

El. Bd. Op. 77-10 (Reaffirmed 6/9/08)

Summary:

Scope of disclaimer requirements. The statutory identification of political material required in §11.30 (2), Stats., applies to material which is not produced by mechanical means. (Issued to Eldon J. Broehm, December 15, 1977)

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

Opinion:

You have requested the opinion of the Board on two questions: (1) Do the "disclaimer" requirements of §11.30 (2), Stats., apply to "handwritten" political materials? (2) Do the disclaimer requirements apply to material reproduced by some process other than "printing," such as xerox copying?

Section 11.30 (2), Stats., provides in pertinent part:

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...

In answer to your first question, the Board is of the opinion that disclaimer requirements do not apply to material which is not produced by mechanical means. That opinion is based on the following factors.

The first is an application of principles of statutory construction. While the broad phrase "other communications" in the description of subject material could include hand-produced material, that phrase should be limited to the same types of reading material specifically enumerated as subjects for disclaimer requirements. Because the specifically enumerated items of reading material are limited to those which are "printed," the phrase "other communications" must be limited to "printed" communications (i.e. communications produced by some mechanical means).

There are other indications in chapter 11 of legislative intent to distinguish material produced by mechanical means from other material. Sections 11.01 (5) and 11.01 (6), Stats., exclude from the definitions of "contribution" and "disbursement," respectively, personal correspondence not "reproduced by machine for distribution."

Section 11.30 (2) was apparently enacted so that the public would be apprised of the identities of those responsible for political advertising and thus be enabled to assess the weight attributable to the advertising, to identify the sources of candidate support or opposition, to prevent anonymous "smear" attempts and to protect a candidate from association with scurrilous material for which he is not responsible. El. Bd. Op. 76-14. These purposes are served by identification of the sources of advertising intended to be distributed or disseminated to significant numbers of people. As a general rule, mechanically produced material falls within that category, while hand produced material, such as personal correspondence, does not. Throughout chapter 11 the legislature has

indicated its intent that the campaign finance laws be construed with an eye to the potential public impact of an act. §§11.001 (3), 11.06 (1), 11.05 (2r), Stats.

Your second question is whether the term "printed," as used to describe the reading material brought within the scope of disclaimer requirements by §11.30 (2), Stats., is limited to printing by use of a printing press. In light of the fact that a great deal of political material prepared and intended for mass distribution or dissemination is prepared by mechanical means other than a printing press, such as copy machines, to limit disclaimer requirements to materials produced by a printing press would undermine the disclosure purposes of §11.30 (2).

Hence the Board concludes that the disclaimer requirements apply to all material produced by mechanical means. (This does not include personal correspondence prepared by typewriter and not reproduced for distribution.)