

Advisory Opinion

IECDB AO 2001-08

May 24, 2001

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 question of whether an attorney representing a client in a contested case or court action challenging an agency action is lobbying. 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:

We first note our jurisdiction in interpreting the application of the lobbying laws is limited to activities before statewide elected offices and other agencies in the executive branch. The issue has been raised whether an attorney that represents a client in a contested case proceeding or in any court action challenging an agency action must register as a "lobbyist".

Iowa Code section 68B.2(13) defines a "lobbyist" as an individual that "by acting directly...encourages the passage, defeat, approval, veto, or modification of legislation, a rule, or an executive order by...a state agency, or any statewide elected official".

We are of the opinion that an attorney representing a client in a contested case proceeding or any court action challenging an agency action is not a "lobbyist" by virtue of that representation.

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