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IPIB AO 2016-08

April 21, 2016

SUBJECT: Iowa Freedom of Information Council Handbook/Persons Speaking at Government Meetings

Kevin Kilgore
1695 115th Street
Diagonal, Iowa 50845

Dear Mr. Kilgore:

This opinion is in response to your letter of April 13, 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 advise us that the Iowa Freedom of Information Council produces a handbook containing information on Iowa Code chapters 21, 22, and 23. Included in the handbook is a statement that citizens do not have a right to speak at a public meeting. You are concerned about whether or not that statement has a constitutional basis.

QUESTIONS:

1. What statutory basis exists for the Iowa Freedom of Information handbook to be promulgated as an interpretation of Iowa Code chapters 21, 22, and 23?
2. Are statements made by the Iowa Freedom of Information Council subject to review and correction by the Iowa Public Information Board?

OPINION:

The Iowa Freedom of Information Council is a private sector entity interested in government transparency issues. IPIB is unaware of any statutory basis for the handbook to be promulgated. However, there are a number of private sector entities who provide similar resources on a variety of topics involving compliance and interpretations of law. Such resources are available for assistance, but obviously do not take the place of statutes, administrative rules, policies, or practices established by government agencies. We do note that the FAQ section of IPIB's Web site contains excerpts from the handbook.

Board Members

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Kathleen Richardson • Suzan Stewart • Peggy Weitzl

In answer to your second question, the statements made in the handbook are not subject to regulation by the Iowa Public Information Board. We do note that members of the IPIB staff review the handbook and offer suggestions. However, the handbook is a document that clearly is prepared and distributed by a private sector entity and is not required to receive permission from IPIB to do so. If there was an obvious misstatement of the law, then IPIB could suggest that the Iowa Freedom of Information Council might want to look at the issue and correct its handbook if a misstatement is determined to have occurred. However, IPIB would not be mandated by law to make such a suggestion and the Iowa Freedom of Information Council would not be mandated by law to act on any such suggestion.

Turning to your concern as to the ability of the public to speak at public meetings, IPIB has consistently held that Iowa Code chapter 21 does not require a government body to permit citizens to speak at a public meeting. As you acknowledge in your opinion request, Iowa Code section 21.7 expressly provides a government body with the authority to make and enforce “reasonable rules for the conduct of its meetings to assure those meetings are orderly, and free from interference or interruption by spectators.”

In closing, this opinion does not speak to any statement made or not made in the handbook produced and distributed by the Iowa Freedom of Information Council.

BY DIRECTION AND VOTE OF THE BOARD

Suzan Stewart, Chair
Kathleen Richardson, Vice Chair
Robert Andeweg
Anthony Gaughan
Jo Martin
Andrew McKean
Gary Mohr
William Monroe
Peg Weitzl

Submitted by: W. Charles Smithson, IPIB Director