

RESCINDED

DE 94-07 - March 24, 1994

Payments of Campaign Expenditures Sections 106.021(3), 106.08(1)(b), 106.11(1), and 106.12, F.S.

TO: The Honorable Dorothy Ruggles, Supervisor of Elections, Pinellas County, 315 Court Street, Clearwater, Florida 34616-5190

Prepared by: Division of Elections

This is in response to your request for an advisory opinion regarding payments of campaign expenditures. You are the Pinellas County Supervisor of Elections, and, pursuant to Section 106.23(2), Florida Statutes, the Division has authority to render this opinion to you.

Essentially, you ask the following:

Whether a supervisor of elections may accept a candidate's personal check or cash, instead of a campaign check, from a candidate or someone representing the candidate as payment for data processing orders or copies of materials?

Your question is answered in the affirmative.

Section 106.021(3), Florida Statutes, provides that, except for independent expenditures, all direct or indirect expenditures (including those of a candidate and his or her family), must be made by the campaign treasurer of the candidate and must be reported on the campaign treasurer's report. Expenditures made by an individual representing a candidate should be treated the same as if the candidate made the expenditure directly and do not constitute an independent expenditure.

As to the permissible method of payment of a campaign expenditure, the general rule is that all expenditures have to be paid by way of a campaign check drawn upon the campaign account. Section 106.11(1), Florida Statutes, provides:

The campaign treasurer or deputy campaign treasurer of a candidate or political committee shall make expenditures from funds on deposit in the primary campaign depository only by means of a bank check drawn upon the campaign account of the candidate or political committee....

However, there are two occasions when a candidate may make purchases without a campaign check. First, Section 106.12, Florida Statutes, provides that each campaign treasurer is authorized to withdraw from the primary campaign account specified amounts of money for the purpose of providing a petty cash fund for the candidate. Money in the petty cash fund may only be spent in "amounts less than \$30 and only for office supplies, transportation expenses, and other necessities." Section 106.12(3), Fla. Stat.

Since data processing orders and copies of materials purchased for campaign purposes would appear to be included within "other necessities," a candidate or someone representing a candidate could make payment for these items by way of cash from the candidate's petty cash fund, provided it is in an amount less than \$30.

Second, if the candidate paid for the data processing orders and copies of material with the intent of making an in-kind contribution to his own campaign, the candidate could pay for the items with his own personal check or currency. There would be no limit on the amount of material a candidate could purchase with his personal funds to make an in-kind contribution to his own campaign. See, Section 106.08(1)(b), Fla. Stat.

It is, therefore, permissible for a candidate to make a purchase with his own personal check or currency if the candidate intends to make an in-kind contribution of the purchased item to his campaign. However, a candidate cannot make such purchases as a campaign expenditure except by means of a campaign check or petty cash made through the candidate's campaign treasurer. See, Section 106.11(1), Fla. Stat.

It is also permissible for a candidate to make a purchase with his own personal check or currency if the candidate intends to seek reimbursement from his campaign. However, the purchase does not become a campaign expenditure until such time as the reimbursement is made by campaign check or petty cash through the candidate's campaign treasurer.

SUMMARY

A supervisor of elections may accept a candidate's personal check or cash, instead of a campaign check, from a candidate or someone representing the candidate as payment for data processing orders or copies of materials.