

El. Bd. Op. 74-6 (Reaffirmed 6/9/08)

Summary:

A candidate-incumbent who distributes business cards to members of the public who are without normal cause to have business with him would be required to include statutory identification. If such a person places newspaper ads identifying himself, the information may also be required, absent a non-political rationale for such placement. (Issued to Richard C. Kelly, August 28, 1974)

This opinion was reviewed by the Government Accountability Board pursuant to 2007 Wisconsin Act 1 and was reaffirmed on June 9, 2008.

Opinion:

You inquire as to the application of the campaign labeling requirements to certain situations. The present labeling requirement is contained in §11.30 (2), Stats. This subsection provides that the "source of all printed advertisements, billboards, handbills, sample ballots, paid television and radio advertisements and other communications intended for political purposes shall clearly appear thereon." Communications on behalf of a specific candidate must identify the candidate and are required to be identified by the words "PAID FOR BY" followed by the name and address of the campaign treasurer or other authorized agent of the candidate.

The first question is whether this requirement applies to wallet size business cards which the candidate-incumbent carries and distributes to persons on the street. The key to this question is whether the communication is intended for political purposes. Section 11.01 (16), Stats., defines an act that is for "political purposes" as one "by its nature, intent or manner which directly or indirectly influences or tends to influence voting at an election. Such an act includes support ... to a person's present or future candidacy" If the candidate-incumbent requires business cards as a part of his responsibility to conduct the public business, as an aid to persons or businesses who may have cause to deal with him, the purpose is probably non-political. However, if a candidate-incumbent gives such cards at random to electors whose major contact with him is likely to be in the polling booth, it is the opinion of the board that the statutory identification is required. It should be noted that a "candidate" is any person "for whom it is contemplated or desired that votes be cast at any election" §11.01 (1), Stats. Therefore, the distribution of such cards to electors for political purposes is not necessarily limited to the weeks immediately preceding the election.

Your second question is whether a newspaper advertisement placed by a candidate-incumbent which identifies only his name, address, position and phone would require the identification under §11.30 (2), Stats. The relation of the law to such an advertisement would again depend on whether by its nature, intent or manner it had the effect of tending to influence voting at an election. It would seem that under most circumstances there is little apparent cause for candidate-incumbent placing newspaper advertisements identifying himself, especially during a campaign period, other than to publicize his name and thereby cause it to be remembered on election day. If such is the apparent design it is the opinion of the board that there can be little question that the communication is intended for political

purposes. This applies notwithstanding the fact that there is no overt solicitation of voter support. If, however, the advertisement is placed during a non-campaign period, and there is some rationale for the placement of the ad other than to increase exposure with the electorate, then it is possible that the identification may not need to be included.