

DE 88-43 - October 19, 1988

**Surplus Campaign Funds Being Used As An Office Account
Section 106.141(7), F.S.**

To: Honorable Robert M. Foster, Circuit Court Judge, Fourth Judicial Circuit, Duval County Courthouse, Jacksonville, Florida 32202

Prepared by: Division of Elections

This is in reference to your letter requesting an opinion defining legitimate expenses as used in Section 106.141(7), Florida Statutes. The Division of Elections has authority under Section 106.23(2), Florida Statutes, to issue advisory opinions relating to the Florida Election Code, Chapters 97-106, Florida Statutes, to several categories of persons, including candidates.

Your specific question is:

Whether you may use surplus campaign funds which have been converted to an office account pursuant to Section 106.141(7), Florida Statutes, to cover travel expenses incurred in traveling to locations to satisfy The Florida Bar mandatory Continuing Legal Education (CLE) course requirements and to cover travel expenses which stem from your work on The Florida Bar's Civil Procedure Rules Committee?

Section 106.141(7), Florida Statutes, provides that money transferred from a campaign account to an office account must be separate from any personal or other account. Office accounts may be used only for legitimate expenses in connection with public office. Such expenses may include travel expenses incurred by the officer or a member of his staff, expenses incurred in the operation of his public office and employment of additional staff.

It is difficult to specifically spell out what are legitimate expenses in connection with a public office since what is proper for a judicial officer might not be proper for a municipal officer, state representative, state cabinet officer, etc.

Several years ago the Division issued an opinion, DE 78-50, which discussed this issue and we are enclosing a copy for your information. As this opinion points out, Chapter 106, Florida Statutes, does not contain a definition for the term "legitimate expenses in connection with his public office." The opinion went on to opine that "retained funds could be utilized to supplement" public funds which are available to members of the legislature. The legitimacy of an expense is to be initially determined by the particular officer although expenses related to upcoming future campaigns of a public officer are not appropriate as the expenses must be "necessitated by, and used for, the present public office or position." Op. Div. Elect. 78-50.

Since this office account is limited to use for your activities as a circuit court judge, we suggest that

you contact the department responsible for auditing your office for more specific information as to what constitutes legitimate expenses in connection with your public office.

SUMMARY

An office account set up pursuant to Section 106.141(7), Florida Statutes, must be separate from any personal or other account and may be used only for legitimate expenses in connection with the public office. Legitimate travel expenses incurred by the officer or a member of his staff, expenses incurred in the operation of the office, and the employment of additional staff are specifically recognized by the statute. Since legitimate expenses may vary for various offices depending upon laws and regulations pertaining to a particular office, we recommend that the officer contact the department responsible for auditing his office account to determine what are appropriate expenditures.