

## Advisory Opinion

IECDB AO 2000-37

October 19, 2000

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 when an individual becomes a "candidate" for purposes of the campaign finance laws. 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 56.2(4) in pertinent part states:

"Candidate' means any individual who has taken affirmative action to seek nomination or election to a public office...."

Iowa Code section 68B.32A56.2(19) in pertinent part states:

"The duties of the board shall include, but are not limited to, all of the following:  
9. Determine, in case of dispute, at what time a person has become a candidate."

We first note that this opinion is limited to when an individual is considered to be a "candidate" for purposes of the Board's jurisdiction in Iowa Code chapters 56 and 68B and the Board's rules in Chapter 351 of the Iowa Administrative Code. It does not apply to situations where an individual may be considered to become a "candidate" under another chapter or agency rule for purposes of appearing on an election ballot. This opinion is also limited to individuals seeking state or local office and has no application to federal candidates.

The issue of when an individual becomes a "candidate" is separate from the issue of when an individual must form a "candidate's committee" by exceeding the \$500.00 threshold set out in Iowa Code section 56.2(5) and file a Statement of Organization under Iowa Code section 56.5. An individual may be considered to be a "candidate" prior to the requirement to form a "candidate's committee" and the filing of a Statement of Organization. Any individual who is considered to be a "candidate" prior to forming a "candidate's committee" must comply with the requirements of the campaign finance laws and rules.

It is our opinion that an individual takes "affirmative action to seek nomination or election to a public office" when any of the following courses of conduct are taken:

1. The individual makes a public announcement of intention to seek nomination or election to state or local office.
2. The individual, or an agent of the individual, makes any expenditure or accepts any contribution for such individual's nomination or election to any state or local office.
3. The individual files "nomination papers" or an "affidavit of candidacy". This also includes situations where an individual distributes petitions or otherwise seeks signatures for "nomination".
4. The individual is "nominated" for office by any convention process set out by law.

An individual ceases to be a "candidate" either when the individual is no longer eligible to be elected to the office sought during the election cycle or the person is elected to the office and has not triggered another election cycle. An individual that files a Statement of Organization pursuant to Iowa Code section 56.5 continues to be a "candidate" until he or she is certified by the Board as complying with the requirements of Iowa Code section 56.6(5) for dissolution (disposition of funds, filing of final report, committee bank statement and Notice of Dissolution).

**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