

DE 83-16 – December 2, 1983

**RE: CONTRIBUTION FROM CAMPAIGN ACCOUNT
TO P.C., C.C.E. OR ANOTHER CANDIDATE
106.011(4), F.S.**

*To: Honorable J.K. Irby, Supervisor of Elections, Alachua County, County
Administration Building, Gainesville, Florida 32601*

Prepared by: Division of Elections

Pursuant to your request, this is a Division of Elections advisory opinion under s. 106.23(2), Florida Statutes (1981) on essentially the following questions:

1. May a candidate make a contribution from his campaign account to a political committee, committee of continuous existence or another candidate?
2. If so, does the contribution come within the campaign finance limitations of s.106.08, F.S.?

An expenditure's is defined in action 106.011(4), F.S. as follows:

“...a purchase, payment, distribution, loan, advance, transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a campaign savings account or certificate of deposit, or gift of money or anything of value made for the purpose of influencing the results of an election. However, “expenditure” does not include a — ~~purchase, payment, distribution, loan, advance, or gift of money or anything of value made for the purpose of influencing the results of an election when made by an organization, in existence prior to the time during which a candidate qualifies or an issue is placed on the ballot for that election, for the purpose of printing or distributing such organization's newsletter, containing a statement by such organization in support of or opposition to a candidate or issue, which newsletter is distributed only to members of such organization's.~~”

While Chapter 106, F.S. does not expressly address contributions from the campaign account of one candidate to another, we interpret the term "expenditure" to mean a payment from a candidate's campaign treasurer for the purpose of influencing that candidate's election as opposed to influencing the result of another candidate's election. We base this opinion upon the definition of expenditure in s. 106.011, F.S. read together with other provisions of Chapter 106, which indicate that bathe campaign account shall be separate from any personal or other account and shall be used only for the purpose of depositing contributions and making expenditures for the c or political committee's section 106.011(1), F.S. Funds in the campaign account are contributed to a particular

candidate for his or her election campaign and are not to be redistributed to other candidates. The manner of disposition of surplus funds is strictly prescribed by s.106.141(6), F.S. which makes no provision for redistribution of surplus funds to other candidates. In light of the foregoing answer, question 2 is moot.

Although Chapter 106 appears to prohibit contributions from one candidate's campaign account to another, the candidate is not prohibited from contributing Ms personal funds to another candidate so long as he or she complies with s. 104.071(1)(c), F.S.

Action 104.071(1)(c) states –

“(1) It is unlawful for any person supporting a candidate, or for any candidate, in order to aid or promote the nomination or election of such candidate in any election, directly or indirectly to:

(c) Give, pay, expend, or contribute any money or thing of value for the furtherance of the candidacy of any other candidate.”

The Division of Elections has stated that a candidate may contribute to another candidate from personal funds without violating s. 104.071(1)(c) if the contribution is not motivated "to aid or promote the nomination or election of such candidate" (the contributor). DE 76-12 (August 4, 1976). If the act of contributing to another candidate is designed to further the candidacy of the contributor, it is illegal and constitutes a third degree felony under s. 104.071, F.S. A felony conviction would disqualify the candidate from any future public office. Note that s. 104.071, F.S. is not within the jurisdiction of the Florida Elections Commission but comes under the criminal jurisdiction of the Circuit Courts of Florida and is enforceable through criminal prosecution by the State's Attorney.

SUMMARY

The act of a candidate in contributing to a political committee, commits of continuous existence or another candidate is not illegal so long as the candidate dos not make the contribution to aid or promote his own nomination or election and provided that the contribution is not made from campaign funds.