

Advisory Opinion

IECDB AO 2000-15

August 17, 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 school board members advocating the passage of a ballot issue at a public school board meeting. 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 56.12A states:

"The state and the governing body of a county, city, or other political subdivision of the state shall not expend or permit the expenditure of public moneys for political purposes, including expressly advocating the passage or defeat of a ballot issue.

This section shall not be construed to limit the freedom of speech of officials or employees of the state or of officials or employees of a governing body of a county, city, or other political subdivision of the state. This section also shall not be construed to prohibit the state or a governing body of a political subdivision of the state from expressing an opinion on a ballot issue through the passage of a resolution or proclamation."

It is our opinion that the issue of a school board member advocating a position on a ballot issue at a public school board meeting falls within the exceptions set out in the statute. As an elected official, the constituents of the school board expect to hear the positions the member takes. The Board believes that prohibiting a school board member from stating his or her opinion on a ballot issue at a public school board meeting impermissibly limits the freedom of speech of the member. By stating his or her opinion, the member is subject to possible disagreement from members of the public.

In addition, the statute permits the school board to express an opinion on a ballot issue through the passage of a resolution or proclamation. The Board does not see a significant difference between a school board member stating an opinion on a ballot issue at a public meeting and a debate and vote on a resolution or proclamation. In both instances, the school board member is stating his or her personal opinion concerning a public matter at a public meeting.

Therefore, pursuant to the exceptions set out by the legislature in the statute, the Board will not consider it a violation of Iowa Code section 56.12A for a school board member to state his or her opinion on a ballot issue at a public school board meeting.

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