

State of Minnesota
Campaign Finance and 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 provided by the requester

Issued to: Meg Luger-Nikolai
Education Minnesota
41 Sherburne Avenue
St. Paul, MN 55103

Tom Dicklich
MN State Building & Construction Trades Council
353 W 7th Street
Suite 105
St Paul, MN 55102

Kyle Makarios
Teamsters Joint Council 32
3001 University Ave SE
Suite 510
Minneapolis, MN 55414

RE: Lobbyist Registration and Reporting

ADVISORY OPINION 461

SUMMARY

The vote of an elected local official to adopt a collective bargaining agreement for union employees of a political subdivision is an official action of a political subdivision. Attempting to influence the vote of an elected official on a collective bargaining agreement is lobbying. Actions by union representatives to enforce the provisions of a collective bargaining agreement after it has been adopted, or to represent union employees in discussions with human resource staff, is not lobbying.

FACTS

On behalf of Education Minnesota, the Minnesota State Building and Construction Trades Council, and Teamsters Joint Council 32 you request an advisory opinion from the Campaign Finance and Public Disclosure Board based on the following facts which were provided to the Board in a written request.

1. Education Minnesota, the Minnesota State Building and Construction Trades Council, and Teamsters Joint Council 32 represent several unions whose members work in the public sector. The local unions have been elected to serve as the exclusive representative in negotiations regarding compensation and fringe benefits.

2. Some local unions employ individuals who work as representatives for the union in contractual relationships with a public employer. Some local unions receive the assistance of an affiliated labor organization, in which case an agent works with the public employer on behalf of the local union.
3. Union representatives and agents often meet with elected officials for a political subdivision. In the case of school districts, the representatives and agents may contact school board members or the superintendent. In the case of cities and townships, the representatives and agents contact city council members or town board supervisors. In larger school districts and cities, the contact may be primarily with staff in a human resources department.
4. In representing employees of the local union, the representatives and agents may be compensated more than \$3,000 for assisting with negotiating and enforcing the provisions of an agreement on compensation and working conditions with a public employer.
5. You state that Minnesota Statutes section 179A.06 provides the right for public employees to negotiate through their union representative terms and conditions of employment and grievance procedures. You describe the terms of and conditions of employment as the circumstances under which an employee will provide service to a public employer.
6. You note that Minnesota Statutes section 10A.01, subdivision 21 (b) (6) excludes from the definition of lobbyist individuals “engaged in selling goods or services to be paid for by public funds.” You further note that in Advisory Opinion 304¹ the Board provides that “...the exception applies to individuals selling goods and services on their own behalf as well as to employees or independent contractors, such as attorneys, acting on behalf of sellers.”

Issue One

Does working as an agent helping employees to collectively bargain the compensation for their services fall under the lobbying exception for individuals selling goods and services that will be paid for with public funds?

Opinion One

No. The Board understands the negotiation of a labor contract to be a complex process that involves many factors and issues. In the Board’s view a union contract is not the type of transaction that may be reasonably seen as the selling of goods or services to a political subdivision.

¹ [Advisory Opinion 304](#), issued October 30, 1998.

Issue Two

Does working as an agent helping employees to enforce the provisions of a collective bargaining agreement setting forth employees' compensation for services to a political subdivision constitute lobbying?

Opinion Two

No. Lobbying of a political subdivision occurs when an individual attempts to influence an official action of the political subdivision. The definition of "official action of a political subdivision" is provided in Minnesota Statutes section 10A.01, subdivision 26b:

"Official action of a political subdivision" means any action that requires a vote or approval by one or more elected local officials while acting in their official capacity; or an action by an appointed or employed local official to make, to recommend, or to vote on as a member of the governing body, major decisions regarding the expenditure or investment of public money.

The vote of elected local officials to accept the collective bargaining agreement is an official action of a political subdivision, and attempting to influence the vote of the elected official, including negotiating with the elected official on the content of the collective bargaining agreement, is lobbying.

However, in this question, the vote to accept the collective bargaining agreement has already occurred, and the issue is the application of some provision of that agreement. The administration of the collective bargaining agreement, including discussions to ensure that the terms of the contract are followed, do not require local officials to make an "official action of a political subdivision". Therefore, working with local officials to enforce the provisions of the collective bargaining agreement is not lobbying of the political subdivision.

Issue Three

Does advocacy on behalf of public employees to human resources staff for a public entity qualify as attempting to influence official action of a local official?

Opinion Three

No. Similar to the answer provided for issue two, union representation advocating on behalf of a public employee with human resources staff is not an attempt to influence the official action of a political subdivision, and therefore is not lobbying.

Board Note

If the Board intends to apply principles of law or policy announced in an advisory opinion more broadly than to the individual or association that requested the opinion, then the Board must adopt the principal or policy in an administrative rule.² The Board notes that it is in the process of adopting and modifying administrative rules regarding lobbying, and that the issue of negotiating a collective bargaining agreement with political subdivisions may be addressed in the forthcoming administrative rules.

Issued: February 7, 2024

_____/s/ David Asp
David Asp, Chair
Campaign Finance and Public Disclosure Board

² Minn. Stat. § 10A.02, subd. 12a.