
LEGAL UPDATE

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IOWA SUPREME COURT DECISION — CHALLENGES TO ETHICS AND CAMPAIGN DISCLOSURE BOARD DECISIONS

Purpose. *Legal updates are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update is intended to provide legislators, legislative staff, and other persons interested in legislative matters with summaries of recent meetings, court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although an update may identify issues for consideration by the General Assembly, it should not be interpreted as advocating any particular course of action.*

Dickey v. Iowa Ethics and Campaign Disclosure Board

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www.iowacourts.gov/courtcases/7176/embed/SupremeCourtOpinion

Factual and Procedural Background. In 2017, Governor Kim Reynolds and her spouse traveled to Memphis, Tennessee, on a private jet and attended the Iowa State football bowl game. During the trip, Governor Reynolds participated in campaign activities for the 2018 gubernatorial election. An individual donor paid for the cost of the trip, and Governor Reynolds' candidate committee reported the campaign contribution to the Iowa Ethics and Campaign Disclosure Board (Board). The candidate committee's valuation of the trip relied on a Board rule for reimbursement of airfare based on the cost of coach class airfare. A citizen filed a complaint with the Board alleging that the candidate committee undervalued the cost of the trip. The Board dismissed the complaint, and the citizen petitioned for judicial review under the Iowa Administrative Procedure Act (Iowa Code chapter 17A). The district court held that the citizen lacked standing and dismissed the complaint and the court of appeals upheld the district court's ruling.

Issue. Whether a private citizen is an aggrieved or adversely affected person under the Iowa Administrative Procedure Act and therefore has standing when alleging a defect in a candidate committee's valuation of an in-kind campaign contribution.

Holding. In a 5-1 decision, the Supreme Court held that a private citizen is not an aggrieved or adversely affected person and therefore does not have standing to challenge a candidate committee's campaign finance report when the allegation is that the reporting method underrepresented the value of an in-kind contribution and the citizen does not allege that citizen is personally missing information.

Majority Opinion. Iowa Code provides that judicial review of Board decisions may be sought under Iowa Code chapter 17A, which provides that a person "aggrieved or adversely affected by [an] agency action may seek review of such agency action." The Supreme Court has interpreted this to require that a complainant "have a specific, personal, and legal interest in the litigation" and that "the specific interest must be adversely affected by the agency action in question." A "general interest," however, is not sufficient. Moreover, "a person may be a proper party to agency proceedings and not have standing to obtain judicial review."

The Court found that the complainant's interest was general, not specific, personal, and legal. The complainant argued that he should have standing under a federal campaign finance case, *FEC v. Akins*, 524 U.S. 11 (1998). In that case, a group of voters were found to have standing when challenging that

the American Israel Public Affairs Committee (AIPAC) was a political action committee under federal law. The United States Supreme Court found the voters were injured because if AIPAC had to register with the Federal Election Commission, it would have “to disclose donors, contributions, expenditures, and disbursements,” and therefore the voters were injured by the lack of information (informational standing). The Iowa Supreme Court distinguished the present case from *Akins* by noting the complainant did not lack any information, but only disagreed with the candidate committee’s valuation of the in-kind contribution and the Board’s acceptance of such valuation. The Court concluded the complainant therefore did not have informational standing, but only a general interest common to all members of the public in how the Board enforced the law. The Court held such a complaint does not make a person aggrieved or adversely affected, and therefore such a person does not have standing to maintain a judicial review of an agency’s decision.

Dissent. In dissent, Justice Appel argued the General Assembly had established a statutory right to the public disclosure of accurate information in the campaign finance Code chapter and that if the Board does not act to address an alleged inaccuracy, any person has the statutory right to enforce the disclosure requirement under the Iowa Administrative Procedure Act. Justice Appel noted that unlike the United States Constitution, which limits federal court jurisdiction to cases or controversies, the Iowa Constitution has no similar language, and the state’s “standing doctrine is not constitutionally based.” In Justice Appel’s view, standing is “a self-imposed prudential doctrine” and that the Court only need to “follow federal caselaw to the extent it is persuasive.” Justice Appel argued that because there is no constitutional standing limitation, the General Assembly may establish causes of action and vest members of the public with standing to litigate such actions. Justice Appel concluded that while the scope of the remedy created by campaign finance and Board Code chapters is “not entirely clear,” he believes that proper statutory interpretation is that the General Assembly had established a right for members of the public to enforce the disclosure requirements of the campaign finance Code chapters and that a complainant who disagrees with the Board’s response to a complaint is an aggrieved or adversely affected person.

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