

Advisory Opinion

IECDB AO 2000-40

October 19, 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 community colleges are considered to be "state agencies" for the purposes of the ethics laws in Chapter 68B. 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:

Although Iowa Code section 68B.2(2) defined "'agency of state government' or 'state agency'" to include "community colleges", the issue had been raised to the Board concerning whether or not community colleges were "state agencies" for purposes of the ethics laws. If community colleges were deemed to be "state agencies", then any complaints concerning Chapter 68B would be handled by the Board under Iowa Code section 68B.32B(1). If the colleges were instead considered to be "local political subdivisions", then any such complaints would be filed with the appropriate county attorney under Iowa Code section 68B.26. In addition, if the colleges were "state agencies", then the provisions of Iowa Code section 68B.35 concerning the filing of personal financial disclosure forms would apply.

As the answer to this issue would involve chapters of the Iowa code not under the Board's jurisdiction, the Board sought an advisory opinion from the Iowa Attorney General's Office concerning whether or not community colleges were considered "state agencies" for purposes of Chapter 68B. In addition, the Board sought clarification of where ethics complaints concerning community colleges should be filed. Finally, the Board sought the Attorney General's Opinion on whether or not the requirements for filing personal financial disclosure forms applied to community college employees.

In September of 2000, the Board received an opinion from the Attorney General's Office that community colleges are "state agencies" for purposes of Iowa Code chapter 68B, including the requirement that certain employees file personal financial disclosure forms. The opinion also stated that ethics complaints involving community colleges should be filed with the Board.

The Board hereby formally announces that it is in receipt of the Attorney General's Opinion and will abide by the determinations contained therein. Therefore, community colleges will be considered by the Board to be "state agencies". Thus, individuals designated as being required to file personal financial disclosure forms due to their employment with community colleges under Iowa Code section 68B.35 and rule 351 IAC 11.2(39) will in the future be required to file the form. In addition, complaints concerning violations of Iowa Code chapter 68B by employees of community colleges should be filed with the Board under Iowa Code section 68B.32B(1).

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