



CANDIDATE AND CAMPAIGN TREASURER HANDBOOK

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Florida Department of State
Division of Elections
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Chapter 1 Explanation

The information contained in this publication is intended as a quick reference guide only and is current upon publication. 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 publications produced by the Florida Department of State, Division of Elections should be reviewed for further information regarding candidates and committees:

- 2008 Federal Qualifying Handbook
- 2007-2008 Calendar of Reporting Dates for Candidates, Political Committees, Committees of Continuous Existence, Electioneering Communication Organizations and Independent Expenditure Reports
- 2007-2008 Calendar of Reporting Dates for State Executive Committees

All forms and publications are available on the Division of Elections' website at <http://election.dos.state.fl.us>.

Please direct any questions to either your county supervisor of elections or the Florida Department of State, Division of Elections at 850.245.6240. Below you will find some other useful websites:

Florida Division of Elections <http://election.dos.state.fl.us>
Florida Elections Commission www.fec.state.fl.us
Florida Elected Officials <http://election.dos.state.fl.us/electedindex.shtml>
Florida Supervisors of Elections <http://election.dos.state.fl.us/county/index.shtml>
Florida Association of City Clerks www.floridaclerks.org
Florida Attorney General <http://myfloridalegal.com>
Federal Election Commission www.fec.gov

Chapter 2

The Campaign Financing Act

Chapter 106, Florida Statutes, regulates campaign financing for all candidates, including judicial candidates, political committees, committees of continuous existence, and political parties. It does not regulate campaign financing for candidates for federal office or candidates for a political party executive committee.

The Division of Elections:

- Oversees the interpretation of and provides guidance on the election laws.
- Provides advisory opinions to supervisors of elections, candidates, local officers having election related duties, political parties, political committees, committees of continuous existence, 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.*)
- Prescribes rules and regulations to carry out the provisions of Chapter 106, Florida Statutes. (*Section 106.22(9), F.S.*)

Chapter 3

Offices Up For Election

Federal Offices

President and Vice President
Representative in Congress (all districts)

Multicounty and District Offices

State Attorney (Circuits 1-19)
Public Defender (Circuits 1-19)
State Senator (odd-numbered districts)
State Representative (all districts)

County Offices

These vary from county to county, however, most will elect:

Clerk of the Circuit Court
Sheriff
Property Appraiser
Tax Collector
Supervisor of Elections
Superintendent of Schools
Board of County Commissioners (3 members)
School Board (2 members) (Nonpartisan)

Information for a particular county can be obtained from the county supervisor of elections.

Judicial Retention (Nonpartisan)

Justice of the Supreme Court (only those whose terms expire January 2009)
Judge, District Court of Appeal (only those whose terms expire January 2009)

Circuit Judges (Nonpartisan)

Only those whose terms expire January 2009

County Court Judges (Nonpartisan)

Only those whose terms expire January 2009

Chapter 4

Dates to Remember

March 4	Legislative Session begins (<i>Article III, Section 3, Fla. Const. – 1st Tuesday after the 1st Monday in March</i>)
March 31	Noon, petitions for federal, judicial, state attorney and public defender candidates seeking to qualify by the petition method due to supervisors (<i>Sections 99.095 and 105.035, F.S. – before noon of the 28th day preceding the 1st day of the qualifying period for the office sought</i>)
April 10	Q1 report due for candidates, political committees, committees of continuous existence, electioneering communication organizations, independent expenditure organizations, and State Executive Committees (<i>Cover Period January 1, 2008 – March 31, 2008</i>)
April 14	Qualifying offices may begin accepting and holding qualifying papers for federal, judicial, state attorney and public defender candidates to be processed and filed during the qualifying period (<i>Sections 99.061 and 105.031, F.S. – not earlier than 14 days prior to the beginning of the qualifying period</i>)
April 18	Written resignations due for officers qualifying as judicial, state attorney or public defender candidates if the terms of the offices, or any part thereof, run concurrently with each other (<i>Section 99.012, F.S. – at least 10 days prior to the first day of the qualifying period</i>)
April 21	Deadline for supervisors to certify to the Division the number of valid signatures for federal, judicial, state attorney and public defender candidates seeking to qualify by the petition method (<i>Section 99.095 and 105.035, F.S. – no later than the 7th day before the 1st day of the qualifying period</i>)
April 28	Noon, qualifying begins for all federal, judicial, state attorney and public defender candidates (<i>Sections 99.061 and 105.031, F.S. – at any time after noon ... of the 120th day prior to the primary election</i>)
May 2	Legislative Session ends (<i>Article III, Section 3, Fla. Const. – a regular session of the Legislature shall not exceed 60 consecutive days, unless extended by three-fifths vote of each house</i>)
May 2	Noon, qualifying ends for all federal, judicial, state attorney and public defender candidates (<i>Sections 99.061 and 105.031, F.S. – not later than noon of the 116th day prior to the date of the primary election</i>)
May 4	Supervisors to submit to the Department a list containing the names, party affiliations, and addresses of all candidates and the offices for which they qualified (<i>Section 99.092, F.S. – immediately after the last day for qualifying</i>)

May 4	Deadline for partisan candidates to change party affiliation (<i>Section 99.021, F.S. – 6 months preceding the General Election</i>)
May 9	Deadline for Department of State to certify to the supervisors the names of all duly qualified federal, judicial, state attorney and public defender candidates who have qualified with the Department (<i>Section 99.061, F.S. – within 7 days after the closing date for qualifying</i>)
May 19	Noon, petitions for statewide, multi-county, county and district candidates seeking to qualify by the petition method due to supervisors (<i>Section 99.095, F.S. – before noon of the 28th day preceding the 1st day of the qualifying period for the office sought</i>)
June 2	Qualifying offices may begin accepting and holding qualifying papers for statewide, multi-county, county and district candidates to be processed and filed during the qualifying period (<i>Section 99.061, F.S. – not earlier than 14 days prior to the beginning of the qualifying period</i>)
June 6	Written resignations due for officers qualifying as a candidate for statewide, multi-county, county or district office if the terms of the offices, or any part thereof, run concurrently with each other (<i>Section 99.012, F.S. – at least 10 days prior to the first day of the qualifying period</i>)
June 9	Deadline for supervisors to certify to the Division the number of valid signatures for statewide, multi-county, county and district candidates seeking to qualify by the petition method (<i>Section 99.095, F.S. – no later than the 7th day before the first day of the qualifying period</i>)
June 16	Noon, qualifying begins for all statewide, multi-county, county and district candidates (other than state attorney and public defender) (<i>Section 99.061, F.S. – noon of the 71st day prior to the primary election</i>)
June 20	Noon, qualifying ends for all statewide, multi-county, county and district candidates (other than state attorney and public defender) (<i>Section 99.061, F.S. – noon of the 67th day prior to the primary election</i>)
June 23	Supervisors to submit to the Department a list containing the names, party affiliations, and addresses of all candidates and the offices for which they qualified (<i>Section 99.092, F.S. – immediately after the last day for qualifying</i>)
June 27	Deadline for Department of State to certify to the supervisors the names of all duly qualified statewide, multicounty, and district candidates who have qualified with the Department (<i>Section 99.061, F.S. – within 7 days after the closing date for qualifying</i>)
July 25	F1 report due for candidates, political committees, committees of continuous existence, electioneering communication organizations, and independent expenditure organizations (<i>Cover Period April 1, 2008 – July 18, 2008</i>)
August 8	F2 report due for candidates, political committees, committees of continuous existence, electioneering communication organizations, and independent expenditure organizations (<i>Cover Period July 19, 2008 – August 1, 2008</i>)

- August 22 F3 report due candidates, political committees, committees of continuous existence, electioneering communication organizations, independent expenditure organizations, and State Executive Committees (*Cover Period August 2, 2008 – August 21, 2008*)
- August 26 PRIMARY ELECTION (*Section 100.061, F.S. – on the Tuesday 10 weeks prior to the general election*)
- September 19 G1 report due for candidates, political committees, committees of continuous existence, electioneering communication organizations, and independent expenditure organizations (*Cover Period August 22, 2008 – September 12, 2008*)
- October 3 G2 report due for candidates, political committees, committees of continuous existence, electioneering communication organizations, and independent expenditure organizations (*Cover Period September 13, 2008 – September 26, 2008*)
- October 17 G3 report due for candidates, political committees, committees of continuous existence, electioneering communication organizations, and independent expenditure organizations (*Cover Period September 27, 2008 – October 10, 2008*)
- October 31 G4 report due for candidates, political committees, committees of continuous existence, electioneering communication organizations, independent expenditure organizations, and State Executive Committees (*Cover Period October 11, 2008 – October 30, 2008*)
- November 4 GENERAL ELECTION (*Section 100.041, F.S. – on the 1st Tuesday after the 1st Monday in November of each even-numbered year*)

Chapter 5

Glossary of Terms

Campaign Fund Raiser: Any affair held to raise funds to be used in a campaign for public office. *(Section 106.011(11), F.S.)*

Campaign Treasurer: An individual appointed by a candidate as provided for in Chapter 106, F.S. *(Section 106.011(9), F.S.)*

Candidate: Any person to whom any one or more of the following applies:

- Any person who seeks to qualify for nomination or election by means of the petitioning process;
- Any person who seeks to qualify for election as a write-in candidate;
- Any person who receives contributions or makes expenditures, or gives his or her consent for any other person to receive contributions or make expenditures, with a view to bringing about his or her nomination or election to, or retention in, public office;
- Any person who appoints a campaign treasurer and designates a primary depository; or
- Any person who files qualification papers and subscribes to a candidate's oath as required by law.

This definition does not include any candidate for a political party executive committee. *(Sections 97.021(4) and 106.011(16), F.S.)*

Contribution: *(See Section 106.011(3), F.S. and Chapter 10, Contributions.)*

Election: Any 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, or submitting an issue to the electors for their approval or rejection. *(Section 106.011(6), F.S.)*

Electioneering Communication: A paid expression in any communications media by means other than the spoken word in direct conversation that: (1) refers to or depicts a clearly identified candidate for office or contains a clear reference indicating that an issue is to be voted on at an election, without expressly advocating the election or defeat of a candidate or the passage or defeat of an issue; (2) for communications referring to or depicting a clearly identified candidate for office, is targeted to the relevant electorate (if 1,000 or more persons in the geographical area the candidate would represent if elected will receive the communication); (3) for communications containing a clear reference indicating that an issue is to be voted on at an election, is published after the issue is designated a ballot position or 120 days before the date of the election on the issue, whichever occurs first. *(Section 106.011(18), F.S.)*

Expenditure: *(See Section 106.011(4), F.S. and Chapter 11, Expenditures.)*

Filing Officer: The person before whom a candidate qualifies, the agency or officer with whom a political committee registers, or the agency by whom a committee of continuous existence is certified. *(Section 106.011(14), 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(14), F.S.)*

Independent Expenditure: *(See Section 106.011(5), F.S. and Chapter 11, Expenditures.)*

In-Kind Contribution: In-kind contributions are anything of value made for the purpose of influencing the results of an election except money, personal services provided without compensation by individual volunteers, independent expenditures, as defined in Section 106.011(5), F.S., or endorsements of three or more candidates by political committees or political parties.

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. *(Section 97.021(17), F.S.)*

Nominal Value: Having a retail value of \$10 or less. *(Section 97.021(19), 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(20), 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, political committee, or committee of continuous existence. *(Section 106.011(8), F.S.)*

Petty Cash: Cash 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(17), 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(27), F.S.)*

Public Office: Any state, county, municipal, or school or other district office or position which is filled by vote of the electors. *(Section 106.011(10), 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(32), 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(33), 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 any 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 any 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(15), F.S.*)

Chapter 6

Becoming a Candidate

A candidate is any person who:

1. Seeks to qualify for nomination or election by means of the petitioning 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.

(Section 106.011(16), 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. 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 and no expenditures are made.

Form DS-DE 9:

1. Shall be filed with the filing officer **prior** to opening the campaign account.
2. Is not effective until the campaign treasurer signs it and it is filed with the filing officer.
3. Is not considered "filed" upon mailing.
4. Shall be on file with the filing officer **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.

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 received, read, and understands 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 as defined in Section 106.37, F.S.

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(14), F.S.)

Resign-to-Run

No officer may qualify as a candidate for another public office (whether state, district, county, or municipal) 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:

1. The date the officer would take office, if elected; or
2. 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 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 99.021(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 seeking federal office.

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

Changing Parties for Partisan Offices

A person who has been a candidate for nomination of a political party may not change parties and seek the nomination of another party during the **six months** preceding the general election.

(Section 99.021, F.S.)

Changing the Designation of Office

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

1. Within fifteen days after filing the change with the filing officer the candidate must send a written notice to all contributors.
2. 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.
3. The candidate must include (with the notice) a copy of **Form DS-DE 86, Request for Return of Contribution.**
4. 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.
5. 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.

If the candidate is changing the numerical designation of the office that has resulted solely from redistricting the above notice requirement is unnecessary.

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

The amount of contributions contributed to the campaign that remains 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.

$$\$2,500 - \$500 = \$2,000 \div \$5,000 = 40\% \times \$500 = \$200$$

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

Chapter 7

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**:

1. Solicit contributions from any religious, charitable, civic, or other causes or organizations established primarily for the public good.

2. 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:

1. To make gifts of money in lieu of flowers in memory of a deceased person.
2. 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.
3. 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.)

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.)

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**:

1. 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.
2. Campaign as a member of any political party.
3. Publicly represent or advertise herself or himself as a member of any political party.
4. Endorse any candidate.
5. Make political speeches other than in the candidate's own behalf.

6. Make contributions to political party funds.
7. Solicit contributions for any political party.
8. Accept contributions from any political party.
9. Accept or retain a place on any political party committee.
10. Make any contribution to any person, group, or organization for its endorsement to judicial office.
11. 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.

A candidate for judicial office may attend and speak on his or her own behalf at political party meetings and other functions. However, care must be exercised to insure compliance with Chapter 105, F.S., and the Code of Judicial Conduct.

(Section 105.071, F.S., and Division of Elections Opinion 78-34)

Chapter 8

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. A candidate who seeks to qualify by the petition process shall appoint a treasurer **prior to** obtaining signatures on petitions. 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 and no expenditures are made.

1. Campaign treasurers and all deputy treasurers appointed prior to January 1, 2008, must be registered voters in Florida.
2. A candidate must have one campaign treasurer.
3. A candidate may appoint herself or himself as campaign treasurer or deputy campaign treasurer.
4. Deputy campaign treasurers are appointed in the same manner as the campaign treasurer by filing Form DS-DE 9 with the filing officer.
5. 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.

Form DS-DE 9:

1. Must be on file with the filing officer prior to opening the campaign account.
2. Is not effective until the campaign treasurer signs it and it is filed with the filing officer.
3. Is not considered "filed" upon mailing.
4. Must be on file with the filing officer 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.

(Section 106.021, F.S.)

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:

1. Independent expenditures;
2. 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;
3. 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
4. Expenditures made directly by any political 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.

The campaign treasurer:

1. Shall 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.
2. Shall 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.
3. Shall preserve all accounts for a number of years equal to the term of office to which the candidate seeks election.
4. Shall file regular reports of all contributions received and expenditures made by or on behalf of such candidate.
5. 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 of Elections or the Florida Elections Commission.

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

Resignation or Removal

IMPORTANT: 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 treasurer or deputy treasurer can **resign** by:

1. Submitting his or her resignation to the candidate in writing and filing a copy with the filing officer;
2. **The resignation is not effective until a copy of the written resignation is filed with the filing officer.**

A candidate may **remove** the campaign treasurer or deputy treasurer by:

1. Giving written notice to the campaign treasurer or deputy treasurer and filing a copy with the filing officer;
2. **The removal is not effective until a copy of the written notice is 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 9

Campaign Depositories

Primary Campaign Depository

A candidate 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 may be designated at any time, but no later than the date the candidate qualifies for office. A candidate who seeks to qualify by the petition process shall designate a campaign depository prior to obtaining signatures on petitions.

IMPORTANT: *All contributions must be deposited into such account and all expenditures must be drawn by a check on such account.*

A candidate 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, Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates.**

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 your account. It is merely naming the financial institution where your 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 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 designated *“(Name of Candidate) Campaign Account.”*

IMPORTANT: *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.)

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

IMPORTANT: 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 insuring that such expenditure is an authorized expenditure.

Campaign checks must contain the following information:

1. The statement "*Campaign Account of (Name of Candidate),*"
2. Account number and name of bank,
3. The exact amount of the expenditure,
4. The signature of the campaign treasurer or deputy treasurer,
5. The exact purpose of the expenditure, and
6. The name of the payee.

This information may be typed on starter checks provided by the bank until printed checks arrive.

Mr. John Doe Campaign Account State Senate District 3	Date <u>7/2/06</u>	00001
PAY TO THE ORDER OF	<u>XYZ Lumber Company</u>	\$ <u>200.00</u>
<u>Two Hundred and 00/100</u>		DOLLARS
BANK OF FLORIDA TALLAHASSEE, FL 32323		
FOR <u>Sign materials</u>	<u>Signature of Campaign Treasurer</u>	
003382558:0326 0075894		

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

Debit Cards

A candidate may use a debit card to make campaign expenditures. *(See Chapter 11, Expenditures.)*

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

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 11, Expenditures.)*

(Section 106.125, F.S.)

Chapter 10

Contributions

A contribution is:

1. 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;
2. A transfer of funds between political committees, between committees of continuous existence, or between a political committee and a committee of continuous existence;
3. 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
4. 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:

1. 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;
2. Editorial endorsements.

IMPORTANT: *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(3), 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 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:

1. Money;
2. Personal services provided without compensation by individual volunteers;
3. Independent expenditures, as defined in Section 106.011(5), F.S.; or
4. Endorsements of three or more candidates by political committees or political parties.

(Section 106.011, F.S.)

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.

(Section 106.055, F.S.)

Loans

Loans are considered contributions and are subject to contribution limitations; however, loans made by a candidate to his own campaign are not 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.

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 and 106.075, F.S.)

Cash Contributions

A person may not make or accept contributions in cash or by means of a cashier's check in excess of \$100. **(Effective January 1, 2008, the maximum amount is \$50)**

IMPORTANT: Cash contributions should 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.)

Debit and Credit Card Contributions

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

(Division of Elections Opinions 94-02 and 00-03)

Contribution Limits for Candidates

IMPORTANT: Except for political parties, no person, political committee, or committee of continuous existence may make contributions in excess of \$500 per election to any candidate for election or retention in office. The primary and general elections are separate elections.

These limits do not apply to contributions made by a state or county executive committee of a political party regulated by Chapter 103, F.S., or to amounts contributed by a candidate to his own campaign.

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 www.fec.gov.

A candidate may **not**:

1. Accept contributions until Form DS-DE 9, Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates, is filed with the filing officer;
2. Accept a contribution in excess of \$500 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;
3. Accept contributions from family members in excess of \$500 per election;
4. Accept more than \$100 per election from an unemancipated child under the age of 18;
5. Accept contributions which in the aggregate exceed \$50,000 from national, state, including any subordinate committee (which includes any political committee or committee of continuous existence affiliated with a political party) of a national, state, or county committee of a political party, and county executive committees of a political party; no more than \$25,000 of such contributions may be accepted prior to **October 7, 2008**. 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;
6. 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, which contributions in the aggregate exceed \$250,000, no more than \$125,000 of which may be accepted prior to **October 7, 2008**; or

7. 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.)

2008 Deadlines for Accepting Contributions

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

A political party may not accept any contribution that has been specifically designated for the partial or exclusive use of a particular candidate. Any contribution so designated must be returned to the contributor and may not be used or expended by or on behalf of the candidate.

Any contribution received by a state or county executive committee less than five days before an election shall not be used or expended on behalf of any candidate, issue, or political party participating in such election.

The primary and general elections are considered separate elections for contribution purposes.

If opposed in the primary election the candidate may accept:

- \$500 no later than midnight on **August 21, 2008**

If opposed in the primary and general elections the candidate may accept:

- \$500 no later than midnight on **August 21, 2008**
- \$500 between August 27 and midnight on **October 30, 2008**

If opposed in the general election only the candidate may accept:

- \$500 up through the day of the primary election on **August 26, 2008**
- \$500 between August 27 and midnight on **October 30, 2008**

Justice of the Supreme Court or Judge, District Court of Appeal (considered an opposed candidate but only has one election, the general election) may accept:

- \$500 no later than midnight on **October 30, 2008** (contributions may be accepted during the primary election, but must be applied toward the general election limitation).

Circuit Judge or County Court Judge candidates (have two elections, the primary and general elections) may accept:

If opposed in the primary election only:

- \$500 no later than midnight on **August 21, 2008**

If opposed in the primary and general elections:

- \$500 no later than midnight on **August 21, 2008**
- \$500 between August 27, 2008 and midnight on **October 30, 2008**

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

(Sections 106.08, 106.19 and 106.29, 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:

1. Accepts a contribution in excess of the limits prescribed by Section 106.08, F.S.;
2. Fails to report any contribution required to be reported by Chapter 106, F.S.;
3. Falsely reports or deliberately fails to include any information required by Chapter 106, F.S.;
or
4. Makes or authorizes any expenditure in violation of Section 106.11(4), F.S., or any other expenditure prohibited by Chapter 106, F.S.;

is guilty of a misdemeanor of the first degree, punishable as provided in Section 775.082 or Section 775.083, F.S.

(Section 106.19, F.S.)

Chapter 11

Expenditures

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.

IMPORTANT: *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.*

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.

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.

A candidate **shall**:

1. Pay all campaign expenditures by a check drawn on the campaign account (except petty cash);
2. Pay the qualifying fee by a check drawn on the campaign account;
3. 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
4. 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.

IMPORTANT: *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.

(Sections 106.011(4), 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**:

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

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 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 shall not be deemed an independent expenditure.

If the independent expenditure is, in the aggregate, in the amount of \$100 or more, the person must file a report with the candidate's filing officer.

Political advertisements paid for by an independent expenditure must contain:

1. The following statement: *"Paid political advertisement paid for by (name of person or committee paying for the advertisement) independently of any (candidate)."*
1. The name and address of the person paying for the advertisement.

2. A statement that no candidate has approved the advertisement.

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, or by any political committee or committee of continuous existence, or any other person, shall not be 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 any 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 any broadcast or any written, graphic, or other form of campaign material prepared by the candidate, the candidate's campaign, or an agent of the candidate, including any 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; or
5. After the last day of qualifying for statewide or legislative office, 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:
 - a. Any officer, director, employee or agent of 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; or
 - b. Any 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; or
6. After the last day of qualifying for statewide or legislative office, 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(5), 106.071 and 106.143, F.S.,

Credit Cards

Candidates for **statewide office (Governor, Cabinet, and Supreme Court Justice)** may obtain a credit card under the following conditions:

1. For use in making travel-related campaign expenditures to include transportation, lodging, meals, and other travel expenses incurred.
2. It must be obtained from the same bank designated as the primary campaign depository.
3. It must be in the name of the candidate and reflect that it is a campaign account.
4. 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.
5. The credit card must expire no later than midnight of the last day of the month of the general election.
6. Each statement received from the issuer of the credit card must be paid upon receipt.

(Section 106.125, F.S.)

Debit Cards

Debit cards may be used in lieu of campaign checks and are considered bank checks if:

1. Obtained from the same bank as the primary campaign depository.
2. Issued in the name of the treasurer, deputy treasurer, or authorized user.
3. States *"Campaign Account of (Name of Candidate)."*
4. No more than three are issued.
5. A list of all persons authorized to use the card is filed with the Division of Elections prior to use.
6. Expires no later than midnight of the last day of the month of the general election.
7. 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:

1. Last four digits of the debit card number.
2. Exact amount of expenditure.
3. Name of payee.
4. Signature of campaign treasurer, deputy treasurer, or authorized user.
5. 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 insuring that such expenditure is authorized.

(Section 106.11, F.S)

Electioneering Communications

Electioneering communication means a paid expression in any communications media by means other than the spoken word in direct conversation that:

1. Refers to or depicts a clearly identified candidate for office or contains a clear reference indicating that an issue is to be voted on at an election, without expressly advocating the election or defeat of a candidate or passage or defeat of an issue;
2. Is targeted to the relevant electorate for communications referring to or depicting a clearly identified candidate for office. A communication is considered targeted if 1,000 or more persons in the geographic area the candidate would represent if elected will receive the communication; and
3. Is published after the issue is designated a ballot position or 120 days before the date of the election on the issue, whichever occurs first, for communications containing a clear reference indicating that an issue is to be voted on in an election.

The exceptions are:

1. A statement or depiction by an organization, in existence prior to the time during which a candidate named or depicted qualifies or an issue identified is placed on the ballot for that election, made in that organization's newsletter distributed only to members of that organization;
2. An editorial endorsement, news story, commentary, or editorial by any newspaper, radio, television station, or other recognized news medium;
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.

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:

1. A person executes a contract for applicable goods or services;
2. A person makes payment, in whole or in part, for applicable goods or services; or
3. The electioneering communication is publicly disseminated.

(Sections 106.011(4) and (18), F.S.)

Chapter 12

Political Advertising

A political advertisement is a paid expression in any communications media, 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 106.143, F.S.)

Candidate Disclaimers

Any political advertisement that is paid for by a candidate and that is published, displayed, or circulated prior to, 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).”* This paragraph does not apply to campaign messages designed to be worn by a person.

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.

Examples:

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

**ELECT
JUDY DOMINGO
For State Representative
District 9**

Political advertisement paid for and approved by
Judy Domingo, Republican, for State
Representative

2. Incumbent, partisan candidate running for partisan office:

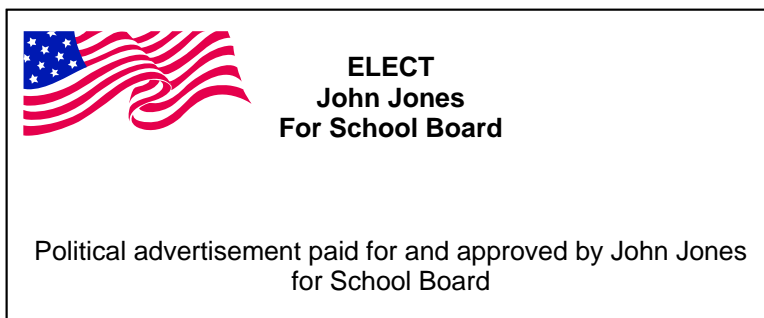
**RE-ELECT
Mike Sharkey
Sheriff**

Political advertisement paid for and approved by
Mike Sharkey, Democrat, for Sheriff

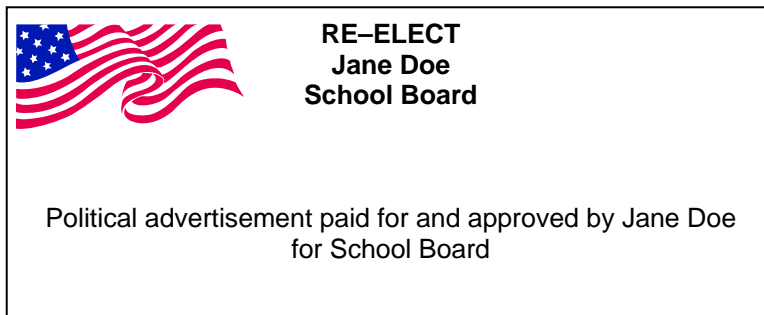
3. Non-incumbent, no party affiliation candidate running for partisan office:



4. Non-incumbent candidate running for nonpartisan office:




5. Incumbent candidate running for nonpartisan office:



Non-incumbent Advertisements

No political advertisement of a candidate who is not an incumbent of the office for which the candidate is running shall use the word “re-elect.” Additionally, such advertisement must include the word “for” between the candidate’s name and office for which the candidate is running, in order that incumbency is not implied. This paragraph does not apply to bumper stickers or items designed to be worn by a person.

Example

	<p>Elect A. Newguy for County Commission District 5</p> <p>Advertisement paid for and approved by A. Newguy, Independent Party of Florida, for County Commission</p>
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Other Disclaimers


Any other political advertisement 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 sponsoring 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; or state who provided or paid for the advertisement and cost of production, if different from the source of sponsorship. (This paragraph does not apply if the source of sponsorship is patently clear from the content or format of the political advertisement.)

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.

Example

1. 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:



	<p>ELECT Joe Cool</p> <p>For County Commission, District 1 Democrat <u>Supported by Pup P. Dog Foundation</u></p> <p>Pd. Pol. Adv. sponsored and paid for in-kind by Pup P. Dog Foundation, Zero Street, Jupiter, FL 32323 Approved by Joe Cool, Democrat, For County Commission</p>	<p>Pup P. Dog Foundation</p> <p>July 15, 2006 Dear Sir or Madam: Please let this letter serve as our approval of the political advertisement supporting Joe Cool for County Commission, District 1. The content of this advertisement was reviewed and approved in advance. Sincerely, <i>Mr. Canine</i></p>
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Disclaimers for Other Than Independent Expenditures

Any political advertisement, including those paid for by a political party, other than an independent expenditure, offered by or 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.

Example

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

 <p>POT O'GOLD ORGANIZATION Supports the Re-Election of Goldie Green Nassau County Judge</p> <p>Pd. Pol. Adv. by Pot O'Gold Organization 111 Jewel Street, Tallahassee, FL 32333 Content approved in advance by Goldie Green, For Nassau County Judge</p>	<p>July 15, 2006 </p> <p>Dear Sir or Madam:</p> <p>Please let this letter serve as my approval of the political advertisement by the Pot O'Gold Organization supporting my candidacy for Nassau County Judge.</p> <p>Sincerely,</p> <p><i>Goldie Green</i></p>
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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.

Example

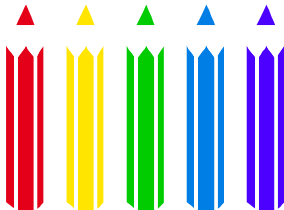
1. Independent expenditure political advertisement supporting a partisan candidate running for a partisan office:

<p>Birds of a Feather Association Supports</p> <p>Tweety Bird For Public Defender, Fourth Circuit Democrat</p> <p>Paid Political Advertisement paid for by the Birds of a Feather Association 444 Robin Lane, Jacksonville, FL 33433 independently of any candidate. This advertisement was not approved by any candidate.</p>	<p>Bird of a Feather Assoc.</p> <p>July 15, 2006</p> <p>Dear Sir or Madam:</p> <p>The enclosed advertisement is an independent expenditure by the Birds of a Feather Association in support of Tweety Bird for Public Defender, Fourth Circuit.</p> <p>This advertisement was not approved by any candidate.</p> <p>Sincerely, <i>Gold Finch</i></p>
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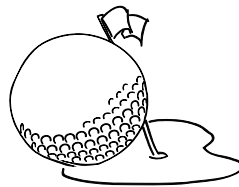
Disclaimers on Novelty Items

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.

Examples



Pens/Pencils



Golf Balls



Balloons

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 this section in the language used in the advertisement.

Electioneering Communications Disclaimers

Any electioneering communication shall prominently state *“Paid electioneering communication paid for by ...(Name and address of person paying for the communication)...”* 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.

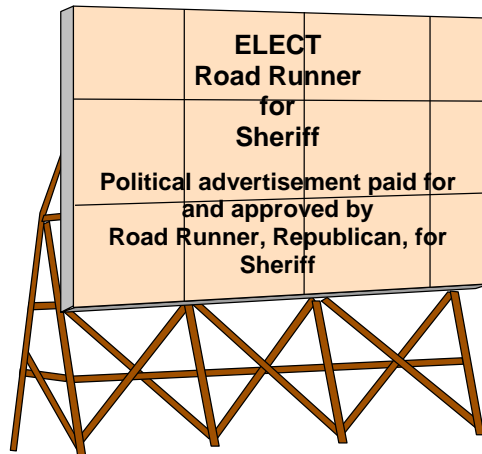
Use of Closed Captioning and Descriptive Narrative in all Television Broadcasts

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, 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.

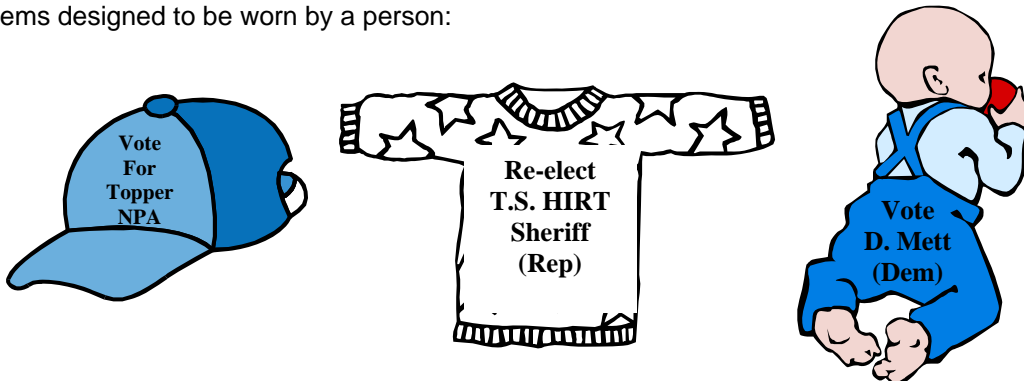
(Section 106.165, F.S.)

Other Political Disclaimer Examples


1. Billboards:



2. Items designed to be worn by a person:



3. Fund raiser mailouts:

<p>COME ONE! COME ALL!</p> <p>Fish Fry to Raise Funds for FRANK JONES (Adults \$10.00 – Kids Under 12 Free)</p> <p>Pd. Pol. Adv. Paid for in-kind by ABC Committee, Third Street, Miami, FL 33333 Approved by Frank Jones (NPA) for Dog Catcher</p> <p>The purchase of a ticket for or a contribution to the campaign fund raiser is a contribution to the campaign of Frank Jones.</p>	<p></p> <p>Mr. John Doe 333 Three Street Miami, FL 33333</p>	<p>I'LL BE THERE!</p> <p>Put me down for ___ tickets</p> <p><i>Pd. Pol. Adv. Paid for in-kind by ABC Committee, Third Street, Miami, FL 33333 Approved by Frank Jones (NPA) for Dog Catcher</i></p> <p><i>The purchase of a ticket for or a contribution to the campaign fund raiser is a contribution to the campaign of Frank Jones.</i></p>
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4. Bumper stickers:

<p>B. Beep State Senate, District 17</p> <p>Political advertisement paid for and approved by B. Beep, Rep., for State Senate</p>
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Chapter 13

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(11) 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 and Advertising

Any tickets or advertising for a campaign fund raiser shall:

1. Contain the disclaimers and other information required of political advertising.
2. Contain the statement *“The purchase of a ticket for, or a contribution to, the campaign fund raiser is a contribution to the campaign of (Name of the candidate for whose benefit the campaign fund raiser is held).”*
3. Comply with all other provisions of Chapter 106, F.S.

Any political advertisement, including those paid for by a political party, other than an independent expenditure, offered by or on behalf of a candidate:

1. Must be approved in advance by the candidate.
2. Must expressly state that the content of the advertisement was approved by the candidate.
3. 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 advertisement submitted for publication, display, broadcast, or other distribution.

(Sections 106.025 and 106.143, F.S.)

Chapter 14

Solicitation

Telephone Solicitation

1. Disclosure requirements:
 - a. Any electioneering communication telephone call or telephone call supporting or opposing a candidate must identify the persons or organizations sponsoring the call by stating either: *“paid for by _____ (insert name of persons or organizations sponsoring the call)”* or *“paid for on behalf of _____ (insert name of persons or organizations authorizing call).”* This does not apply to any telephone call in which both the individual making the call is not being paid and the individuals participating in the call know each other prior to the call.
 - b. 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.
2. Prohibitions:
 - a. 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.
 - b. No telephone call shall state or imply that the caller represents a nonexistent person or organization.
3. 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.
4. 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, committee of continuous existence, 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, committee of continuous existence, political party executive committee, or corporation, partnership, or other business entity.

(Section 106.147, F.S.)

Telephone Solicitation, 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:
 - (1) The name, address, and telephone number of the registered agent.
 - (2) The name, address, and telephone number of the person or organization conducting business in this state as specified.

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 15

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

Reports are filed with the officer before whom the candidate qualifies. Candidates filing reports with the Division of Elections are required to file by means of the **Electronic Filing System (EFS)**. If the candidate's filing officer is other than the Division of Elections, contact the appropriate filing officer to find out their requirements.

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

When to File

Reports must be filed on the 10th day following the end of each calendar quarter (January, April, July, and October) from the time the campaign treasurer is appointed, 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.

Reports must also be filed on the 32nd, 18th and 4th days immediately preceding the primary election and on the 46th, 32nd, 18th, and 4th days immediately preceding the general election.

Except for reports filed with the Division of Elections, 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 of Elections through the Electronic Filing System (EFS) are due by 12:00 a.m., Eastern Standard Time, of the due date. *(See Chapter 17, Electronic Filing of Campaign Reports.)*

Once a candidate becomes unopposed the candidate need only file a 90-day termination report.

(Sections 106.07, 106.0705 and 106.141, F.S.)

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 due **August 22** and **October 31, 2008**, 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.)

Waiver of Report

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 indicate there is no activity by filing a waiver of report. (Waivers filed with the Division of Elections must be filed 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.)

Incomplete Reports

If a campaign treasurer files a report that is deemed incomplete it shall be accepted on a conditional basis. The campaign treasurer will be notified by the filing officer as to why the report is incomplete. The campaign treasurer must file an addendum to the incomplete report within three days of notification. The addendum must include all necessary information to complete the report.

(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:

1. A candidate receives a contribution in excess of the limitations provided by law.
2. 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.
3. 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 expenditure report. Under "purpose of expenditure" explain the reason for returning the contribution. 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. **Credit cards may be used by statewide (Governor, Cabinet and Supreme Court Justice) candidates only** – expenditures made by credit card must be itemized. *(See Division of Elections 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.)

Special Requirements for Judicial 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 16

Termination Reports

Once a candidate withdraws, becomes unopposed, is eliminated, or elected to office, he or she may expend funds from the campaign account to:

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

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

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 election assessment or 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, or who filed both such oaths, or who qualified by the alternative method and was not required to pay an election assessment, must reimburse the state or local government entity, whichever is applicable, for such waived assessment or fee or both prior to disposing of any funds under the surplus provisions contained in Section 106.141(4), F.S. Such reimbursement must be made in the following order:

1. The cost of petition verification; and
2. If funds remain, the amount of the election assessment.

(Section 106.141, F.S.)

Disposing of Surplus Funds

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.

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 charity organization or organizations that meet the qualifications of Section 501(c)(3) of the Internal Revenue Code.
3. Give not more than \$10,000 of the funds that have not been spent or obligated to the political party of which such candidate is a member, except that a candidate for the Florida Senate may give not more than \$30,000 of such funds to the political party of which the 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.

The 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**

Loans Report within ten days after being elected to office. Loan reports filed with the Division of Elections must be filed using the EFS.

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 17

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 of Elections under Section 106.07, F.S., must file such reports with the Division by means of the EFS.

Reports filed pursuant to this section:

1. Shall be completed and filed through the EFS not later than 12:00 a.m., Eastern Standard Time, of the due date. Reports not filed by this time are late filed and are subject to the penalties under Sections 106.04(8), 106.07(8), or 106.29(3), F.S., as applicable.
2. 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. Persons given a secure sign-on to the EFS are responsible for protecting such from disclosure and are responsible for all filings using such credentials, unless they have notified the division that their credentials have been compromised.

(Sections 106.0705 and 106.0706, F.S.)

Accessing the EFS

From *Internet Explorer* you can access the EFS at <http://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. You are responsible for protecting the password from disclosure. Contact the Division of Elections 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 approved software vendors whose programs meet the file specifications for filing campaign reports. Instructions for uploading reports are provided in the *EFS User's Guide*.

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 on the EFS may print an electronic receipt verifying the report was filed with the Division. Each report filed by means of the EFS is considered to be under oath and such persons filing the report are subject to the provisions of Chapter 106, F.S.

EFS HELP LINE
(850) 245-6240

EFS HELP GUIDE
<http://election.dos.state.fl.us/publications/pdf/2007EFSmanual.pdf>

Chapter 18

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 any amount up to the limits listed below:

1. \$20,000 for a candidate for statewide office;
2. \$5,000 for a candidate for multicounty office;
3. \$5,000 multiplied by the number of years in the term of office for which elected for a candidate for legislative office;
4. \$2,500 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;
5. \$6,000 for a candidate for retention as a justice of the Supreme Court;
6. \$3,000 for a candidate for retention as a judge of a district court of appeal;
7. \$1,500 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; or
3. Expenses incurred in the operation of his or her office, including 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 by filing:

1. **Form DS-DE 48, Office Account Report**, and
2. **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:

1. A charitable organization or organizations that meet the requirements of Section 501(c)(3) of the Internal Revenue Code; or,
2. In the case of a state officer, to the state to be deposited in the General Revenue Fund; or,
3. 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 Opinion 06-04)

Chapter 19

Recordkeeping, Receipt and Inspection

Contributions

1. 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.*)
2. 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.*)
3. 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.*)
4. 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.*)
5. 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.*)
6. 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

1. 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.*)
2. **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.*)
3. 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.*)
4. 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.)

5. 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.)
6. The campaign depository shall return all checks drawn on the account to the campaign treasurer. 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

1. 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 of Elections 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.)
2. Records maintained by the campaign depository shall be subject to inspection by an agent of the Division of Elections 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 of Elections or Florida Elections Commission upon request. (Section 106.07, F.S.)
3. It is the duty of the Division of Elections 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.
4. It is the duty of the Division of Elections 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.

Chapter 20

Bookkeeping Suggestions

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

1. Keep a schedule of due dates for campaign treasurer's reports. The Division of Elections website provides each candidate with a calendar of election and reporting dates.
2. Know what period of time each report covers and only report activity occurring during that reporting period.
3. If filing with the Division of Elections, 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.
4. 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 contributor. Keep contributions itemized by monetary, in-kind, and loans.
5. 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.
6. 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.
7. 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.
8. Maintain a listing of all funds currently in the separate interest-bearing account, certificate of deposit or money market account.
9. Make sure authorization for advertising has been obtained from the candidate.

Chapter 21

Frequently Asked Questions

Candidates

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.)

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 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.)

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.

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 general 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. Further information can be obtained from the Florida State Courts website at www.flcourts.org.

Elected Judges

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.

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 insure compliance with the election laws and the Code of Judicial Conduct. (Chapter 105, F.S. and [DEO 78-34](#))

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.)

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

Before collecting any signatures, all candidates (except federal 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 26th 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 Advertising

What information must be included on a political disclaimer?

Political advertisement paid for by a candidate:

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

Political advertisement not paid for by a candidate:

"paid political advertisement" or "pd. pol. adv."
"(name and address of the persons sponsoring the advertisement)"

Political advertisement not paid for by a candidate, that supports a candidate, but is not an independent expenditure:

"paid political advertisement" or "pd. pol. adv."
"(name and address of the persons sponsoring the advertisement)"
"The content of this advertisement was approved by the candidate."

Political advertisement not paid for by a candidate, that supports a candidate, and is an independent expenditure:

"paid political advertisement" or "pd. pol. adv."
"(name and address of the persons sponsoring the advertisement)"
"No candidate approved this advertisement."

(For more disclaimer examples see <http://election.dos.state.fl.us/pdf/adHandout.pdf>)

Can my political ad say "re-elect" if I'm not the incumbent?

The word "re-elect" may not be used if the candidate is not the incumbent for the office sought. The word "for" must be used between the name of the candidate and the office sought. (Section 106.143(5), F.S.)

What is an electioneering communication?

Paid expressions other than the spoken word that refer to or depict a clearly identified candidate or issue, but do not expressly advocate the election or defeat of a candidate or issue. Expressly advocate means the communication has words such as "vote for," "vote against" or "elect."

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

Do electioneering communications need disclaimers?

Yes. The disclaimer must read:

"Paid electioneering communication paid for by
(name and address of person paying for the communication)"
(Section 106.1439, F.S.)

Do I have to report expenditures for electioneering communications?

Yes. If the expenditure is not otherwise reported, it must be reported if the expenditure was \$100 or more. It is reported in the same manner, at the same time and subject to the same penalties as are political committee expenditures. (Section 106.071(1), F.S.)

Campaign Finance

Do candidates for precinct committeeperson have to file campaign reports and comply with Chapter 106, F.S.?

No. Persons seeking election to political party executive committees are specifically exempt from the definition of "candidate" and are therefore not subject to the requirements of Chapter 106, F.S. (Sections 103.091 and 106.011(16), F.S.)

May a candidate appoint himself or herself as campaign treasurer?

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

Must a campaign treasurer be a registered voter in Florida?

Yes, if appointed prior to January 1, 2008; thereafter, the campaign treasurer need not be a registered voter in Florida. (Section 106.021(1)(c), F.S.)

How many deputy treasurers may a candidate or political committee have?

Candidates for statewide office may appoint up to 15 deputy treasurers. Other candidates and political committees may appoint up to 3 deputy treasurers. (Section 106.021(1)(a), F.S.)

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 in the case of a candidate, or the campaign treasurer and chairperson in the case of a political committee. (Section 106.021(4), F.S.)

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.)

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, political committee or committee of continuous existence. (Section 106.011(8), F.S.)

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.)

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(3) and 106.08, F.S.)

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.)

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(8), F.S.)

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.)

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.

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. (DEO 89-02)

As a candidate, what can I do with leftover campaign funds?

You may disburse of funds by any of the following means or a combination thereof:

- return pro rata to each contributor;
- donate to a charitable organization or organizations that meet the qualifications of s. 501(c)(3) of the Internal Revenue Code;
- give not more than \$10,000 to the political party of which the candidate is a member (except that a candidate for State Senate may give not more than \$30,000);

- in the case of a candidate for state office, give the funds to the state to be deposited in the General Revenue Fund; or
- in the case of a candidate for an office of a political subdivision, to such political subdivision to be deposited in the general fund thereof.

Candidates who have received contributions for public campaign financing shall return all surplus funds to the state.

Candidates shall reimbursement the state or local government entity, in the order listed below, if they:

- filed an oath stating they were unable to pay the election assessment; and/or
- filed an oath stating they were unable to pay the fee for the verification of petition signatures without imposing an undue burden on his or her personal resources or on resources otherwise available to him or her, or
- qualified by the alternative method and was not required to pay an election assessment.

In addition to the methods listed above, a candidate elected to office (or will be elected by virtue of being unopposed) may transfer funds from the campaign account to an office account to be used only for legitimate expenses in connection with the candidate's public office. The amount which can be transferred is limited pursuant to Section 106.141(5), F.S. (Section 106.141(5), F.S.)

What are considered “legitimate office expenses” for purposes of office accounts?

As the duties and responsibilities of each office is different, what are considered legitimate office expenses will vary. For further information specifically related to your office, please contact your office’s legal or accounting department.

Can I combine my leftover campaign funds with a legislative account?

No. The office account must be separate from any other account (including a legislative account). (Section 106.141, F.S.)

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.)

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

If the Division of Elections is your filing officer, you are required to file all campaign reports via the EFS. If your filing officer is other than the Division of Elections, you must contact their office to find out their requirements. (Section 106.0705, F.S.)

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 106.04(4)(b)1., 106.07(2)(b) and (3), F.S.)

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

Candidates, political committees, electioneering communication organizations and independent expenditures: \$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, which is greater, for the period covered by the late report.

Committees of continuous existence: \$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.

State and county executive committees: \$1,000 for a state executive committee and \$50 for a county executive committee 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, if an executive committee fails to file a report on the Friday immediately preceding the general election, the fine is \$10,000 per day for each late day a state executive committee is late and \$500 per day for each day a county executive committee is late.

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.)

Chapter 22

Florida Elections Commission

The Florida Elections Commission is a separate and independent entity from the Division of Elections. 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 www.fec.state.fl.us.

(Sections 106.25 and 106.28, F.S.)

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