

Advisory Opinion

IECDB AO 2002-01

January 24, 2002

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 use of a corporate computer to file a disclosure report without reimbursing the corporation. 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.

OPINION:

The Board first notes that Iowa Code section 56.15 prohibits insurance companies, savings and loan associations, banks, credit unions, and corporations from contributing to candidates. By Board rule, the equipment and resources of these entities may be used for candidate campaigns so long as reimbursement is made to the corporation. However, such entities are permitted to make contributions to ballot issue committees without the reimbursement requirement.

The Board has implemented an electronic filing program that allows committees to file public disclosure reports via the Internet. The issue has been raised whether candidate committee treasurers would be permitted to use a corporate computer to file the report via the Internet without the campaign reimbursing the corporation.

The prohibition in Iowa Code section 56.15 concerns the "express advocacy" of a candidate. Iowa Code section 56.2(14)"b" and Board rule 351 IAC 4.100(1)"a" basically define "express advocacy" as the use of words, terms, or symbols that exhort someone to vote a particular way. The use of corporate resources for "issue advocacy" (any communication that is not "express advocacy") is not prohibited by statute. Board rule 351 IAC 4.82 specifically permits corporate entities to provide or publicize "voter education information, so long as the information provided does not expressly advocate the election or defeat of a clearly identified candidate."

Public disclosure of a candidate's campaign activities is a major purpose of the campaign finance laws in Iowa. Disclosure of campaign information is intended to provide voters with pertinent information about a candidate. It is our opinion that filing campaign finance disclosure reports is not "express advocacy", but rather a crucial means of providing "voter education information". In fact, the information contained in campaign disclosure reports is often the most important and accurate information that a voter receives concerning a particular candidate.

Therefore, so long as the campaign report discloses the information required to be reported under Iowa Code section 56.6, and attempts are not made to use the report as "express advocacy", the prohibition in Iowa Code section 56.15 will not apply to the preparation and filing of the reports. Thus, a candidate's committee may use a corporation's computer for purposes of preparing and filing a campaign disclosure report without being required to provide reimbursement.

In closing, the Board notes that this opinion would also apply to the preparation of campaign disclosure reports using corporate equipment even if the report is not filed with the Board's electronic filing system. However, this opinion is limited to campaign finance disclosure reports. Other campaign activities involving the use of corporate resources is prohibited unless reimbursement is provided consistent with Board rule 351 IAC 4.83.

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