

DE 88-33 - August 16, 1988

**Political Activities by Candidates for Political Office
Sections 105.071, 105.071 (6), 105.08, 106.011(3) and 106.07(4)(a), F.S.**

To: Mr. James Cary Jacobson, 3363 Sheridan Street, Suite 204, Hollywood, Florida 33021

Prepared by: Division of Elections

This is in reference to your request for an advisory opinion. Under Section 106.23(2), Florida Statutes, the Division of Elections has the authority to issue advisory opinions relating to the Florida Election Code, Chapters 97-106, Florida Statutes, to several categories of persons, including candidates.

Your specific questions are:

1. Can a candidate for judicial office attend a dinner sponsored by a local political club where the cost of tickets merely covers the expenses of the event, or may he attend as a guest at either this event or other receptions, fund raisers or monthly meetings of local political clubs?
2. If the answer to the above is in the affirmative, must the judicial candidate when he is the guest of another, list the cost of the activity as an in-kind contribution?
3. Can a candidate for judicial office attend a dinner given by a local political club if the cost of the ticket exceeds the cost of holding the event and is, in fact, part of a fund raising effort?

We answer the first question, whether a judicial candidate may attend a dinner sponsored by a local political club where the cost of the ticket merely cover expenses, in the affirmative. The Attorney General and this office have considered similar questions in the past. Op. Div. Elect. 76-19; Op. Att'y Gen. 72-232. Section 105.071(1), Florida Statutes, allows candidates for judicial office to attend and speak at meetings of political parties or other partisan organizations. See Op. Div. Elect. 78-34. The fact that the candidate is a guest of an individual does not change the construction of this statute. The Division has previously opined that Chapter 105, Florida Statutes, allows the appearance of judicial candidates before audiences interested in hearing from such candidates. Op. Div. Elect. 76-19.

In answer to the second question, must the judicial candidate when he is the guest of another list the cost of the activity as an in-kind contribution, judicial candidates are not exempt from the requirements of listing in-kind contributions. Judicial candidates must make and file reports on the same basis as non-judicial candidates. Section 105.08, Fla. Stat. A dinner ticket is an item of value and pursuant to Sections 106.011(3) and 106.07(4)(a)(6), Florida Statutes, must be reported by the campaign.

The answer to the third question, whether a judicial candidate can attend a dinner given by a local political club when the event is fund raiser, depends on whether the proceeds for the dinner go to a

political party. If the proceeds go to the fund raising activities of a political party, Section 105.071(6), Florida Statutes, prohibits a judicial candidate from purchasing the dinner ticket. If, however, the proceeds go to a political club, then a judicial candidate can purchase such a ticket. Compare Op. Div. Elect. 87- 05 (Judicial candidate can advertise in publication of a political club because such club was not a political party.)

This opinion is rendered in reference to the Florida Election Code and does not address the Code of Judicial Conduct or the Florida Judicial Qualifications Commission Rules as they relate to the question of judicial candidates political activities.

SUMMARY

A judicial candidate may attend a dinner or other political function at his expense where the cost of the ticket merely covers the expenses of the event. He also may attend as the guest of another. If he attends as a guest, this contribution must be listed by the campaign treasurer as an in-kind contribution. If, however, the proceeds of such a dinner go to fund raising activities of a political party, the candidate cannot participate.