

Advisory Opinion

IECDB AO 2012-01

April 27, 2012

TO ALL INTERESTED PERSONS:

Pursuant to Iowa Code section 68B.32A(12) and rule 351—1.2, the Iowa Ethics and Campaign Disclosure Board issues this opinion on whether it is permissible to circulate a nomination petition for a public office in a government office. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 68A and 68B, Iowa Code section 8.7, and rules in Iowa Administrative Code chapter 351. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

QUESTION:

Is it permissible to circulate a nomination petition for a public office in a government office for government employees and officials to sign? Similarly, is it permissible to place a nomination petition on a government office counter (or similar public area) for members of the public to sign?

OPINION:

Iowa Code section 68A.505 provides “[t]he state and the governing body of a county, city, or other political subdivision of the state shall not expend or permit the expenditure of public moneys for political purposes, including expressly advocating the passage or defeat of a ballot issue.” “Public resources” means “the moneys, time, property, facilities, equipment, and supplies of the executive branch of state government, a county, city, public school, or other political subdivision.” Iowa Admin. Code r. 351—5.3. “Political purposes” means “the express advocacy of a candidate or ballot issue.” Iowa Code § 68A.102(19). In a nutshell, section 68A.505 prohibits the use of government resources to expressly advocate for or against a candidate or ballot issue.

We have previously opined that a nomination petition does not require an attribution statement because it does not expressly advocate for the candidate. IECDB AO 2006-03. Since a nomination petition does not expressly advocate for the candidate, section 68A.505 is not violated if a nomination petition is circulated in a government office or placed on a government office counter for members of the public to sign.

We now turn to Iowa's conflicts-of-interest statute. Iowa Code section 68B.2A(1)(a) prohibits “[a]ny person who serves or is employed by the state or a political subdivision

of the state” to engage in an “[o]utside employment or an activity that involves the use of the state’s or the political subdivision’s time, facilities, equipment, and supplies . . . to give the person or member of the person’s immediate family an advantage or pecuniary benefit that is not available to other similarly situated members or classes of members of the general public.”

We believe section 68B.2A would be violated if a government official or employee circulated his or her nomination petition in a government office or placed his or her nomination petition on a government office counter if other candidates were not given the same opportunity.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair

John Walsh, Vice Chair

Saima Zafar

Carole Tillotson

Jonathan Roos

Mary Rueter

Submitted by Megan Tooker, Board Legal Counsel