

Advisory Opinion

IECDB AO 2002-03

January 24, 2002

Daron Van Helden, Public Affairs Representative
AAA Minnesota/Iowa
600 W. Travelers Trail
Burnsville, MN 55337

Dear Mr. Van Helden:

This opinion is in response to your letters of November 6, 2001, and December 5, 2001, in which you request an opinion from the Iowa Ethics and Campaign Disclosure Board. 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.

FACTUAL STATEMENT:

We understand you request this opinion in your capacity as the Public Affairs Representative of AAA Minnesota/Iowa. You advise us that as part of your organization's "Centennial Celebration" you want to show appreciation to organizations that have been actively involved in traffic issues. In order to do so, AAA Minnesota/Iowa proposes to provide all members of relevant state associations an opportunity to receive a free one-year membership to your organization (value of \$55). Associations would include the State Troopers, Iowa Police and Peace Officers, Iowa Sheriffs and Deputies and the Iowa County Engineers. You further advise us that after reviewing the definition of "restricted donor" in Iowa Code section 68B.2(24), you do not believe that AAA is a "restricted donor" to any of the public officials or employees belonging to the associations.

QUESTION:

Is AAA Minnesota/Iowa permitted to provide free memberships to public officials and employees who belong to state associations that have been active in supporting traffic issues?

OPINION:

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

Iowa Code section 68B.22 prohibits public officials, employees, candidates, and the immediate family members of those individuals from receiving, directly or indirectly, gifts in excess of \$3.00 from a "restricted donor". In addition, the statute prohibits a

"restricted donor" from, directly or indirectly, offering or making a gift to a public official or employee. You propose providing gifts to members of associations that are made up of public officials and employees. We consider this to be an "indirect" gift and do not find an exception in the statute. The issue then becomes whether or not your organization is a "restricted donor".

Iowa Code section 68B.2(24) defines "restricted donor" as the following:

"Restricted donor" means a person who is in any of the following categories:

- a. Is or is seeking to be a party to any one or any combination of sales, purchases, leases, or contracts to, from, or with the agency in which the donee holds office or is employed.
- b. Will personally be, or is the agent of a person who will be, directly and substantially affected financially by the performance or nonperformance of the donee's official duty in a way that is greater than the effect on the public generally or on a substantial class of persons to which the person belongs as a member of a profession, occupation, industry, or region.
- c. Is personally, or is the agent of a person who is, the subject of or party to a matter which is pending before a subunit of a regulatory agency and over which the donee has discretionary authority as part of the donee's official duties or employment within the regulatory agency subunit.
- d. Is a lobbyist or a client of a lobbyist with respect to matters within the donee's jurisdiction."

In reviewing your letter concerning the interaction of AAA with the officials and employees, we believe that AAA is not a "restricted donor" under (a), (b), or (c). In those situations, Iowa Code section 68B.22 would not apply and you could provide the free memberships. As there is no regulation of lobbying at the local level, (d) would not apply to local governmental personnel. As far as state personnel, you would be a "restricted donor" to only those officials or employees from agencies that you lobby on rules or proposed agency legislation. If you do not lobby those agencies, then you would not be a "restricted donor" and the "gift law" would not apply.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair
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Submitted by: W. Charles Smithson, Board Legal Counsel