

December 20, 2006

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

RE: DE 06-13  
Committees of Continuous Existence; §106.04,  
106.11, 106.12 and 106.125, 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 have asked a number of questions regarding the reporting requirements which are applicable to Committees of Continuous Existence (CCEs) under Chapter 106.

From the outset, it is important to emphasize that CCEs are distinctly different from political committees and candidates. Section 106.04, Florida Statutes, is the primary provision of law which regulates these entities.

I will respond to each of your questions individually.

1. *Is a CCE permitted to use a debit card for committee expenditures?*

Yes.

2. *If a CCE is permitted to use a debit card for committee expenditures, are the criteria listed in section 106.11, Florida Statutes, applicable to the committee's use of its debit card?*

No. Section 106.11, Florida Statutes, is specific to candidates and political committees. Keep in mind that the CCE's bank account does not have to be separate from the organization's bank account.

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3. *If a CCE is permitted to use a debit card and the criteria in section 106.11, Florida Statutes, do not apply to the committee's use of a debit card, are there any restrictions on the committee's use of its debit card?*

The CCE must report any transactions that involve the use of a debit card which otherwise would be required to be reported under section 106.04, Florida Statutes. Debit card transactions of the CCE would also be subject to any applicable contribution limits.

4. *Is a CCE permitted to use a credit card for committee expenditures?*

Yes. Section 106.04(4)(c)7., Florida Statutes, specifically refers to the reporting of credit card transactions by CCEs.

5. *If a CCE is permitted to use a credit card for committee expenditures, are the criteria listed in section 106.125, Florida Statutes, applicable to the committee's use of its credit card?*

No, that section applies to candidates for statewide office and political committees.

6. *If a CCE is permitted to use a credit card and the criteria in section 106.125, Florida Statutes, do not apply to the committee's use of the credit card, are there any restrictions on the committee's use of its credit card?*

Only those contained in section 106.04, Florida Statutes, in terms of the reporting requirements.

7. *If a CCE is permitted to use a debit or credit card for committee expenditures, who is allowed to make purchases on behalf of the committee using its debit or credit card?*

The treasurer, principal officers or anyone they designate.

8. *If a CCE is permitted to use a debit or credit card, is the committee permitted to use the debit or credit card for all committee related expenditures or only for travel related expenditures?*

A CCE may use a debit or credit card for all expenditures.

9. *If a CCE is permitted to use a credit card, what information must its treasurer report on the committee's campaign reports when the credit card is used? Is it sufficient for the CCE only to report its expenditure to the credit card company or must the committee list the purchases made by the credit card user?*

Section 106.04(4)(c)7., Florida Statutes, specifies what information must be reported by a CCE with regard to credit card transactions. That section requires reporting of, "[t]ransaction information from each credit card statement that will be included in the next report following receipt thereof by the committee. Receipts for each credit card purchase shall be retained by the treasurer with the records for the committee account."

10. *If a CCE is required to report the purchases made by the credit card user, when must the purchases be reported? Does section 106.04(4)(c), Florida Statutes, require a CCE to report purchases when they are made on behalf of the committee or after the committee receives the statement from the credit card company that includes the purchases?*

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Credit card transactions are reported on the next report following receipt of the credit card statement by the CCE.

11. *Is a CCE permitted to expend funds for travel and related expenses of a person who is not a member of the committee? If a CCE is permitted to expend funds for such expenses, whose travel and related expenses may the committee pay?*

Yes. The CCE can pay for the travel and related expenses of anyone they authorize to travel on behalf of the committee, such as, but not limited to, employees of the committee. See section 106.04(4)(c)6., Florida Statutes.

12. *Is the CCE permitted to pay an individual, other than a candidate or public official, to raise funds for the committee, to pay the normal living expenses of an individual to raise funds for the committee or to provide in-kind something of value to an individual to raise funds for the committee?*

Yes. Expenditures for personal services, salaries and reimbursements for any authorized expenses must be reported by the CCE under section 106.04(4)(c)6., Florida Statutes.

A. *Is a CCE permitted to pay a candidate to raise funds for the committee, to pay normal living expenses of a candidate to raise funds for the committee, or to provide in-kind something of value to the candidate to raise funds for the committee?*

B. *Is a CCE permitted to pay a public official to raise funds for the committee, to pay normal living expenses of a public official to raise funds for the committee, or to provide in-kind something of value to the public official to raise funds for the committee? Does section 111.075, Florida Statutes, prohibit such an expenditure?*

I will respond to these two sub-questions together. While there are no provisions contained in the Florida Election Code, Chapters 97-106, which would specifically prohibit a CCE from paying a candidate to raise funds, there may be additional statutory restrictions outside the provisions of the Florida Election Code which are placed on public officers, elected officials and others who in some cases may also be candidates. I cannot speak to those restrictions.

13. *Is a CCE permitted to reimburse an individual who used his personal funds to purchase items for the committee from a vendor or must a CCE make all purchases by check drawn on the committee's campaign account and pay the vendor directly? If a CCE is permitted to reimburse an individual, what information must its treasurer report on the committee's reports?*

Section 106.04(4)(c)6., Florida Statutes, recognizes reimbursement for authorized expenses. That section requires that the CCE report the full name and address of each person to whom an expenditure for reimbursement for authorized expenses has been made, including the full name and address of each entity to whom the person made payment, together with the amount and purpose of such payment.

14. *Is a CCE permitted to expend funds for the administrative and operating costs of the committee in addition to travel and related expenses?*

Yes.

15. *Is a CCE permitted to make an in-kind contribution to a candidate?*

Yes, they can make an in-kind contribution through the treasurer.

16. *Is a CCE permitted to make cash expenditures from its campaign account?*

Yes.

17. *Is the CCE authorized to incur an expense for the purchase of goods and services without sufficient funds on deposit in the committee's campaign account to pay for the authorized expense?*

This question seems to really be asking whether section 106.11(4), Florida Statutes, applies to CCEs. It does not.

Section 106.11(4), Florida Statutes, states in pertinent part:

No candidate, campaign manager, treasurer, deputy treasurer, or political committee or any officer or agent thereof, or any person acting on behalf of any of the foregoing, shall authorize any expenses, nor shall any campaign treasurer or deputy treasurer sign a check drawn on the primary campaign account for any purpose, unless there are sufficient funds on deposit in the primary depository account of the candidate or political committee to pay the full amount of the authorized expense, to honor all other checks drawn on such account, which checks are outstanding, and to meet all expenses previously authorized but not yet paid. [Emphasis added.]

The cited section applies to candidates and political committees. It does not reference committees of continuous existence.

Therefore, the answer to Question 17 would be that a CCE is not prohibited by Chapter 106, Florida Statutes, from incurring such an expense even though they may not have sufficient funds on deposit at the time they incur the expense to pay for it.

18. *Is a CCE authorized to sign a check drawn on the campaign account without sufficient funds on deposit in the committee's campaign account to pay the full amount of the check?*

As stated in response to Question 17, the specific restrictions contained in section 106.11(4), Florida Statutes, do not apply to CCEs. Other provisions of law outside of the

Florida Election Code may regulate the actual uttering, i.e. the passing, of a check for which there are not sufficient funds on deposit, rather than just the act of signing such a check.

19. *Is the CCE permitted to withdraw petty cash from its campaign account and to spend the petty cash on items listed in section 106.12, Florida Statutes?*

CCEs may withdraw and use petty cash, but such usage is not subject to section 106.12, Florida Statutes, as that statute specifically applies to candidates and political committees. It does not apply to CCEs. Again, CCEs have to report as required under section 106.04, Florida Statutes.

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SUMMARY

Committees of continuous existence (CCEs) are distinctly different from political committees and candidates. Section 106.04, Florida Statutes, is the primary provision of law which regulates CCEs. Various requirements contained in Chapter 106 are specific to candidates and political committees and are not applicable to CCEs.

Sincerely,

Dawn K. Roberts  
Director, Division of Elections

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