

Advisory Opinion
IECDB AO 2000-05

April 20, 2000

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 the issue of public officials and employees using their official job titles in campaign literature. 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:

Iowa Code section 68B.2A(1) in pertinent part states:

"Any person who serves or is employed by the state or a political subdivision of the state shall not engage in any outside employment or activity which is in conflict with the person's official duties and responsibilities. In determining whether particular outside employment or activity creates an unacceptable conflict of interest, situations in which an unacceptable conflict shall be deemed to exist shall include, but not to be limited to, any of the following:

a. The outside employment or activity involves the use of the state's or the political subdivision's time, facilities, equipment, and supplies or the use of the state or political subdivision badge, uniform, business card, or other evidences of office or employment to give the person...an advantage or pecuniary benefit that is not available to other similarly situation members or classes of members of the general public."

In the past, the Board has interpreted this section to prohibit the use of job titles by public officials and employees in their campaign literature except when the job title involved the office sought. For example, a candidate for Secretary of State could not use the title "Deputy Assistant Secretary of State" in campaign literature. The rationale for this decision was that the use of a job title was "evidence of office or employment" that gave the person an advantage over other candidates.

The Board acknowledges that the use of a job title could be an "evidence of office or employment" that creates an impermissible conflict of interest under this section. However, after reviewing these prior decisions in greater detail, the Board is now of the opinion that due to the very nature of campaigns for elective office, that a job title is part of "who someone is" and this section should not be interpreted to prohibit the use of job titles in campaign literature.

In closing, the Board notes that while this opinion now allows the use of job titles in campaign literature, the use of job titles in other circumstances may be a conflict of interest. Public officials and employees should contact the Board for further guidance in such situations. Finally, all candidates should be aware of not only the prohibitions in Iowa Code section 68B.2A, but also Iowa Code section 56.12A that prohibits the use of public resources for a political purpose.

BY DIRECTION AND VOTE OF THE BOARD

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

Submitted by: W. Charles Smithson, Board Legal Counsel