

Advisory Opinion

IECDB AO 2001-18

November 29, 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 issue of the Board's jurisdiction over local governmental personnel for 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:

The Board has issued three advisory opinions concerning the application of the gift law in Iowa Code section 68B.22 (Opinions 2001-05, 2001-09, and 2001-10). In each opinion, a statement was made that the Board's jurisdiction in interpreting the law was limited to "executive branch personnel and candidates for statewide office and the immediate family members of those individuals." The Board takes this opportunity to clarify its jurisdiction concerning application of the ethics laws in Iowa Code chapter 68B to local governmental officials and employees.

Pursuant to Iowa Code section 68B.32B(1), the Board has the jurisdiction to investigate ethics complaints concerning executive branch personnel and candidates for statewide office. The statute does not permit the Board to investigate ethics complaints concerning local governmental personnel. Those complaints are to be filed with the county attorney where the accused resides (Iowa Code section 68B.26). The Board has the authority under Iowa Code section 68B.32A(11) to provide advice to local governmental personnel concerning the application of Chapter 68B. Thus, local governmental personnel should follow the advice in the opinions concerning gifts.

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