

Re: [External] Advisory Request - R.B. § 3-8-5

IUSG Election Commission <iusgelco@indiana.edu>

Tue 3/30/2021 12:39 PM

To: Inspire for IUSG <inspireiusg@gmail.com>

Cc: [REDACTED]; [REDACTED]

Hi Inspire,

If **all** the people on this SMS list are "opt in" and have chosen to receive these communications, then you are all good to send out that message as is.

If **all** the recipients of this message did not request to receive messaging from inspire, then I recommend sending a follow up message saying something short like "Reply STOP to stop receiving messages"

Hope this helped.

EC

From: Inspire for IUSG <inspireiusg@gmail.com>**Sent:** Monday, March 29, 2021 3:10 PM**To:** IUSG Election Commission <iusgelco@indiana.edu>**Cc:** [REDACTED]; [REDACTED]**Subject:** [External] Advisory Request - R.B. § 3-8-5

This message was sent from a non-IU address. Please exercise caution when clicking links or opening attachments from external sources.

IUSG Election Commission:

Because of the ambiguity to the meaning of the bolded text below and the practical difficulties it may pose, we are seeking an advisory opinion. R.B. § 3-8-5 provides that a person or ticket who:

*(1) emails, texts, or calls a student or students for the purpose of campaigning **without clearly offering the recipient the option not to receive further communications from that person or ticket;***

(2) emails multiple students for the purpose of campaigning without placing all recipients' email addresses in the blind carbon copy (BCC) line; or

(3) emails, texts, or calls a student for the purpose of campaigning after that student has requested to stop receiving such communications from that candidate or ticket;

commits improper use of telecommunications, an election violation.

INSPIRE intends to market to students who have opt-ed in to its SMS marketing from its various petitions. In example, we expect to send messages like the following:

Hey [NAME-13-CHA], it's Carling! I need your help today. Vote INSPIRE for IU Student Government to save fall and spring break. Vote NOW: vote.inspireiusg.com

Critically, SMS marketing messages are limited to 160-characters. Because of this, state and federal election laws exempt SMS and other mediums from standard disclaimer requirements as they take up a significant portion of the medium itself. In comparison, for email or phone calls there remains significant space/time to place such a disclaimer. But for SMS such explicit opt-out language in every text would frustrate a substantial portion of the message.

Notably, all of our SMS contacts are opt-ins and we provide at the footer of every landing page - where students go to actually opt-in to our SMS marketing -- a description about the right to opt-out. We always state on the page that a party can "OPT-OUT AT ANY TIME BY REPLYING "STOP" OR "UNSUBSCRIBE"." These terms are also extremely common for SMS marketing and widely known. We also plan to place this plainly on our website, as well, before we begin any marketing. And our opt-outs are automated, meaning that as soon as someone sends STOP or UNSUBSCRIBE the system we use will no longer send messages to that person. Other requests, such as "please remove me" are handled manually but easy to keep up with within the requirements of the rule.

Does R.B. § 3-8-5 require that candidates/tickets include an express disclaimer (e.g., Reply "STOP" to unsubscribe) in the body of every SMS message to an opt-in contact? We believe that at least for opt-in contacts an explicit disclaimer is not required and would be burdensome. The notice we have given to contacts when they opted-in, the ability to reply STOP or UNSUBSCRIBE being commonly known, and our ability to still easily respond to and comply with any atypical opt-out requests is sufficient for the rule.

Sincerely,
Inspire IUSG
Dorynn Mentor
Carling Loudon