



502 East 9th Street
Des Moines, Iowa 50319
www.ipib.iowa.gov

W. Charles Smithson, JD
Executive Director
(515) 725-1782
charlie.smithson@iowa.gov

Margaret Johnson, JD
Deputy Director
(515) 725-1783
margaret.johnson@iowa.gov

IPIB AO 2016-15

September 15, 2016

SUBJECT: Resignation from Government Position Prior to Applying/Campaigning for New Position

Kevin Kilgore
1695 115th Street
Diagonal, Iowa 50845

Dear Mr. Kilgore:

This opinion is in response to your email letter of August 29, 2016, requesting an opinion from the Iowa Public Information Board (IPIB) pursuant to Iowa Code section 23.6 and rule 497—1.2. We note at the outset that IPIB's jurisdiction is limited to the application of Iowa Code chapters 21, 22, and 23, and rules in Iowa Administrative Code chapter 497. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

FACTUAL STATEMENT:

You state that you are concerned with situations when an individual in government applies or campaigns for another government position.

QUESTION:

Is resignation from a government position mandatory before actions are initiated to assume a different government position?

OPINION:

The question you raise is beyond the jurisdiction of IPIB to answer as it is not covered by Iowa Code chapters 21, 22, or 23. In your letter to us requesting this opinion, you reference IPIB AO 2015-06 and 2016-07 as discussing government employment situations. However, in both of those opinions that were issued to you, IPIB clearly stated that the issues you raised were not within our jurisdiction to answer.¹

Your request also raises questions concerning other Code chapters concerning employments or budget items that do not deal with open meetings or open records and are thus beyond our jurisdiction to answer.

¹ See Also IPIB AO 2016-09 also issued to you stating that the Board did not have authority over Iowa Code chapter 35C dealing with veterans preference in public appointments and employments.

Board Members

Anthony Gaughan • Keith Luchtel • Jo Martin • Andrew McKean • Gary Mohr • William Peard
• Suzan Stewart • Renee Twedt • Mary Unga-Sogaard

Examples of employment issues that are under IPIB's jurisdiction include when a governmental body may go into closed session under Iowa Code section 21.5(1)(i) to discuss appointment or hiring decisions and Iowa Code section 22.7(18) dealing with situations when applications for government employment may or may not be considered confidential public records.

BY DIRECTION AND VOTE OF THE BOARD

Suzan Stewart, Chair
Anthony Gaughan, Vice Chair
Keith Luchtel
Jo Martin
Andrew McKean
Gary Mohr
William Peard
Renee Twedt
Mary Unga-Sogaard

Submitted by: W. Charles Smithson, IPIB Director