

August 22, 2006

Ms. Chance Irvine, Chair  
Florida Elections Commission  
107 W. Gaines Street  
The Collins Building, Suite 224  
Tallahassee, FL 32399-1050

RE: DE 06-10  
Petty Cash: Definition of the Term "Other  
Necessities"; and Reimbursement for Campaign  
Expenses; §§106.12(3) and 106.021(3), Florida  
Statutes

Dear Ms. Irvine:

This is in response to your request for a formal opinion. You are Chair of the Florida Elections Commission ("Commission") and pursuant to section 106.23(2), Florida Statutes, the Division of Elections has the authority to issue an opinion to you.

You ask essentially the following questions:

What is the meaning of the phrase "other necessities," as used in section 106.12(3), Florida Statutes?

May items purchased by campaign workers be reimbursed using petty cash?

As you note in your inquiry, the Florida Election Code does not contain a definition of the phrase. As a result, the rules of statutory construction would dictate that we apply the common dictionary definition to the words in question.

The word "necessities" is defined in the American Heritage College Dictionary, Third Edition, as, "something necessary," or alternatively, as a "pressing or urgent need." The word "necessary" is defined as "absolutely essential," or alternatively, as "unavoidably determined by conditions or circumstances; inevitable."

We must also consider the words in question in the context in which they are used.

Section 106.12, Florida Statutes, entitled “Petty cash funds allowed,” provides as follows:

- (1) Each campaign treasurer designated pursuant to s. 106.021(1) for a candidate or political committee is authorized to withdraw from the primary campaign account, until the close of the last day for qualifying for office, the amount of \$500 per calendar quarter reporting period for the purpose of providing a petty cash fund for the candidate or political committee.
- (2) Following the close of the last day for qualifying and until the last election in a given election period in which the political committee participates, the campaign treasurer of each political committee is authorized to withdraw the following amount each week from the primary depository campaign account for the purpose of providing a petty cash fund for the political committee, and, following the close of the last day for qualifying and until the election at which such candidate is eliminated or elected to office, or the time at which the candidate becomes unopposed, the campaign treasurer of each candidate is authorized to withdraw the following amount each week from the primary depository campaign account for the purpose of providing a petty cash fund for the candidate:
  - (a) For all candidates for nomination or election on a statewide basis, \$500 per week.
  - (b) For all other candidates and all political committees, \$100 per week.
- (3) The petty cash fund so provided shall be spent only in amounts less than \$100 and only for office supplies, transportation expenses, and other necessities. Petty cash shall not be used for the purchase of time, space, or services from communications media as defined in s. 106.011(13).<sup>1</sup>

The statute mandates that petty cash may only be expended in amounts less than \$100, thereby effectively limiting the cost of any single item purchased with petty cash to \$99.99 or less or the cost of a combined purchase of a group of lesser priced items to total of \$99.99 or less per transaction. The statute further limits the nature of the items that can be purchased with petty cash to three distinct categories: office supplies, transportation expenses and other necessities. Finally, the Legislature specifically prohibited the use of petty cash for the purchase of time, space, or services from communications media.

In your request you suggest that a reasonable definition of “other necessities” might be items reasonably connected to office supplies or transportation for which cash is necessary. You state that such items might include gas, tolls, parking, pens and envelopes. However, by its plain reading, the statute makes it clear that items which fall under the term “other necessities” are in addition to the enumerated categories of office supplies and transportation expenses, not subsumed within them. Therefore, the suggested definition cannot be adopted.

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<sup>1</sup> It is of value to note that the current language contained in s. 106.12(3), F.S., has remained substantively unchanged since it was first passed by the Legislature in 1973, with the exception of the permitted dollar amount which has risen from \$20 to \$100.

Applying the definitions of the words “necessities” and “necessary” noted above in the context used by the Legislature, a reasonable conclusion would be that the term “necessities” was intended to refer to an item costing no more than \$99.99 which is purchased to meet an essential, urgent need that is unavoidable due to conditions or circumstances.

The answer to Question 2 is controlled by the language contained section 106.021(3), Florida Statutes. That section provides, in pertinent part, that:

No contribution or expenditure, including contributions or expenditures of a candidate or of the candidate's family, shall be directly or indirectly made or received in furtherance of the candidacy of any person for nomination or election to political office in the state...except through the duly appointed campaign treasurer of the candidate..., subject to the following exceptions:...

(b) Reimbursements to a candidate or any other individual for expenses incurred in connection with the campaign...by a check drawn upon the campaign account and reported pursuant to s. 106.07(4). After July 1, 2004, the full name and address of each person to whom the candidate or other individual made payment for which reimbursement was made by check drawn upon the campaign account shall be reported pursuant to s. 106.07(4), together with the purpose of such payment. [Emphasis added.]

It is this provision which permits, but also limits how reimbursements may occur.

While the statute permits an indirect expenditure by a candidate or any other individual in furtherance of the candidate’s candidacy by a means other than through the campaign account for expenses incurred in connection with the campaign, it requires that any reimbursement from the campaign for such an expense be done by a check drawn on the campaign account and requires the reporting of that reimbursement payment.

The Legislature, if it had chosen to do so, could have included reimbursements for expenses incurred in connection with the campaign under the permitted categories for the use of petty cash. It did not do so. It is clear from the language contained in section 106.021(3)(b), Florida Statutes, that the Legislature wanted to ensure a full reporting of campaign monies expended for reimbursements. Allowing the use of petty cash for the payment of reimbursements would circumvent that intent, as there are no detailed reporting requirements associated with how petty cash funds are spent. Therefore, items purchased by campaign workers may not be reimbursed using petty cash. Such reimbursements are to be done using a campaign account check.

Having provided you with guidance as to your two statutory questions, I defer to the Commission to exercise its statutory authority and responsibility with regard to applying the legal requirements of Chapter 106 to any factual situations which may come before it.

#### SUMMARY

For purposes of section 106.12(3), Florida Statutes, regarding the use of petty cash, the term “other necessities” was intended to refer to an item costing no more than \$99.99 which is purchased to meet an

Ms. Chance Irvine, Chair  
August 22, 2006  
Page 4 of 4

essential, urgent need that is unavoidable due to conditions or circumstances. Items purchased by campaign workers may not be reimbursed using petty cash. Such reimbursements are to be done using a campaign account check in accordance with section 106.021(3), Florida Statutes.

Sincerely,

Dawn K. Roberts  
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DKR/SDL/lmg