



Legal Services Division

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Legal Background Briefings are prepared and updated periodically by the Legal Services Division of the Iowa Legislative Services Agency, a nonpartisan agency providing legislative drafting and research services to the committees and members of the Iowa General Assembly. The briefings provide background information regarding a particular area of law. Although a briefing may identify issues for consideration by the General Assembly, nothing contained in a briefing should be interpreted as advocating a particular course of action. The reader is cautioned against using information contained in a briefing to draw conclusions as to the legality of a particular behavior or set of circumstances.

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Legal Background Briefing on ...

Jurisdiction of Ethics Issues

Overview

Jurisdiction of the laws and rules governing ethical conduct of persons serving in, employed in, or lobbying the legislative and executive branches falls under the Ethics Committees of the General Assembly and the Iowa Ethics and Campaign Disclosure Board (IECDB). This document examines the jurisdiction of the General Assembly and the IECDB regarding ethics issues and refers to the campaign finance jurisdiction of the IECDB.

References to the Code in this briefing are to the 2011 Iowa Code unless otherwise noted. References to Codes of Ethics are to the Senate Code of Ethics and the House Code of Ethics adopted by the 83rd General Assembly (2009 and 2010).

Sources of Law

The primary source of ethics law is found in Code Chapter 68B. Ethics laws found in Code Chapter 68B address gift restrictions,¹ prohibitions against honoraria² and certain types of loans,³ revolving-door prohibitions,⁴ financial disclosure requirements,⁵ conflicts of interest restrictions,⁶ and lobbyist regulations.⁷ In the legislative branch, a second source of law is the Code of Ethics for legislators and Rules Governing Lobbyists adopted by each house at the beginning of each General Assembly. In the executive branch, the IECDB has adopted administrative rules relating to various ethics laws.⁸

Jurisdictions

General Assembly — Ethics Committees

The statutory, standing Ethics Committee in each house regulates the ethical conduct in the respective house.⁹

- Membership. Each Ethics Committee consists of six members and is equally divided between the majority and minority parties.¹⁰
- Duties — Jurisdiction. The Ethics Committees are charged with a number of duties. These duties include:
 - Preparing a Code of Ethics within 30 days of the convening of each General Assembly and Rules Governing Lobbyists for their respective houses.¹¹ The Code of Ethics governs the ethical conduct of legislators, and in the House also House employees, and the Rules Governing Lobbyists govern the ethical conduct of lobbyists before the respective houses.
 - Issuing advisory opinions when approved by the majority of an Ethics Committee.¹² A person subject to the jurisdiction of the Ethics Committee may request an advisory opinion or the committee may issue an opinion on the committee's own motion.¹³
 - Recommending legislation relating to ethics and lobbying activities.¹⁴
 - Receiving complaints regarding ethical misconduct¹⁵ and conducting hearings on such charges if the complaint is deemed by an Ethics Committee to be valid and if an investigation by independent special counsel supports a finding of probable cause.¹⁶ A valid complaint must allege facts, that if true, would

establish a violation of Code Chapter 68B, the Rules Governing Lobbyists, or the Code of Ethics, that the conduct occurred within three years of the filing of the complaint, and that the party charged with the violation is subject to the jurisdiction of the committee.¹⁷ An Ethics Committee may initiate a complaint on its own motion.¹⁸

- Persons Subject to the Jurisdiction of the Ethics Committees. A complaint regarding ethical misconduct may be filed with an Ethics Committee against members of the General Assembly, lobbyists before the General Assembly, or clients of lobbyists before the General Assembly.¹⁹

Executive Branch — Iowa Ethics and Campaign Disclosure Board

- Structure. The IECDB is an independent agency governed by a six-member board appointed by the Governor and subject to confirmation by the Senate.²⁰ The IECDB employs an executive director to serve as the board's chief administrative officer.²¹
- Duties — Jurisdiction. The IECDB is charged with a number of duties relating to the ethical conduct of officials, employees, lobbyists, and candidates for office in the executive branch,²² and, on an advisory basis, local government officials and employees.²³ Some of the duties relating to ethical conduct include:
 - Adopting administrative rules relating to ethical conduct of officials, employees, lobbyists, and candidates for office in the executive branch.²⁴
 - Issuing advisory opinions to persons subject to the jurisdiction of the IECDB. Advice contained in such opinions, if followed, constitutes a defense to a complaint

filed with the IECDB regarding the same subject matter. Advisory opinions of the IECDB may also be sought by local government officials and employees.²⁵

- Receiving and filing registrations and reports from lobbyists of the executive branch, client disclosures from clients of lobbyists of the executive branch, and personal financial disclosure information from certain persons employed and serving in the executive branch.²⁶
- Setting standards for, investigating complaints relating to, and monitoring the ethics of officials, employees, lobbyists, and candidates for office in the executive branch.²⁷
- Receiving complaints regarding ethical misconduct²⁸ and conducting contested case proceedings on such charges if the complaint is deemed to be legally sufficient and if, after an investigation by IECDB staff, support for probable cause is found.²⁹ The IECDB may initiate an investigation on its own motion.³⁰
- Persons Subject to the Jurisdiction of the IECDB. A complaint regarding ethical misconduct may be filed with the IECDB against a person holding a state office in the executive branch, an employee in the executive branch, or a lobbyist or client of a lobbyist of the executive branch.³¹

Campaign Finance — Iowa Ethics and Campaign Disclosure Board

- Duties — Jurisdiction. The IECDB is charged with administering and setting standards for, investigating complaints relating to, and monitoring the campaign finance practices of candidates for any state or local office filled by election.³²

- Persons Subject to the Jurisdiction of the IECDB. A complaint regarding campaign finance violations may be filed with the IECDB against a candidate, a political committee or candidate's committee, a person holding state office in the executive branch, an employee of the executive branch, or any other person violating the campaign finance laws or administrative rules.³³

Summary

For purposes of ethics, members of the General Assembly are subject to the jurisdiction of the Ethics Committees. Persons holding office in or employed by the executive branch are subject to the jurisdiction of the IECDB. For purposes of campaign finance issues, members of and candidates for the General Assembly are subject to the jurisdiction of the IECDB.

Lobbyists and clients of lobbyists are subject to the jurisdiction of both the Ethics Committees of the General Assembly and the IECDB for purposes of ethics. The proper jurisdiction is determined by whether the lobbying activity at issue involves conduct relating to the legislative branch or the executive branch.

¹ Iowa Code § 68B.22.
² Iowa Code § 68B.23.
³ Iowa Code § 68B.24.
⁴ Iowa Code §§ 68B.5A, 68B.7.
⁵ Iowa Code §§ 68B.3, 68B.35.
⁶ Iowa Code §§ 68B.2A, 68B.4A, 68B.6.
⁷ Iowa Code §§ 68B.36, 68B.37, 68B.38
⁸ Iowa Admin. Code 351.
⁹ Iowa Code § 68B.31.
¹⁰ Iowa Code § 68B.31(1).
¹¹ Iowa Code § 68B.31(4)(a)(1),(2).
¹² Iowa Code § 68B.31(4)(a)(3).
¹³ Senate Code of Ethics, Rule 21(a); House Code of Ethics, Rule 16(a).
¹⁴ Iowa Code § 68B.31(4)(a)(5).
¹⁵ Iowa Code § 68B.31(4)(a)(4).
¹⁶ Iowa Code §§ 68B.31(6)-(8), 68B.31A.
¹⁷ Iowa Code § 68B.31(6).
¹⁸ Senate Code of Ethics, Rule 16(b); House Code of Ethics, Rule 12(b).

¹⁹ Iowa Code §§ 68B.31(4)(a)(4), 68B.31(5).

²⁰ Iowa Code § 68B.32(1).

²¹ Iowa Code § 68B.32(5).

²² Iowa Code § 68B.32A(13).

²³ Iowa Code § 68B.32A(12).

²⁴ Iowa Code § 68B.32A(1),(13).

²⁵ Iowa Code § 68B.32A(12).

²⁶ Iowa Code § 68B.32A(5).

²⁷ Iowa Code § 68B.32(1).

²⁸ Iowa Code § 68B.32B(1).

²⁹ Iowa Code § 68B.32B(9).

³⁰ Iowa Code § 68B.32B(7).

³¹ Iowa Code § 68B.32B(1).

³² Iowa Code § 68B.32(1).

³³ Iowa Code § 68B.32B(1).

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