

Advisory Opinion

IECDB AO 2000-20

TO ALL INTERESTED PERSONS:

Pursuant to Iowa Code section 68B.32A(11), the Iowa Ethics and Campaign Disclosure Board takes the opportunity to issue its opinion on the issue of a prohibited contributor using its resources for the purpose of soliciting its employees to make contributions to the prohibited contributor's political committee. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 56 and 68B and rules in Iowa Administrative Code chapter 351. Whether some other statutory system, common law theory or agency rule applies to this issue is not covered by this opinion.

OPINION:

Iowa Code section 56.15(3) in pertinent part states:

"It is lawful for an insurance company, savings and loan association, bank, credit union, and corporation ...to use the money, property, labor, or any other thing of value of the entity for the purposes of soliciting its stockholders, administrative officers, and members for contributions to a committee sponsored by that entity...the entity's employees to whom the foregoing authority does not extend may voluntarily contribute to such a committee but shall not be solicited for contributions."

The Board first notes that Iowa Code section 56.15 prohibits the entities set out above (hereinafter "prohibited contributor") from contributing to a "candidate", "candidate's committee" or a "political committee" that "expressly advocates" for or against candidates. However, corporations may contribute to political committees that advocate for or against a "ballot issue".

Iowa Code section 56.15(3) permits a prohibited contributor to use its resources to solicit certain personnel to contribute personal monies to a political committee it sponsors. The statute expressly states that "stockholders, administrative officers and members" may be solicited and that "employees to whom the foregoing authority does not extend" may not be solicited, but may voluntarily contribute. There is some confusion concerning which employees may or may not be solicited.

It is our opinion that any employee who is not a "stockholder", who is not a voting "member" of the organization pursuant to the by-laws or other organizational documents or is not considered to be in a "management" position based on relevant job duties cannot be solicited. This prohibition would extend to non-supervisory personnel, clerical staff, associates and any other employees who are not stockholders, voting members, management or are not in positions to make decisions affecting the organization of the prohibited contributor.

In closing, we note that rule 351 IAC 4.88(2) requires corporate sponsors to initially submit a copy of its joint solicitation form for prior approval from the Board and to resubmit the form annually. In addition, the rule requires the solicitation to contain certain statements. We suggest that all prohibited contributors review the requirements of the rule. In addition, we invite prohibited contributors to seek guidance from the Board when trying to determine whether or not an employee may be solicited.

BY DIRECTION AND VOTE OF THE BOARD

Bernard McKinley, Board Chair
1st Vice-Chair Geraldine Leinen
2nd Vice-Chair James Albert
Gwen Boeke
Mark McCormick
Phyllis Peters
-Submitted by: W. Charles Smithson, Board Legal Counsel