

September 8, 2006

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

RE: DE 06-12
Candidate Political Advertisement Disclaimer;
§106.143(1)(a), 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:

Must a candidate's political disclaimer use the exact words contained within the quotation marks included in section 106.143(1)(a), Florida Statutes?

Does the term "office" as it is used in section 106.143(1)(a), Florida Statutes, require the inclusion of a group or district number?

The short answer to Question 1 is qualified yes. The short answer to Question 2 is no.

Section 106.143(1)(a), Florida Statutes, provides as follows:

Any political advertisement that is paid for by a candidate and that is published, displayed, or circulated prior to, or on the day of, any election must prominently state: "Political advertisement paid for and approved by (name of candidate), (party affiliation), for (office sought)."

Under the rules of statutory construction, by providing the required language explicitly within quotation marks the Legislature has indicated its intention that those are to be the exact words which are to be

used. Prior to the passage of Chapter Law 2004-252, effective July 1, 2004, section 106.143(1), Florida Statutes, specifically permitted candidates to abbreviate the words “paid political advertisement” by using the abbreviation “pd. pol. ad.” By the passage of the 2004 amendment to section 106.143(1), Florida Statutes, the Legislature intentionally removed the use of that abbreviation by candidates in their disclaimers. As a result, the exact wording contained in the statute must be used.

The exception in this case would be when a candidate is running for a nonpartisan office. In that situation, no reference to party affiliation would be included in the disclaimer. By definition, a nonpartisan office means, “an office for which a candidate is prohibited from campaigning or qualifying for election or retention in office based upon party affiliation.”¹ Consequently, interpreting the Florida Election Code in its totality, one can only conclude that the Legislature did not intend that candidates for a nonpartisan office include their party affiliation in a political advertisement disclaimer.

As to Question 2, the Florida Election Code does not contain a definition of the word “office.” As a result, the rules of statutory construction would dictate that we apply the dictionary definition to the word in question. The word “office” is defined in Black’s Law Dictionary, 8th Edition (2004), as, “a position of duty trust, or authority, especially one conferred by a governmental authority for a public purpose.”

We must also consider the word in question in the context in which it is used. Clearly here the Legislature is referring to the elected office which is being sought. The Legislature has defined the term “public office” for purposes of Chapter 106 as, “any federal, state, county, municipal, school or other district office or position which is filled by a vote of the electors.”² In this context, the Legislature only included the word “office” when, had it chosen to do so, it could have required additional specificity such as a district or group number. In contrast, the Legislature has required the inclusion of a district or group number in the context of the candidate oath.³ Therefore, we must conclude that the Legislature only intended to require, at a minimum, that the name or title of the actual office being sought be listed in the disclaimer. Examples would be offices such as “State Representative,” “Circuit Judge” or “County Commissioner.” There is no specific requirement that a district or group number be included.

However, if a candidate were to include a district or group number designation in conjunction with the stated office name, that would be considered acceptable as well. Further, it also does not appear that the Legislature intended to restrict the usage of an office descriptor term such as “Leon County Commissioner.” Such information merely provides additional clarification as to the particular office sought.

¹ Section 97.021(20), Florida Statutes.

² Section 106.011(10), Florida Statutes.

³ Section 99.061(7)(a)2., Florida Statutes, provides that the candidate oath, a document which must be filed in order to qualify to run for office, must contain the “name of the candidate as it is to appear on the ballot; the office sought, including the district or group number if applicable....”

SUMMARY

Candidate political disclaimers must utilize the exact words contained in section 106.143(1)(a), Florida Statutes, except that candidates for nonpartisan offices would not include their party affiliation. As to the “office sought” requirement of the statute, at a minimum, only the name or title of the actual office being sought must be listed in the disclaimer. Examples would be offices such as “State Representative,” “Circuit Judge” or “County Commissioner.” There is no specific requirement that a district or seat number be included. However, if a candidate were to include a district or group number designation in conjunction with the stated office name or a descriptive term such as “Leon County Commissioner,” that would be considered acceptable as well.

Sincerely,

Dawn K. Roberts
Director, Division of Elections

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