

Advisory Opinion

IECDB AO 2003-07

April 3, 2003

Carol Greta
Legal Consultant and Administrative Law Judge
Department of Education
Grimes State Office Building
Des Moines, Iowa 50319-0146

Dear Ms. Greta:

This opinion is in response to your letter of December 4 and e-mail of December 16, 2002, requesting 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.

FACTUAL STATEMENT:

You serve as an administrative law judge with the Iowa Department of Education and have been appointed by the Department to serve as a nonvoting member on both the Board of Control of the Iowa High School Athletic Association and the Board of Directors of the Iowa Girls High School Athletic Union. In situations where an appeal is raised by either of these organizations, you will not preside over that appeal on behalf of the Department.

QUESTION:

Is it permissible for you to receive gifts that are given to all members of these boards from both the organizations and outside groups?

OPINION:

We recognize that you are a member of these boards as part of your official state duties. However, the gifts are being given to all members of these private sector boards without regard to any other official status that you or the other board members may possess. Therefore, it would be permissible for you to receive the same gifts that are made available to all other members of these boards.

In closing, we note that Iowa Code section 68B.2A(1)"b" prohibits you from receiving money or other compensation (see Iowa Code section 68B.2(7) for definition of "compensation") for the performance of any act that is part of your regular duties. Therefore, you would be prohibited from receiving compensation from these

organizations during any time, or for the performance of any act, that you are also being compensated for by your Department.

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