Phyllis Peters

Submitted by: W. Charles Smithson, Board Legal Counsel