

Advisory Opinion

IECDB AO 2000-10

July 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 whether or not the purchase of food from campaign funds is a permissible officeholder expense under Iowa Code section 56.41. 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 56.41 in pertinent part states:

"1. A candidate and the candidate's committee shall use campaign funds only for campaign purposes, educational and other expenses associated with the duties of office, or constituency services, and shall not use campaign funds for personal expenses or personal benefit.

2. Campaign funds shall not be used for any of the following purposes:

i. Meals, groceries, or other food expense, except for tickets to meals that the candidate attends solely for the purpose of enhancing the candidacy or the candidacy of another person. However, payment for food and drink purchased for campaign related purposes and for entertainment of campaign volunteers is permitted."

Subsection (1) provides for the general uses of campaign funds: campaign purposes, educational/other expenses associated with office and constituency services. It also sets out general prohibitions in that campaign funds may not be used for "personal expenses or personal benefit". Subsection (2) then sets out a series of specific prohibitions on the use of campaign funds including the prohibition in subpart "i" for "meals, groceries, or other food expense...." The subpart then provides a specific exception for meals that enhance a candidacy, for campaign related purposes and for entertainment of campaign volunteers.

In applying this language, subsection (1) provides general guidelines concerning the permissible uses of campaign funds, while subsection (2) provides specific prohibitions and some specific exceptions from those prohibitions. Therefore, while the General Assembly has granted us discretion in interpreting subsection (1), we must do so in view of the specific statutory examples set out in subsection (2).

Given the express language of Iowa Code section 56.41(2)"i", the Board believes that unless the purchase of food is for meals solely for the purpose of "enhancing a candidacy, for campaign related purposes or for campaign volunteers", the purchase is prohibited. Thus, the purchase of food from campaign funds for "officeholder expenses" would be prohibited.

We do note that in rule 351 IAC 4.42(2)"c", it is permissible for campaign funds to be used for meals "in connection with attending a local meeting to which the officeholder is invited and attends due to the officeholder's official position as an elected official." The Board promulgated this rule based on the presumption that attendance at such events "enhanced the candidacy" of the attendee.

In closing, the Board has previously recommended that Iowa Code section 56.41(2)"i" be amended to allow a \$25.00 meal purchase when the meal was for officeholder expenses or constituency services, however that recommendation has yet to be passed into law.

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