Candidate & Campaign Treasurer Handbook

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FLORIDA
DIVISION OF
ELECTIONS

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Chapter 1: Background

This handbook serves only as a quick reference guide for candidates and campaign treasurers.

This handbook is not a substitute for the Florida Election Code or applicable constitutional and rule provisions, the text of which controls. Chapters 97-106, Florida Statutes, the Constitution of the State of Florida, Division of Elections' opinions and rules, Attorney General opinions, county charters, city charters and ordinances, and other sources should be reviewed in their entirety for complete information regarding campaign financing and qualifying.

In addition, the following online publications produced by the Division should be reviewed for further information:

- State Qualifying Handbook
- Candidate Petition Handbook
- Candidate Electronic Filing System User's Guide
- Calendar of Reporting Dates

All forms and publications mentioned in this handbook are available on the Division's website at:

http://dos.myflorida.com/elections/forms-publications/

Other Resources and Websites

Florida Supervisors of Elections:
http://dos.myflorida.com/elections/contacts/supervisor-of-elections/

Florida Association of City Clerks:
http://www.floridaclerks.org

Florida Elections Commission:
http://www.fec.state.fl.us

Federal Election Commission:
http://www.fec.gov

Florida Elected Officials:
http://dos.myflorida.com/elections/contacts/elected-officials/

Florida Attorney General:
http://myfloridalegal.com

Florida State Courts
http://www.flcourts.org

Judicial Candidates and the Judicial Ethics Advisory Committee (JEAC)
http://www.jud6.org/LegalCommunity/LegalPractice/opinions/jeacopinions/subjectopinions/Elections/elections.html

Judicial Ethics Advisory Commission
http://www.jud6.org/LegalCommunity/LegalPractice/opinions/jeacopinions/jeac.html

Chapter 2: Campaign Financing

Chapter 106, Florida Statutes, regulates campaign financing for all candidates, including judicial candidates, political committees, electioneering communication organizations, affiliated party committees, and political parties. ***It does not regulate campaign financing for candidates for federal office.***

Note: Individuals seeking a publicly elected position on a political party executive committee who receive contributions or make expenditures must comply with Section 106.0702, F.S., regarding reporting requirements. *(See Chapter 18, Reporting for Individuals Seeking a Publically Elected Position on a Party Executive Committee.)*

The Division of Elections:

- Oversees the interpretation of and provides guidance on the election laws.
  (Section 97.012(1), F.S.)

- Provides advisory opinions to supervisors of elections, candidates, local officers having election related duties, political parties, political committees, or other persons or organizations engaged in political activity, relating to any provisions or possible violations of Florida election laws with respect to actions such person or entity has taken or proposes to take.
  (Section 106.23(2), F.S.)

- Conducts audits with respect to reports and statements filed under Chapter 106.
  (Section 106.22(6), F.S.)

- Reports to the Florida Elections Commission any apparent violations of Chapter 106.
  (Section 106.22(7), F. S.)

- Prescribes rules and regulations to carry out the provisions of Chapter 106, Florida Statutes.
  (Sections 106.22 and 106.23, F.S.)

Chapter 3: Glossary of Terms

Campaign Fund Raiser: Any affair held to raise funds to be used in a campaign for public office.
(Section 106.011(1), F.S.)

Campaign Treasurer: An individual appointed by a candidate or political committee as provided in Chapter 106, F.S.
(Section 106.011(2), F.S.)

Candidate: *(See Chapter 4, Becoming a Candidate; Sections 97.021(6) and 106.011(3), F.S.)*

Contribution: *(See Section 106.011(5), F.S. and Chapter 9, Contributions.)*

Election: Primary election, special primary **election, general election, special election,** or municipal election held in this state for the purpose of nominating or electing candidates to public office, choosing delegates to the national nominating conventions of political parties, selecting a member of a political party Executive Committee, or submitting an issue to the electors for their approval or rejection.
(Section 106.011(7), F.S.)

Electioneering Communication: *(See Sections 106.011(8)(a), and 106.011(8)(b), F.S. (for what term does not include); and Chapter 11, Electioneering Communications.)*

Expenditure: *(See Section 106.011(10), F.S. and Chapter 10, Expenditures.)*

Filing Officer: The person before whom a candidate qualifies the agency or officer with whom a political committee registers
(Section 106.011(11), F.S.)

General Election: An election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.
(Section 97.021(16), F.S.)

Independent Expenditure: *(See Section 106.011(12), F.S. and Chapter 10, Expenditures.)*

In-Kind Contribution: *(See In-Kind Contributions under Chapter 9, Contributions; Division of Elections Advisory Opinion 04-06.)*

Judicial Office: Includes the office of Justice of the Supreme Court, judge of a district court of appeal, judge of a circuit court, and county court judge. A judicial office is a nonpartisan office and a candidate for election or retention thereto is prohibited from campaigning or qualifying for such an office based on party affiliation.
(Section 105.011, F.S.)

Minor Political Party: Any group which on January 1 preceding a primary election does not have registered as members five percent of the total registered electors of the state.
(Sections 97.021(19) and 103.095, F.S.)

Nominal Value: Having a retail value of $10 or less.
(Section 97.021(21), F.S.)

Nonpartisan Office: An office for which a candidate is prohibited from campaigning or qualifying for election or retention in office based on party affiliation.
(Section 97.021(22), F.S.)

Office Account: A candidate elected to office or a candidate who will be elected to office by virtue of his or her being unopposed may transfer funds from the campaign account to an office account up to limits listed under Section 106.141(5), F.S. This fund must be used only for legitimate expenses in connection with the candidate's public office.

(Section 106.141, F.S.)

Person: An individual or a corporation, association, firm, partnership, joint venture, joint stock company, club, organization, estate, trust, business trust, syndicate, or other combination of individuals having collective capacity. The term includes a political party, affiliated party committee, or political committee.

(Section 106.011(14), F.S.)

Petty Cash: Cash accumulated pursuant to statutory limits and spent in amounts of less than $100 to be used only for office supplies, transportation expenses, and other necessities by the candidate.

(Sections 106.07 and 106.12, F.S.)

Political Advertisement: *(See Section 106.011(15), F.S. and Chapter 12, Political Advertising.)*

Primary Election: An election held preceding the general election for the purpose of nominating a party nominee to be voted for in the general election to fill a national, state, county, or district office.

(Section 97.021(29), F.S.)

Public Office: A state, county, municipal, or school or other district office or position that is filled by vote of the electors.

(Section 106.011(17), F.S.)

Special Election: Called for the purpose of voting on a party nominee to fill a vacancy in the national, state, county, or district office.

(Section 97.021(34), F.S.)

Special Primary Election: A special nomination election designated by the Governor, called for the purpose of nominating a party nominee to be voted on in a general or special election.

(Section 97.021(35), F.S.)

Statewide Office: Governor, Cabinet, and Supreme Court Justice.

Unopposed Candidate: A candidate for nomination or election to an office, who, after the last day on which a person, including a write-in candidate, may qualify, is without opposition in the election at which the office is to be filled or who is without such opposition after such date as a result of a primary election or of withdrawal by other candidates seeking the same office. A candidate is not an unopposed candidate if there is a vacancy to be filled under Section 100.111(4), F.S., if there is a legal proceeding pending regarding the right to a ballot position for the office sought by the candidate, or if the candidate is seeking retention as a justice or judge.

(Section 106.011(18), F.S.)

Chapter 4: Becoming a Candidate

A candidate is a person who:

1. Seeks to qualify for nomination or election by means of the petition process;

2. Seeks to qualify for election as a write-in candidate;

3. Receives contributions or makes expenditures, or consents for any other person to receive contributions or make expenditures, with a view to bring about his or her nomination or election to, or retention in, public office;

4. Appoints a treasurer and designates a primary depository; or

5. Files qualification papers and subscribes to a candidate's oath as required by law.

This definition does **not** include an individual seeking a publically elected position for a political party executive committee.

(Sections 97.021(6) and 106.011(3), F.S.)

What to File

Form DS-DE 9*, Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates,** is the first document that must be filed with the filing officer to become a candidate. At the same time, the candidate must designate the office for which he or she is running. A candidate can appoint a campaign treasurer and designate a campaign depository at any time, but **no later** than the date the candidate qualifies for office, and before any contributions are received, any expenditures are made, and any signatures are obtained on a candidate petition. Nothing prohibits a person from announcing their intention to become a candidate prior to filing Form DS-DE 9, ***as long as no contributions are received, no expenditures are made, and no signatures are obtained on a candidate petition. Individuals seeking a publically elected position on a political party executive committee are also required to file Form DS-DE 9.

(See Chapter 7, Campaign Treasurers.)

Form DS-DE 9 must be filed with the filing officer:

- **Prior** to opening the campaign account.

- **Prior** to the candidate accepting any contributions or making any expenditures, or authorizing another to accept contributions or make expenditures on the person's behalf.

- **Prior** to obtaining signatures on a DS-DE 104, Candidate Petition.

Note: The form is considered "filed" only when the filing officer receives the form, (not upon mailing) **and** determines that the form is complete.

***Form DS-DE 84*, Statement of Candidate,** must be filed with the filing officer within 10 days after filing Form DS-DE 9. This form states that the candidate has been provided access to read and understand the requirements of Chapter 106, F.S. The execution and filing of the statement of candidate does not in and of itself create a presumption that any violation of Chapter

106, F.S., or Chapter 104, F.S., is a willful violation. An individual seeking election to a political party executive committee is **NOT** required to file Form DS-DE 84.

Form DS-DE 83, Statement of Candidate for Judicial Office, must be filed by each candidate for judicial office, including an incumbent judge, within 10 days after filing Form DS-DE 9.

This form states that the judicial candidate has received, read, and understands the requirements of the Florida Code of Judicial Conduct.

(Sections 105.031, 106.021 and 106.023, F.S.)

Filing Officer

The filing officer is the person before whom a candidate qualifies:

- **Division of Elections**
  - State, multicounty district, and judicial offices (except county court judge)
- **Supervisor of Elections**
  - County court judge, countywide, and district offices (except multicounty offices)
- **Municipal Clerk**
  - Municipal offices

(Section 106.011(11), F.S.)

Resign-to-Run

No officer may qualify as a candidate for another state, district, county, or municipal public office if the terms or any part thereof run concurrently with each other, without resigning from the office he or she presently holds. The resignation is irrevocable.

The written resignation must be submitted at least **ten days** prior to the first day of qualifying for the office. The resignation must be effective no later than the earlier of the following dates:

- The date the officer would take office, if elected; or
- The date the officer's successor is required to take office.

(Section 99.012(3), F.S.)

A person who is a subordinate officer, deputy sheriff, or police officer must resign effective upon qualifying pursuant to this chapter [99] if the person is seeking to qualify for a public office that is currently held by an officer who has authority to appoint, employ, promote, or otherwise supervise that person and who has qualified as a candidate for reelection to that office.

(Section 99.012(4), F.S.)

The resign-to-run law does not apply to political party offices, persons serving without salary as members of an appointive board or authority, and persons holding federal office or seeking the office of President or Vice President.

(Section 99.012(6) and (7), F.S.)

Federal Hatch Act for Federal, State and Local Employees

Although a person may not have to resign, under Florida's resign-to run law, the person may be precluded by the federal Hatch Act (5 U.S.C. §§ 1501- 1508) from holding his or her current job and becoming a candidate in a partisan election.

The Hatch Act restricts the political activity of individuals employed by the state, county, or municipality if the employee's salary is paid for completely by federal funds. Please note, however, that pursuant to 5 USC § 1502(c), governors, lieutenant governors, mayors, elected heads of executive departments, and individuals holding elective office are exempt from the prohibition against being a candidate for public office. The Hatch Act prohibits state, county and municipal employees seeking public office in a partisan election, not an elected officer seeking re-election or election to another office.

The Hatch Act also limits certain political activities of federal employees under certain circumstances.

The Division has no authority to advise individuals on the applicability of the Hatch Act. For information and questions about the Hatch Act, contact:

Hatch Act Unit
U.S. Office of Special Counsel
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
Tel: (800) 85-HATCH or (800) 854-2824
(202) 254-3650
Website:
https://osc.gov/Pages/HatchAct.aspx

Email requests for advisory opinions about the Hatch Act to: hatchact@osc.gov

For information about the how the Hatch Act may apply to a person as a candidate, please refer to:

https://osc.gov/Pages/HatchAct-affectsme.aspx

Changing Parties for Partisan Offices

A candidate seeking to qualify as a political party candidate may not have been a registered member of any other political party for 365 days before the beginning of qualifying preceding the general election for which the person seeks to qualify. This provision also applies to individuals seeking election to a political party executive committee office.

(Section 99.021, F.S.)

Changing the Designation of Office

A candidate may change the designation of office by filing a new Form DS-DE 9 and a written statement indicating the change with the filing officer. However, the candidate must notify each contributor in writing and offer to return their contribution using the following procedure:

- Within fifteen days after filing the change with the filing officer the candidate must send a written notice to all contributors.
- The candidate must offer (in the notice) to return to the contributor on a pro rata

basis all contributions given in support of the original office.

- The candidate must include (with the notice) a copy of **Form DS-DE 86, Request for Return of Contribution.**

- If the contributor returns Form DS-DE 86 within 30 days of receiving the notice, the candidate must return a pro rata share of all contributions given in support of the original office.

- If the contributor does not return Form DS-DE 86 within 30 days of receiving the notice, the candidate may use the contribution for the newly designated office up to the maximum of the contribution limits allowed by law. The full amount of the contribution for the original office shall count toward the contribution limits for the new office. Any amount that exceeds the contribution limits for the new office must be properly disposed of pursuant to law.

(Section 106.021 (1)(a), F.S.)

Pro Rata Refund

The following formula is used to determine the pro rata share:

The amount of contributions contributed to the campaign that remain in the campaign account on the date the candidate filed the change of designation

MINUS

The amount already obligated for goods or services

DIVIDED BY

The total amount of contributions contributed to the campaign

MULTIPLIED BY

The amount of the contribution contributed by the individual contributor

Pro Rata Refund Example

The candidate received a total of $5,000 from all contributors. Of this amount, the candidate has $2,500 remaining in the campaign account with an outstanding amount of $500 owed for goods and services. This leaves $2,000 in the account to be used for pro rata refunds. One contributor gave a $500 original contribution and wishes to have it returned.

$2,500 - $500 = $2,000 ÷ $5,000 = 40% x $500 = $200 pro rata refund to the contributor

(Section 106.021(1), F.S.)

Chapter 5: Statement of Solicitation

Who Must File a Statement of Solicitation

The Governor, Lieutenant Governor, members of the Cabinet, state legislators, or candidates for such offices who directly or indirectly solicit, cause to be solicited, or accept any contribution on behalf of an organization that is exempt from taxation under s. 527 or s. 501(c)(4) of the Internal Revenue Code, which such individuals, in whole or in part, establish, maintain, or control, must file Form DS-DE 102, Statement of Solicitation.

(Section 106.0701, F.S.)

When to File

Each office holder or candidate must file **Form DS-DE 102** within **5 days** after he or she directly or indirectly solicits, causes to be solicited, or accepts any contribution on behalf of a 527 or 501(c)(4) organization. An office holder or candidate is required to file this form only once for each organization.

The form must be filed with the Division and, at a minimum, must contain the following information:

- The name of the person acting on behalf of the organization.
- The name and type of the organization.
- A description of the relationship between the person and the organization.

Penalty for Late Filing

Failure to timely file Form DS-DE 102 shall subject the person to a civil penalty of $50 per day for each late day, payable from the personal funds of the violator.

Public Website and Mission Statement

Upon filing Form DS-DE 102 with the Division, the officeholder or candidate must create a public website that contains the mission statement and the names of persons associated with the organization. The address of the website shall be reported to the Division within 5 business days after the website is created.

Additional Reporting

All contributions received shall be disclosed on the website within 5 business days after deposit, together with the name, address, and occupation of the donor. All expenditures by the organization shall be individually disclosed on the website within 5 business days after being made.

Note: An individual acting on behalf of his or her own campaign, a political party, or an affiliated party committee of which the individual is a member is not required to file Form DS-DE 102.

(Section 106.0701, F.S.)

Chapter 6: Prohibited Acts

Speaking at Political Meetings

No person shall pay money or give anything of value for the privilege of speaking at a political meeting in the furtherance of his or her candidacy, nor shall anyone speaking for such a person pay money or give anything of value for such privilege.

(Section 106.15(1), F.S.)

Using State-Owned Aircraft or Motor Vehicle

No candidate, in the furtherance of his or her candidacy for nomination or election to public office in any election, shall use any state-owned aircraft or motor vehicle, as provided in Chapter 287, F.S., solely for the purpose of furthering his or her candidacy. However, in the event a candidate uses any state-owned aircraft or motor vehicle to conduct official state business and while on such trip performs any function in the furtherance of his or her candidacy for nomination or election to public office in any election, the candidate shall prorate the expenses incurred and reimburse the appropriate agency for any trip not exclusively for state business and shall pay either a prorated share of all fixed and variable expenses related to the ownership, operation, and use of such aircraft or one-half of the total fixed and variable expenses related to the ownership, operation, and use of such aircraft, whichever is greater. The reimbursement shall be made from the campaign account of the candidate.

(Section 106.15(2), F.S.)

Using Services of State, County, Municipal, or District Officers or Employees

A candidate may not, in the furtherance of his or her candidacy for nomination or election to public office in any election, use the services of any state, county, municipal, or district officer or employee of the state during working hours.

(Section 106.15(3), F.S.)

Making Contributions in the Name of Another

A person may not make any contribution through or in the name of another, directly or indirectly, in any election.

(Section 106.08(5), F.S.)

Solicitation from Religious, Charitable and Civic Organizations

Candidates may **not**:

- Solicit contributions from any religious, charitable, civic, or other causes or organizations established primarily for the public good.
- Make contributions, in exchange for political support, to any religious, charitable, civic, or other cause or organizations established primarily for the public good.

It is **not** a violation:

- To make gifts of money in lieu of flowers in memory of a deceased person.

- For a candidate to continue membership in, or make regular donations from personal or business funds to, religious, political party, civic, or charitable groups of which the candidate is a member or to which the candidate has been a regular donor for more than six months.

- For a candidate to purchase, with campaign funds, tickets, admission to events, or advertisements from religious, civic, political party, or charitable groups.
  (Section 106.08(5), F.S., and Division of Elections Advisory Opinion 04-03)

Accepting Contributions in a Government- Owned Building

No person shall make and no person shall solicit or knowingly accept any political contribution in a building owned by a governmental entity. "Accept" means to receive a contribution by personal hand delivery from a contributor or the contributor's agent. This prohibition does not apply when a government-owned building or any portion thereof is rented for the specific purpose of holding a campaign fund raiser.

(Section 106.15(4), F.S.)

Making Malicious Statements

A candidate may not, with actual malice, make any false statement about an opposing candidate.

(Section 104.271, F.S.)

Making False Representation of Military Service

A candidate may not falsely represent that he or she served or is currently serving in the military, whether active duty, Reserve or National Guard.

(Section 104.2715, F.S.)

Certifying a False Report

Any candidate, campaign manager, campaign treasurer, or deputy treasurer who willfully certifies the correctness of any report while knowing that such report is incorrect, false, or incomplete commits a misdemeanor of the first degree.

(Sections 106.07(5) and 106.19, F.S.)

Limitations on Political Activity for Judicial Candidates

A candidate for judicial office shall **not**:

- Participate in any partisan political party activities, except that such candidate may register to vote as a member of any political party and may vote in any party primary for candidates for nomination of the party in which he or she is registered to vote.

- Campaign as a member of any political party.

- Publicly represent or advertise herself or himself as a member of any political party.

- Endorse any candidate.

- Make political speeches other than in the candidate's own behalf.
- Make contributions to political party funds.
- Solicit contributions for any political party.
- Accept contributions from any political party.
- Accept or retain a place on any political party committee.
- Make any contribution to any person, group, or organization for its endorsement to judicial office.
- Agree to pay all or any part of an advertisement sponsored by any person, group, or organization wherein the candidate may be endorsed for judicial office by any such person, group or organization.

A candidate for judicial office or retention therein who violates the provisions of this section is liable for a civil fine of up to $1,000 to be determined by the Florida Elections Commission.

(Section 105.071, F.S.,)

Judicial Candidates and the Judicial Ethics Advisory Committee (JEAC)

The Florida Supreme Court recognizes the JEAC as the body that may render written advisory opinions concerning the conduct of judges and judicial candidates for opinions relating to elections and campaign–related topics, see:

http://www.jud6.org/LegalCommunity/LegalPractice/opinions/jeacopinions/subjectopinions/Elections/elections.html

Chapter 7: Campaign Treasurers

Appointing Campaign Treasurers and Deputy Treasurers

Each candidate shall appoint a campaign treasurer by filing ***Form DS-DE 9, Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates*** with the filing officer before whom the candidate qualifies. The name and address of the campaign treasurer must be included on the form. A candidate may appoint a campaign treasurer and designate a campaign depository at any time, but no later than the date the candidate qualifies for office, and before any contributions are received, any expenditures are made, and any signatures are obtained on a candidate petition. Nothing prohibits a person from **announcing** his or her intention to become a candidate prior to filing Form DS-DE 9, as long as no contributions are received, no expenditures are made, and no signatures are obtained on a candidate petition.

- A candidate must appoint a campaign treasurer.
- A candidate may appoint herself or himself as campaign treasurer or deputy campaign treasurer.
- A candidate for statewide office (Governor, Cabinet and Supreme Court Justice) may appoint no more than 15 deputy campaign treasurers. Any other candidate may appoint no more than three deputy campaign treasurers.
- Deputy campaign treasurers are appointed in the same manner as the campaign treasurer by filing Form DS-DE 9 with the filing officer.

Form DS-DE 9 shall be filed with the filing officer:

- **Prior** to opening the campaign account.
- **Prior** to the candidate accepting any contributions or making any expenditures, or authorizing another to accept contributions or make expenditures on the person's behalf.
- **Prior** to obtaining signatures on a DS-DE 104, Candidate Petition.

Note: The form is considered "filed" only when the filing officer receives the form, (not upon mailing) **and** determines that the form is complete.

Duties and Responsibilities

No contribution or expenditure, including contributions or expenditures of a candidate or of the candidate's family, shall be directly or indirectly made or received in furtherance of the candidacy of any person for nomination or election to political office in the state except through the duly appointed campaign treasurer of the candidate, subject to the following exceptions:

- Independent expenditures;
- Reimbursements to a candidate or any other individual for expenses incurred in connection with the campaign by a check drawn upon the campaign account and reported pursuant to Section 106.07(4), F.S. The full name and address of each person to whom the candidate or other individual made payment for which reimbursement was made by check drawn upon the campaign account shall

be reported pursuant to Section 106.07(4), F.S., together with the purpose of such payment;

- Expenditures made indirectly through a treasurer for goods or services, such as communications media placement or procurement services, campaign signs, insurance, or other expenditures that include multiple integral components as part of the expenditure and reported pursuant to Section 106.07(4)(a)13.; or

- Expenditures made directly by affiliated party committee or political party regulated by Chapter 103, F.S., for obtaining time, space or services in or by any communications medium for the purpose of jointly endorsing three or more candidates, and any such expenditure shall not be considered a contribution or expenditure to or on behalf of any such candidate for the purposes of this chapter [103].

The campaign treasurer must:

- Keep detailed accounts of all contributions received and all expenditures made by or on behalf of the candidate. Such accounts must be kept current within not more than **two days** after the date a contribution is received or an expenditure is made.

- Deposit all funds received by the end of the **5th business day** into the campaign depository. All deposits shall be accompanied by a bank deposit slip containing the name of each contributor and the amount of each contribution.

- Keep detailed accounts of all deposits made in any separate interest-bearing account or certificate of deposit and all withdrawals made from these accounts to the primary depository and all interest earned.

- **Preserve all accounts for a number of years equal to the term of office to which the candidate seeks election.**

- File regular reports of all contributions received and expenditures made by or on behalf of such candidate.

The campaign treasurer may be fined $1,000 or more or be subjected to criminal penalties for failing to file a campaign report or filing an incomplete or inaccurate report.

Deputy campaign treasurers may exercise any of the powers and duties of the campaign treasurer when specifically authorized to do so by the campaign treasurer and candidate.

Accounts, including separate interest-bearing accounts and certificates of deposit, kept by the campaign treasurer of a candidate may be inspected under reasonable circumstances before, during, or after the election to which the accounts refer by any authorized representative of the Division or the Florida Elections Commission.

(Sections 106.021, 106.06, 106.07, 106.19 and 106.265, F.S.)

Resignation or Removal

Note*:* When a campaign treasurer resigns or is removed by the candidate, a copy of the letter of resignation or removal must be filed with the filing officer.

A campaign or deputy treasurer may resign or be removed by the candidate, respectively as follows:

- Written notice of *resignation* to the candidate by the campaign treasurer.
- Written notice of *removal* to the campaign treasurer by the candidate.

Note: The written notice is not effective until a copy is also filed with the filing officer.

In the case of death, resignation, or removal of a campaign treasurer or deputy treasurer, the candidate shall appoint a successor by certifying the name and address to the filing officer on Form DS-DE 9, Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates.

(Section 106.021(2), F.S.)

Chapter 8: Campaign Depositories

Primary Campaign Depository

A candidate and each individual seeking election to a political party executive committee must designate a primary campaign depository with a bank, savings and loan association, or credit union authorized to do business in the State of Florida. The campaign depository is designated at the same time as a treasurer is appointed on ***Form DS-DE 9 (Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates)***. A candidate who seeks to qualify by the petition process shall designate a campaign depository prior to obtaining signatures on petitions.

Note: All contributions must be deposited into such account and all expenditures must be drawn by a check on such account, except when paid with petty cash. *(See Chapter 10, Expenditures)*.

A candidate and each individual seeking election to a political party executive committee must file the name and address of the primary campaign depository with the same officer with whom the candidate files the name of his or her campaign treasurer on Form DS-DE 9.

The campaign account must be separate from any personal or other account and used only for depositing campaign contributions and making expenditures.

Designating a campaign depository does not mean physically opening an account. It is merely naming the financial institution where the campaign funds will be deposited. This is because most banks require an initial deposit to open a campaign account and a contribution cannot be accepted prior to the candidate filing a complete Form DS-DE 9.

All funds received by the campaign treasurer shall, prior to the end of the **fifth business day** following the receipt thereof, Saturdays, Sundays, and legal holidays excluded, be deposited in a campaign depository designated pursuant to Section 106.021, F.S., in an account that contains the name of the candidate.

Note: All deposits must be accompanied by a bank deposit slip containing the name of each contributor and the amount contributed by each.

(Sections 106.021(1) and 106.05, F.S., and Division of Elections Advisory Opinion 09-03)

Secondary Campaign Depository

A candidate may designate one secondary depository in each county where an election is held in which the candidate participates for the sole purpose of depositing contributions for transfer into the primary depository.

A candidate must file the name and address of each secondary campaign depository with the same officer with whom the candidate files the name of his or her campaign treasurer on Form DS-DE 9.

If a contribution is deposited in a secondary depository, the depository shall forward the full amount of the deposit, along with a copy of the deposit slip, to the primary depository

prior to the end of the first business day following the deposit.

(Sections 106.021(1) and 106.05, F.S.)

Separate Interest-Bearing Accounts and Certificates of Deposit

In the event funds are available in the primary campaign depository that are not currently needed for the disbursement of expenditures, the campaign treasurer or deputy campaign treasurer may deposit such funds into a separate interest-bearing account designated as "(Name of Candidate) Separate Interest-Bearing Campaign Account" or may purchase a certificate of deposit with the available funds.

Any bank, savings and loan association, or credit union authorized to transact business in Florida may be used for this purpose. The separate interest-bearing account or certificate of deposit shall be separate from any personal or other separate interest-bearing account or certificate of deposit.

Any withdrawal from a separate interest-bearing account or certificate of deposit of the principal or earned interest or any part thereof shall be made only for the purpose of transferring funds to the primary campaign account.

(Section 106.021(1), F.S.)

Campaign Checks

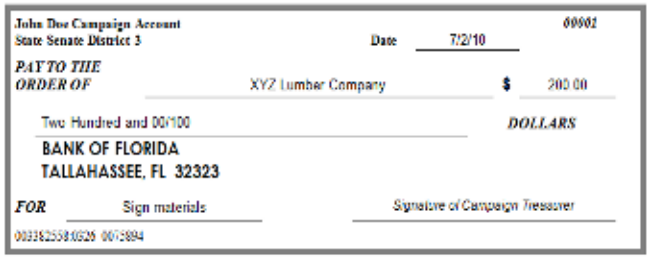
Note: When issuing checks from the campaign account, the campaign treasurer or deputy treasurer shall be responsible for the completeness and accuracy of the information on such check and for ensuring that such expenditure is an authorized expenditure.

Campaign checks must contain the following information:

- The name of the campaign account of the candidate
- Account number and name of bank,
- The exact amount of the expenditure,
- The signature of the campaign treasurer or deputy treasurer,
- The exact purpose of the expenditure, and
- The name of the payee.
- This information may be typed or hand-printed on starter checks provided by the bank until printed checks arrive.

(Section 106.11(1), F.S.)

Example of Campaign Check:


John Doe Campaign Account
State Senate District 3
00001
Date 7/2/10
PAY TO THE ORDER OF XYZ Lumber Company $ 200.00
Two Hundred and 00/100 DOLLARS
BANK OF FLORIDA
TALLAHASSEE, FL 32323
FOR Sign materials
Signature of Campaign Treasurer
0033825580626 0012894

Credit Cards

Candidates for **statewide office (Governor, Cabinet, and Supreme Court Justice)** may obtain and use credit cards for travel-related

campaign expenditures. *(See Chapter 10, Expenditures for how credit cards may be used).* The credit card must:

- Be obtained from the bank which has been designated as the primary campaign depository.
- Be in the name of the candidate and reflect that the account is a campaign account.
- Expire no later than midnight of the last day of the month of the general election.

(*Section 106.125, F.S.*)

Debit Cards

A candidate may use a debit card to make campaign expenditures and is considered a bank check if:

- Obtained from the same bank that has been designated as the primary campaign depository.
- Issued in the name of the treasurer, deputy treasurer, or authorized user
- Contains the name of the campaign account of the candidate.

No more than **three** debit cards shall be issued.

(Section 106.11(2), F.S., and Division of Elections Advisory Opinion 00-03)

(See Chapter 10, Expenditures for how debit cards may be used.)

Chapter 9: Contributions

A contribution is:

- A gift, subscription, conveyance, deposit, loan, payment or distribution of money or anything of value made for the purpose of influencing the results of an election or making an electioneering communication. These include contributions in-kind, having an attributable monetary value in any form;
- A transfer of funds between political committees, between electioneering communications organizations, or between any combination of these groups;
- The payment, by any person other than a candidate, of compensation for the personal services of another person which are rendered to a candidate without charge to the candidate for such services; or
- The transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit. The term includes any interest earned on such account or certificate.

The exceptions are:

- Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate including, but not limited to, legal and accounting services;
- Editorial endorsements.

Note: The law provides no exceptions for reporting contribution information, regardless of the size of the contribution (e.g., the reporting requirements would be the same for a 50 cent contribution as for a $500 contribution).

(Section 106.011(5), F.S.)

Unauthorized Contributions

Any contribution received by a candidate with opposition in an election or by the campaign treasurer or deputy campaign treasurer **on the day of that election or less than five days prior to the day of the election** must be returned to the contributor and may not be used or expended by or on behalf of the candidate.

(Section 106.08(3), F.S.)

Anonymous Contributions

When a candidate receives an anonymous contribution it must be reported on the candidate's campaign treasurer's report as an anonymous contribution. A letter should be submitted to the filing officer explaining the circumstances surrounding the acceptance of the anonymous contribution.

The candidate cannot spend the anonymous contribution, but at the end of the campaign can donate the amount to an appropriate entity under Section 106.141, F.S.

(Division of Elections Advisory Opinion 89-02)

In-Kind Contributions

In-kind contributions are anything of value made for the purpose of influencing the results of an election.

The exceptions are:

- Money;
- Personal services provided without compensation by individual volunteers;
- Independent expenditures, as defined in Section 106.011(12), F.S.; or
- Endorsements of three or more candidates by affiliated party committees or political parties.

(Section 106.011, F.S.; and Division of Elections Advisory Opinion 04-06)

Note: Any person who makes an in-kind contribution shall, at the time of making the contribution, place a fair market value on the contribution. In-kind contributions are subject to contribution limitations. Travel conveyed upon private aircraft shall be valued at the actual cost of per person commercial air travel for the same or a substantially similar route.

(Sections 106.011 and 106.055, F.S., and Division of Elections Advisory Opinion 09-08 (Aircraft Travel))

Loans

Loans are considered contributions and are subject to contribution limitations. Loans to or from each person or political committee must be reported together with names, addresses, occupations, and principal places of business, if any, of the lenders and endorsers, including the date and amount of each loan on the campaign treasurer's report.

Loans made by a candidate to his or her own campaign are not subject to contribution limitations. A candidate who makes a loan to his or her campaign and reports the loan as required by Section 106.07, F.S. may be reimbursed for the loan at any time the campaign account has sufficient funds to repay the loan and satisfy its other obligations.

All personal loans exceeding $500 in value, made to a candidate and used for campaign purposes and made in the twelve months preceding his or her election to office, must be reported on **Forms DS-DE 73 and 73A, Campaign Loans Report**, and filed with the filing officer within ten days after being elected to office.

Any person who makes a contribution to pay all or part of a loan incurred in the twelve months preceding the election, to be used for the campaign, may not contribute more than the amount allowed in Section 106.08(1), F.S.

(Sections 106.011, 106.07, 106.075, and 106.08 F.S.)

Cash Contributions

A candidate may not accept an aggregate cash contribution or contribution by means of a cashier's check from the same contributor in excess of $50 per election. A money order or traveler's check is not considered cash.

Note: Cash contributions must be reported on campaign treasurer's reports to include the full name and address of each person who gave a cash contribution during the reporting period, together with the amount and date of such cash contribution.

(Sections 106.07(4) and 106.09, F.S., and Division of Elections Advisory Opinion 90-15.)

Money Order, Debit and Credit Card Contributions

A candidate may accept contributions via a credit card or debit card. These contributions are categorized as a "check" for reporting purposes.

(Division of Elections Advisory Opinion 94-02 and 00-03)

Contribution Limits for Candidates

Except for political parties or affiliated party committees, no person or political committee may make contributions in excess of: (1) $3,000 to a candidate for statewide office or for retention as a justice of the Supreme Court. Candidates for the offices of Governor and Lieutenant Governor on the same ticket are considered a single candidate for the purpose of this section; (2) $1,000 to a candidate for retention as a judge of a district court of appeal; a candidate for legislative office; a candidate for multicounty office; a candidate for county-wide office or in any election conducted on less than a countywide basis; or a candidate for county court judge or circuit judge. The primary and general elections are separate elections. *(See Glossary of Terms for the definition of "person.")*

(Section 106.08(1)(a) F.S.)

Note: These limits **do not apply** to contributions made by a state or county executive committee of a political party or affiliated party committee regulated by Chapter 103, F.S., or to amounts contributed by a candidate to his own campaign. The contribution limits do not apply to individuals seeking election to a political party executive committee because they are not "candidates."

A candidate may ***not***:

- Accept contributions until Form DS-DE 9, Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates, is filed with the filing officer;
- Accept a contribution in excess of the above limits from any one person per election, provided the candidate is an opposed candidate and the contribution is received within the timeframe applicable to each election;
- Accept contributions from family members in excess of the above limits per election;
- Accept contributions from a county executive committee of a political party whose contributions in the aggregate exceed $50,000, or from the national or state executive committees of a political party, including any subordinate committee of such political party or affiliated party committees, who

contributions in the aggregate exceed $50,000. Polling services, research services, cost for campaign staff, professional consulting services, and telephone calls are not contributions to be counted toward the contribution limits, but must still be reported by the candidate. All other contributions are counted toward the contribution limits;

- A candidate for statewide (Governor, Cabinet and Supreme Court Justice) office may not accept contributions from a national, state, or county executive committee of a political party, including any subordinate committee of a national, state, or county committee of a political party, or affiliated party committee, which contributions in the aggregate exceed $250,000; or

- Accept contributions after the date he or she withdraws his or her candidacy, is defeated, becomes unopposed or is elected.

(Sections 106.08 and 106.19, F.S.)

Foreign Contributions

Federal law prohibits contributions from foreign nationals to any federal, state, or local candidate, unless the foreign national possesses a green card. Further information can be accessed by contacting the Federal Election Commission at 1-800-424-9530 or on their website at http://www.fec.gov.

Deadlines for Accepting Contributions (*See Appendix C*)

Any contribution received by a candidate with opposition in an election or by the campaign treasurer or a deputy campaign treasurer of such a candidate on the day of that election or less than 5 days before the day of that election must be returned by him or her to the person or committee contributing it and may not be used or expended by or on behalf of the candidate.

(Section 106.08(3)(a), F.S.)

Violations

Any candidate, campaign manager, campaign treasurer, or deputy treasurer of any candidate, agent or person acting on behalf of any candidate, or other person who knowingly and willfully participates in any of the following, is guilty of a misdemeanor of the first degree, punishable as provided in Section 775.082 or Section 775.083, F.S.

- Accepts a contribution in excess of the limits prescribed by Section 106.08, F.S.;

- Fails to report any contribution required to be reported by Chapter 106, F.S.;

- Falsely reports or deliberately fails to include any information required by Chapter 106, F.S.; or

- Makes or authorizes any expenditure in violation of Section 106.11(4), F.S., or any other expenditure prohibited by Chapter 106, F.S.;

(Section 106.19, F.S.)

Chapter 10: Expenditures

Definition

An expenditure is a purchase, payment, distribution, loan, advance, transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit, or gift of money or anything of value made for the purpose of influencing the results of an election or making an electioneering communication.

General Requirements

A candidate **shall**:

- Pay all campaign expenditures by a check drawn on the campaign account (except petty cash);
- Pay the qualifying fee by a check drawn on the campaign account;
- Pay for all expenses authorized or incurred for the purchase of goods or services upon final delivery and acceptance of the goods or services; and
- Pay for public utilities such as telephone, electric, gas, water and like services when the bill is received. Utility companies providing services to candidates must charge a deposit sufficient to meet all anticipated charges during a billing period.

Note: No candidate, campaign manager, treasurer, deputy treasurer, or any person acting on behalf of the foregoing, shall authorize any expenses, unless there are sufficient funds on deposit in the primary depository account of the candidate to pay the full amount of the authorized expense, to honor all other checks draw on such account, which checks are outstanding, and to meet all expenses previously authorized but not yet paid.

Sufficient funds means that the funds at issue have been delivered for deposit to the financial institution at which such account is maintained and not that such funds are available for withdrawal in accordance with the deposit rules or the funds availability policies of such financial institution.

Checks

Note: Only a campaign treasurer or deputy campaign treasurer is allowed to sign checks drawn on the campaign account. The campaign treasurer or deputy campaign treasurer who signs a check shall be responsible for the completeness and accuracy of the information on the check and for ensuring it is an authorized expenditure. ***Candidates are prohibited from signing campaign checks unless they have appointed themselves campaign treasurer or deputy treasurer.***

A candidate or other individual may be reimbursed for expenses incurred in connection with the campaign by a check drawn on the campaign account and reported pursuant to Section 106.07(4), F.S. The full name and address of each person to whom the candidate or other individual made payment for which reimbursement was made by check drawn upon the campaign account shall be reported pursuant to Section 106.07(4), F.S., together with the purpose of such payment.

Living Expenses

A candidate or the spouse of a candidate may not use campaign funds to defray normal living expenses for the candidate or the candidate's immediate family other than expenses actually incurred during the campaign for transportation, meals and lodging.

(Sections 106.011(10), 106.021(3), 106.14 and 106.1405, F.S.)

Petty Cash Funds

A campaign treasurer may provide a petty cash fund for the candidate. To establish a petty cash fund, the campaign treasurer must write a check drawn on the primary campaign account. Petty cash may only be used for office supplies, transportation expenses, and other necessities.

A candidate **must**:

- Spend petty cash in amounts of less than $100;
- Report the total amount withdrawn and the total amount spent for petty cash in each reporting period;
- Keep complete records of petty cash although each expenditure does not have to be reported individually;
- Not mix cash contributions with petty cash; and
- Not use petty cash for the purchase of time, space, or services from any communications media.

Limits on Petty Cash Fund Amounts

From the day a candidate appoints his or her campaign treasurer until the last day a candidate can qualify for office, the campaign treasurer may withdraw from the campaign account for the purpose of providing a petty cash fund for the candidate:

- $500 per calendar quarter.

After qualifying is over and until the election in which the candidate is eliminated or elected to office or the time in which the candidate becomes unopposed, the treasurer may withdraw:

- $500 per week for all statewide (Governor, Cabinet, and Supreme Court Justice) candidates.
- $100 per week for all other candidates.

(Sections 106.07 and 106.12, F.S., and Division of Elections Advisory Opinion 06-10)

Independent Expenditures

An independent expenditure means an expenditure made by a person for the purpose of **expressly advocating** the election or defeat of a candidate, which expenditure is not controlled by, coordinated with, or made upon consultation with, any candidate or agent of such candidate. An expenditure for such purpose by a person having a contract with the candidate or agent of such candidate in a given election period is not an independent expenditure.

Expressly advocates means any communication which uses phrases including, but not limited to: "vote for", "elect," "support," "cast your ballot for," "Smith for

Congress," "vote against," "defeat," "oppose," and "reject."

If the independent expenditure is, in the aggregate, in the amount of $5000 or more, the person must file reports with the candidate's filing officer in the same manner and time as a political committee.

Political advertisements paid for by an independent expenditure must contain the following statement: *"Paid political advertisement paid for by (name and address of person paying for the advertisement) independently of any (candidate or committee)."*

However, an expenditure for the purpose of ***expressly advocating*** the election or defeat of a candidate which is *made by the national, state, or county executive committee of a political party, including any subordinate committee of a national, state, or county committee of a political party, an affiliated party committee, or by any political committee, or any other person,* ***is not considered an independent expenditure if the committee or person:***

1. Communicates with the candidate, the candidate's campaign, or an agent of the candidate acting on behalf of the candidate, including a pollster, media consultant, advertising agency, vendor, advisor, or staff member concerning the preparation of, use of, or payment for, the specific expenditure or advertising campaign at issue; or

2. Makes a payment in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to any general or particular understanding with the candidate, the candidate's campaign, a political committee supporting the candidate, or an agent of the candidate relating to the specific expenditure or advertising campaign at issue; or

3. Makes a payment for the dissemination, distribution, or republication, in whole or in part, of a broadcast or a written, graphic, or other form of campaign material prepared by the candidate, the candidate's campaign, or an agent of the candidate, including a pollster, media consultant, advertising agency, vendor, advisor, or staff member; or

4. Makes a payment based on information about the candidate's plans, projects, or needs communicated to a member of the committee or person by the candidate or any agent of the candidate, provided the committee or person uses the information in any way, in whole or in part, either directly or indirectly, to design, prepare, or pay for the specific expenditure or advertising campaign at issue;

5. After the last day of the qualifying period prescribed for the candidate, there is a consultation about the candidate's plans, projects, or needs in connection with the candidate's pursuit of election to office and the information is used in any way to plan, create, design, or prepare an independent expenditure or advertising campaign with:

    - An officer, director, employee or agent of a national, state or county executive committee of a political party or an affiliated party committee that has made or intends to make expenditures in connection with or contributions to the candidate; or

- A person whose professional services have been retained by a national, state or county executive committee of a political party that has made or intends to make expenditures in connection with or contributions to the candidate;

6. After the last day of the qualifying period prescribed for the candidate, retains the professional services of any person also providing those services to the candidate in connection with the candidate's pursuit of election to office; or

7. Arranges, coordinates, or directs the expenditure, in any way, with the candidate or an agent of the candidate.

(Sections 106.011(12),and 106.071, F.S.)

(See Chapter 12, Political Advertising for Information about applicable political disclaimers and exceptions.)

(Section 106.071(3), F.S.)

Credit Cards

Candidates for **statewide office (Governor, Cabinet, and Supreme Court Justice)** may use a credit card obtained pursuant to *Chapter 8, Campaign Depositories*:

- The card may only be used in making travel-related campaign expenditures to include transportation, lodging, meals, and other travel expenses incurred.

- A copy of the agreement or contract between the candidate and bank, along with a list of all persons authorized to use the card, must be filed with the Division of Elections **prior** to being used.

- Each statement received from the issuer of the credit card must be paid upon receipt.

(Section 106.125, F.S.)

Debit Cards

Debit cards obtained pursuant to the process outlined in *Chapter 8, Campaign Depositories* may be used in lieu of campaign checks and **are considered bank checks if** the person using the card does not receive cash as part of, or independent of, any transaction for goods or services.

All debit card receipts must contain:

- Last four digits of the debit card number.

- Exact amount of expenditure.

- Name of payee.

- Signature of campaign treasurer, deputy treasurer, or authorized user.

- Exact purpose of expenditure.

Any of the above listed information, if not included on the receipt, may be handwritten on, or attached to, the receipt by the authorized user before submitting to the campaign treasurer. The debit card user shall be responsible for the completeness and accuracy of the information and for ensuring that such expenditure is authorized.

(Section 106.11, F.S)

Expenditures for Electioneering Communications

An expenditure made for, or in furtherance of, an electioneering communication shall not be considered a contribution to or on behalf of any candidate and shall not constitute an independent expenditure, nor be subject to the limitations applicable to independent expenditures.

An expenditure for an electioneering communication is made when the earliest of the following occurs:

- A person executes a contract for applicable goods or services;
- A person makes payment, in whole or in part, for the production or public dissemination of applicable goods or services; or
- The electioneering communication is publicly disseminated.

(Sections 106.011(10) and (8), F.S.)

Chapter 11: Electioneering Communications

Definition

Electioneering communication means a communication publicly distributed by a television station, radio station, cable television system, satellite system, newspaper, magazine, direct mail, or telephone that:

1. Refers to or depicts a clearly identified candidate for office without expressly advocating the election or defeat of a candidate but that is susceptible of no reasonable interpretation other than an appeal to vote for or against a specific candidate;

2. Is made within 30 days before a primary or special primary election or 60 days before any other election for the office sought by the candidate; and

3. Is targeted to the relevant electorate in the geographical area the candidate would represent if elected.

The exceptions are:

1. A communication disseminated through a means of communication other than a television station, radio station, cable television system, satellite system, newspaper, magazine, direct mail, telephone, or statement or depiction by an organization, in existence before the time during which a candidate named or depicted qualifies for that election, made in that organization's newsletter distributed only to members of that organization;

2. A communication in a news story, commentary or editorial distributed through the facilities of any radio station, television station, cable television system, or satellite system unless the facilities are owned or controlled by a political party, political committee, or candidate. A news story distributed through the facilities owned or controlled by a political party, political committee, or candidate may nevertheless be exempt if it represents a bona fide news account communicated through a licensed broadcasting facility and the communication is part of a general pattern of campaign-related news accounts that give reasonably equal coverage to all opposing candidates in the area;

3. A communication that constitutes a public debate or forum that includes at least two opposing candidates for an office or one advocate and one opponent of an issue, or that solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum, provided that the staging organization:

    a. Is either a charitable organization that does not make other electioneering communications and does not otherwise support or oppose any political candidate or political party; or a newspaper, radio station, television station, or other recognized news medium; and

    b. Does not structure the debate to promote or advance one candidate or issue position over another.

Electioneering Communication Disclaimers

Any electioneering communication, other than a telephone call, shall prominently state *"Paid electioneering communication paid for by (Name and address of person paying for the communication)."*

(Section 106.1439, F.S.)

Electioneering Communication Telephone Call Disclaimer

Any electioneering communication telephone call shall identify the persons or organizations sponsoring the call by stating either: *"Paid for by… (name or persons or organizations sponsoring the call)…"* or *"Paid for on behalf of… (name of persons or organizations authorizing call)…."* This telephone disclaimer does not apply to any telephone call in which the individual making the call is not being paid and the individuals participating in the call know each other prior to the call.

(Section 106.1439, F.S.)

Penalty for Electioneering Communication Disclaimer Violation

Any person who fails to include the disclaimer in any electioneering communication that is required to contain such disclaimer commits a misdemeanor of the first degree, punishable as provided in Sections 775.082 or 775.083, F.S.

(Section 106.1439, F.S.)

Chapter 12: Political Advertising

A political advertisement is a paid expression in a communications medium prescribed in section 106.011(4) F.S., whether radio, television, newspaper, magazine, periodical, campaign literature, direct mail, or display or by means other than the spoken word in direct conversation, which expressly advocates the election or defeat of a candidate or the approval or rejection of an issue.

(Section 106.011(15), F.S.)

Candidate Disclaimers

Except as noted below, any political advertisement that is paid for by a candidate (except a write-in candidate) and that is published, displayed, or circulated before, or on the day of, any election must prominently state:

"Political advertisement paid for and approved by (name of candidate), (party affiliation) for (office sought)" ***or*** *"Paid by (name of candidate), (party affiliation), for (office sought)."*

Any political advertisement that is paid for by a write-in candidate and that is published, displayed, or circulated before, or on the day of, any election ***must prominently state:***

"Political advertisement paid for and approved by (name of candidate), write-in candidate, for (office sought)" ***or*** *"Paid by (name of candidate), write-in candidate, for (office sought)."*

(Section 106.143(1), F.S.)

Also, the disclaimer language alternatives provided above must be verbatim as quoted in s. 106.143, F.S. Variations are prohibited by law.

Any political advertisement of a ***candidate running for partisan office*** shall express the name of the political party of which the candidate is seeking nomination or is the nominee.

If the candidate for partisan office is running as a candidate with no party affiliation, any advertisement of the candidate must state that the candidate has no party affiliation. A candidate who is registered in a political party may run as a candidate with "no party affiliation" without changing his or her registration.

The candidate shall provide a ***written statement of authorization*** to the newspaper, radio station, television station, or other medium for each advertisement submitted for publication, display, broadcast, or other distribution.

Candidates running for ***non-partisan*** office may not state the candidate's political party affiliation in the disclaimer, or in the body of the advertisement. Exception: The candidate is not prohibited from stating the candidate's partisan related experience.

(Sections 106.143(3) and (5), F.S.)

Note: A candidate running for an office that has a district, group, or seat number does not have to indicate the district, group, or seat number in the political advertisement or disclaimer.

Exceptions to Disclaimer Requirements

The disclaimer requirements in section 106.143, Florida Statutes, do not apply to any campaign message or political advertisement used by a candidate and the candidate's supporters or by a political committee if the message or advertisement is:

- Designed to be worn by a person.
- Placed as a paid link on an Internet website provided the message or advertisement is no more than 200 characters in length and the link directs the user to another Internet website that complies with the disclaimer requirements in section 106.143(1), Florida Statutes.
- Placed as a graphic or picture link where compliance with the requirements of this section is not reasonably practical due to the size of the graphic or picture link and the link directs the user to another Internet website that complies with section 106.143(1), Florida Statutes.
- Placed at no cost on an Internet website for which there is no cost to post content for public users.
- Placed or distributed on an unpaid profile or account which is available to the public without charge or on a social networking Internet website, as long as the source of the message or advertisement is patently clear from the content or format of the message or advertisement. A candidate or political committee may prominently display a statement indicating that the website or account is an official website or account of the candidate or political committee and is approved by the candidate or political committee. A website or account may not be marked as official without prior approval by the candidate or political committee.
- Distributed as a text message or other message via Short Message Service, provided the message is no more than 200 characters in length or requires the recipient to sign up or opt in to receive it.
- Connected with or included in any software application or accompanying function, provided that the user signs up, opts in, downloads, or otherwise accesses the application from or through a website that complies with section 106.143(1), Florida Statutes.
- Sent by a third-party user from or through a campaign or committee's website, provided the website complies with section 106.143(1), Florida Statutes.
- Contained in or distributed through any other technology-related item, service, or device for which compliance with section 106.143(1), Florida Statutes, is not reasonably practical due to the size or nature of such item, service, or device as available, or the means of displaying the message or advertisement makes compliance with section 106.143(1), Florida Statutes, impracticable.

(Section 106.143(10), F.S.)

Disclaimer requirements do not apply to individuals seeking a publicly elected position on a political party executive committee.

Examples of Advertisements with Disclaimers

Note: The word ***"elect"*** or ***"re-elect"*** is ***not*** required to be used in political advertisements. The word ***"re-elect"*** may not be used if the candidate is not the incumbent for the office sought.

1. Non-incumbent, partisan candidate running for partisan office:

ELECT
JANE DOE
For State Representative
District 9

Paid by Jane Doe, Rep., for State Representative

OR

ELECT
JANE DOE
For State Representative
District 9

Political advertisement paid for and approved by Jane Doe, Republican, for State Representative

2. Incumbent, partisan candidate running for partisan office:

RE-ELECT
JOHN DOE
Sheriff

Political advertisement paid for and approved by John Doe, Democrat, for Sheriff

OR

RE-ELECT
John Doe
Sheriff

Paid by John Doe, Democrat, for Sheriff

3. Non-incumbent, no party affiliation candidate running for partisan office:

ELECT
John Doe
For State Senate

Political advertisement paid for and approved by John Doe, NPA, for State Senate

OR

ELECT
Joe Doe
For State Senate

Paid by John Doe, No Party Affiliation, for State Senate

4. Non-incumbent candidate running for nonpartisan office:

OR

5. Incumbent candidate running for nonpartisan office:

OR

Disclaimer for Write-in Candidates

Any political advertisement that is paid for by a write-in candidate and that is published, or circulated before, or on the day of, any election must prominently state: *"political advertisement paid for and approved by…(name of candidate)…, write-in candidate, for… (office sought)…"* **OR** *"Paid by… (name of candidate)…, write-in candidate, for… (office sought)…"*

Example:

OR

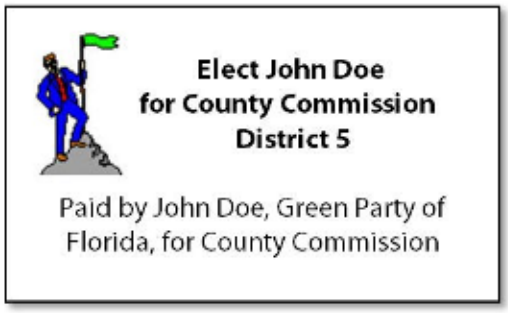
Non-incumbent Advertisements

Required:

The word **"for"** must be used in the body of such advertisement between the name of the candidate and the office sought. This does not apply to bumper stickers, or if the advertisement satisfies one of the exceptions in section 106.143(10), Florida Statutes.

Example:

OR



Advertisement Provided In-kind

Required:

Political advertisements made as in-kind contributions from a political party must prominently state: *"Paid political advertisement paid for by in-kind by (name of political party) Approved by (name of person, party affiliation, and office sought in the political advertisement.)"*

Example:

Chapter 13: Other Disclaimers

Any political advertisement not paid for by a candidate that is published, displayed, or circulated prior to, or on the day of, any election must prominently be marked *"paid political advertisement"* or *"pd. pol. adv."* and must state the name and address of the persons paying for the advertisement.

The political advertisement must also state whether the advertisement and cost of production is paid for or provided in-kind by or at the expense of the entity publishing, displaying, broadcasting, or circulating the political advertisement.

(Section 106.143(1)(c), F.S.)

Endorsements in Political Advertisements

It is unlawful for any candidate or person on behalf of a candidate to represent that any person or organization supports such candidate, unless the person or organization so represented has given specific approval in writing to the candidate to make such representation. However, this paragraph does not apply to editorial endorsement by any newspaper, radio or television station, or other recognized news medium; and publication by a party committee advocating the candidacy of its nominees.

(Section 106.143(4), F.S.)

Example:

Political advertisement for a candidate representing that an organization supports him, paid for in-kind by the organization, with specific approval from the organization in writing:

ELECT
John Doe

For County Commission, District 1
Democrat
Supported by ABC Foundation

Pd. Pol. Adv. Sponsored and paid for in-kind by ABC Foundation, Zero Street, Jupiter, FL 32323 Approved by John Doe, Democrat, For County Commission

ABC Foundation

Dear Sir or Madam:

Please let this letter serve as our approval of the political advertisement supporting John Doe for County Commission, District 1.

The content of this advertisement was reviewed and approved in advance.

Sincerely,
Mr. Smith

Independent Expenditure Disclaimers

Any person who makes an independent expenditure for a political advertisement shall provide a written statement that no candidate has approved the advertisement to the newspaper, radio station, television station, or other medium for each such advertisement submitted for publication, display, broadcast, or other distribution. The advertisement must also contain a statement that no candidate has approved the advertisement. This paragraph does not apply to campaign messages used by a candidate and his or her supporters if those messages are designed to be worn by a person.

(Sections 106.143(5)(b) and (10), F.S.)

Example:

Independent expenditure political advertisement supporting a partisan candidate running for a partisan office:

ABC Foundation Supports

Jane Doe

For Public Defender, Fourth Circuit Democrat

Paid Political Advertisement paid for by the ABC Foundation 444 Robin Lane, Jacksonville, FL 33433 independently of any candidate.
This advertisement was not approved by any candidate.

ABC Foundation

Dear Sir or Madam:

The enclosed advertisement is an independent expenditure by the ABC Foundation in support of Jane Doe for Public Defender, Fourth Circuit.

This advertisement was not approved by any candidate.

Sincerely,
Mr. Smith

Disclaimers for Other than Independent Expenditures

Any political advertisement, not paid for by a candidate, including those paid for by a political party or affiliated party committee, other than an independent expenditure, offered on behalf of a candidate must be approved in advance by the candidate. Such political advertisement must expressly state that the content of the advertisement was approved by the candidate and must state who paid for the advertisement. The candidate shall provide a written statement of authorization to the newspaper, radio station, television station, or other medium for each such advertisement submitted for publication, display, broadcast, or other distribution. This paragraph does not apply to messages used by a candidate and his or her supporters if those messages are designed to be worn by a person.

(Section 106.143(5)(a) and (10), F.S.)

Example:

Political advertisement, not an independent expenditure, offered on behalf of a nonpartisan candidate:

ABC Foundation Supports the Re-Election of Jane Doe Nassau County Judge

Pd. Pol. Adv. By ABC Foundation
111 Jewel Street, Tallahassee, FL 32333
Content approved in advance by Jane Doe,
For Nassau County Judge

Dear Sir or Madam:

Please let this letter serve as my approval of the political advertisement by the ABC Foundation supporting my candidacy for Nassau County Judge.

Sincerely,
Jane Doe

Disclaimers on Novelty Items

None of the requirements of Section 106.143, Florida Statutes, apply to novelty items having a retail value of $10 or less which support, but do not oppose, a candidate or issue.

(Section 106.143(8), F.S.)

Examples:

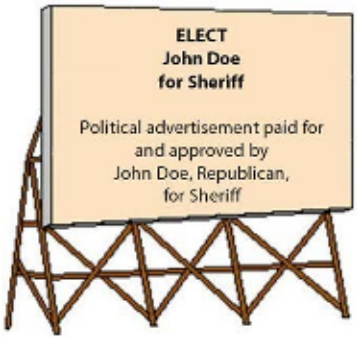
Pens/Pencils

Golf Balls

Balloons

Other Political Disclaimer Examples

Billboards:



Clothing:

None of the requirements of Section 106.143, Florida Statutes, to include political disclaimers, apply to campaign messages or political advertisements used by a candidate and the candidate's supporters or by a political committee if the message advertised is designed to be worn by a person.

(Section 106.143(10), F.S.)

Bumper stickers:

Jane Doe
State Senate, District 17

Paid by Jane Doe, Rep., for State Senate

Note: On bumper stickers, there is no requirement to use the word "for" between the candidate's name and the office being sought in the body of the bumper sticker.

(Section 106.143(6), F.S.)

Miscellaneous Advertisements

Any advertisement, other than a political advertisement, independent expenditure, or electioneering communication, on billboards, bumper stickers, radio, or television, or in a newspaper, a magazine, or a periodical, intended to influence public policy or the vote of a public official, shall clearly designate the sponsor of such advertisement by including a clearly readable statement of sponsorship. If the advertisement is broadcast on television, the advertisement shall also contain a verbal statement of sponsorship. This section shall not apply to an editorial endorsement.

(Section 106.1437, F.S.)

Example of an advertisement to influence the vote of a public official:

To River Heights County Commissioners

Vote AGAINST increasing our property tax rate.

Sponsored by ABC Homeowner Association

An expenditure made for, or in furtherance of, a miscellaneous advertisement is not considered to be a contribution to or on behalf of a candidate, and does not constitute an independent expenditure. Such expenditures are not subject to the limitations applicable to independent expenditures.

Electioneering Communications Disclaimers

Any electioneering communication, other than a telephone call, shall prominently state *"Paid electioneering communication paid for by… (Name and address of person paying for the communication)…."* For disclaimers on telephone calls, see Chapter 15, Telephone Solicitation. Any person who fails to include the disclaimer in any electioneering communication that is required to contain such disclaimer commits a misdemeanor of the first degree, punishable as provided in Section 775.082 or 775.083, F.S.

(Section 106.1439, F.S.)

Language Other Than English

Any political advertisement which is published, displayed, or produced in a language other than English may provide the information required by Section 106.143, Florida Statutes, in the language used in the advertisement.

(Section 106.143(9), F.S.)

Use of Closed Captioning and Descriptive Narrative in all Television Broadcasts

Each candidate, political party, and political committee must use closed captioning and descriptive narrative in all television broadcasts regulated by the Federal Communications Commission that are on behalf of, or sponsored by, a candidate, political party, affiliated party committee, or political committee or must file a written statement with the qualifying officer setting forth the reasons for not doing so. Failure to file this statement with the qualifying officer constitutes a violation of the Florida Election Code and is under the jurisdiction of the Florida Elections Commission.

(Section 106.165, F.S.)

Chapter 14: Fund Raisers

A campaign fund raiser is any affair held ***to raise funds to be used in a campaign for public office.*** Campaign fund raisers may not be held until the person becomes a candidate.

(Sections 106.011(1) and 106.025, F.S.)

Contributions from Fund Raisers

All monies and contributions received with respect to a campaign fund raiser are campaign contributions. All contributions are subject to the contribution limits contained in Section 106.08, F.S., and are to be accounted for and reported as any other contribution.

(Section 106.025, F.S.)

Expenditures for Fund Raisers

All expenditures with respect to a campaign fund raiser which are made or reimbursed by a check drawn on the campaign account of the candidate are campaign expenditures. All expenditures must be accounted for and are subject to the same restrictions as other campaign expenditures.

(Section 106.025, F.S.)

Tickets

Any tickets or advertising for a campaign fund raiser must comply with the requirements of section 106.143, Florida Statutes.

(Section 106.025, F.S.)

Chapter 15: Telephone Solicitation

Disclosure Requirements

1. **Any telephone call, including an electioneering communication telephone call,** shall identify the persons or organizations sponsoring the call by stating either: *"Paid for by … (name or persons or organizations sponsoring the call) …"* or *"Paid for on behalf of … (name of persons or organizations authorizing call)…."* This telephone disclaimer does not apply to any telephone call in which the individual making the call is not being paid and the individuals participating in the call know each other prior to the call.
   (Section 106.1439(2) and 106.147(1)(a), F.S.)

2. **Any telephone call conducted for the purpose of polling respondents** concerning a candidate that is a part of a series of like telephone calls that consists of fewer than 1,000 completed calls and averages more than two minutes in duration is presumed to be a political poll and not subject to the provisions of the above paragraph.
   (Section 106.147(1)(b), F.S.)

Prohibitions

1. No telephone call shall state or imply that the caller represents any person or organization unless the person or organization so represented has given specific approval in writing to make such representation.
   (Section 106.147(1)(c), F.S.)

2. No telephone call shall state or imply that the caller represents a nonexistent person or organization.
   (Section 106.147(1)(d), F.S.)

Written Authorization Requirements

Any telephone call, not conducted by independent expenditure, which expressly advocates for or against a candidate, requires prior written authorization by the candidate. A copy of such written authorization must be placed on file with the qualifying officer by the candidate prior to the time the calls commence.
(Section 106.147(2), F.S.)

Penalties

Any person who willfully violates any provision of this section commits a misdemeanor of the first degree, punishable as provided in Section 775.082 or Section 775.083, F.S.

The term "person" includes any candidate; any officer of any political committee, affiliated party committee, or political party executive committee; any officer, partner, attorney, or other representative of a corporation, partnership, or other business entity; and any agent or other person acting on behalf of any candidate, political committee, affiliated party committee, political party executive committee, or corporation, partnership, or other business entity.
(Section 106.147(3), F.S.)

Registered Agent

1. **Disclosure requirements:**

   a. Any person or organization that conducts any business in this state which consists of making paid telephone calls supporting or opposing any candidate or elected public official must, prior to conducting such business, have and continuously maintain, for at least 180 days following the cessation of such business activities in the state, a registered agent for the purpose of any service of process, notice, or demand required or authorized by law and must file with the Division of Elections a notice of such registered agent. Such registered agent must be an individual who is a resident of this state, a domestic corporation, or a foreign corporation authorized to do business in this state. However, this section does not apply to any person or organization already lawfully registered to conduct business in this state.

   b. Conducting business in this state as specified in the preceding paragraph includes both placing telephone calls from a location in this state and placing telephone calls from a location outside this state to individuals located in this state.

   c. ***Form DS-DE 100, Telephone Solicitation, Registered Agent Notice***, shall be filed with the Division of Elections and, at a minimum, must elicit all of the following information:

      i. The name, address, and telephone number of the registered agent.

      ii. The name, address, and telephone number of the person or organization conducting business in this state as specified.

      iii. The Division of Elections must be notified immediately of any changes in the information required in a. above.

2. **Violations:** Any person or organization that violates this section commits a misdemeanor of the first degree, punishable as provided in Section 775.082 or Section 775.083, F.S.

(Section 106.1475, F.S.)

Chapter 16: Filing Campaign Reports

Each campaign treasurer designated by a candidate shall file regular reports of all contributions received and all expenditures made by or on behalf of such candidate.

The candidate and his or her campaign treasurer shall certify as to the correctness of each report. Each person so certifying shall bear the responsibility for the accuracy and veracity of each report. Any campaign treasurer or candidate who willfully certifies the correctness of any report while knowing that such report is incorrect, false or incomplete commits a misdemeanor of the first degree.

(Section 106.07, F.S.)

Where to File

A campaign treasurer is required to file campaign treasurer's reports with the officer with whom the candidate registers (i.e., candidate files DS-DE 9).

Candidates filing reports with the Division are required to file by means of the Electronic Filing System. If the candidate's filing officer is other than the Division, contact the appropriate filing officer to find out the requirements.

The web address for filing online with the Division is: https://efs.dos.state.fl.us/

(Section 106.07(2), F.S.)

When to File

Reports must be filed on the 10th day following the end of each calendar month from the time the candidate registers (i.e., files DS-DE 9), except that if the 10th day occurs on a Saturday, Sunday or legal holiday, the report shall be filed on the next business day that is not a Saturday, Sunday or legal holiday.

A statewide candidate must file reports:

1. On the 60th day immediately preceding the primary election, and each week thereafter, with the last weekly report being filed on the 4th day immediately preceding the general election.

2. On the 10th day immediately preceding the general election, and each day thereafter, with the last daily report being filed the 5th day immediately preceding the general election.

All other candidates must file reports on the 60th day immediately preceding the primary election and bi-weekly on each Friday thereafter through and including the 4th day immediately preceding the general election, with additional reports due on the 25th and 11th days before the primary election and the general election.

For candidates that file with the Division, see the "Campaign Finance Reporting Dates Calendar" at:

http://dos.myflorida.com/elections/candidates-committees/campaign-finance/

An individual seeking a publicly elected position on a political party executive committee who receives a contribution or makes an expenditure must file a single report of all contributions and expenditures on the 4th day immediately preceding the primary election. *(See Chapter 18, Reporting for Individuals Seeking a Publicly Elected Position on a Party Executive Committee.)*

Unless the electronic filing requirements of Section 106.0705, Florida Statutes, apply, reports shall be filed no later than 5 p.m. of the day designated. A report postmarked by the U.S. Postal Service no later than midnight of the day designated is deemed timely filed. A report received by the filing officer within 5 days after the designated due date that was delivered by the U.S. Postal Service is deemed timely filed unless it has a postmark indicating the report was mailed after the designated due date. A certificate of mailing obtained from and dated by the U.S. Postal Service at the time of mailing or a receipt from an established courier company, which bears a date on or before the date on which the report is due, is proof of mailing in a timely manner.

Reports filed with the Division through the Electronic Filing System (EFS) are due no later than midnight, Eastern Time, of the due date.

(Sections 106.07, 106.0705 and 106.141, F.S.; Chapter 19, Electronic Filing of Campaign Reports)

Penalty for Late Filing

Any candidate failing to file a report on the designated due date shall be subject to a fine of $50 per day for the first three days late and, thereafter, $500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. However, for the reports immediately preceding the primary and general election, the fine shall be $500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report.

For a candidate's termination report, the fine shall be $50 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater for the period covered by the late report. All fines must be paid from the candidate's **personal funds** – not campaign funds.

(Section 106.07(2) and (8), F.S.)

Notice of No Activity

In any reporting period during which a candidate has not received funds or made any expenditures, the filing of the required report for that period is waived. **However, the candidate must notify the filing officer in writing on or before the prescribed reporting date that no report is being filed on that date.** (A notice of no activity filed with the Division must be filed electronically using the EFS.) The next report filed must specify that the report covers the entire period between the last submitted report and the report being filed.

(Section 106.07, F.S.)

Special Election Reports

When a special election is called to fill a vacancy in office, campaign treasurer reports shall be filed with the filing officer on the dates set by the Department of State pursuant to Section 100.111, F.S. The reports are only to include contributions and expenditures related to the special election.

The candidate must notify the filing officer in writing on or before the prescribed reporting date if no funds were received or no expenditures made during the special election reporting period.

Incomplete Reports

Although the Division's Electronic Filing System will allow a candidate to file an incomplete report, an incomplete report is not in compliance with the Florida Statutes.

If a candidate or campaign treasurer files a report that is deemed incomplete, he or she will be notified by the filing officer by certified mail, or by another method using a common carrier that provides a proof of delivery as to why the report is incomplete. The candidate or campaign treasurer must file an addendum to the incomplete report within seven days of notification. The addendum must include all necessary information to complete the report. Failure to file a complete report after notice constitutes a violation of Chapter 106, F.S.

(Section 106.07(2), F.S.)

Reporting Total Sums

Each campaign treasurer's report required by Chapter 106, F.S., shall contain the total sums of all loans, in-kind contributions, and other receipts by or for such candidate, and total sums of all expenditures made by such candidate during the reporting period. The reporting forms shall be designed to elicit separate totals for in-kind contributions, loans, and other receipts.

(Section 106.07, F.S.)

Reporting Contributions

Each report must contain:

1. Full name, address, specific occupation, amount, and date of each person making a contribution. Reports must provide as clear a description as practicable of the principal type of business conducted for corporations contributing. **The principal type of business or the occupations are not required if the contribution is $100 or less, or from a relative provided the relationship is reported.**

2. Name, address, amount, and date of each political committee making any transfer of funds.

3. Full name, address, specific occupation, principal place of business of the lender and endorser, date and amount of each loan.

4. Statement of each contribution, rebate, refund, or other receipts not listed in 1. through 3. above.

(Sections 106.07(4) and 112.312(21), F.S.)

Returning Contributions

Contributions ***must be returned*** to the contributor ***if***:

- A candidate receives a contribution in excess of the limitations provided by law.
- A candidate with opposition in an election receives a contribution on the day of that election or less than five days prior to the date of that election.
- A candidate receives a contribution once he or she is elected, defeated, becomes unopposed, or withdraws his or her candidacy.

If the contribution to be returned has not been deposited into the campaign account, report the contribution as a contribution returned using **Form DS-DE 02**.

If the contribution has been deposited into the campaign account:

1. Report the contribution; and
2. Write a check from the campaign account to the contributor for the amount of the contribution and report this on the itemized contribution report using the contribution type "Refund." This amount is reported as a negative. The candidate may also wish to submit a written explanation to the filing officer.

(Section 106.08, F.S.)

Reporting Expenditures

Each report must contain:

1. Full name and address of each person to whom expenditures have been made along with the amount, date, and clear purpose of the expenditure. Name, address, and office sought by each candidate on whose behalf such expenditure was made.
2. Full name and address of each person to whom an expenditure for personal services, salary or reimbursed authorized expenses was made along with the amount, date, and clear purpose of the expenditure.
3. Total amount withdrawn and the total amount spent from the petty cash fund. Each expenditure from the petty cash fund need not be individually reported but complete records of petty cash expenditures must be kept.
4. Transaction information for each credit card purchase. Credit cards may be used by statewide (Governor, Cabinet and Supreme Court Justice) candidates only.

   (See Division of Elections Advisory Opinion 05-07.)
5. Amount and nature of debts and obligations owed by or to the candidate, which relate to the conduct of any political campaign.
6. The amount and nature of any separate interest-bearing accounts or certificates of deposit. Identification of the financial institution in which such accounts or certificates of deposit are located must be identified.
7. The primary purposes of an expenditure made indirectly through a campaign treasurer for goods and services such as communications media placement or procurement services, campaign signs, insurance, and other expenditures that include multiple components as part of

the expenditure. The primary purpose of an expenditure shall be that purpose, including integral and directly related components, that comprises 80 percent of such expenditure.

8. Total sum of expenditures during the reporting period.

(Section 106.07, F.S.)

Reporting Other Distributions

Every distribution should be reported during the coverage period when the distribution actually occurred, as is the case with the expenditures and contributions. The related distribution(s) and expenditure can and often do occur in different reporting periods.

Types of distributions:

- Prepaid
- Credit card purchases/payments
- Reimbursements
- In-kind

Reports must contain:

1. Full name and address of each person to whom payment for reimbursement was made by check drawn upon the campaign account together with the purpose of such payment.

2. Expenditures made indirectly through a treasurer for goods or services, such as communications media placement or procurement services, campaign signs, insurance or other expenditures that include multiple integral components as part of the expenditure.

3. Distribution of goods and services to a candidate, committee or party.

(Section 106.07, F.S.)

Special Requirements for Judicial Retention Candidates

A candidate for retention as a Justice of the Supreme Court or a Judge of a District Court of Appeal who has not received any contributions or made any expenditures, may file a sworn statement on ***Form DS-DE 96, Affidavit of Intention***, at the time of qualifying that he or she does not anticipate receiving contributions or making expenditures in connection with his or her candidacy for retention to office.

Such candidate must file a final report within 90 days following the general election for which the candidate's name appeared on the ballot for retention. The candidate may use ***Form DS-DE 97, Affidavit of Compliance***, for this purpose.

A candidate for retention to judicial office who, after filing Form DS-DE 96 receives any contributions or makes any expenditures in connection with his or her candidacy for retention must immediately file a statement to that effect with the qualifying officer and must begin filing reports as an opposed candidate pursuant to Section 106.07, F.S.

(Sections 105.08(2) and 106.141, F.S.)

Chapter 17: Termination Reports

Once a candidate withdraws, becomes unopposed, is eliminated, or elected to office, the candidate must dispose of the funds on deposit in his or her campaign account and file a campaign treasurer's report (termination report) reflecting the disposition of funds. The person may **only** expend funds from the campaign account to:

- Purchase "thank you" advertising for up to 75 days after he or she withdraws, becomes unopposed, is eliminated, or elected to office.
- Pay for items which were obligated before he or she withdrew, became unopposed, was eliminated, or elected to office.
- Pay for expenditures necessary to close down the campaign office and to prepare final campaign reports.
- Dispose of surplus funds as provided in Section 106.141, F.S.

(Section 106.11(5), F.S.)

Because individuals who seek election to a political party executive committee are not "candidates," they do not file termination reports.

Prior to Disposing of Surplus Funds

A candidate may be reimbursed by the campaign for any previously reported contributions by the candidate to the campaign, in full or in part.

A candidate who filed an oath stating that he or she was unable to pay the fee for verification of petition signatures without imposing an undue burden on his or her personal resources or on resources otherwise available to him or her, must reimburse the state or local government entity, whichever is applicable, for such waived fee prior to disposing of any funds under the surplus provisions contained in Section 106.141(4), F.S.

(Section 106.141, F.S.)

Disposing of Surplus Funds

A candidate required to dispose of surplus funds must, at the option of the candidate, dispose of such funds within 90 days by any of the following means, or a combination thereof:

1. Return pro rata to each contributor the funds that have not been spent or obligated.
2. Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the qualifications of Section 501(c)(3) of the Internal Revenue Code.
3. Give not more than $25,000 of the funds that have not been spent or obligated to the political party of which such candidate is a member.
4. Give the funds that have not been spent or obligated:
    a. In the case of a candidate for state office, to the state to be deposited in the General Revenue Fund; or
    b. In the case of a candidate for office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.

5. Transfer funds to an office account.
   (See Chapter 20, Office Accounts.)

6. In the case of a candidate elected to state office, retain up to $20,000 in the campaign account for re-election to the same office.
   (See Chapter 21, Carryover Campaign Funds.)

Content of Report

The termination report must include:

1. The name and address of each person or unit of government to whom any of the funds were distributed and the amounts thereof;

2. The name and address of each person to whom an expenditure was made together with the amount and purpose; and

3. The amount of such funds transferred to an office account together with the name and address of the bank in which the office account is located.

If a refund check is received after all surplus funds have been disposed of, the check may be endorsed by the candidate and the refund disposed of pursuant to Section 106.141, F.S. An amended termination report must be filed with the filing officer.

All reports must be signed by the candidate and the campaign treasurer and certified as true and correct.

(Section 106.141, F.S.)

Money from Separate Interest-Bearing Account or Certificate of Deposit

A campaign treasurer of any candidate who withdraws, becomes unopposed, or is eliminated, or elected to office, and who has funds on deposit in any interest-bearing account or certificate of deposit, must, within seven days, transfer such funds and accumulated interest earned thereon to the primary campaign account for disposal. However, when funds are in an account in which penalties will apply for withdrawal within the seven-day period, the campaign treasurer must transfer such funds and accumulated interest earned thereon as soon as the funds can be withdrawn without penalty, or within 90 days after the candidate becomes unopposed, withdraws his or her candidacy, or is elected, or eliminated, whichever comes first.

(Section 106.141, F.S.)

Campaign Loans Report

A person elected to office must report all loans, exceeding $500 in value, made to him or her and used for campaign purposes, and made in the twelve months preceding his or her election to office, to the filing officer. The report must be made on ***Forms DS-DE 73 and 73A, Campaign Loan Report*** within ten days after being elected to office.

Any person who makes a contribution to an individual to pay all or part of a loan incurred in the twelve months preceding the election, to be used for the individual's campaign, may not contribute more than the amount which is allowed in Section 106.08(1), F.S.

(Section 106.075, F.S.)

Chapter 18: Reporting for Individuals Seeking a Publicly Elected Position on a Party Executive Committee

An individual seeking a publicly elected position on a political party executive committee who receives a contribution or makes an expenditure shall file a report of all contributions received and all expenditures made.

(Section 106.0702(1), F.S.)

Where to File

The report shall be filed with the Supervisor of Elections of the appropriate county.

When to File

The report shall be filed on the 4th day immediately preceding the primary election.

Reports shall be filed no later than 5 p.m. of the day designated; however, any report postmarked by the United States Postal Service by the day designated shall be deemed to have been filed in a timely manner. Any report received by the filing officer within 5 days after the designated due date shall be deemed timely filed unless it has a postmark that indicates that the report was mailed after the designated due date. A certificate of mailing obtained from and dated by the United States Postal Service at the time of mailing, or a receipt from an established courier company, which bears a date on or before the date on which the report is due is proof of mailing in a timely manner.

The report filed must contain information of all contributions received and expenditures made as of the day preceding the designated due date. All such reports must be open to public inspection.

(Section 106.0702(2), F.S.)

A reporting individual may submit the report required under this section through an electronic filing system, if used by the supervisor for other candidates, in order to satisfy the filing requirement. Such reports shall be completed and filed through the electronic filing system not later than midnight on the 4th day immediately preceding the primary election.

(Sections 106.0702(1), F.S.)

Termination Reports Not Required

Because individuals seeking a publicly elected position on a political party executive committee are not "candidates," such individuals are not required to file termination reports.

Penalty for Late Filing

Any reporting individual who fails to file a report on the designated due date shall be subject to a fine of $50 per day for the first three days late and, thereafter, $500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater.

(Section 106.0702(7), F.S.)

Incomplete Reports

Although the Division's Electronic Filing System will allow a candidate to file an incomplete report, an incomplete report is not in compliance with the Florida Statutes.

If a candidate or campaign treasurer files a report that is deemed incomplete, he or she will be notified by the filing officer by certified mail, or by another method using a common carrier that provides a proof of delivery as to why the report is incomplete. The candidate or campaign treasurer must file an addendum to the incomplete report within seven days of notification. The addendum must include all necessary information to complete the report. Failure to file a complete report after notice constitutes a violation of Chapter 106, F.S.

(Section 106.07(2), F.S.)

Reporting Requirements

Each report must contain:

- Full name, address, specific occupation, amount, and date of each person making a contribution. Reports must provide as clear a description as practicable of the principal type of business conducted for corporations contributing. **The principal type of business or the occupations are not required if the contribution is $100 or less, or from a relative provided the relationship is reported.**

- Name, address, amount, and date of each political committee making any transfer of funds.

- Full name, address, specific occupation, principal place of business of the lender and endorser, date and amount of each loan.

- Statement of each contribution, rebate, refund, or other receipts not listed in above.

- Full name and address of each person to whom expenditures have been made along with the amount, date, and clear purpose of the expenditure. Name, address, and office sought by the reporting individual on whose behalf such expenditure was made.

- Transaction information for each credit card purchase.

- Amount and nature of debts and obligations owed by or to the reporting individual, which relate to the conduct of any political campaign.

- The amount and nature of any separate interest-bearing accounts or certificates of deposit. Identification of the financial institution in which such accounts or certificates of deposit are located must be identified.

(Sections 106.0702(4), and 112.312(21), F.S.)

Chapter 19: Electronic Filing of Campaign Reports

The Electronic Filing System (EFS) is an Internet system for recording and reporting campaign finance activity. Each candidate required to file reports with the Division under Section 106.07, F.S., must do so using the EFS. Reports filed:

- Must be completed and filed through the EFS not later than 12:00 midnight, Eastern Time, of the due date. Reports not filed by this time are late filed and are subject to the penalties under Sections 106.07(8) or 106.29(3), F.S., as applicable.

- Are considered to be under oath by the candidate and treasurer, and such persons are subject to provisions of Sections 106.04(4)(d), 106.07(5), or 106.29(2), F.S., as applicable.
  (Sections 106.0705 and 106.0706, F.S.)

Accessing the EFS

You can access the EFS at https://efs.dos.state.fl.us. Each candidate is provided an identification number and initial password to gain entry. Once you log in using the initial password, you will be prompted to change it to a confidential one.

A person given a secure sign- on to the EFS is responsible for protecting the credentials and for all filings using such credentials, unless he or she has notified the Division that their credentials have been compromised. Contact the Division immediately if your password has been compromised.

Creating Reports

Campaign reports must be entered, saved, reviewed, and filed via the EFS either by directly entering data into the web application or by uploading data using an approved vendor's software. The Division maintains a list of software vendors whose programs meet the file specifications for filing campaign reports. Instructions for uploading reports are provided in the Candidates User Guide - PDF (DS-DE 110A) located at:

http://dos.myflorida.com/elections/candidates-committees/campaign-finance/filing-campaign-reports/

Submitting Reports

Reports will be held in pending status until the report is ready to be filed. Each person eligible to file a report will receive a PIN (personal identification number) that allows the person to file reports via the EFS. **A person's PIN is considered the same as that person's signature on a filed report.**

Electronic Receipts

The person filing a report via the EFS may print an electronic receipt verifying the report was filed with the Division.

Help Line and User Guide

EFS HELP LINE
(850) 245-6280

EFS HELP GUIDE
Candidates User Guide – PDF (DSDE 110A)
(Listed under Electronic Filing System Resources.)

http://dos.myflorida.com/elections/candidates-committees/campaign-finance/filing-campaign-reports/

Note: For further information on the EFS, see Rule 1S-2.017, Florida Administrative Code, Reporting Requirements for Campaign Treasurer's Reports.

Chapter 20: Office Accounts

A candidate elected to office or a candidate who will be elected to office by virtue of his or her being unopposed may, in addition to disposing of all the funds in the campaign account in accordance with Section 106.141(4), F.S., transfer funds from the campaign account to an office account.

Transfer Limits

- $50,000 for a candidate for statewide office;
- $10,000 for a candidate for multicounty office;
- $10,000 multiplied by the number of years in the term of office for which elected for a candidate for legislative office;
- $5,000 multiplied by the number of years in office for which elected for a candidate for county office or for a candidate for any election on less than a countywide basis;
- $6,000 for a candidate for retention as a justice of the Supreme Court;
- $3,000 for a candidate for retention as a judge of a district court of appeal;
- $3,000 for a candidate for county court judge or circuit judge.

(Section 106.141(5), F.S.)

Using the Office Account

The office account must be separate and apart from any other account, including any other type of "office account" such as a legislative account. Any funds so retained by a candidate must be used only for legitimate expenses in connection with the candidate's public office, which may include:

1. Travel expenses incurred by the officer or staff member;
2. Personal taxes payable on office account funds by the candidate or elected public official;
3. Professional services provided by a certified public accountant or attorney for preparation of the election public official's financial disclosure filing pursuant to s. 112.3144 or s. 112.3145;
4. Costs to prepare, print, produce, and mail holiday cards or newsletters about the elected public official's public business to constituents if such correspondence does not constitute a political advertisement, independent expenditure or electioneering communication as provided in s. 106.011;
5. Fees or dues to religious, civic, or charitable organizations of which the elected public official is a member;
6. Items of modest value such as flowers, greeting cards, or personal notes given as a substitute for, or in association with, an elected public official's personal attendance at a constituent's special event of family occasion, such as the birth of a child, graduation, wedding, or funeral;
7. Personal expenses incurred by the elected public official in connection with attending a constituent meeting or event where public policy is discussed, if such meetings or events are limited to no more than once a week; or

8. Expenses incurred in the operation of the elected public official's office, including the employment of additional staff.

As the duties and responsibilities of each office are different, what are considered "legitimate expenses in connection with the candidate's public office" will vary. For additional information, please contact the legal or accounting department for your office.

If a candidate is re-elected to office or elected to another office and has funds remaining in the office account, the candidate may transfer surplus campaign funds to the office account. However, at no time may the total funds in the office account exceed the limitation imposed by Section 106.141(5), F.S.

(Section 106.141(5), F.S.

Reporting Office Account Funds

A candidate is required to file a report on the 10th day following the end of each calendar quarter following the 90-day termination report until the office account is closed.

The officers required to file office account reports with the Division must file reports electronically using the office account electronic filing system at:

https://doesecure.dos.state.fl.us/OfficeAccountsOnline/

Unless the county or city has a different process, those candidates required to file with county or city filing officers file reports using the following forms:

- **Form DS-DE 48**, Office Account Report.
- **Form DS-DE 48A**, Office Account Disbursement or Deposit Information.

Upon leaving office, any person who has funds in an office account shall give such funds to:

- A charitable organization or organizations that meet the requirements of Section 501(c)(3) of the Internal Revenue Code; or,
- In the case of a state officer, to the state to be deposited in the General Revenue Fund; or,
- In the case of an officer of a political subdivision, to the political subdivision to be deposited in the general fund thereof.

Such reports shall be signed by the candidate, certified as true and correct and filed with the officer before whom campaign reports were filed.

(Section 106.141(5) and (8), F.S., and Division of Elections Advisory Opinion 06-04)

Chapter 21: Carryover Campaign Funds

A candidate elected to ***state office*** or a candidate who will be elected to state office by virtue of his or her being unopposed after candidate qualifying ends, may retain up to $20,000 in her or her campaign account, or in an interest-bearing account or certificate of deposit, for use in her or her next campaign for the same office, in addition to the disposition methods provided in subsections 106.141 (4) and (5). All requirements applicable to candidate campaign accounts under this chapter [106], including disclosure requirements applicable to candidate campaign accounts, limitations on expenditures, and limitations on contributions, apply to any retained funds.

The term "state office" means Governor, Lieutenant Governor, Attorney General, Chief Financial Officer, Commissioner of Agriculture, State Senator, State Representative, Justice of the Supreme Court, District Court of Appeal Judge, Circuit Court Judge, State Attorney, and Public Defender.

The term "same office" with respect to legislative office means an office in the same legislative body, irrespective of district number or designation or geographic boundary.

If a candidate who has retained funds under this subsection does not qualify as a candidate for reelection to the same office, all retained funds shall be disposed of as otherwise required by this section or 106.11(5) within 90 days after the last day of candidate qualifying for that office. Requirements in this section application to the disposal of surplus funds, including reporting requirements, are applicable to the disposal of retained funds.

(Section 106.141(6), F.S.)

Chapter 22: Recordkeeping

Contributions

- The campaign treasurer of each candidate shall keep detailed accounts of all contributions received, which shall be current within not more than two days after the date of receiving the contribution.

  (Section 106.06, F.S.)

- All funds received by the campaign treasurer of any candidate shall be deposited in the campaign depository prior to the end of the fifth business day following receipt (Saturdays, Sundays and legal holidays excluded).

  (Section 106.05, F.S.)

- All money and contributions received with respect to a campaign fund raiser are deemed campaign contributions and shall be accounted for and subject to the same restrictions as other campaign contributions.

  (Section 106.025, F.S.)

- All deposits shall be accompanied by a bank deposit slip containing the name of each contributor and the amount contributed by each.

  (Section 106.05, F.S.)

- The campaign treasurer shall keep detailed accounts of all deposits made in any separate interest-bearing account or certificate of deposit and of all interest earned.

  (Section 106.06, F.S.)

- Contributions deposited in a secondary campaign depository shall be forwarded to the primary campaign depository prior to the end of the first business day following the deposit. A copy of the deposit slip shall accompany the deposit.

  (Section 106.05, F.S.)

Expenditures

- The campaign treasurer of each candidate shall keep detailed accounts of all expenditures made, which shall be current within not more than two days after the making of the expenditure.

  (Section 106.06, F.S.)

- ***Credit Cards for Statewide (Governor, Cabinet and Supreme Court Justice) Candidates Only*** - Receipts for each credit card purchase shall be retained by the treasurer with the records for the campaign account. The treasurer shall require an accounting of actual expenses and reconcile any overpayment or underpayment to the original payee.

  (Sections 106.07 and 106.125, F.S.)

- Receipts for debit card transactions must contain: (1) the last four digits of the debit card number; (2) the exact amount of the expenditure; (3) the name of the payee; (4) the signature of the campaign treasurer, deputy treasurer, or authorized user; and (5) the exact purpose for which the expenditure is authorized. Any information required but not included on the debit card transaction receipt may be handwritten on, or attached to, the receipt by the authorized user before submission to the treasurer.

  (Section 106.11, F.S.)

- All expenditures made with respect to a campaign fund raiser which are made or reimbursed by a check drawn on the campaign account shall be deemed to be campaign expenditures to be accounted for and subject to the same restrictions as other campaign expenditures.
  (Section 106.025, F.S.)

- The campaign treasurer shall keep detailed accounts of all withdrawals made from any separate interest-bearing account or certificate of deposit to the primary depository and of all interest earned.
  (Section 106.06, F.S.)

- The campaign treasurer shall retain the records pursuant to Section 106.06, F.S.
  (Section 106.07, F.S.)

Preservation of Accounts

Accounts kept by the campaign treasurer of a candidate shall be preserved by the campaign treasurer for a number of years equal to the term of the office to which the candidate seeks election.
(Section 106.06, F.S.)

Inspections

- Accounts kept by the campaign treasurer of a candidate, including separate interest-bearing accounts and certificates of deposit, may be inspected under reasonable circumstances before, during, or after the election to which the accounts refer by any authorized representative of the Division or the Florida Elections Commission. The right of inspection may be enforced by appropriate writ issued by any court of competent jurisdiction.
  (Section 106.06, F.S.)

- Records maintained by the campaign depository shall be subject to inspection by an agent of the Division or the Florida Elections Commission at any time during normal banking hours, and such depository shall furnish certified copies of any such records to the Division or Florida Elections Commission upon request.
  (Section 106.07(6), F.S.)

- It is the duty of the Division to make, from time to time, audits and field investigations with respect to reports and statements filed under the provisions of Chapter 106, F.S., and with respect to alleged failures to file any report or statement required under the provisions of Chapter 106, F.S.
  (Section 106.22(6), F.S.)

- It is the duty of the Division to conduct random audits with respect to reports and statements filed under Chapter 106, F.S., and with respect to alleged failure to file any reports and statements required under Chapter 106, F.S.
  (Section 106.22(10), F.S.)

Chapter 23: Recordkeeping Tips

The Division has a few suggestions which may be helpful to campaign treasurers in setting up a system to record and maintain campaign information.

- Keep a schedule of due dates for campaign treasurer's reports. The Division's website provides each candidate with a calendar of election and reporting dates.

- Know what period of time each report covers and only report activity occurring during that reporting period.

- If filing with the Division, keep a copy of the electronic receipt for each report filed for your own records. If filing with the local officers, keep the certificate of mailing.

- Record all contributions when received. Make sure to include the name, address, specific occupation, or principal type of business if over $100, amount, and date of each contribution. Keep contributions itemized by monetary, in-kind, and loans.

- Record all expenditures when they occur. List the name and address of each person to whom the expenditure was made along with the amount, date, and purpose.

- Keep a petty cash ledger of all expenditures. These individual listings do not have to be listed on campaign treasurer's reports, only the total amount withdrawn and total amount spent per reporting period.

- Monitor the cash flow to know how much money is available at all times in the account to avoid any possibility of authorizing an expenditure when money is not available to pay for such expenditure.

- Maintain a listing of all funds currently in the separate interest-bearing account, certificate of deposit or money market account.

- Make sure an authorization for advertising has been obtained from the candidate.

Chapter 24: Florida Elections Commission

The Florida Elections Commission is a separate and independent entity from the Division. Commissioners are appointed by the Governor from lists of names submitted by legislative leaders.

Automatic Fine Appeal Process

Any candidate may appeal or dispute a fine for a late filed campaign treasurer's report. The appeal must be based upon, but not limited to, unusual circumstances surrounding the failure to file on the designated due date. The candidate may request and is entitled to a hearing before the Florida Elections Commission, which has the authority to waive the fine in whole or in part. The Florida Elections Commission must consider the mitigating and aggravating circumstances contained in Section 106.265(1), F.S., when determining the amount of a fine, if any, to be waived.

The appeal must be made within 20 days of the receipt of the notice of payment due. The candidate must, within the 20-day period, notify the filing officer in writing of his or her intention to bring the matter before the Commission.

(Section 106.07(8)(c), F.S.)

Complaint Process

Any person who has information of a violation of Chapters 104 or 106, F.S., shall file a sworn complaint with the Florida Elections Commission, 107 West Gaines Street, Suite 224, Tallahassee, Florida 32399-1050 or call 850- 922-4539. A complaint form may be obtained from the Florida Elections Commission or downloaded from the Commission's website at:

http://www.fec.state.fl.us.

(Sections 106.25 and 106.28, F.S.)

Appendices

Appendix A: Legal References and Rules Cited

Constitution

- Constitution of the State of Florida

Florida Election Code

- Chapter 103 Presidential Electors; Political Parties; Executive Committees and Members
- Chapter 104 Violation; Penalties
- Chapter 105 Nonpartisan Elections
- Chapter 106 Campaign Financing
- Chapter 287 Procurement of Personal Property and Services

Florida Statutes

- 97.012 Secretary of State as chief election officer.
- 97.021 Definitions.
- 98.015 Supervisor of elections; election, tenure of office, compensation, custody of registration-related documents, office hours, successor, seal; appointment of deputy supervisors; duties.
- 99.012 Restrictions on individuals qualifying for public office.
- 99.0955 Candidates with no party affiliation; name on general election ballot.
- 100.111 Filling vacancy.
- 103.091 Political parties.
- 104.271 False or malicious charges against, or false statements about, opposing candidates; penalty.
- 104.2715 False representations of military service; penalty.
- 105.011 Definitions.
- 105.031 Qualification; filing fee; candidate's oath; items required to be filed.
- 105.071 Candidates for judicial office; limitations on political activity.
- 105.08 Campaign contribution and expense; reporting.
- 106.011 Definitions.
- 106.021 Campaign treasurers; deputies; primary and secondary depositories.
- 106.023 Statement of candidate.
- 106.025 Campaign fund raisers.
- 106.05 Deposit of contributions; statement of campaign treasurer.
- 106.055 Valuation of in-kind contributions.
- 106.06 Treasurer to keep records; inspections.
- 106.07 Reports; certification and filing.
- 106.0701 Solicitation of contributions on behalf of s. 527 or s. 501(c)(4) organizations; reporting requirements; civil penalty; exemption.
- 106.0702 Reporting; political party executive committee candidates.
- 106.0705 Electronic filing of campaign treasurer's reports.
- 106.0706 Electronic filing of campaign finance reports; public records exemption.
- 106.071 Independent expenditures; electioneering communications; reports; disclaimers.
- 106.075 Elected officials; report of loans made in year preceding election; limitation on contributions to pay loans.
- 106.08 Contributions; limitations on.
- 106.09 Cash contributions and contribution by cashier's checks.
- 106.11 Expenses of and expenditures by candidates and political committees.

- 106.12 Petty cash funds allowed.
- 106.125 Credit cards; conditions on use.
- 106.14 Utilities; deposits; prior authorization.
- 106.1405 Use of campaign funds.
- 106.141 Disposition of surplus funds by candidates.
- 106.143 Political advertisements circulated prior to election; requirements.
- 106.1437 Miscellaneous advertisements.
- 106.1439 Electioneering communications; disclaimers.
- 106.147 Telephone solicitation; disclosure requirements; prohibitions; exemptions; penalties.
- 106.1475 Telephone solicitation; registered agent requirements; penalty.
- 106.15 Certain acts prohibited.
- 106.165 Use of closed captioning and descriptive narrative in all television broadcasts.
- 106.19 Violations by candidates, persons connected with campaigns, and political committees.
- 106.22 Duties of the Division of Elections.
- 106.23 Powers of the Division of Elections.
- 106.25 Reports of alleged violations to Florida Elections Commission; disposition of findings.
- 106.265 Civil penalties.
- 106.28 Limitation of actions/
- 106.29 Reports by political parties and affiliated party committees; restrictions on contributions and expenditures; penalties.
- 112.312 Definitions.
- 112.3144 Full and public disclosure of financial interests.
- 112.3145 Disclosure of financial interests and clients represented before agencies.
- 775.082 Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison.
- 775.083 Fines.
- 849.09 Lottery prohibited; exceptions.

Florida Administrative Code

- Rule 1S-2.017 Reporting Requirements for Campaign Treasurer's Reports

Forms

- DS-DE 2 Contributions Returned
- DS-DE 9 Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates
- DS-DE 48 Office Account Forms
- DS-DE 48A Office Account Disbursement of Deposit Information
- DS-DE 73 Campaign Loans Report
- DS-DE 73A Campaign Loans Report Itemized
- DS-DE 83 Statement of Candidate for Judicial Office
- DS-DE 84 Statement of Candidate
- DS-DE 86 Request for Return of Contribution
- DS-DE 96 Affidavit of Intention (Supreme Court & DCA only)
- DS-DE 97 Affidavit of Compliance (Supreme Court & DCA only)
- DS-DE 100 Telephone Solicitation Registered Agent Form
- DS-DE 102 Statement of Solicitation
- DS-DE 104 Candidate Petition Form

Division of Elections Advisory Opinions

- DE 78-34 Judicial Candidates; Attendance at Political Party Functions
- DE 89-02 Anonymous Contributions
- DE 90-15 Cash Contributions and Contributions by Cashier's Checks
- DE 94-02 Use of Money Orders as Campaign Contribution
- DE 00-03 Use of Debit and Credit Cards for Campaign Contributions and Expenditures
- DE 04-03 Candidates; Membership in Political or Civic Groups
- DE 04-06 Section 99.012, Florida Statutes, "Resign to Run;" and section 106.011(3), Florida Statutes, In-kind Contributions
- DE 05-07 Political Party State Executive Committee Reporting Requirements
- DE 06-04 Disposition of Surplus Funds by a Non-Partisan Municipal Candidate; § 106.141(4)(a)3, Florida Statutes.
- DE 06-10 Petty Cash: Definition of the Term "Other Necessities"; and Reimbursement for Campaign Expenses; §§ 106.12(3) and 106.021(3), Florida Statutes
- DE 09-03 Campaign Financing - Soliciting and Receiving Contributions via Pay Pal §§ 106.05 and 106.08(5), Florida Statutes
- DE 09-08 Campaign Financing - In-Kind Contributions and Valuation of Private Aircraft Travel §§ 106.055 and 106.08(2), Florida Statutes

Campaign Finance Reporting Guides and System

- Electronic Filing System
- EFS User Guide
- Calendar of Reporting Dates
- Office Accounts

Code of Judicial Conduct

- http://www.floridasupremecourt.org/decisions/ethics/index.shtml

Appendix B: Frequently Asked Questions

Candidates

Q1. If I want to be a no party affiliation candidate, can I still be registered to vote as a Republican or Democrat?

Yes. Any registered elector who qualifies for office without party affiliation will have their name placed on the ballot at the general election without party affiliation.

(Section 99.0955(1), F.S.)

Q2. Do I have to designate a campaign treasurer and depository before I make public my intention to run for office?

No. A person must appoint a campaign treasurer and designate a depository prior to qualifying for office, obtaining signatures on petitions, accepting contributions or making expenditures. Nothing in the election laws prohibits a person from announcing their intention to become a candidate prior to designating a treasurer or depository as long as no contributions are received and no expenditures are made in connection with that announcement.

(Section 106.021, F.S.)

Q3. What if I want to change my campaign treasurer or other officers?

File a reappointment of campaign treasurer (Form DS-DE 9) with the filing officer along with a copy of the letter of resignation or removal.

Q4. How are judges elected in Florida and what are their terms?

Merit Retention

Not all judges in Florida are elected to office. Supreme Court Justices and Judges of the District Court of Appeal are always appointed by the Governor from a list of three to six candidates presented by the Judicial Nominating Commission for that court. Once appointed, they must serve at least one year before the next primary (i.e. both the primary and general elections must be one year away) election and, thereafter, must face a "yes" or "no" vote every six years as to whether they will remain in office. If a judge is not retained the appointment process starts again. More information can be found from the Florida State Courts website (http://www.flcourts.org).

Elected Judges

Elected circuit judges and county court judges have six year terms that begin on the first Tuesday after the first Monday in January following the general election. They are on the primary and general election ballots the year before the term ends in January. If a judicial candidate receives

a majority of the votes at the primary election, the candidate's name will not appear on the general election ballot unless a write-in candidate has qualified for the same office. If no candidate receives a majority of the votes at the primary election, the names of the two candidates receiving the highest number of votes will appear on the general election ballot. The candidate receiving the highest number of votes at the general election is elected to office.

Q5. Can a judicial candidate speak at a political party function?

A judicial candidate may attend and speak in his own behalf at political party functions. However, care must be exercised to ensure compliance with the election laws and the Code of Judicial Conduct. *(Chapter 105, F.S. and Division of Elections Advisory Opinion 78-34.)* See also opinions of the Judicial Ethics Advisory Commission.

Q6. I am a county court judge candidate. Where do I file and qualify?

You must file your appointment of campaign treasurer and designation of campaign depository and qualify with the supervisor of elections office in the county where you reside.

(Section 105.031, F.S.)

Q7. When can I start collecting signatures to qualify as a petition candidate?

Before collecting any signatures, all candidates (except federal and special district candidates) must file the Appointment of Campaign Treasurer and Designation of Campaign Depository (Form DS-DE 9) with the filing officer. Each petition must be submitted before noon of the 28th day preceding the first day of the qualifying period for the office sought to the Supervisor of Elections of the county in which such petition was circulated.

Campaign Finance

Q8. Do persons running for a political party executive committee office (e.g. precinct committeeperson) for precinct committeeperson have to file campaign reports?

Only if the person has received a contribution or made an expenditure; if applicable, the person files a single report on the 4th day before the primary election. Although, persons seeking election to political party executive committees are specifically exempt from the definition of "candidate," the political party executive office falls within the definition of "election."

(Sections 103.091, 106.011(3), (7) and 106.0702 F.S.)

Q9. May a candidate appoint himself or herself as campaign treasurer?

Yes.

(Section 106.021(1)(c), F.S.)

Q10. Must a campaign treasurer be a registered voter in Florida?

No.

(Section 106.021(1)(c), F.S.)

Q11. How many deputy treasurers may a candidate have?

Candidates for statewide office may appoint up to 15 deputy treasurers. Other candidates may appoint up to 3 deputy treasurers.

(Section 106.021(1)(a), F.S.)

Q12. Can a deputy treasurer file and submit campaign reports?

Yes. A deputy treasurer may perform all of the duties of a campaign treasurer when specifically authorized to do so by the campaign treasurer.

(Section 106.021(4), F.S.)

Q13. Who is responsible for keeping tabs on aggregate totals of campaign contributions?

The campaign treasurer is responsible for receiving and reporting all contributions.

(Section 106.06, F.S.)

Q14. May a candidate accept a contribution from a trust fund?

Yes. Chapter 106, F.S., defines a "person" as an individual, corporation, association, firm, partnership, joint venture, joint stock company, club, organization, estate, trust, business trust, syndicate, or other combination of individuals having collective capacity. The term also includes a political party, affiliated party committee, or political committee.

(Section 106.011(14), F.S.)

Q15. Do I have to itemize small contributions of $5, $10, $50, etc.?

Yes. The law provides no exceptions for the reporting of contribution information, regardless of the size of the contribution. The full name and address of the contributor are also required.

(Section 106.07(4)(a), F.S.)

Q16. Are in-kind contributions subject to the same limitations as monetary contributions?

Yes. In Chapter 106, F.S., the definition of a "contribution" includes contributions in-kind having an attributable monetary value in any form. Therefore, in-kind contributions are subject to the same limitations set for monetary contributions.

(Section 106.011(5) and 106.08, F.S.)

Q17. How is the value of an in-kind contribution determined?

The contributor must inform the person receiving the contribution of the fair market value at the time it is given.

(Section 106.055, F.S.)

Q18. Can a corporation give to a candidate, political committee or political party?

Yes. A corporation is under the definition of a "person" in Chapter 106, F.S.

(Section 106.011(14), F.S.)

Q19. I am opposed in the general election, but I have no opposition in the primary election, therefore, my name will not be on the primary election ballot. Must I abide by the prohibition on accepting contributions less than five days prior to the primary election?

No. Only candidates opposed in the primary election are required to comply. However, since you are opposed and your name will appear on the general election ballot, you are required to abide by the prohibition on accepting contributions less than 5 days prior to the general election.

(Section 106.08(3), F.S.)

Q20. Can I conduct a raffle to raise money for my campaign?

No. Pursuant to Section 849.09, Florida Statutes, it is unlawful for any person in this state to set up, promote, or conduct any lottery for money or anything of value.

Q21. I was given cash at a rally and have no information on who it is from. What do I do?

Report this contribution on your campaign report but do not spend these funds on the campaign. After the campaign is over, dispose of the funds pursuant to Section 106.141, F.S.

(Division of Elections Advisory Opinion 89-02)

Q22. What are considered "legitimate office expenses" for purposes of office accounts?

As the duties and responsibilities of each office are different, what are considered legitimate office expenses will vary. For expenses not specifically listed in Section 106.141 (5), please contact your office's legal or accounting department.

Q23. Can I use my leftover campaign funds to help fund my future re-election?

No, unless you have been elected to a state office or will be elected to state office after being unopposed after the end of the qualifying period and you seek re-election to the same office. If the exception applies to you, you may retain up to $20,000 in your campaign account.

(Section 106.141 (6), F.S.)

Q24. I am an elected official and still have funds in my office account. I am now beginning my re- election campaign. May I place the surplus funds in the office account into my campaign account for re-election?

No. Funds retained by elected officials in their office accounts may only be used for legitimate expenses in connection with their public office.

(Section 106.141(5), F.S.)

Q25. Do I have to file campaign reports on the Electronic Filing System (EFS)?

If the Division is your filing officer, you are required to file all campaign reports via the EFS. If your filing officer is other than the Division, you must contact the filing officer to find out the requirements.

(Section 106.0705, F.S.)

Q26. If my treasurer is out of town, can I have an extension to file my report?

No. The election laws do not provide for an extension under these circumstances.

(Sections 106.07(2)(b) and (3), F.S.)

Q27. If I make a mistake on my report can I go back in and correct it on the EFS?

Once the report is submitted to the Division of Elections, the EFS will not permit you to go back and make changes. In order to correct mistakes or add and delete information, you must submit an "amendment." If you add activity to a waiver after the report due date, a fine will be imposed based upon the new filing date in accordance with Section 106.07(8)(b), F.S.

Q28. If I am late submitting my report, how is my fine calculated?

$50 per day for the first 3 days late and, thereafter, $500 per day for each late day, not to exceed 25% of the total receipts or expenditures, whichever is greater, for the period covered by the late report. However, for reports immediately preceding the primary and general election, the fine shall be $500 per day for each day, not to exceed 25%of the total receipts or expenditures, whichever is greater, for the period covered by the late report.

Q29. If I am late submitting my notification of no activity, is an automatic fine assessed?

No, because you had no receipts or expenditures during the reporting period. However, to avoid potential issues in the future, please note that state law (s. 106.07(7), Fla. Stat.) requires you to file by the dates set out also in law, either a campaign finance report or if applicable, a notification that no reportable activity occurred for the reporting period. Failure to do may constitute a violation of sections 106.07(1) and 106.19(1)(c), Fla. Stat. The Division is required to notify the Florida Elections Commission of any apparent violation of chapter 106, Fla. Stat., or any failure to file a report or information required by chapter 106, Fla. Stat. If a matter is referred to the Florida Elections Commission, the Commission may assess a civil penalty of up to $1,000 per violation.

Q30. How long are campaign records kept at the Division of Elections or the supervisor of elections?

Ten years from the date of receipt.

(Sections 98.015(5) and 106.22(4), F.S.)

Q31. Does the prohibition against accepting contributions 5 days prior to an election for "candidates" apply to individuals running for political party executive committee positions?

No, because s. 106.08(3)(a)'s prohibition applies only to a "contribution received by a candidate" and persons running for party executive committee persons are not "candidates."

Q32. How can I tell if a provision in Chapter 106 applies to individuals running for political party executive committee positions?

Besides the provisions of s. 106.0702 expressly applying to these individuals, use this as a general rule: Because individuals running for political party executive committee positions are not "candidates," if the Chapter 106 provision applies only to a "candidate" or "candidates," the provision will not apply; however, because selecting a member of a political party executive committee is included in the definition of "election," if the provision applies to an "election" without reference to "candidates," the provision will apply.

Appendix C: 2018 Deadlines for Accepting Contributions

	Governor & Cabinet	Other Offices (except Supreme Court)	Justice of the Supreme Court	Judge of a District Court of Appeal	Circuit Judge or County Court Judge
If opposed in the primary election the candidate may accept:	$3,000 no later than midnight August 23, 2018	$1,000 no later than midnight on August 23, 2018			$1,000 no later than midnight on August 23, 2018
If opposed in the primary and general elections the candidate may accept:	• $3,000 no later than midnight on August 23, 2018; • $3,000 between August 29 and midnight on November 1, 2018	• $1,000 no later than midnight on August 23, 2018; • $1,000 between August 29 and midnight on November 1, 2018			• $1,000 no later than midnight on August 23, 2018; • $1,000 between August 29 and midnight on November 1, 2018
If opposed only in the general election, the candidate may accept:	• $3,000 no later than midnight on August 28, 2018; • $3,000 between August 29 and midnight on November 1, 2018	• $1,000 no later than midnight on August 28, 2018; • $1,000 between August 29 and midnight on November 1, 2018			
Considered an opposed candidate but only has one election, the general election, may accept:			$3,000 no later than midnight on November 1, 2018 ***	$1,000 no later than midnight on November 1, 2018 ***	

****Contributions may be accepted during the primary election, but must be applied toward the general election limitation.*