

Political Events in the Library—For Your Legal Pickle Tickler File

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The 2018 election season seems to have already begun and with it come requests from political campaigns, parties and candidates to use the library's meeting room for forums, debates, meet-and-greet events and even caucuses. It's important for library directors and boards of trustees to be aware of the many state laws and regulations regarding such use of city property.

Iowa Code chapter 68A is entitled "Campaign Finance." Section 68A.505 is entitled "Use of public moneys for political purposes" and says, in part, "The state and the governing body of a county, city, or other political subdivision of the state shall not expend or permit the expenditure of public moneys for political purposes, including expressly advocating the passage or defeat of a ballot issue." Here is a link to the statute: <https://www.legis.iowa.gov/docs/code/68a.505.pdf>.

Iowa Administrative Code (IAC) Title 351 is entitled "Ethics and Campaign Disclosure" and contains the rules by which the Iowa Ethics and Campaign Disclosure Board (the IECDB) operates to monitor and enforce compliance with state and federal laws pertaining to political campaigns. Chapter 5 is entitled "Use of Public Resources for a Political Purpose" and contains the rules and regulations that implement *Iowa Code* section 68A.505. Holding a political function for a particular candidate is a prohibited political activity on government property. However, under the "exceptions" to the law in IAC Rule 5.5, such functions can be held in the library's meeting room because it is available to the general public to use for other purposes and so in this case, the "other purpose" is a political event that will take place within the confines of that room; it cannot spill out into the library proper. Here is a link to IAC 351-5: <https://www.legis.iowa.gov/docs/iac/chapter/02-14-2018.351.5.pdf>.

Libraries may charge candidates or campaigns for the use of their meeting rooms if other persons or groups must also rent the meeting rooms. If the meeting room is available to the general public for \$25 and requires a \$50 deposit, then candidates and campaigns must pay the same rate. If the meeting room is available on a first-come-first-served basis, then candidates could reserve the room if they follow the normal reservation rules. Rooms or facilities that are not considered public forums as defined in the administrative code and are not typically available to the public *can* be used for political purposes, but the city must charge for the actual cost of the use of the facility.

The *Iowa Administrative Code* in Rule 351-5.5(3) explicitly allows libraries to host candidate debates or forums as long as at least two candidates seeking the same office are invited to attend the event. The rule also allows the distribution of campaign materials on governmental property during the forum or debate. While many libraries host or even coordinate such forums in order to promote the upcoming elections and encourage discussion in their communities, partisan events can be a different matter. Each city and library board must determine what it is comfortable allowing. Many cities take the approach that candidates are the same as any other members of the public and may use the city's meeting rooms if they follow the same rules that apply to ordinary citizens.

The IECDB posts a formal legal interpretation of IAC 351-5, entitled "Use of Public Money or Property for Political Purposes," on its website, here: http://www.iowa.gov/ethics/forms_brochures/brochures/public_funds/publicfunds.htm. Under the heading "Examples of Prohibited Uses of Public Funds," number six reads, "Governmental bodies are prohibited from displaying political posters, brochures, flyers, or promotional literature of any type." Most public library meeting room policies already prohibit any signs on library property that announce the subject matter of meetings being held in meeting rooms because they can lead the public to believe that the library is somehow sponsoring or endorsing them. Even when meeting announcements are posted in other areas of the community or communicated on mass media, library policy typically mandates that its name remain completely disassociated from any part of the meeting's content and in fact, insists that the library is mentioned only as the

location for the meeting room (not just the meeting, but the meeting ROOM). In the case of a political event, it is especially important to be vigilant about this policy; be certain that all related advertisements are carefully crafted so that the library does not appear to be sponsoring or endorsing a partisan political event.

Please keep in mind that Article VI of the *Library Bill of Rights* states that library meeting rooms should be made available to the public served by the given library “on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use.” The American Library Association further explains, “The library may not exclude any group based on the subject matter to be discussed or based on the ideas that the group advocates. For example, if a library allows charities and sports clubs to discuss their activities in library meeting rooms, then the library should not exclude partisan political or religious groups from discussing their activities in the same facilities. Written policies for meeting room use should be stated in inclusive rather than exclusive terms. For example, a policy that the library’s facilities are open ‘to organizations engaged in educational, cultural, intellectual, or charitable activities’ is an inclusive statement of the limited uses to which the facilities may be put. This defined limitation would permit religious groups to use the facilities because they engage in intellectual activities, but would exclude most commercial uses of the facility.”

In 2010, the Alliance Defense Fund, a Christian legal organization, initiated a letter-writing campaign to libraries and schools around the country that had meeting room policies that restricted their use for religious services. The organization declared such policies unconstitutional and threatened lawsuits. In late 2010 and early 2011, most of those libraries had changed their meeting room policies to include gatherings of religious and political groups, on the advice of the attorneys at the American Library Association and the libraries’ own city attorneys. While there have been numerous federal lawsuits over the rights of religious groups to meet in public libraries, I could not locate any decisions pertaining to political groups, although it could be argued that the situations are virtually the same, legally. The ALA’s Office of Intellectual Freedom advises librarians with questions about meeting room policies, so you might give the staff a call at 312-280-4224 if you have specific questions.