

# IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

An Independent Agency of the Executive Branch

W. CHARLES SMITHSON  
Executive Director  
& Legal Counsel

510 East 12<sup>th</sup>, Suite 1A  
Des Moines, Iowa 50319  
Telephone 515-281-4028/Fax 515-281-3701  
www.iowa.gov/ethics

**BOARD MEMBERS:**  
James Albert, Chair  
Janet Carl, Vice Chair  
Gerald Sullivan  
Betsy Roe  
John Walsh  
Patricia Harper

## IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD MINUTES MAY 19, 2005 OPEN SESSION

HELD AT: Jessie Parker Building, 510 East 12<sup>th</sup>, Des Moines, Iowa

BOARD MEMBERS PRESENT: Jim Albert, Gerald Sullivan, John Walsh, Betsy Roe, Pat Harper

STAFF PRESENT: W. Charles Smithson, Sandy Reier

1. CALL TO ORDER - The meeting was called to order by Chair Albert at 12:08 p.m.
2. ELECTION OF OFFICERS – Sullivan nominated Albert as Chair and Carl as Vice Chair. Roe seconded the nomination. It was moved by Sullivan and seconded by Walsh that nominations cease and a unanimous ballot be cast. Motion carried unanimously.
3. APPROVAL OF MINUTES FROM FEBRUARY 7 AND APRIL 19, 2005 MEETINGS – It was moved by Walsh and seconded by Harper that the minutes of the February 7, 2005 and April 19, 2005 meetings be approved as written. Motion carried.
4. ADJOURNMENT TO EXECUTIVE SESSION – At 12:09 p.m. it was moved by Roe and seconded by Harper that in accordance with the provisions of Iowa Code section 21.5, the Board go into executive session to discuss complaints, investigations, and personnel matters. Albert, Sullivan, Walsh, Roe, and Harper voted yes in roll call vote.

The meeting returned to Open Session at 1:25 p.m. and recessed. The meeting reconvened at 1:34 p.m.

ACTION FROM EXECUTIVE SESSION – It was moved by Roe and seconded by Harper that the written record of executive session action be made a part of the open record. Motion carried unanimously.

It was moved by Roe and seconded by Walsh that the ability to make jurisdictional determinations regarding referrals be delegated to the Executive Director unless there is something that needs to be brought to the Board's attention. Motion carried unanimously.

Items to consider for proposed legislation at the fall meeting include:

- Competition with government
- Creating a Web site with no attribution statement that appears to be an official governmental body Web site
- Where to make a referral when not to the appropriate county attorney

The following executive session action was taken.

Steven MacDonald – This candidate failed to file a statement of organization, at least one campaign report and a notice of dissolution. It was moved by Sullivan and seconded by Harper that the candidate be directed to file the required forms, that a Letter of Reprimand be issued for his failure to file the forms and that a \$100 civil penalty be assessed. Motion carried unanimously.

Anne Pedersen – It was moved by Walsh and seconded by Sullivan to dismiss the complaint with a finding of no probable cause, that an educational letter be sent explaining the law and that if political buttons were distributed out of a governmental office it would be considered a serious violation. It was

also moved by Walsh and seconded by Sullivan that the Board decline to refer the name of the confidential complainant to the county attorney for misuse of county equipment. Motion carried unanimously.

Linn County Ballot Issue – It was alleged that a Linn County ballot issue group failed to register a committee and file reports. Investigation determined the only money spent was to contest the results of the election. It was moved by Roe and seconded by Harper to dismiss the matter with a finding of no probable cause to believe that a violation occurred and to direct Counsel to draft an advisory opinion stating campaign laws do not apply to post-election court actions to contest an election. Motion carried unanimously.

Palo Alto Sheriff's Race – It was moved by Roe and seconded by Walsh that the complaint that public resources were used for a political purpose be dismissed without a determination concerning probable cause as a matter of administrative discretion. Motion carried unanimously.

Don Brantz – It was moved by Walsh and seconded by Harper that the complaint that public resources were used for a political purpose be dismissed without a determination concerning probable cause as a matter of administrative discretion. Motion carried unanimously.

Washington County Citizens for Good Jobs – It was moved by Roe and seconded by Walsh that a Letter of Reprimand be issued for failing to properly disclose debts, that a letter be sent to the complainant stating that in response to his complaint the Board introduced and legislation concerning consultant activity was passed this legislative session and explain the process that resulted in the Board's decision. Roe, Walsh, Harper, and Albert voted yes. Sullivan voted no. Motion carried.

Don Kirkendall – It was moved by Roe and seconded by Walsh to send an educational letter concerning use of public resources for a political purpose. Motion carried unanimously.

Randy Van Dyke – It was moved by Harper and seconded by Walsh that the investigation into whether the threshold for reporting was crossed be closed with a finding of no probable cause to believe that a violation occurred. Motion carried unanimously.

AHST School District Ballot Issue – It was moved by Roe and seconded by Walsh that the following action be taken. Motion carried unanimously.

- A. An educational letter to the school concerning advocacy by a volunteer.
- B. Dismiss with a finding of no probable cause to believe that a violation of a Board statute or rule occurred concerning a resolution advocating for the ballot issue.
- C. Dismiss with a finding of no probable cause to believe that a violation of Board statute or rule occurred concerning a Minnesota organization that would award a grant if the ballot issue passed.
- D. Dismiss with a finding of no probable cause to believe that a violation of a Board statute or rule occurred concerning inaccurate statements made by the school board or the yes committee.
- E. An educational letter explaining the use of public facilities by a political group and investigate whether refreshments served at events were properly reported.

Counsel reviewed a video tape and reported it did not contain express advocacy. Two CDs were copies of school board working sessions where they talked to consultants that helped them do the video tape. It was moved by Roe and seconded by Walsh to dismiss the complaint with a finding of no probable cause to believe that a violation of a Board statute or rule occurred but refer to the state auditor the question of whether funds spent for the video tape were an appropriate use of school resources. Motion carried unanimously.

Wade Wagner Emails on City Computer – It was moved by Harper and seconded by Walsh to decline to investigate the alleged use of a city computer for political purposes since the emails do not include express advocacy but to refer the matter to the Linn County Attorney and the Cedar Rapids City Attorney to see if any laws outside our jurisdiction are at issue. Harper, Walsh, Roe, and Albert voted yes. Sullivan abstained. Motion carried.

Howard County Attorney – It was moved by Sullivan and seconded by Roe to decline to investigate conduct of the Howard County Attorney as it does not come under the Board’s jurisdiction. Motion carried unanimously.

Auditor’s Investigation of Certain Grants at ISU – It was moved by Sullivan and seconded by Harper to decline to investigate the state auditor’s referral concerning certain grants at ISU as the situation does not rise to a potential violation of any ethics laws or rules that existed during the time period in question. Motion carried unanimously.

Receipt of Contributions from Sac & Fox Tribe – It was moved by Roe and seconded by Harper to decline to investigate contributions from the Sac & Fox Tribe since contributions from tribes are legal. Motion carried unanimously.

Republican Party of Iowa – It was moved by Walsh and seconded by Harper to decline to investigate a phone solicitation by the Republican Party of Iowa since the situation does not violate any campaign laws. Motion carried unanimously.

Soil and Water Conservation Districts – It was moved by Walsh and seconded by Harper to decline to investigate an allegation of government competing with business in violation of Chapter 23A as we do not have jurisdiction and investigate the use of governmental resources for private purposes as it raises potential conflict of interest and misuse of governmental property issues. Motion carried unanimously.

Jasper County Soil and Water Conservation District – It was moved by Roe and seconded by Sullivan to decline to investigate an allegation that this governmental entity is competing with private business in violation of Chapter 23A as we do not have jurisdiction and investigate the potential conflict of interest and misuse of governmental property issues. Motion carried unanimously.

Paul Dorr and Logo/False Political Advertising – It was moved by Sullivan and seconded by Harper to decline to investigate copyright infringement and false political advertising issues as they do not violate any ethics laws under the Board’s jurisdiction. Motion carried unanimously.

Grow Davenport PAC – It was moved by Sullivan and seconded by Walsh that Counsel be directed to investigate whether expenditures made by Grow Davenport PAC were properly reported by candidates. Motion carried unanimously.

Marilyn Drake – It was moved by Roe and seconded by Harper to decline to investigate alleged election law violations as none raise a potential violation of statute or rule under the Board’s jurisdiction and to refer the complaints to the Secretary of State’s Office, the State Ombudsman’s Office and a county attorney other than the Pottawattamie County Attorney. Motion carried unanimously.

Webster County Citizens for New Jobs – It was moved by Walsh and seconded by Sullivan that Counsel be directed to investigate whether true and accurate reports were filed. Motion carried unanimously.

City of George/Web Site – It was moved by Sullivan and seconded by Walsh that no action be taken concerning the matter of no attribution statement as the Web site is operated by a private individual, that no action be taken against the City of George since there is no use of public resources for a political purpose, and encourage the private individual to include a disclaimer on the Web site to avoid confusion by the public and future problems. Motion carried unanimously.

Committee for Kids (AHST School District Committee) – It was moved by Sullivan and seconded by Harper to investigate whether all activity of the committee was disclosed. Motion carried unanimously.

Donald Zeller – It was moved by Roe and seconded by Harper to investigate whether accurate reports were filed and whether public resources were used for a political purpose. Roe, Harper, Walsh, and Albert voted yes. Sullivan abstained. Motion carried.

Alburnett Community School District – It was moved by Walsh and seconded by Harper that Counsel be directed to investigate whether public resources were used for a political purpose. Motion carried unanimously.

Sioux City School Board Referral – It was moved by Roe and seconded by Sullivan to refer this matter to the county attorney liaison in the Attorney General's office. Motion carried unanimously.

Voters United for Zager – It was moved by Walsh and seconded by Harper that a letter of admonishment be sent for a late-filed Notice of Dissolution and that the \$933.10 withdrawn by the candidate for mileage reimbursement for travel during the 2002 campaign be required to be returned to the committee and given to a permitted recipient of leftover funds since no outstanding bills or unpaid debt was shown on later reports. Motion carried unanimously.

Karen Butler for State Representative – It was moved by Sullivan and seconded by Harper that amended reports be required and that a Letter of Reprimand be issued for failing to file true and accurate reports and failing to maintain proper campaign records. Motion carried unanimously.

Pat Cline for State Representative – It was moved by Roe and seconded by Walsh that amended reports be required, that the funds received in cash be returned to the committee and a check issued, and that a Letter of Reprimand be issued for cash transactions, failure to accurately report expenditures and failure to maintain proper campaign records. Motion carried unanimously.

#### 5. ADMINISTRATIVE ACTION

A. State Party Reporting – It was moved by Roe and seconded by Walsh that the state parties be required to disclose the names of all funds within their parties and that information be shown on the Board's Web site that reports filed by the state parties encompass all of the funds listed. Motion carried unanimously.

B. Dan Whitmore Request for Hearing – It was moved by Walsh and seconded by Sullivan that Mr. Whitmore's request for a hearing be approved. Motion carried unanimously. The Presiding Officer will be determined later.

C. Delinquent Filers/Other Potential Violations – It was moved by Walsh and seconded by Sullivan that a Statement of Charges be filed against the following and Presiding Officers appointed. Motion carried.

1. Ed O'Neill (Clinton) – Sullivan will be Presiding Officer.
2. Max Knauer (Polk) – Albert will be Presiding Officer.
3. Concerned Citizens for Better Education Committee (Buchanan) – Sullivan will be Presiding Officer.
4. Karen Bolluyt (Story) – Albert will be Presiding Officer.
5. Committee to Elect Wes Wills (Mahaska) – Sullivan will be Presiding Officer.
6. Conway for Council (Polk) – Albert will be Presiding Officer.
7. Citizens for Cunningham (Scott) – Sullivan will be Presiding Officer.

Information on how much the Board has collected and given to the general fund will be provided to the Board.

#### 6. PROPOSED ADVISORY OPINIONS

A. Session Function Reporting Forms/Opinion 2004-16 Rescinded – It was moved by Roe and seconded by Harper that the opinion be adopted. Motion carried unanimously.

B. Candidate Profiles on County Commissioner of Elections' Web Site – It was moved by Sullivan and seconded by Roe to adopt the opinion. Motion carried unanimously.

C. Permitted and Prohibited Placement of Campaign Signs/Opinion 2004-05 Rescinded – It was moved by Sullivan and seconded by Harper to adopt the opinion after changing the corrections discussed – the second footnote, adding paragraph D 3 and the signature names. Motion carried unanimously.

7. POLICY DECISIONS FOR THE BOARD TO MAKE

A. Use of Debit Card – It was moved by Walsh and seconded by Harper that a draft proposed rule to allow the use of debit and credit cards be prepared for consideration at the next meeting. Motion carried unanimously.

B. Voluntary Reports – It was moved by Walsh and seconded by Roe that the Board’s policy will be that no voluntary reports will be posted to our Web site but will be kept in a file as a public record and the committee will be notified their report is considered voluntary. Walsh, Roe, Harper, and Albert voted yes. Sullivan voted no. Motion carried.

8. BOARD RULES

A. Proposed Rules for Notice of Intended Action – It was moved by Sullivan and seconded by Harper that the following rules be approved for Notice of Intended Action. Motion carried unanimously.

1. Changes election of officers to first meeting after April 30
2. Reflects changes in HF-312 that require all committees to report consultant activity
3. Reflects changes in HF-312 that treats county central committees the same as other types of committees
4. Reflects changes in HF-253 that prohibit members of the Governor’s Office from selling goods or services to lobbyists in addition to persons that employ lobbyists
5. Reflects changes in HF-312 concerning independent expenditures

B. Rules for Adoption – It was moved by Roe and seconded by Walsh that the following rules be adopted. Motion carried unanimously.

1. Addresses the Iowa election campaign fund report parties are required to file
2. Consolidates four current rules into two and reflects current Board policies on the dissolution of campaign committees
3. Permits a lobbyist to make contributions to the lobbyist’s own campaign for state office during a legislative session
4. Includes judges and judicial employees who stand for retention in the definition of “candidate”
5. Permits Board and staff to attend and participate in a presidential caucus

6. Prohibition on honorarium – It was moved by Walsh and seconded by Harper that this rule be adopted. Motion carried unanimously.

8. REQUESTS FOR WAIVER OF CIVIL PENALTIES

Campaign Committees (Rule 351 IAC 4.60)

A. Statewide Committees – It was moved by Sullivan and seconded by Roe that the following actions be taken. Motion carried unanimously.

1. Citizens for Tucker – Uphold.
2. Rod Fee for Iowa House – Waive based on medical condition.
3. Scannell for the Iowa House – Uphold.
4. Iowa County Republican Women – Waive; issue Letter of Reprimand.
5. Tom Schueller – Waive.

B. County/Local Committees – It was moved by Sullivan and seconded by Walsh that the following actions be taken. Motion carried unanimously.

1. County Voters for Baber Committee (Pottawattamie) – Uphold.
2. Rick Dvorak for Supervisor (Johnson) – Waive; issue Letter of Admonishment.
3. Kim Kelley for Sheriff (Decatur) – Waive.
4. Committee to Re-Elect Bunda Auditor (Pocahontas) – Waive; issue Letter of Reprimand.
5. Vote Yes! Clive Aquatic Center (Polk) – Reduce to \$20.
6. Brandon Ross for City Council (Johnson) – Waive.

C. Out of State PACs (Rule 351 IAC 4.60)

1. Campaign of One – It was moved by Roe and seconded by Harper that this matter be investigated to determine whether the disbursements by this committee were contributions. Roe, Harper, Walsh, and Albert voted yes. Sullivan voted no. Motion carried.

D. Lobbyist/Clients (Rule 351 IAC 8.12) – It was moved by Walsh and seconded by Roe that the following actions regarding lobbyist and personal financial disclosure delinquent reports be taken. Motion carried unanimously.

1. Owen Newlin – Waive.
2. Ellen Walkowiak – Uphold.

E. Personal Financial Disclosures (Rule 351 IAC 7.6)

1. Mark Day – Waive.
2. Kathryn Baumann-Reese – Waive.
3. Steve Lindner – Uphold.

10. VIOLATIONS

A. Attribution Statement Violations (Iowa Code section 68A.405) – Correction advertisement information was received from the following:

Max Reynolds (Clayton)  
Joan Koch (Cedar)  
Babcock for Auditor (Chickasaw)

B. Late-Filed Statement of Organization (Iowa Code section 68A.201) – It was moved by Walsh and seconded by Harper that letters of admonishment will be sent to the following for late-filed Statements of Organization. Motion carried unanimously.

Committee to Elect Rudy Moritz Fayette County Supervisor  
Dolecheck for Representative  
Committee to Re-elect Bunda for Auditor (Pocahontas)  
Committee to Elect Daniel B. Eiten for Crawford County Auditor  
Tom Loebach for Sheriff (Dickinson)  
Slater for Supervisor (Cherokee)  
Greene County Republican Central Committee  
Citizens for Connolly

C. Late-Filed Notice of Dissolution (Iowa Code section 68A.402B) – It was moved by Harper and seconded by Roe that letters of admonishment will be sent to the following for late-filed Notices of Dissolution. Motion carried unanimously.

Friends for McMahon  
Committee to Elect Daniel B. Eiten for Crawford County Auditor

11. ITEMS OF BOARD INTEREST NOT NEEDING ACTION – The following reports were received for information. No action was taken.

Income Tax Checkoff Report  
Department of Auditor of State Report – FY04 Audit of IECDB

The meeting adjourned at 3:01 p.m.

Respectfully submitted,



Sandra Reier  
Secretary