



## FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

October 5, 2016

Mr. Andrew Thomson  
15800 Autumn Glen Avenue  
Clermont, Florida 34714-6108

Re: DE 16-14 Special Districts; Advertising  
– Political Disclaimers; §§ 99.061(3),  
106.011, 106.143, Florida Statutes

Dear Mr. Thomson:

As a candidate for special district office, you have requested an advisory opinion regarding whether you are permitted to campaign through social media where there is no cost for you, and whether such campaign messages would require disclaimers. Because you are a candidate proposing to take certain actions with respect to the Florida Election Code, the Division is authorized to issue an opinion pursuant to section 106.23(2), Florida Statutes.

### FACTS

As a special district candidate for the Board of Trustees of the Lake County Water Authority, you state that you qualified for office pursuant to section 99.061(3), Florida Statutes, which states that a special district candidate does not have to appoint a campaign treasurer or designate a primary campaign depository if the candidate does not collect contributions and if the candidate's only expense is the filing fee or signature verification fee. You ask whether you are permitted to campaign on social media if such campaigning is done at no cost. You also ask whether such campaign messages on social media would require any political disclaimers.

### ANALYSIS

Issue 1: Whether you are permitted to campaign on social media if there is no cost to do so.

A special district candidate is not required to appoint a treasurer or open a campaign account under section 106.021, Florida Statutes, if the candidate does not collect contributions and

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if the candidate's only expense is the filing fee or signature verification fee. *See* § 99.061(3), Fla. Stat. Therefore, you are permitted to campaign on social media as long as you do so without accepting any contributions or incurring any expenses. *See id.*; § 106.011(5), Fla. Stat.

Issue 2: Whether your campaign messages on social media require political disclaimers.

Florida law generally requires a "political advertisement" to be accompanied by a proper corresponding disclaimer. *See* § 106.143, Fla. Stat. However, the term "political advertisement" is a defined term that generally means

a *paid expression* in a communications medium prescribed in subsection (4), whether radio, television, newspaper, magazine, periodical, campaign literature, direct mail, or display or by means other than the spoken word in direct conversation, which expressly advocates the election or defeat of a candidate or the approval or rejection of an issue.

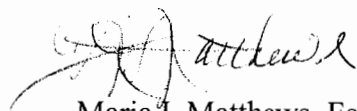
§ 106.011(15), Fla. Stat. (emphasis supplied).

Therefore, to even qualify as a "political advertisement" that will require a disclaimer under section 106.143, the message must be a *paid expression*. *Id.* Moreover, section 106.143(10), Florida Statutes, expressly exempts from the political disclaimer requirements of section 106.143 any campaign message that is "[p]laced at no cost on an Internet website for which there is no cost to post content for public users" or that is "[p]laced or distributed on an unpaid profile or account which is available to the public without charge or on a social networking Internet website, as long as the source of the message or advertisement is patently clear from the content or format of the message or advertisement." § 106.143(10)(d), (e), Fla. Stat. Since your campaign messages will not be paid, and since they will presumably fall under the exceptions in section 106.143(10), they will not need the political disclaimers that would otherwise be required by section 106.143.

SUMMARY

A special district candidate who, pursuant to section 99.061(3), Florida Statutes, is not required to appoint a treasurer or designate a campaign account, may campaign on social media as long as the candidate does not collect contributions or incur any expenses. Unpaid expressions posted on social media do not require political disclaimers if they fall under one of the exceptions listed in sections 106.143(10)(d) or 106.143(10)(e), Florida Statutes.

Respectfully,



Maria I. Matthews, Esq.  
Director, Division of Elections