

DE 82-6-April 12, 1982

CAMPAIGN CONTRIBUTIONS, CHAPTER 106, FLORIDA STATUTES

To: Mr. Samuel N. Emin, Treasurer, Political Action Committee of the City of Lauderhill, 4801 Northwest 22nd Court, Apt. 202, Lauderhill, Florida 33313

Prepared by: Division of Elections

This is in response to your letter in which you request an opinion on substantially the following question:

Would a member of a political action committee who desires to run for office and becomes a candidate violate the Campaign Financing Act, Chapter 106, Florida Statutes, because he paid dues to this organization?

Your question is answered in the negative.

This question was indirectly reviewed in an opinion of this office in DE 78-35, dated August 17, 1978. This opinion found that Florida law places no prohibition upon who may make contributions to candidates or political committees. A political committee giving to a candidate is a contributor just as an individual or corporation would be. It is subject to the contributions limitations of s. 106.08(1), F.S., and its contributions must be reported by the recipient on the campaign treasurer's report. Section 106.07(4), F.S.

Funds contributed to a political committee or a committee of continuous existence may, after deposit in the committee's campaign account, be contributed to candidates for state or local office. DE 78-35.

This may include funds from members of the political committee, committee of continuous existence or other person defined in s. 106.011(8), F.S. However, funds may not be "earmarked" by the original contributor to any particular candidate. To do so would constitute indirect contribution of giving "in the name of another," which is expressly forbidden. Section 106.08(3), F.S.

"Earmarking" of contributions is permitted under the Federal Election Campaign Act of 1971. 2 U.S.C. 441a(a)(8). The rules of the Federal Election Commission defines this process as follows:

“. . . (E)armarked means a designation, instruction encumbrance (including those which are direct or indirect, express or implied, oral or written) which results in all or any part of a contribution or expenditure being made to, or expenses on behalf of a clearly identified candidate or a candidate's authorized committee
11 C.F.R. 110.6(b).

There is no similar provision to above rule in Florida law or administrative rules.

Therefore, it is a violation of Florida law to earmark or designate funds for a particular candidate as described above.

It is the opinion of this office that a member of a Florida political committee may make a direct contribution to or an indirect contribution to a political committee through the payment of dues. Such member may receive a contribution from the political committee of which he or she holds membership, provided that funds contributed by the member/candidate or any person on behalf of any candidate are not earmarked or designated for any identified candidate or candidacy. Consequently, no pre-condition can be placed on the contribution of funds to a political committee regarding any candidacy. Thus, a member/candidate can contribute to and receive funds from a political committee without violating the Campaign Financing Act, Chapter 106, F.S., if the statutory guidance expressed herein is followed.

Your question is answered accordingly.

SUMMARY

Florida law places no prohibition upon who may make contributions to candidates or political committees, provided that funds contributed by the member/candidate, or any person on behalf of the member/candidate, are not earmarked or designated for any identified candidate or candidacy. No pre-condition can be placed as a condition for the contribution of funds to the political committee. Consequently, a member/candidate can contribute to and receive funds from a political committee without violating the Campaign Financing Act, Chapter 106, Florida Statutes, if the statutory guidance expressed herein is followed.