

## Advisory Opinion

IECDB AO 2015-03

March 26, 2015

Chairman John F. Hodges  
Iowa Board of Parole  
510 E. 12<sup>th</sup> Street, Suite 3  
Des Moines, IA 50319

Dear Chairman Hodges:

This opinion is in response to your request for an advisory opinion on whether alternative members of the Board of Parole are required to file annual personal financial disclosure statements. We note at the outset 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.

### FACTS:

We understand you request this opinion in your capacity as chairman of the Iowa Board of Parole. You request clarification on whether alternate members of the Board of Parole are required to file annual personal financial disclosure statements.

The Board of Parole consists of five members and three alternative members.<sup>1</sup> Alternate board members “substitute for board members who are disqualified or become unavailable for any other reason for hearings.”<sup>2</sup> “An alternate member is deemed a member of the Board of Parole only for the hearing panel for which the alternate member serves.”<sup>3</sup> Members of the Board of Parole, including alternate members, are appointed by the Governor and subject to confirmation by the Senate.<sup>4</sup>

### QUESTION:

Are alternate members of the Board of Parole required to file personal financial disclosure statements under Iowa Code section 68B.35?

### OPINION:

Iowa Code section 68B.35 requires “members” of various state boards and commissions, including the Board of Parole, to file annual personal financial disclosure statements with the

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<sup>1</sup> Iowa Code. §§ 904A.1, 904A.2A.

<sup>2</sup> *Id.* § 904A.2A(1).

<sup>3</sup> *Id.* § 904A.2A(4)(a).

<sup>4</sup> *Id.* §904A.3.

Iowa Ethics and Campaign Disclosure Board.<sup>5</sup> Chapter 904A of the Code of Iowa establishes the Board of Parole and sets out its duties and responsibilities. In some sections of that chapter, it appears “Board of Parole” only refers to the five regular members while in at least one section “Board of Parole” includes both the regular and alternate members.<sup>6</sup> This distinction makes sense, depending on the context, because alternate members are deemed Board of Parole members only when they are assigned to hearing panels.<sup>7</sup> Thus, alternate members of the Board of Parole are “members” of the Board of Parole during their assignments.

For purposes of Iowa Code section 68A.35, we believe alternate members of the Board of Parole qualify as “members” of the Board of Parole and consequently must file annual personal financial disclosure statements. While the role of alternate members is different from regular members, they serve an important function and have the same authority as regular members of the Board of Parole when assigned to hearing panels. The burden to file the statement is slight and the public interest in government transparency is great. Thus, it makes sense that alternative members of the Board of Parole should file personal financial disclosure statements along with the regular members of the Board.

#### BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair  
Jonathan Roos, Vice Chair  
Saima Zafar  
Carole Tillotson  
John Walsh  
Mary Rueter

Submitted by Megan Tooker, Board Legal Counsel

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<sup>5</sup> *Id.* § 68B.35(1)(e) (2015).

<sup>6</sup> *Compare id.* § 904A.1 (“The Board of Parole is created to consist of five members.”), *with id.* § 904A.3 (“The Governor shall appoint the chairperson and other members of the Board of Parole, including alternate members, subject to confirmation by the Senate.”).

<sup>7</sup> *Id.* § 904A.2A(4)(a).