

Advisory Opinion

IECDB AO 2003-17

September 11, 2003

Jeff Nelson
Assistant Attorney General
Iowa Department of Justice
1305 Walnut Street
Des Moines, Iowa 50319

Dear Mr. Nelson:

This opinion is in response to your e-mail of September 3, 2003, 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 68A and 68B and rules in Iowa Administrative Code chapter 351.

FACTUAL STATEMENT:

We understand you request this opinion in your capacity as an Assistant Attorney General advising the Department of Cultural Affairs. You advise us that the State Historical Society of Iowa has a twelve-member board of trustees. The powers and duties of the trustees are set out in Iowa Code sections 303.7 and 303.8. Under both sections, the trustees may make recommendations to either the Society or to the Historical Division Administrator, but these powers are strictly advisory. The trustees do not have rulemaking or policymaking authority.

QUESTION:

Does the definition of "official" in Iowa Code section 68B.2(17) apply to a member of the State Historical Society Board of Trustees?

OPINION:

Iowa Code section 68B.2(17) defines "official" in pertinent part as follows:

"...all statewide elected officials, the executive or administrative head or heads of an agency of state government, the deputy executive or administrative head or heads of an agency of state government, members of boards or commissions as defined under section 7E.4, and heads of the major subunits of departments or independent state agencies whose positions involve a substantial exercise of administrative discretion or the expenditure of public funds...."

In applying this language to your question, clearly the only part of the definition that might apply to the State Historical Society Board of Trustees is “members of boards or commissions as defined under section 7E.4.”

Iowa Code section 7E.4(2) defines “board” as a “policymaking body that has the power to hear contested case” or a “policymaking body that has powers for both rulemaking and hearing contested cases.” Iowa Code section 7E.4(3) defines “commission” to mean a “policymaking body that has rulemaking powers.”

Since the State Historical Society Board of Trustees does not have policymaking or rulemaking powers, it would not be considered a “board or commission” under section 7E.4. As such, a member of the State Historical Society Board of Trustees would not be an “official” under Iowa Code section 68B.2(17).

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