

Red Tape Review Rule Report (Due: September 1, 2025)

Department Name:	Iowa Ethics and Campaign Disclosure Board	Date:	March 12, 2025	Total Rule Count:	Start: 21 End: 17
IAC #:	351—5.1through 351—5.8	Chapter/ SubChapter/ Rule(s):	Chapter 351 Subchapter 5	Iowa Code Section Authorizing Rule:	68B.32A(1)
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PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The intended benefit of Subchapter 5 is to provide clarity to public officials regarding the prohibition on the use of public resources for political purposes.

Is the benefit being achieved? Please provide evidence.

Subchapter 5 is often cited by Board staff and extends much clarity as to what is allowable under 68A.505.

What are the costs incurred by the public to comply with the rule?

There are no costs to the public to comply with this subchapter of rules, as most are offered for clarification and do not include mandates.

What are the costs to the agency or any other agency to implement/enforce the rule?

All costs to implement Subchapter 5 are in the normal course of agency business.

Do the costs justify the benefits achieved? Please explain.

Rules offered in Subchapter 5 are included in order to provide transparency and consistency across advice offered by Board staff and rulings determined by the Board. These are paramount benefits to the public.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

Aside from the elimination of obsolete, outdated, inconsistent, redundant, or unnecessary language (as noted below), the rules as offered for re-promulgation are the least restrictive way to provide upfront clarity on 68A.505 to agency stakeholders and the public.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

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5.1: includes repetitive language from Iowa Code section 68A.505
 5.2: includes a repetitive list
 former 5.4(1): redundant language on the prohibition
 former 5.4(2): unnecessary language providing the rule's intent
 former 5.4(2)(d): repetitive "express advocacy" language
 former 5.4(3): outdated language as confirmed by DOT
 former 5.5(5): unnecessary express advocacy explanation
 former 5.6(1): unnecessary language given forthcoming uniform rules

former 5.6(3): not agency practice; these determinations are made by Board staff
5.7: unnecessary “of state government” clarifier
5.8: list is not maintained by the Board

RULES PROPOSED FOR REPEAL (list rule number[s]):

5.4(1), 5.4(3), 5.5(5), 5.6(3)

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

Attached with suggested changes.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	4
Proposed word count reduction after repeal and/or re-promulgation	-497
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	5 (prohibit) TOTAL: 5

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

There are no changes recommended to section 68A.505 or subsequent Code sections on the topic.

CHAPTER 5
USE OF PUBLIC RESOURCES FOR A POLITICAL PURPOSE

351—5.1(68A) Scope of chapter. ~~Iowa Code section 68A.505 prohibits the expenditure of public moneys for political purposes, including expressly advocating the passage or defeat of a ballot issue. For the purposes of this chapter, the board will construe the phrase “expenditure of public moneys for political purposes” broadly to include the use of public resources generally.~~ This chapter outlines the permissible and impermissible uses of public resources for a political purpose pursuant to Iowa Code section 68A.505 and board interpretations of the statute. For the purposes of this chapter, the board will construe the phrase “expenditure of public moneys for political purposes” broadly to include the use of public resources generally.

This rule is intended to implement Iowa Code section 68A.505.

351—5.2(68A) General prohibition and applicability. ~~The public officials and employees of the executive branch of state government, a county, city, public school, or other political subdivision shall not permit public resources to be used to expressly advocate the nomination, election, or defeat of a candidate or to expressly advocate the passage or defeat of a ballot issue. This chapter applies to the use of resources that belong to those political subdivisions the executive branch of state government, a county, city, public school, or other political subdivision~~ by state and local campaigns in Iowa. This chapter does not apply to property belonging to the federal government or to the use of the executive branch of state government, a county, city, public school, or other political subdivision by a federal campaign.

This rule is intended to implement Iowa Code section 68A.505.

351—5.3(68A) Definitions.

5.3(1) For purposes of this chapter, the following definitions apply:

a. “Ballot issue” means a question that has been approved to be placed before the voters or is otherwise required by law to be placed before the voters. “Ballot issue” does not include the nomination or election of a candidate.

b. “Campaign” means the organized effort to expressly advocate the nomination, election, or defeat of a candidate for state or local office in Iowa. “Campaign” also means the organized effort to expressly advocate the passage or defeat of a ballot issue.

c. “Candidate” means any individual who has taken affirmative action to seek nomination or election to a state or local office in Iowa.

d. “Expressly advocate” means “express advocacy” as defined in Iowa Code section 68A.102(14) and ~~rule 351—subrule 4.53(1).~~ “Express advocacy” includes a communication that uses any word, term, phrase, or symbol that exhorts an individual to vote for or against a clearly identified candidate or for the passage or defeat of a clearly identified ballot issue.

e. “Political purpose” means to expressly advocate the nomination, election, or defeat of a candidate or to expressly advocate the passage or defeat of a ballot issue.

f. “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.

g. “Public school” includes a school designated as a “charter school.”

This rule is intended to implement Iowa Code sections 68A.102 and 68A.505.

351—5.4(68A) Use of public resources for a political purpose prohibited.

~~5.4(1) General prohibition. Unless one of the exceptions in rule 351—5.5(68A) applies, the public officials and public employees of the executive branch of state government, a county, city, public school, or other political subdivision shall not permit public resources to be used to expressly advocate the nomination, election, or defeat of a candidate or to expressly advocate the passage or defeat of a ballot issue.~~

5.4(12) Specific prohibitions. ~~For purposes of clarifying the general prohibition on the use of public resources for a political purpose, the board has identified situations in which the use of public resources for a political purpose is prohibited unless one of the exceptions in rule 351—5.5(68A) applies.~~ The following specific conduct or actions are deemed to be the prohibited use of public resources for a political purpose:

- a. Using public resources to solicit or accept campaign contributions.
- b. Using public resources to solicit votes, engage in campaign work, or poll voters on their preferences for candidates or ballot issues. The prohibition on polling voters by using public resources does not apply to authorized research at a public university.
- c. Using a publicly owned motor vehicle to transport political materials, placing campaign signs on a publicly owned motor vehicle, or traveling to campaign-related events in a publicly owned motor vehicle.
- d. Using public resources to produce and distribute communications that expressly advocate for or against candidates or ~~that expressly advocate for or against~~ ballot issues.
- e. Placing campaign materials on public property including the placement of campaign signs in the public right-of-way.

~~5.4(3) Transportation maps. As provided in Iowa department of transportation rule 761—28.3(307), Iowa transportation maps are not to be sold or used for purposes of personal or professional gain. The paper version of the map is not to be altered for distribution in any way, including adding a name or address, by candidates running for political office. This prohibition does not apply to pictures of the governor and lieutenant governor and a personal message which may appear on the map.~~

This rule is intended to implement Iowa Code section 68A.505.

351—5.5(68A) Exceptions from prohibition on use of public resources for a political purpose.

5.5(1) Expressing opinion at government meetings by resolution. Iowa Code section 68A.505 permits the state or a governing body of a county, city, public school, or other political subdivision to express an opinion on a ballot issue through the passage of a resolution or proclamation. It is also permissible for a member of a governing body of the state, county, city, public school, or other political subdivision to express the member’s opinion on a ballot issue at a public meeting of the governing body.

5.5(2) Public forum. Any public resource that is open to a member of the general public to use for other purposes may be used for political purposes, including the distribution of political materials on windshields of vehicles that are parked in public parking lots.

5.5(3) Candidate debate. The executive branch of state government, a county, city, public school, or other political subdivision may ~~permit the holding of~~ hold a candidate debate or forum and permit the accompanying distribution of campaign materials on governmental property so long as at least two candidates seeking the same office are invited to attend the debate or forum.

5.5(4) Reimbursement to governmental body. A person may reimburse a governmental body for the use of a public resource for a political purpose so long as it can be demonstrated to the board that the use of the resource was also for a public purpose or furthered a public interest. The reimbursement shall be for the actual costs of the public resource or be for the same amount charged to a person using the public resource for any other purpose.

~~5.5(5) Communications that do not expressly advocate. Public resources may be used to produce and distribute communications that do not expressly advocate for or against a candidate or that do not expressly advocate for or against a ballot issue.~~

5.5(56) Use of job title. ~~As there is no expenditure of taxpayer funds, j~~Official job titles, such as “representative” or

“commissioner.” may be used for political purposes.

5.5(6) Use of government-issued clothing. Official clothing or uniforms issued by the state or other political subdivision in the regular course of employment may be worn by public officials or employees while participating in political activities.

5.5(7) *Residence.* It is not deemed a violation of Iowa Code section 68A.505 for a public official or public employee to use for political purposes the portion of public property that is designated as the personal residence of the public official or public employee.

5.5(8) *Clothing or paraphernalia.* While performing official duties, a public official or public employee may wear clothes or wear political paraphernalia that expressly advocate for or against candidates or that expressly advocate for or against ballot issues. However, the administrative head of a state agency or of a department of a political subdivision may enact an internal policy that would prohibit the wearing of campaign materials on the public property of that agency or subdivision.

This rule is intended to implement Iowa Code section 68A.505.

351—5.6(68B) Board advice.

5.6(1) *Advice requested.* Public officials, public employees, or other persons interested in using public funds for a political purpose may first seek advice or guidance from the board concerning the legality of the action or conduct, including the production and distribution of a communication for a determination of whether the communication contains express advocacy.

~~5.6(1) *Advisory opinion.* A board advisory opinion applies a statute or rule to a particular factual situation. The procedure for requesting a board opinion is set out in rules 351—1.2(68B) and 351—1.3(68B). As provided in Iowa Code section 68B.32A(12), a board opinion, if followed, constitutes a defense to a subsequent complaint concerning the same facts and circumstances.~~

5.6(2) *Declaratory order.* Persons may also seek board guidance concerning the application of a statute or rule to a specific factual situation through the petition for declaratory order procedure set out in 351—Chapter 12.

~~5.6(3) *Board review of a communication.* Any person interested in producing and distributing a communication using public resources may submit the communication prior to its distribution for a board determination of whether or not the communication contains express advocacy.~~

This rule is intended to implement Iowa Code section 68B.32A(12).

351—5.7(68B) Complaints. Any person may file a complaint or provide information to the board alleging a violation of Iowa Code section 68A.505 or the rules of this chapter by a public official or a public employee of the executive branch ~~of state government~~ or a political subdivision of state government. The procedure for filing a complaint or providing information to the board is set out in Iowa Code section 68B.32B and 351—Chapter 9. The board may prescribe the manner for filing formal complaints, including the use of specific forms.

This rule is intended to implement Iowa Code section 68B.32B.

351—5.8(68A) Holders of certain government positions prohibited from engaging in political activities. Several statutes outside of the board’s jurisdiction prohibit the holders of certain government positions from being engaged in political activities. The board does not enforce these statutory prohibitions. ~~However, to assist the regulated community and the public, the board will maintain on its website at ethics.iowa.gov a list of positions whose holders are prohibited from engaging in political activities.~~

This rule is intended to implement Iowa Code section 68A.505.