

Failure to File
§§ 106.07(7) and (8), and 106.29(1)(a), F.S.

TO: The Honorable Joe Oldmixon, Supervisor of Elections, Escambia County, Post Office Box 12601, Pensacola, Florida 32574-2601

Prepared by: Division of Elections

This is in response to your request for an advisory opinion regarding the propriety of your acts in assessing a fine against a political party for its failure to file a regular report. The Division of Elections has authority under Section 106.23(2), Florida Statutes, to issue advisory opinions to supervisors of elections with respect to actions such supervisor has taken.

Essentially, you ask the following questions:

Is a county executive committee required to file a regular report when such committee makes an expenditure during a reporting period and subject to a fine if the committee failed to timely file such report?

Your questions are answered in the affirmative. A county executive committee is required to file a regular report when it makes an expenditure during a reporting period and is subject to a fine for each day the report is not timely filed.

Section 106.29(1)(a), Florida Statutes, states, in pertinent part:

[E]ach county executive committee . . . shall file regular reports of all contributions received and all expenditures made by such committee. Such reports shall contain the same information as do reports required of candidates by s. 106.07 and shall be filed on the 10th day following the end of each calendar quarter, except that, during the period from the last day for candidate qualifying until the general election, such reports shall be filed on the Friday immediately preceding the first primary election, the second primary election, and the general election Any political party failing to file a report on the designated due date shall be subject to a fine as provided in s. 106.07 for submitting late reports

Based on the above-statutory language, a county executive committee must file a report of any contribution received and any expenditure made by such committee during each reporting period.

However, as stated by the Second District Court of Appeal in PAC For Equality v. Dept. of State, Florida Elections Commission, 542 So. 2d 459, 460 (Fla. 2d DCA 1989), there is one exception to this filing mandate:

[T]he condition precedent to a waiver of the report is the non-receipt of funds, the non-disbursement of contributions, or the non-expenditure of reportable funds.

Therefore, if, during a reporting period, the committee has not received any funds or expended any funds, the filing of the report for that period is waived. The committee, however, is required to notify the filing officer in writing on the prescribed reporting date that no report is being filed. Additionally, the committee's report for the next reporting period must specify that the report covers the entire period between the last submitted report and the report being filed. See, Section 106.07(7), Florida Statutes.

You indicate in your correspondence that the committee made expenditures during the reporting period for advertising and training. As a result, the committee is required to file a report disclosing the expenditures made by such committee during the reporting period, and would not fall within the exception stated in PAC For Equality, *supra*. Moreover, if the committee failed to timely file the mandated report, the committee would be subject to being assessed the fine prescribed by Section 106.07(8), Florida Statutes.

SUMMARY

A county executive committee is required to file a regular report when it makes an expenditure during a reporting period and is subject to a fine for each day the report is not timely filed.