

**Support and Endorsement of Candidates
Sections 106.143 (2) and (3), F. S.**

TO: Honorable Mary W. Morgan, Supervisor of Elections, Collier County, 3301 Tamiami Trail East, Naples, Florida 33962-4971

Prepared by: Division of Elections

This is in response to your request for an advisory opinion regarding a person representing to others that another person, or persons, support a candidacy. You are the Collier County Supervisor of Elections and pursuant to Section 106.23(2), Florida Statutes, the Division of Elections has authority to render this opinion to you.

You ask substantially the following questions:

1. Does a political advertisement which states that certain persons "support and endorse" a candidate require a disclaimer stating that the supporters, whose names were used, have given permission for their names to be used?
2. If the answer to question 1 is no, would the candidate nonetheless be required to have written permission from these same supporters before using their names in his advertisement?
3. Does the mere fact that a person makes a monetary or in-kind contribution constitute written permission that the candidate can use the contributor's name in an advertisement?

For reasons which follow, the answer to your first two questions is yes, and the answer to your third question is no.

Section 106.143(3), Florida Statutes, requires that a candidate, or person on behalf of a candidate, must have written permission from other persons if he wants to represent that such other persons "support" his candidacy. In addition, Section 106.143(2), Florida Statutes, requires that any political advertisement "endorsing" a candidate must "expressly state" whether the permission of the candidate has been obtained to advertise the endorsement. This language is a part of the law regulating political advertising and what kinds of political disclaimers must be put on such advertisements.

The word endorse means to support as in to endorse a candidate. Webster's II New Riverside University Dictionary, 1988. Thus, subsections (2) and (3) of Section 106.143, Florida Statutes, require, in part:

- (2) . . . Any political advertisement endorsing [supporting] the candidate shall expressly state whether the permission of the candidate has been obtained to advertise such endorsement.

(3) If a candidate or person on behalf of a candidate represents that any person or organization supports such candidate, the person or organization so represented must have given specific approval in writing to make such representation. . . .

Therefore, a political advertisement that represents or states that certain persons or organizations endorse a particular candidate must state that the permission of the candidate has been obtained to advertise such endorsement. In addition, prior to a candidate or other person or organization making any representation that other persons or organizations support a candidate, the person making the representation must have written permission from the person or organization prior to such representation of support.

Finally, the making of a contribution to a candidate is not support or endorsement for purposes of Section 106.143, Florida Statutes. Making a contribution is not a political advertisement. See, Section 106.011(17), Florida Statutes, which defines political advertisement. Therefore, the making of a contribution does not constitute written approval that the contributor's name can be used in an advertisement.

SUMMARY

A political advertisement endorsing a candidate must include a statement whether the candidate has given his permission to advertise such endorsement. If a candidate or person on behalf of a candidate represents that any person or organization supports such candidate, the person or organization so represented must have given specific approval in writing to make such representation. A contribution is not an endorsement or expression of support for purposes of Section 106.143, Florida Statutes, and does not constitute written permission for the contributor's name to be used in an advertisement.