

Advisory Opinion

IECDB AO 2001-07

May 24, 2001

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 question of whether a candidate's committee that receives only in-kind contributions is required to open a separate bank account. 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 56.3 requires every candidate's committee to maintain its funds in a separate bank account. In addition, "all funds of a committee shall be segregated from any other funds held by officers, members, or associates of the committee or the committee's candidate." The statute provides an exception where "a candidate's committee receives contributions only from the candidate...that committee is not required to maintain a separate account".

The issue has been raised whether a committee that receives only in-kind contributions from an outside source is required to open a separate account. An "in-kind" contribution is any item or service that is donated to a campaign as opposed to a direct monetary contribution or loan.

The statute is to prohibit the commingling of campaign funds with the personal funds of anyone associated with the committee. In situations where the candidate's committee is receiving items or services that are donated to it, there is not a transfer of money. Thus, the harm to be prevented does not exist. Therefore, a candidate's committee that receives only in-kind contributions from any outside source would not be required to open a separate bank account.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair
1st Vice-Chair Geraldine Leinen
2nd Vice-Chair Gwen Boeke
Mark McCormick
Bernie McKinley
Phyllis Peters

Submitted by: W. Charles Smithson, Board Legal Counsel