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Executive Director
and Legal Counsel



BOARD MEMBERS:
James Albert, Chair
Elaine Olson, Vice Chair
Jonathan Roos
Mary Rueter
Daniel Jessop
Leah Rodenberg

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

An Independent Agency of the Executive Branch

ADVISORY OPINION 2022-04

SUBJECT: Attribution Statement on Text Messages

The Iowa Ethics and Campaign Disclosure Board issues this Advisory Opinion *sua sponte* pursuant to Iowa Code section 68B.32A(12) and Iowa Administrative Code rule 351-1.2(1).

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

QUESTION POSED

Does Iowa law require attribution statements on text messages?

OPINION

Iowa Code section 68A.405 requires attribution statements on “published material” designed to “expressly advocate.”¹ 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.”² We previously interpreted “any other form of electronic general public political advertising” to include certain email messages.³

In the interest of clarity, Advisory Opinion 2016-05 modified AO 2000-25 and AO 2006-10 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

¹ Iowa Code section 68A.405(1)(b)(1)

² Iowa Code section 68A.405(1)(a)(3)

³ IECDDB Advisory Opinion 2016-05, ethics.iowa.gov/advisory-opinion/iecdb-ao-2016-05

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.

We further interpret "any other form of electronic general public political advertising" to include certain text messages. We interpret Iowa Code section 68A.405 to require an attribution statement on any text message that meets all of the following criteria:

1. The text message includes express advocacy⁴;
2. The text message is sent to 100 or more phone numbers; and
3. The text message 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 a text message shall include all information required by Iowa Code section 68A.405 and Iowa Administrative Code rule 351-4.38.

We encourage those with questions or concerns to contact the Board's office for assistance.

BY DIRECTION AND VOTE OF THE BOARD:

James Albert, Chair
Elaine Olson, Vice Chair
Jonathan Roos
Mary Rueter
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Leah Rodenberg

SUBMITTED BY:

Zachary S. Goodrich, Executive Director and Legal Counsel

⁴ Express advocacy is defined as "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." See Iowa Code section 68A.102(14)(b).

ISSUED ON:

September 22, 2022

Pursuant to Iowa Administrative rule 351-1.3(3), a person who has received a board opinion may, within 30 days after the issuance of the opinion, request modification or reconsideration of the opinion. A request for modification or reconsideration shall be deemed denied unless the board acts upon the request within 60 days of receipt of the request. Pursuant to Iowa Administrative rule 351-1.3(6), a person who has received a board opinion or advice may petition for a declaratory order pursuant to Iowa Code section 17A.9. The Board will refuse to issue a declaratory order to a person who has previously received a board opinion on the same question, unless the requestor demonstrates a significant change in circumstances from those in the board opinion.