

Advisory Opinion

IECDB AO 2001-06

May 24, 2001

Gina Noll
PO Box 7255
Des Moines, Iowa 50309

Dear Ms. Noll:

This opinion is in response to your letter of May 11, 2001, in which you request an opinion from the Iowa Ethics and Campaign Disclosure Board. 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.

FACTUAL STATEMENT:

We understand you request this opinion in your capacity as the campaign treasurer for different candidates. You advise us that married couples using a joint account often place campaign advertisements in excess of \$500.00 that advocate the election or defeat of candidates. In addition, the married couple may provide an in-kind contribution or direct monetary contribution to a candidate that is in excess of \$500.00. You are concerned about whether or not the married couple would become a "political committee" under such situations.

QUESTIONS:

We understand that based on this factual statement you ask us the following questions:

Does a married couple that makes expenditures in excess of \$500.00 from a joint account to advocate for or against a candidate become a "political committee"?

If so, must they file reports as any other committee that spends in excess of \$500.00 to advocate for or against a candidate?

What disclaimer must the couple place on newspaper advertisements placed to advocate for or against a candidate?

Must the couple notify a candidate's committee of an in-kind contribution made by the couple?

OPINION:

Iowa Code section 56.2(18) defines a "political committee" but does not provide guidance on whether a "committee" is created when a married couple uses a joint account and spends more than \$500.00. Board rule 351 IAC 4.1(1)"a" states that a "political committee" is the "entity required to be created when two or more individuals have exceeded the \$500 organizational threshold". The only other statute or rule that possibly applies is rule 351 IAC 4.28(3) that states if a contribution check is drawn on a joint account "the contribution shall be presumed to be from the person who signs the check".

The Board is of the opinion that unless there is a clear intent to the contrary, a married couple that makes expenditures in excess of \$500.00 from a joint account for or against a candidate is acting as an individual. Therefore, a married couple that uses a joint account and spends more than \$500.00 is not a "political committee". Thus, as with any other individual, no reporting is required by a married couple using a joint account and spending in excess of \$500.00 to advocate for or against a candidate.

Turning to your third question, Iowa Code section 56.14(1) and rule 351 IAC 4.70 require a "paid for by" attribution statement on all political materials that advocate for or against a candidate regardless of whether or not the \$500.00 threshold is met. Thus, when a married couple places a newspaper advertisement advocating for or against a candidate, regardless of the cost of the advertisement, it must include the words "paid for by" and the full name and address of at least one member of the married couple.

In answer to your fourth question, everyone who makes an "in-kind" contribution to a candidate must disclose the actual costs of the item or service donated to the campaign so that the candidate may properly report the receipt of the "in-kind" contribution.

BY DIRECTION AND VOTE OF THE BOARD

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

Submitted by: W. Charles Smithson, Board Legal Counsel