

DE 88-35 - September 29, 1988

**Candidate Purchasing Advertisement From a County Executive Committee
Sections 103.121(1)(A)5., 104.071(1)(C), and 106.011(4), F.S.**

*To: Mr. R. J. Johnson, Political Director, Republican Party of Florida, Post Office Box 311,
Tallahassee, Florida 32302*

Prepared by: Division of Elections

This is in reference to your request for an opinion on the Florida Election Code, Chapters 97-106, Florida Statutes. The Division of Elections has authority under Section 106.23(2), Florida Statutes, to issue opinions to persons or organizations engaged in political activity and as Political Director of the Republican Party of Florida, we have the authority to issue this opinion to you.

Your specific question is:

Whether a candidate may purchase an advertisement in a program for a county executive committee?

Section 106.011(4), Florida Statutes, defines an expenditure as "a purchase, payment, distribution, loan ... or anything of value made for the purpose of influencing the results of an election."

Generally, a candidate determines what are appropriate expenditures to influence the results of his election. However, the Florida Election Code, Chapters 97-106, Florida Statutes, does contain a few prohibitions such as not allowing a candidate, or a person supporting a candidate, to "Give, pay, expend, or contribute any money or thing of value for the furtherance of the candidacy of any other candidate." (Emphasis added.) Section 104.071(1)(c), Fla. Stat.

Chapter 106, Florida Statutes, requires that any expenditure a candidate makes for nomination or election to office must be made from a candidate's campaign depository and must be made for the purpose of influencing that candidate's election as opposed to influencing the results of another candidate's election. Sections 106.021(1)(b), 106.011(4), Fla. Stat. A candidate may, however, contribute to another candidate's campaign from the candidate's personal funds without violating Section 104.071(1)(c), Florida Statutes, if the contribution is not motivated "to aid or promote the nomination or election" of the candidate making contribution. Op. Div. Elect. 83- 16, 76-12.

The same reasoning leads us to the conclusion that a candidate may not make a contribution out of the candidate's campaign funds to a political party since one of the duties of a political party is to conduct campaigns for all the party nominees. Section 103.121(1)(a)5., Fla. Stat. In giving a contribution to a political party out of a candidate's campaign fund, the candidate is indirectly supporting the candidacy of other party candidates. This does not, however, prohibit a candidate from making a personal contribution to a political party, if the contribution is not motivated "to aid or promote the nomination

or election" of another candidate and this does not prohibit a candidate from purchasing services such as advertising from a political party.

Therefore, a candidate may purchase an advertisement in a program for a county executive committee if the purchase is made "for the purpose of influencing the results" of the candidate's election, and is reported by the candidate as required by Chapter 106, Florida Statutes.

SUMMARY

A candidate may purchase an advertisement in a program for a county executive committee as long as the purchase is made for the purpose of influencing the results of the candidate's election and is reported by the candidate as required by Chapter 106, Florida Statutes.