

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

COPY

IN THE MATTER OF: JULIE WOLBERS, LYNETTE CLAEYS, & MISSISSIPPI BEND UNISERV UNIT	CASE NO. <u>2012 IECDB 02</u> REPRIMAND & CIVIL PENALTY
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On April 27, 2012, the Iowa Ethics and Campaign Disclosure Board considered a complaint filed by Clinton Community School District against district employee Julie Wolbers, Mississippi Bend UniServ Unit (an affiliated subdivision of the Iowa State Education Association) and Lynette Claeys, Director of Mississippi Bend UniServ Unit and an employee of the ISEA. For the reasons that follow, the Board hereby reprimands Ms. Wolbers and orders her to pay a civil penalty in the amount of \$100.

BACKGROUND

According to the complaint, Ms. Claeys sent an email to Ms. Wolbers' district email address. Attached to the email was a copy of a campaign mailing piece in support of Clinton mayoral candidate Ed O'Neill. The mailing piece indicated it was paid for by the Iowa Federation of Labor, AFL-CIO. Ms. Claeys asked Mr. Wolbers to share the email with members of the Clinton Education Association. Ms. Wolbers forwarded Ms. Claeys' email along with the attachment to over 200 district email addresses. Ms. Wolbers and Ms. Claeys, through their attorney Jim Smith of the ISEA, acknowledged sending the above-described emails.

ANALYSIS

The Board must first determine whether the complaint is legally sufficient. A legally sufficient complaint must allege all of the following:

- a. Facts that would establish a violation of a provision of chapter 68A, chapter 68B, section 8.7, or rules adopted by the board.
- b. Facts that would establish that the conduct providing the basis for the complaint occurred within three years of the complaint.
- c. Facts that would establish that the subject of the complaint is a party subject to the jurisdiction of the board.

Iowa Code § 68B.32B(4). If the Board determines the complaint is legally sufficient, it shall order an investigation. *Id.* § 68B.32B(6). If the Board determines that none of the allegations contained in the complaint are legally sufficient, the complaint shall be dismissed. *Id.*

The complaint alleged conduct that occurred less than a year ago. The board has jurisdiction to consider a complaint alleging any person violated chapter 68A of the Code of Iowa. *See id.* § 68B.32B(1). The only remaining question is whether the complaint alleged facts that would establish a violation of Iowa Code chapter 68A.

The relevant section of chapter 68A—section 68A.505—prohibits the use of public resources for political purposes. “Public resources” is broadly defined to mean “the moneys, time, property, facilities, equipment, and supplies of the executive branch of state government, a county, city, public school, or other political subdivision.” Iowa Admin. Code r. 351—5.3. “Political purposes” means “the express advocacy of a candidate or ballot issue.” Iowa Code § 68A.102(19). “Express advocacy” means a campaign contribution or a communication that contains “explicit words that unambiguously indicate the communication is recommending or supporting a particular outcome in the election with regard to any clearly identified candidate or ballot issue.” *Id.* § 68a.102(14).

The Board finds the mailing piece expressly advocated in favor of a mayoral candidate in the run-off election in Clinton. The attachment included all of the following statements: “Vote Ed O’Neill,” “Labor’s Choice Ed O’Neill,” “You have a second chance to vote for Ed O’Neill.”

In 2009, the Board issued an advisory opinion regarding emails sent from a private email address to a government official or employee. The Board stated:

The Board has consistently held that [section 68A.505] does not apply to emails sent from a private email address even when the recipient is a public official or employee. This determination is based on the fact that it is not the government that is using its own resources for a political purpose. In addition, public official and employees cannot control what emails are received.

Once a political email is received by a public official or employee on a government owned computer and email system, then if the official or employee forwarded the message there would be a violation of the law as

that would constitute the use of government resources for a political purpose.

See IECDB AO 2009-10.

Thus, consistent with the Board's 2009 advisory opinion, the Board finds the complaint alleged facts that would establish a violation of section 68A.505 by Ms. Wolbers. Government officials and employees may not use government resources to engage in express advocacy. Ms. Wolbers used her district email address to forward a campaign mailing piece to over 200 district employees. The Board further finds the complaint did not allege facts that would establish a violation of section 68A.505 by either Ms. Claeys or Mississippi Bend UniServ Unit. Ms. Claeys is not a government employee and Mississippi Bend UniServ Unit is not a governmental body. Therefore, the complaint is legally sufficient with respect to Ms. Wolbers and not legally sufficient with respect to either Ms. Claeys or Mississippi Bend UniServ Unit.

The Board believes an investigation is not warranted in this case given the fact that Ms. Wolbers has admitted to the allegations in the complaint.

The Board elects to handle this matter by administrative resolution rather than through a contested case proceeding process. See Iowa Admin. Code r. 351-9.4(2). The Board finds Ms. Wolbers violated section 68A.505 when she used her district email address to send over 200 district employees a mailing piece that expressly advocated in favor of mayoral candidate Ed O'Neill. The Board finds that a reprimand and civil penalty in the amount of \$100 is the appropriate remedy.

SUMMARY

Ms. Wolbers is reprimanded for using government resources for political purposes in violation of Iowa Code section 68A.505. Ms. Wolbers is further ordered to pay a civil penalty in the amount of \$100. Pursuant to Iowa Code Administrative Rule 351-9.4(3), she may appeal the issuance of the reprimand and civil penalty by submitting within 30 days a written request for a contest case hearing.

The complaint against Ms. Claeys and Mississippi Bend UniServ Unit is dismissed.

By direction of the Board

James A. Albert

James Albert, Chair

John Walsh, Vice Chair

Saima Zafar

Carole Tillotson

Jonathan Roos

Mary Rueter

CERTIFICATE OF SERVICE

The undersigned hereby certifies this Order was sent by first class mail, address service requested, on 7/30/2020:

James A. Smith, Esq.
Iowa State Education Association
777 Third Street
Des Moines, IA 50309

By: S. Wright
Sharon Wright, Administrative Assistant for the Board