

DE 82-15--July 1, 1982

s. 106.011, 106.144, 106.08
and 106.23, F.S. (1981);
POLITICAL ACTIVITY

*To: Mr. C. L. Marshall, Chairman, Federation of Boca Raton Homeowners Association,
783 En Street, Boca Raton, Florida 33431*

Prepared By: Division of Elections

This responds to your request for an opinion on the following questions:

Is it legally permissible for the Federation to:

1. Support or oppose candidates for elective public office.
2. Nominate, support, or oppose candidates for appointive public office?
3. Initiate, support or oppose petitions on issues that blame subjects of public referenda?

You have indicated that your organization is a non-profit corporation under the laws of the State of Florida comprising 24 separate Homeowners Associations covering the majority of the homeowners within the City of Boca Raton. The Federation is interested in representing the homeowners of the city in civic matters affecting their interest. However, it is not the desire of the organization to become a political committee.

Section 106.144(1), F.S., provides:

“Any group, club, association, or other organization, except organizations affiliated with political parties regulated by chapter 103, which intends to endorse the candidacy of one or more candidates for public office, or which endorses or opposes any referendum, by means of political advertisements shall, prior to publishing, Issuing, broadcasting, or otherwise distributing such advertisement, file a statement as provided by this section with the officer or officers provided in this section” (Emphasis supplied)

The above section also enumerates the information that must be provided to the qualifying officer prior to any endorsement. Therefore, if your organization complies with s. 106.144, F.S., you may endorse any candidate or endorse or oppose any referendum by means of political advertisements.

A "person" is defined, in pertinent part, in s. 106.011(8), F.S., as: any “individual or a corporation, association, firm, partnership . . . or other combination of individuals having collective capacity.” (Emphasis supplied) It is apparent that a federation would

fall within the definitional term of a person; thus, a federation would be subject to the contribution limitations enumerated in s. 106.08, F.S. (Copy attached)

Your first question is answered accordingly.

Regarding your second question, this Division is limited in its authority to issue opinions on questions related to the Election Code, Chapters 97-106, F.S. See s. 106.23, F.S. The procedure for selecting individuals for appointment to public offices and public bodies is found in the State Constitution, State Statutes and county and municipal charters. Therefore, any participation by the federation in nominating, supporting or opposing persons for appointment would be subject to the limitations, if any, of the appropriate constitutional, statutory or charter provisions.

Your second question is answered accordingly.

Question three indicates the desire of the federation to initiate, support or oppose issue campaigns. As discussed earlier in this opinion, s. 106.144, F.S., requires any organization endorsing or opposing a referendum by political advertisement to file a statement with the appropriate officer responsible for conducting the election, if required. Further, s. 106.011(1), F.S., provides, in pertinent part, that a political committee is:

“(A) person other than an individual, the primary or incidental purpose of which is to support or oppose any candidate, issue, or political party, and which accepts contributions or makes expenditures during a calendar year in an aggregate amount in excess of \$100, or the sponsor of a proposed constitutional Amendment by initiative who intends to seek the signatures of registered electors”
(Emphasis supplied)

Based on the above statutory language, the federation can only participate in issue campaigns without filing as a political committee by limiting its contributions and expenditures to one hundred (\$100) or less during a calendar year; otherwise, it must comply with s. 106.011(1) F.S.

SUMMARY

A federation may endorse a candidate(s) for public office or endorse or oppose a referendum by means of political advertising by filing the statement required in s. 106.44, F.S. A federation falls within the statutory definition of a “person” and is subject to the contribution limitations established in s. 106.08, F.S.

The procedure for selecting individuals for appointment to public offices and bodies is found in the State Constitution, State Statutes, county and municipal charters. Participation in influencing the appointment process is subject to the limitations, if any, in the constitutional, statutory or charter provisions.

A federation can only participate in issue campaigns without filing as a political

committee by limiting its contributions and expenditures to one hundred (\$100) or less during a calendar year; otherwise, it must comply with s. 106.011, F.S.