

DE 94-09 - March 24, 1994

**Campaigning for a Proposed Office
Section 106.021(1)(a), F.S.; and DE 78-8.**

TO: The Honorable Jane Carroll, Supervisor of Elections, Broward County, Broward Governmental Center, Fort Lauderdale, Florida 33301

Prepared by: Division of Elections

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

You ask:

Whether an individual may open a campaign account for an office that has not yet been created?

Your question is answered in the negative.

Generally, there is no time restriction on when an individual may begin to campaign, raise money, and make campaign expenditures. Op. Div. Elect. Fla. 78-8. However, before an individual can receive contributions or expend funds in furtherance of his candidacy, two requirements must be satisfied.

First, a campaign treasurer must be appointed and the campaign depository designated. Section 106.021(1)(a), Fla. Stat. The appointment and designation must be executed in writing and filed with the officer before whom the candidate is required to qualify. Id.

Second, at the time of filing the appointment and designation form (DS-DE 9 or DS-DE 9A), the candidate must identify the specific office he is seeking. Id.

Since the individual seeks to campaign for an office that has not yet been created, the second precondition of designating the specific office for which he is a candidate cannot be satisfied. Although it is anticipated that the Legislature will create this new office in the near future, the office is nevertheless speculative and does not exist until the appropriate legislation is enacted. It is impossible for an individual to identify the specific office he is seeking until it is created. Therefore, an individual cannot receive contributions or expend funds in furtherance of a proposed candidacy until the office he seeks has been created and is susceptible to being designated pursuant to Section 106.021(1)(a), Florida Statutes.

SUMMARY

An individual may not open a campaign account for an office that has not yet been created.