

August 25, 2006

The Honorable Dr. Arthur Anderson
Supervisor of Elections
Palm Beach County
Post Office Box 22309
West Palm Beach, FL 33416

RE: DE 06-11
County Canvassing Boards; Use of
Handwriting Consultants; § 102.141,
Florida Statutes

Dear Dr. Anderson:

This is in response to your request for an advisory opinion. You are the Supervisor of Elections for Palm Beach County and as such serve as a member of the county canvassing board. Pursuant to section 106.23(2), Florida Statutes, the Division of Elections has authority to issue an opinion to you.

You have asked essentially the following question:

May a county canvassing board utilize the services of a handwriting consultant to advise the board as to handwriting issues involved in the canvassing of ballots?

You state that the handwriting consultant will not be called upon to make any decision as to the validity of voter signatures, the eligibility of ballots, the eligibility of voters or other issues involved in the canvassing process. Rather, the consultant will be utilized to assist the canvassing board members by providing technical handwriting information and analysis which may be of assistance to members in making their determinations as required by law.

The answer to your question is a qualified yes. While nothing contained in the Florida Election Code, Chapters 97–106, Florida Statutes, would strictly prohibit the county canvassing board from utilizing the “services” of a handwriting consultant to “assist” the board in performing its statutory duties with regard to voter signature comparison, the method by which the consultant provides such assistance is of critical importance to the answer to your inquiry.

The Honorable Dr. Arthur Anderson

August 25, 2006

Page 2

It is imperative that the canvassing board in no way abdicates its statutory duties and responsibilities under the Florida Election Code to be the final authority on whether a voter signature matches for purposes of canvassing the ballots. Certainly a handwriting consultant could be used to provide training to canvassing board members to educate them on accepted handwriting comparison principles or methods. However, it is important to keep in mind that the Legislature did not incorporate in the Florida Election Code a scientific standard of handwriting comparison when charging canvassing boards with their duty to compare signatures. They certainly could have required professional or scientific comparison analysis if that had been their intention. Instead, the Legislature in essence created a standard of reasonableness and left it to the canvassing boards to make such determinations using their collective best judgment as to what constituted a signature match.

As a result, it does not appear that the Legislature envisioned that a handwriting consultant would sit side by side with canvassing board members as they performed their canvassing duties and provide guidance or "assistance" as to individual ballots. Use of such consultants during the actual ballot canvassing process would be contrary to the board's statutory duties and responsibilities as defined in the election code.

SUMMARY

A county canvassing board may utilize the "services" of a handwriting consultant in a limited fashion to advise the board as to handwriting issues. Such services could include training to educate the board on accepted handwriting comparison principles or methods. However, the use of such consultants during the actual ballot canvassing process would be contrary to the Florida Election Code.

Sincerely,

Dawn K. Roberts
Director, Division of Elections

Prepared by:
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DKR/SDL/lmg