

Advisory Opinion

IECDB AO 2015-09

August 20, 2015

Chairman Will Rogers
Polk County Republican Central Committee
1328 43rd Street
Des Moines, IA 50311

Dear Chairman Rogers:

This opinion is in response to your request for an opinion from the Iowa Ethics and Campaign Disclosure Board. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 68A and 68B, Iowa Code section 8.7, and rules in Iowa Administrative Code chapter 351. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

FACTUAL STATEMENT:

We understand you request this opinion on behalf of the Polk County Republican Central Committee. You advise us the Committee is interested in setting up a separate segregated account to receive contributions for a building fund, including contributions from corporations, insurance companies and financial institutions. The Committee would not use these funds for "express advocacy" activities.¹ You propose these funds would only be used as permitted in IECDB Advisory Opinion 2006-07. Finally, the Committee would be willing to file building fund disclosure reports as set out in the Board's administrative rule 351—4.24.

QUESTION:

Is it permissible for a county central committee to maintain a building fund similar to the state party building funds?

OPINION:

Before answering your question, we believe it may be helpful to explain the origins of the state party building funds. Iowa Code section 68A.503 prohibits corporations, insurance companies and financial institutions from providing monetary or in-kind contributions to a candidate or committee, except a ballot issue committee.² In

¹ See Iowa Code § 68A.102(14) (2015) (defining "express advocacy").

² *Id.* § 68A.503(1).

1998, the Federal Election Commission (hereafter “FEC”) issued an advisory opinion to the Iowa Democratic Party.³ The Party was interested in soliciting corporations for money for the Party’s building fund. Under the Federal Election Campaign Act of 1971, money or anything of value that was given to a national or state party that was specifically designated to defray the costs incurred for the construction or purchase of an office facility was not considered a contribution. Consequently, the FEC allowed state and national parties to accept corporate money for their building funds. In the advisory opinion to the Iowa Democratic Party, the FEC held that federal law preempted state law in this area and therefore Iowa could not prohibit corporate dollars in its state parties’ building funds.

In 2004, the FEC issued an advisory opinion to the Iowa Ethics and Campaign Disclosure Board.⁴ There, the FEC held that Iowa may require the state parties to disclose the source of their building funds and how those funds are used. Iowa Administrative Rule 351—4.24 followed. The FEC in this opinion noted that the 1998 opinion to the Iowa Democratic Party was superseded in part by the Bipartisan Campaign Reform Act of 2002. Under current federal law, “a state or local committee of a political party may, *subject to state law*, use [corporate contributions] for the purchase or construction of an office building for such state or local committee.”⁵ Therefore, state law rather than federal law controls whether corporate money can be given to a building fund.

Building funds are not mentioned in chapter 68A of the Iowa Code. As we said earlier, Iowa Code section 68A.503 prohibits corporations, insurance companies, and financial institutions from making monetary or in-kind contributions to a candidate or committee except for a ballot issue committee. The definition of a “contribution” does not exclude money given to a party’s building fund.⁶ Thus, we do not believe we have statutory authority to allow a county central committee to establish a building fund that solicits and receives contributions from corporations, insurance companies and financial institutions. The Ethics Board has allowed state party building funds since the FEC issued its advisory opinion in 1998. We believe it is the more appropriately the purview of the legislature to expand or eliminate building funds.

CONCLUSION:

We do not believe we have the statutory authority to allow county central committees to establish building funds and solicit contributions for such funds from

³ FEC Advisory Opinion 1998-8.

⁴ FEC Advisory Opinion 2004-28.

⁵ 2 U.S.C. § 453.

⁶ Iowa Code § 68A.102(10).

corporations, insurance companies and financial institutions. The answer to your question is no.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair

Johnathan Roos, Vice Chair

Saima Zafar

Carole Tillotson

John Walsh

Mary Rueter

Submitted by Megan Tooker, Board Legal Counsel