

Advisory Opinion

IECDB AO 2003-18

December 3, 2003

TO ALL INTERESTED PERSONS:

Pursuant to Iowa Code section 68B.32A(11) and rule 351—1.2, the Iowa Ethics and Campaign Disclosure Board takes the opportunity to issue its opinion on grass roots lobbying activities not being considered executive branch lobbying. 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.

OPINION:

We first note that our jurisdiction in interpreting the lobbying laws is limited to activities before the executive branch of state government and does not speak to any House or Senate rules involving activities before the legislative branch.

The issue has been raised concerning whether or not the executive branch lobbying laws and rules regulate grass roots lobbying activities. Historically, the Board has had a policy of not regulating grass roots lobbying activities but has not adopted that policy in opinion or by rule.

"Grass roots lobbying" is a term of art generally defined as "any attempt to influence legislation through an effort to affect the opinions of the general public or any segment thereof." ¹ Such activities are sometimes referred to as "indirect lobbying." A common grass roots activity involves an organization discussing a piece of legislation or a rule with its members and then encouraging its members to contact a governmental official about the legislation or rule.

Iowa Code chapter 68B does not define the term "lobbying." Rather, the term "lobbyist" is defined in Iowa Code section 68B.2(13)"a" as "an individual who, by acting directly, does any of the following...." The statute then sets out four specific situations where by "acting directly" an individual is defined as a lobbyist.

Board rule 351—8.1 ² defines "executive branch lobbying" as "acting directly to encourage the passage, defeat, approval, veto, or modification of legislation, a rule, or an executive order by a state agency or any statewide elected official."

In applying the language of the statute and rule to a grass roots lobbying activity, the Board is of the opinion that contacting someone other than a governmental official and trying to affect that person's opinion or get that person to act is not "acting directly" for purposes of triggering

the executive branch lobbying laws. Thus, the Board does not consider grass roots activities to be executive branch lobbying.

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

¹ Neither Iowa Code chapter 68B nor the Board's administrative rules define "grass roots lobbying." The definition used in this opinion is derived from federal tax law and other jurisdictions that do define the term.

² Rule has been filed as Adopted and takes effect on December 31, 2003.