

ADVISORY OPINION

AO-IECDB 2012-04

May 31, 2012

Jennifer Fagan
Reynolds for Senate
325 NW Lyon Street
Earlham, IA 50072

Dear Ms. Fagan:

This opinion is in response to your request for 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, 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.

FACTUAL STATEMENT:

We understand you request this opinion as Treasurer for the Reynolds for Senate committee. The committee was established in 2008 by Lieutenant Governor Kim Reynolds when she successfully ran for the Iowa Senate. In June 2010, the Iowa Republican Party nominated her as its candidate for Lieutenant Governor. Lieutenant Governor Reynolds did not establish a candidate's committee for Lieutenant Governor. After winning the election, Lieutenant Governor Reynolds resigned from the Senate. Her candidate's committee, Reynolds for Senate, remains open and continues to file the requisite campaign disclosure reports.

QUESTIONS:

1. May a sitting Lieutenant Governor and likely candidate for re-election for Lieutenant Governor establish and maintain a candidate's committee for the office of Lieutenant Governor?
2. If so, may a candidate for Lieutenant Governor with an existing candidate's committee established for a Senate campaign file an amended statement of organization to reflect that the candidate is now a candidate for Lieutenant Governor and no longer a candidate for the Iowa Senate?

OPINION:

In 2006, we opined that a candidate for the office of Lieutenant Governor is not required to register a separate campaign committee and file campaign disclosure reports. See IECDB AO 2006-08. We reasoned that a separate committee was not necessary since candidates for Governor and Lieutenant Governor run as “teams.” We must now decide whether a separate campaign committee for Lieutenant Governor is permissible.

We first note that a “candidate” is any individual who has taken affirmative action to seek the nomination or election to a public office. Iowa Code § 68A.102(4). A candidate shall organize one, and only one, candidate’s committee for a specific office sought when the candidate exceeds \$750 in campaign activities. *Id.* § 68A.202(1). A candidate’s committee may use campaign funds for campaign purposes, educational and other expenses associated with the duties of office, or constituency services. *Id.* § 68A.302(1). A candidate’s committee is not permitted to accept contributions from or make contributions to any other candidate’s committee unless the candidate for whom each committee is established is the same person. *Id.* § 68A.301(1).

We find nothing in Iowa law to prohibit a candidate for Lieutenant Governor from establishing and maintaining a committee for the office of Lieutenant Governor. Chapter 68A allows every candidate to establish one candidate’s committee for a specific office sought. *Id.* § 68A.202(1). While a gubernatorial candidate’s committee is certainly permitted to pay for the campaign activities of the Lieutenant Governor candidate that advocate for the election of the candidate for Governor, the gubernatorial candidate’s committee is not the committee of the Lieutenant Governor candidate. See *id.* § 68A.301(1); IECDB AO 2006-08. Moreover, a Lieutenant Governor candidate may wish to set up a separate candidate’s committee in order to raise funds to pay for educational and other expenses associated with the duties of office, or constituency services.

We therefore interpret Iowa law to permit—but not require—a candidate for Lieutenant Governor to establish a separate committee for the office of Lieutenant Governor. Since candidates for Governor and Lieutenant Governor run as “teams” and no separate vote is cast for the office of Lieutenant Governor, we believe either the gubernatorial candidate’s committee or the Lieutenant Governor’s committee is permitted to make expenditures to promote the election of the “team.” In other words, once a party nominates a candidate for Governor and a candidate for Lieutenant Governor to run in the general

election where such candidates receive a single vote as a unit, a gubernatorial candidate's committee is permitted to make expenditures promoting him or herself and the same party's Lieutenant Governor candidate, and vice versa. However, the committees may not make contributions to one another. See Iowa Code § 68A.301(1).

A candidate for Lieutenant Governor with an existing committee for another public office who chooses to establish a committee for the office of Lieutenant Governor shall, within ten days of exceeding \$750 in campaign activities for the office of Lieutenant Governor, either file an amended statement of organization disclosing information for the new office sought or register a new committee. See Iowa Admin. Code r. 351—4.6(2); see also IECDB AO 2010-04.

In summary, the answer to both of your questions is yes.

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