

Advisory Opinion
IECDB AO 2016-05

September 1, 2016

TO ALL INTERESTED PERSONS:

Pursuant to Iowa Code section 68B.32A(12) and rule 351—1.2, the Iowa Ethics and Campaign Disclosure Board issues this updated opinion on the placement of “paid for by” attribution statements in email messages. 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.

OPINION:

Iowa Code section 68A.405 requires attribution statements on “published material” designed to “expressly advocate.”ⁱ “Published material” is defined as “any newspaper, magazine, shopper, outdoor advertising facility, poster, direct mailing, brochure, internet site, campaign sign, or any other form of printed or electronic general public political advertising.”ⁱⁱ We previously interpreted “any other form of printed general public political advertising” to include email messages.ⁱⁱⁱ “Express advocacy” or “expressly advocate” means:

In advocating the election or defeat of one or more clearly identified candidates or the passage or defeat of one or more clearly identified ballot issues, the communication includes explicit words that unambiguously indicate that the communication is recommending or supporting a particular outcome in the election with regard to any clearly identified candidate or ballot issue.^{iv}

In our Advisory Opinion 2006-10, we set out various factors that would be considered in determining whether an attribution statement is required on an email message. In the interest of clarity, we now establish a bright line rule for when an attribution statement on an email is required.

We interpret Iowa Code section 68A.405 to require an attribution statement on any email that meets all of the following criteria:

1. The email message includes express advocacy;
2. The email is sent to 100 or more email addresses; and
3. The email is sent by a candidate, a candidate’s committee, a PAC, a state or county statutory political committee, or a person making an independent expenditure that costs more than \$1,000 in the aggregate.

The attribution statement on an email message should include all information required by Iowa Code section 68A.405 and Iowa Administrative Code rule 351—4.38.

We also reaffirm our opinion on when a blog requires an attribution statement. Blogs that contain express advocacy will be given the press exemption in 68A.405(2) unless controlled by a candidate, campaign committee, or campaign organization. Political advertisements on blogs also need an attribution statement.

CONCLUSION:

In closing, we hereby modify IECDB Advisory Opinion 2006-10 as set out above. We encourage individuals to contact the Board's staff if they have any questions or concerns. The Board's telephone number is (515) 281-4028.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair
Jonathan Roos, Vice Chair
John Walsh
Carole Tillotson
Mary Rueter

Submitted by Megan Tooker, Board Legal Counsel

ⁱ Iowa Code § 68A.405(1)(b)(1).

ⁱⁱ *Id.* § 68A.405(1)(a)(3).

ⁱⁱⁱ IECDB AO 2000-25 and IECDB AO 2006-10.

^{iv} Iowa Code § 68A.102(14)(b).