



## FLORIDA DEPARTMENT of STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

May 29, 2012

The Honorable Rod Smith  
Chair, Florida Democratic Party  
214 South Bronough Street  
Tallahassee, Florida 32301

RE: DE 12-07 – Voter Registration –  
Spoiled Applications Submitted by Third-  
Party Voter Registration Organizations -- §§  
97.053, 97.0575, and 97.073, Florida  
Statutes

Dear Chairman Smith:

This letter responds to a request for an advisory opinion submitted by Mark Herron, the Florida Democratic Party's attorney, on your behalf as party chair. Since the political party engages in political activity, is a registered third-party voter registration organization, and has questions about compliance with Florida's election laws with respect to voter registration applications which the party has submitted and will submit, the Division has the authority to issue you an opinion pursuant to section 106.23(2), Florida Statutes (2011).

By way of background, your attorney states some supervisors of elections have refused to accept "spoiled" voter registration applications which the party has submitted in its capacity as a third-party voter registration organization pursuant to section 97.0575, Florida Statutes (2011), and Rule 1S-2.042, Florida Administrative Code (2011). Also, some supervisors of elections have required the party to write "spoiled" in ink on the front of voter registration applications that are incomplete or ripped. (For the purposes of your request and for this opinion, "spoiled" voter registration applications are non-blank applications that are not fully complete or blank applications that have been rendered unusable for some reason (*e.g.*, the application form has been ripped in half).) Your attorney requests responses to the following questions:

- (1) Must a supervisor of elections accept spoiled voter registration applications?
- (2) If a supervisor of elections is not required to accept spoiled voter registration applications, may a third-party voter registration organization retain those applications?

(3) May a third-party voter registration organization write on or otherwise mark an application as “spoiled” prior to submitting the application to the supervisor of elections’ office?

The short responses to the above questions are: (1) A supervisor of elections must accept all voter registration applications (spoiled or not) submitted; (2) A third-party voter registration organization should not retain spoiled applications; and (3) A third-party voter registration organization should not write or otherwise mark “spoiled” on a voter registration application.

In response to the first question, section 97.053(1), Florida Statutes (2011), requires a supervisor of elections to accept voter registrations applications when hand delivered or mailed to the supervisor by any applicant or a third party. A supervisor of elections has no discretion to refuse to accept a voter registration application. Once the supervisor of elections receives an application, the supervisor has 13 days to enter the information from the application into the statewide voter registration system.<sup>1</sup> The supervisor must notify the applicant about the disposition of the application within 5 business days after entering that information.<sup>2</sup> Specifically, section 97.073(1), Florida Statutes (2011), provides: “The notice must inform the applicant that the application has been approved, *is incomplete*, has been denied, or is a duplicate of a current registration.” (*Emphasis added.*) Thus, the statutory scheme itself envisions that not all voter registrations applications will necessarily be complete when initially submitted. Moreover, pursuant to Rule 1S-2.042, Florida Administrative Code, (2011), Forms DS-DE 123 and 124 specifically direct that third-party voter registration organizations and supervisors of elections must report the number of blank and non-blank voter registration applications used by, provided to, and received from third-party voter registration organizations. Rule 1S-2.042, promulgated under authority of section 97.0575, Florida Statutes (2011),<sup>3</sup> requires third-party voter registration organizations to account for all state and federal registration forms used by their registration agents. This once again contemplates that all applications submitted to the supervisor must be accepted (spoiled or not). Therefore, it is incumbent on supervisors of elections to accept all applications submitted by a third-party voter registration organization notwithstanding that non-blank applications are “spoiled” by either not being fully complete or blank applications have been rendered unusable for some reason.

Your second question is moot based upon the response to your first question. Supervisors of elections must accept all applications submitted to them whether the applications are spoiled or not and whether blank or non-blank. This requirement fulfills the intent of both the statute and rule for third-party voter registration organizations to properly account for all voter registration

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<sup>1</sup> § 97.053(7), Fla. Stat. (2011).

<sup>2</sup> § 97.073(1), Fla. Stat. (2011).

<sup>3</sup> § 97.0575, Fla. Stat. (2011), is currently in effect in all counties except for the five preclearance counties of Collier, Hardee, Hendry, Hillsborough, and Monroe. The preclearance decision for this statute in the five preclearance counties is pending before a three-judge panel in the United States District Court in the District of Columbia.



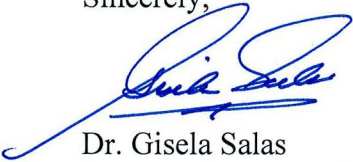
applications used by their registration agents and for supervisors of elections to accurately account for all voter registration applications provided to and received from such organizations.

In response to your third question, Rule 1S-2.042(4), Florida Administrative Code (2011), requires the third-party voter registration organization only “to print the date and time that the voter registration applicant completed the application in a conspicuous place on the bottom portion of the reverse side of the voter registration application” and to “ensure its assigned organization identification number is recorded on the bottom portion of the reverse side” of any application that it submits. Nothing requires or authorizes a third-party voter registration organization to write “spoiled,” “void,” or any other marking on an application. In order to obtain uniformity in the interpretation and implementation of the election laws and to help preclude instances or allegations of voter registration fraud, the Division opines that a third-party voter registration organization should not make any markings on a voter registration application other than those that are specifically mandated in law. Therefore, it would be inappropriate for any supervisor of elections to require a third-party voter registration organization to make any additional markings on a voter registration application other than those required by statute or rule. Whenever a voter or third-party voter registration organization submits a voter registration application to a supervisor of elections, the supervisor must process the application to the extent possible in accordance with section 97.073, Florida Statutes (2011). For example, if insufficient identifying information exists on the application to identify the applicant, it would be the supervisor who decides whether to process the application as a spoiled application, not the third-party voter registration organization. This would minimize any opportunities for fraud or misunderstanding governing the intent of the applicant or registrant in submitting a voter registration application.

#### SUMMARY

A “spoiled” voter registration application for the purposes of this opinion is one that is a non-blank application that is not fully complete or a blank application that has been rendered unusable for some reason. A supervisor of elections must accept all voter registration applications (spoiled or not) submitted to it; a third-party voter registration organization should not retain spoiled applications; and a third-party voter registration organization should not write or otherwise mark “spoiled” on a voter registration application.

Sincerely,



Dr. Gisela Salas  
Director, Division of Elections

cc: Mark Herron, Esq.