



**FLORIDA  
DEPARTMENT  
of STATE**

# Bureau of Election Records

Overview – Campaign Finance,  
Qualifying and Political Entities

*FSE New Supervisor of Elections  
Orientation Workshop  
February 6-7, 2023 (Tallahassee)*

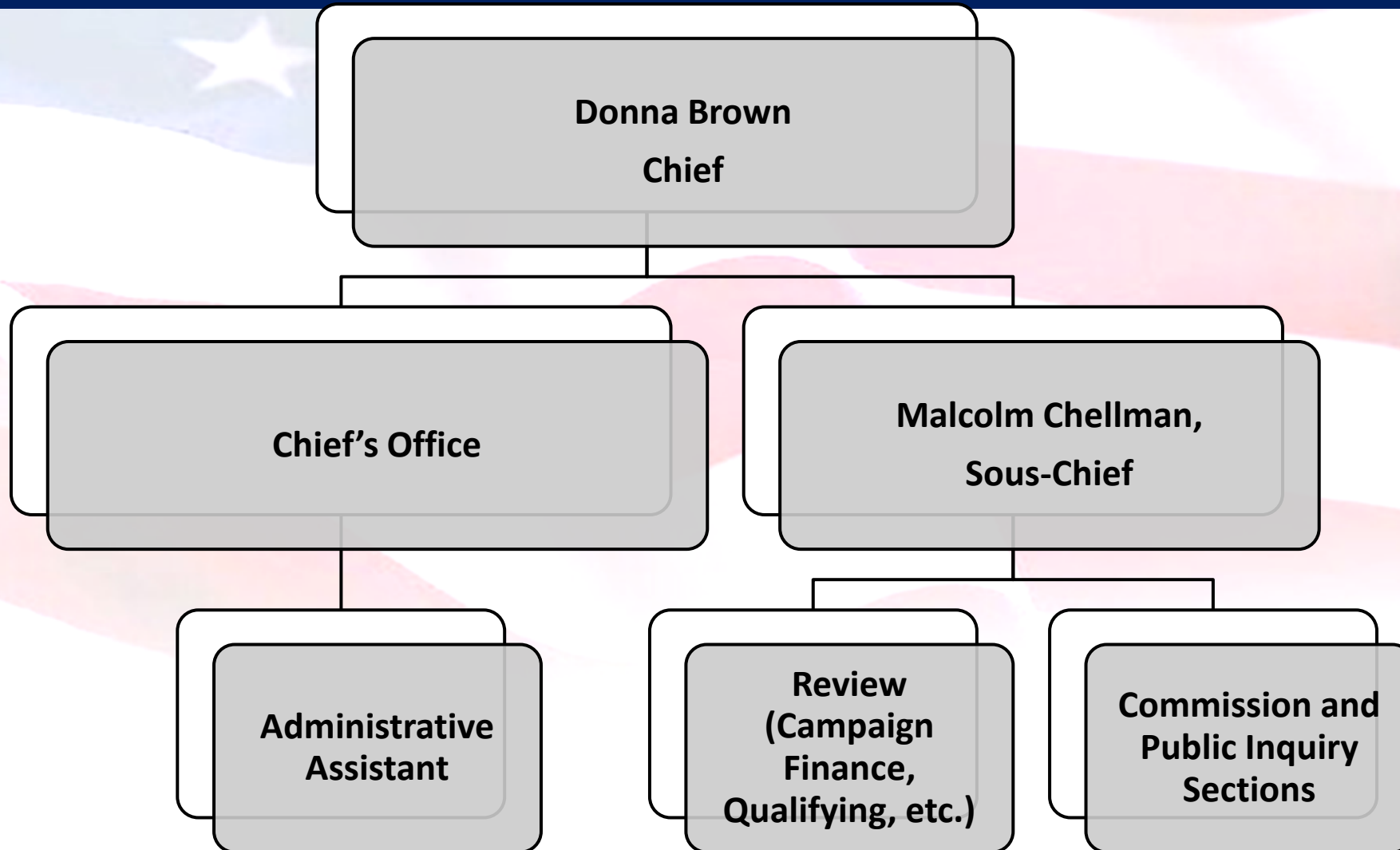




- **Bureau of Elections  
(Organization/Duties)**
- **Qualifying**
- **Qualifying by Petition**
- **Campaign Finance**
- **Municipal election/clerks**
- **PCs & ECOs**
- **Q&A**

# BER Structure

# BER Organizational Chart





# Duties

Candidate qualifying  
(federal, state, multi-  
county, special district)

Political committees &  
electioneering  
communication  
organizations

Campaign finance  
reports

Handbooks for  
candidates, campaign  
treasurers, and political  
entities

Notices of General  
Election

County candidate Lists  
(Electronic DSDE80  
system)

Ballot certification

Candidate pronunciation  
webpage

County canvass  
certificates of election  
results (Electronic  
System)

Collect and analyze  
various post-election  
reports

Issuance of commissions

Repository for minority  
reports and seals

**Qualifying**

# Filing Offices for Candidates

- State and Multi-County → Department of State (Division of Elections)
- County → Supervisor of Elections Office
- Municipal → Municipal Clerk

# Filing officer

Section 99.0671(7), FS

- Performs ministerial function only
  - Review qualifying papers to determine whether all items required by paragraph (a) have been properly filed and whether each item is complete on its face, including whether items that must be verified have been properly verified pursuant to s. 92.525(1)(a).
  - May not determine whether the contents of the qualifying papers are accurate.

# Required Documents

Section 99.0671(7), FS

- All items required by paragraph (a)
- DS-DE 9 - Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates (if you are not an active candidate)
- A full and public disclosure or statement of financial interests (Either Form 6 or Form 1 for the previous calendar year.) (Instructions for Who Must File are included on the Form 6 and Form 1) - Florida Commission on Ethics (FCOE)

# Required Documents (cont'd)

Section 99.0671(7), FS

- State and Local Candidate Oath – (must be notarized)
  - DS-DE 301A (Rev. 8/21) Party Affiliated – Candidate Oath
  - DS-DE 302B (Rev. 8/21) No Party Affiliation– Candidate Oath
  - DS-DE 301C (Rev. 8/21) Write-in - Candidate Oath
  - DS-DE 302NP (Rev. 8/21) Nonpartisan



Critical - The name of the candidate must be updated in the Local Candidate portal exactly as it appears on the candidate oath.

# Required Documents (cont'd)

Section 99.0671(7), FS

- Fee or alternative:
  - Pay qualifying fee by properly executed campaign check; or
  - Qualify by the petition method (no fee); or
  - Qualify as a write-in candidate (no fee).



# Qualifying – Time to Submit

Section 99.061(8), FS

- ▶ Pre-Qualifying Submission Period
  - 14 –days prior to qualifying period
  - The filing officer may accept and hold qualifying papers until qualifying period.
  - Papers are officially processed and filed during the qualifying period.

# Qualifying – Required Documents

Section 99.061(7), FS

- ▶ DS-DE 9 - Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates
- ▶ Statement of Financial Interests (Ethics Form)
- ▶ Candidate Oath
  - New Candidate Oath forms – Rule 1S-2.0001 (eff. 8/2021)
- ▶ Qualifying Fee or alternative:
  - Pay qualifying fee by properly executed campaign check; or
  - Qualify by the petition method (no fee); or
  - Qualify as a write-in candidate (no fee).

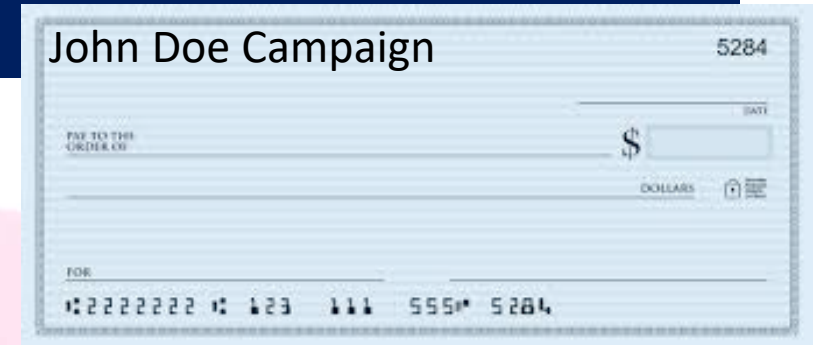
# Qualifying – Fee

Sections 99.092 and 105.051, FS

- ▶ Not less than the fee required
  - Less than qualifying → Not OK (ask for new check)
  - More than qualifying → OK
- ▶ Drawn on the campaign account from the depository listed on the DS-DE 9
- ▶ Signed by the treasurer or a deputy treasurer
- ▶ Paid by a properly executed check

# Qualifying – Properly Executed Check

Sections 99.092 and 105.051, FS

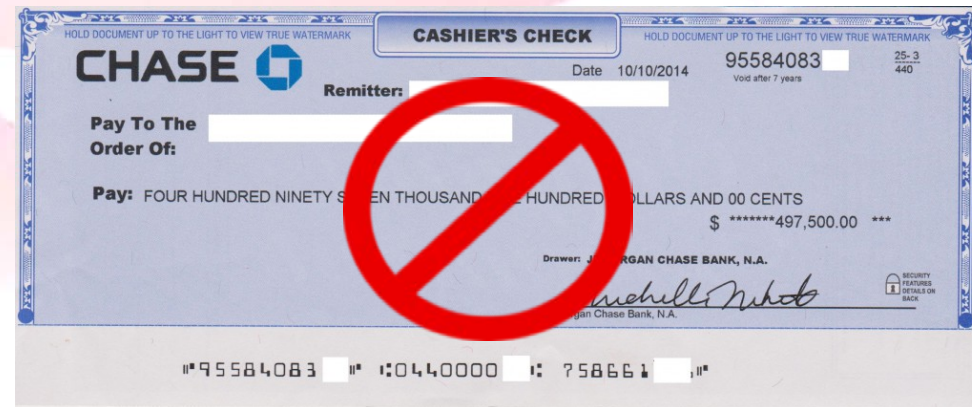


- ▶ Date
- ▶ Numerical and written amount
  - More than qualifying → OK
  - Less than qualifying → Not OK (ask for new check)
  - If numerical and written amount differ → written amount controls
- ▶ Drawn on campaign account
- ▶ Make sure the account is the depository on record
- ▶ Paid to the order of the filing officer
- ▶ Signature of treasurer or deputy treasurer
  - Must be signed by duly appointed treasurer or deputy treasurer
  - Candidate may not sign the check unless he has been appointed as a treasurer or deputy treasurer

# Qualifying – Properly Executed Check (cont'd)

Sections 99.092 and 105.051, FS

- ▶ Cashier's checks, personal checks and money orders are not acceptable.
  - Exception - Special District candidates may use any of the above
- ▶ Cashier's checks paid for by funds from the campaign account are not acceptable.



# Qualifying – Returned Check – Insufficient Funds

Section 99.061(7)(a), FS

- ▶ Immediately notify candidate
- ▶ Candidate has 48 hours after notice to pay with cashier's check paid from campaign account notwithstanding the end of qualifying has occurred
  - Timeline based on court case that declared statute unconstitutional. *Wright v. City of Miami Gardens*, 200 So. 3d 765 (Fla. 2016) (language reverts back to statute in existence in 2010)
- ▶ Failure to timely provide cashier's check will disqualify candidate

# Qualifying – Return of Qualifying Fee

Section 99.092, FS

## ▶ Candidate Withdraws

- Written withdrawal required prior to the last date to qualify to have fee returned

## ▶ Candidate Dies

- If the candidate dies prior to the election, the candidate's beneficiary is entitled to the return of the qualifying fee

## ▶ Candidate Fails to Qualify

- Return check with letter indicating that the person did not qualify



# Qualifying by Petition Method

Chapter 99, Fla. Stat

# Qualifying by Petition Method

Section 99.095, F.S.

- Statutory requirements for candidate petitions may be changed by municipal charter or ordinance; if not changed, statutes apply
- A person qualifying by petition method is not required to pay the qualifying fee or party assessment.
- Petition process only waives the fees – candidate must still submit other qualifying papers.

# Forms for Petition Process

- Form DS-DE 9, Appointment of Campaign Treasurer and Designation of Campaign Depository – must first be filed before obtaining signatures on candidate petition.
- Form DS-DE 104, Candidate Petition
  - Signatures on petitions that are not on the current form (eff. 09/11) are not valid.
  - Candidates are responsible for reproducing the petition.
  - Forms cannot be altered in text or format.

# Candidate Petition Form – DS-104

CANDIDATE PETITION			
<b>Notes:</b> - All information on this form becomes a public record upon receipt by the Supervisor of Elections. - It is a crime to knowingly sign more than one petition for a candidate. [Section 104.185, Florida Statutes] - If all requested information on this form is not completed, the form will not be valid as a Candidate Petition form.			
I, _____		the undersigned, a registered voter	
(print name as it appears on your voter information card)			
in said state and county, petition to have the name of _____			
placed on the Primary/General Election Ballot as a: [check/complete box, as applicable]			
<input type="checkbox"/> Nonpartisan	<input type="checkbox"/> No party affiliation	<input type="checkbox"/> _____ Party	candidate for the office of
_____			
(insert title of office and include district, circuit, group, seat number, if applicable)			
<b>Date of Birth (MM/DD/YY) or Voter Registration Number</b>		<b>Address</b>	
_____		_____	
<b>City</b>	<b>County</b>	<b>State</b>	<b>Zip Code</b>
_____	_____	_____	_____
<b>Signature of Voter</b>		<b>Date Signed (MM/DD/YY)</b> [to be completed by Voter]	
_____		_____	
Rule 1S-2.045, F.A.C.		DS-DE 104 (Eff. 09/11)	

# Collecting Signatures – How Many?

- ▶ 1% of the registered voters in the geographical area represented by the office in the immediately preceding general election.

NOTE: This requirement may be changed by municipal charter or ordinance (Section 100.3605).

# Collecting Signatures – When and Where?

- ▶ May start as soon as a complete DS-DE 9 is filed.
- ▶ Only valid for the next qualifying period immediately following such filings
- ▶ Absent a local prohibition,\*candidates may collect petitions in any public place including a government-owned building.
  - \* Some governments impose permit requirements or pre-approval process.
- ▶ Private Property – depends upon owner of property unless is a quasi-public area. (See case law.)
  - The candidate should always check with the property owner prior to collecting signatures, regardless of the type of property.

# Collecting Signatures – Verification Fee

- ▶ Verification fee is 10 cents per signature or the actual cost of verifying, whichever is less. Section 99.097(4), F.S.
- ▶ Fees must be paid by the candidate:
  - Campaign check or petty cash,
  - Candidate uses personal funds and reports as in-kind or is reimbursed by the campaign, or
  - Third party pays and is reimbursed by the campaign.



Undue Burden – If a certification of undue burden is filed, petitions are entitled to verification at no charge.



# Campaign Finance

Chapter 106, Fla. Stat.

# Candidate Prerequisite to Campaigning

- **Appointment of Campaign Treasurer and Designation of Depository - form DS-DE 9** must be filed with the filing officer *prior* to:
  - Collecting contributions
  - Making expenditures
  - Collecting petitions

# Filing Offices for Candidates

- Reports are to be filed with the officer before whom the candidate qualifies (s. 106.07(2)(a)1); *therefore*:
  - State and Multi-County = Department of State (Division of Elections)
  - County = Supervisor of Elections Office
  - Municipal = Municipal Clerk
- Candidates must file periodic reports (s. 106.07) – at least monthly, more often as election nears.

(Note: See DE 15-02 – Campaign Financing Municipalities)

# Appointment of Campaign Treasurer

- **The campaign must appoint 1 primary campaign treasurer.**
  - Candidates and committees/ECOs may have up to 3 deputy treasurers.
  - A DS-DE 9 form must be filed for each deputy treasurer.
  - Only the campaign treasurer or deputy treasurer can sign campaign checks.

# Duties of a Campaign Treasurer

Section 106.06, F.S.

- The treasurer must keep detailed accounts current within 2 days
- Preserve the records for the number of years equal to the term of the office sought
- File regular reports of all contributions received and expenditures made
  - Note – Candidates - Payment of fines assessed for late filed reports are the sole responsibility of the candidate from personal funds.
- Deposit contributions within 5 days of receipt

# Changing a Treasurer

- If there is a change in treasurer, a new Appointment of Campaign Treasurer form (DS-DE 9) must be filed with the filing officer along with either –
  - If due to a resignation - a signed letter of resignation from the treasurer
  - If due to removal - a signed removal letter from the candidate

# Campaign Depositories

- A primary campaign depository may be any bank, savings and loan association, or credit union authorized to do business in this state.
- All monetary contributions received must be deposited in the primary campaign account within 5 business days of receipt.
  - The contribution receipt date is the day the candidate or someone authorized by the campaign comes into possession of the contribution. For electronic contributions, such as PayPal, the receipt date is when the contribution is swept into the campaign account. See DE 12-12 advisory opinion. Note: Electronic contributions are reported as "check".



**Caution – Candidate must not open a depository account until they have filed their DS-DE 9 with the filing officer.**



# Campaign Depositories

- To change the depository, a new Appointment of Campaign Depository (DS-DE 9) form must be filed. Indicate in the box at the top of the form "Re-filing" to change depository. This can be done anytime.
- Remember, the bank shown on the check to pay the qualifying fee must match the current depository of record.

# Contributions Defined

Section 106.11(5), F.S.

Anything of value made for the purpose of influencing a Florida election  
(except service without compensation)

➤ **Limitations on contributions include:**

- Cash and cashier's checks – No more than \$50/election (s. 106.09, F.S.)
  - Note: Money orders and travelers checks are not considered "cash."
- \$1000/election – (s. 106.08(1)(a))
- Municipalities by charter or ordinance may have *lower* limits
- Opposed candidates cannot accept contributions within 5 days of the election s. 106.08(3)(a)

# Reporting Contributions

Section 106.07(4)

- The date, name, and address of contributor, and amount of contribution must be included on report
- Contributions over \$100 must also have the occupation or nature of business of contributor *(thus, a GoFundMe-type account should not be used to obtain contributions if the vendor cannot obtain occupation of donor)*
- In-kind contributions - must have a description of the contribution; the contributor must provide the fair market value
- Contribution via PayPal: Entire amount given to PayPal is reported as contribution; transaction fee is reported as expenditure (DE Opinion 08-07) Note: Electronic contributions are reported as "check".

# Contributions from Political Parties

- Political parties may contribute to nonpartisan municipal candidates (DE Opinion 03-02)
- Contributions from a Political Party to a Candidate are limited (s. 106.08(2)):
  - Municipal candidate: \$50,000 aggregate from a county party executive committee + \$50,000 from all other party or affiliated party committee (APC) sources
- "3-Pack" Advertisement: Expenditures by a political party for purpose of jointly endorsing 3 or more candidates in communications medium shall not be considered a contribution to any candidate. (s. 106.021(3)(d))

# Expenditures

- ▶ **Definition** – Spending on items that will influence election results (not to defray normal living expenses) (ss. 106.011(10) and 106.1405))
- ▶ Done only via **check** drawn on campaign account (s. 106.11(1)(a)), except:
  - **Credit cards** – Statewide candidates only (s. 106.125)
  - **Debit cards** – Permissible (*see* next slide & s. 106.11 )
  - **Petty cash withdrawal** – (*see* separate slide & s. 106.12 )
- ▶ Cannot obligate funds unless sufficient funds in campaign account to cover the expenditure; and payment must be made upon receipt and acceptance of goods or services. (s. 106.11).

# Expenditure Pitfalls

- ▶ No expenditures shall be made or authorized without sufficient funds on deposit in the campaign account.
- ▶ Payment shall be made upon receipt and acceptance of goods or services.



# Debit Cards

## Section 106.11(2)

- ▶ Obtained from the same bank as the primary depository
- ▶ Can be issued by any treasurer or authorized user – limit of 3 cards total for campaign
- ▶ Card must include the name of the campaign account of the candidate
- ▶ User cannot receive cash back using the debit card
- ▶ Receipt must contain specific information; if not on printed receipt, can be handwritten on it

# Petty Cash Withdrawal

## Section 106.12

- ▶ \$500 per quarter until the end of qualifying
- ▶ \$100 per week after qualifying
- ▶ Only can be used for office supplies, transportation, and necessities in amounts less than \$100
- ▶ May not be used for the purchase of time, space, or services from a communication media



# Reporting Reimbursements

Section 106.021(3)(b)

- ▶ Reimbursements to a candidate or any other individual for expenses incurred in connection with the campaign are to be done via a check drawn on the campaign account and reported per s. 106.07(4).
- ▶ Must report all expenditure information from prior slide, plus:
  - Full name of person or entity to whom the candidate or other person made the payment for which the reimbursement is being made
  - Purpose of payment
  - Reported using forms DS-DE 14 and 14A

## EXAMPLE

Candidate John Jones made purchases at Target Copy and Staples for campaign items using his own funds. He wants to be reimbursed for these items by the campaign.

His purchases were made on June 1<sup>st</sup>. He provided the receipts to his campaign treasurer. The treasurer wrote a check to reimburse the candidate on June 15<sup>th</sup>.

The transactions being reimbursed are itemized on Form DS-DE 14A. The reimbursement check is reported on Form DS-DE 14.

***(See next slides)***

# EXAMPLE (Cont'd) Form DS-DE 14A

## CAMPAIGN TREASURER'S REPORT - ITEMIZED DISTRIBUTIONS

(1) Name

John Jones

(2) I.D. Number

(3) Cover Period

6 / 01 / 18

through

06 / 30 / 18

(4) Page

1

of

1

(5) Date	(7) Full Name (Last, Suffix, First, Middle) Street Address & City, State, Zip Code	(8) Purpose (add office sought if contribution to a candidate)	(9) Related Expenditures	(10) Amendment	(11) Amount	(12) Distribution Type
(6) Sequence Number						
6-01-18 / /	Target Copy 1818 Elm Street Hometown, FL 32312	Copies	2018 M6, Seq 1		15.00	RMB
6-01-18 / /	Staples 206 Main Street Hometown, FL 32312	Office Supplies	2018 M6, Seq 1		26.30	RMB

# EXAMPLE (Cont'd) Form DS-DE 14

## CAMPAIGN TREASURER'S REPORT – ITEMIZED EXPENDITURES

(1) Name John Jones

(2) I.D. Number

(3) Cover Period 6 / 1 / 18 through 6 / 30 / 18

(4) Page 1 of 1

(5) Date	(7) Full Name (Last, Suffix, First, Middle) Street Address & City, State, Zip Code	(8) Purpose (add office sought if contribution to a candidate)	(9) Expenditure Type	(10) Amendment	(11) Amount
(6) Sequence Number					
6 / 15 / 18	John Jones 2082 Appleway Hometown, FL 31013	Reimbursement for campaign supplies	RMB		41.30

# Notices/Reports

## Section 106.07, FS

- Notice of Waiver
  - No financial activity (*not considered a “report”*)
- Timely Reports
  - The filing officer is responsible for providing each candidate the filing schedule (s. 106.07(1)(e), F.S.) – to include the filing date and cover period for the reports.
- Amended Reports
- Untimely Reports
  - Statutory fines imposed by filing officer (no discretion)
  - *See* separate slides for penalties (fines and calculations of fines)

# Reporting Timelines

- **Monthly:** All candidates, PCs, and ECOs.
- **Beginning on 60th day before Primary**, reports due:
  - Weekly for a **statewide candidate or a PC/ECO** filing with the Division of Elections until 4th day before General Election.
  - Bi-weekly on Friday for **any other candidate/PC/ECO** until *4th day* before General Election. *Also, additional reports required on 25th and 11th days before Primary and General Elections*



# Penalties for Late Filing

## Section 106.07(8)

- Filing officer imposes /assesses fines – No discretion
- Amount
  - \$50 per day for the first three days and \$500 per day thereafter
  - Not to exceed 25% of the expenditures or contributions, whichever is greater for reporting period
  - HOWEVER: Reports due immediately prior to primary or general election are \$500 per day - not to exceed 25% of the expenditures or contributions, whichever is greater for reporting period.
- Fines for late filings must be paid out of the candidate's own *personal funds*.
- Appeal is to Florida Elections Commission.
- Fines collected by municipal filing officers are deposited into the municipality's general revenue funds.

# Calculating Fines

- STEP 1 - Calculate the fine based upon the *Daily Method*, i.e., multiply the number of days late by the appropriate fine rate.
- STEP 2 - Calculate the fine based upon the *Percentage Method*, i.e.,
  - Review expenditures and contributions in the report in question.
  - Multiple the greater of the two by 25% (i.e., by .25)
- STEP 3 - Compare the fine amounts calculated using the *Daily Method* versus the *Percentage Method*.
- STEP 4 - The amount of the fine will be the lesser of the two calculated amounts.
- *Filing officers are required to notify the Florida Election Commission (FEC) of any candidate who repeatedly files late reports.*



# Calculating Fines (cont'd)

- Calculation of fine begins the day after the report's due date even if it is a Saturday, Sunday or a holiday, and includes the day of filing.
  - Example: A report due on Friday that is not filed until Tuesday is 4 days late (i.e., Saturday, Sunday, Monday, and Tuesday). See DE Opinion 91-07
- Reminder: Because a waiver is not a report, there is no automatic fine for a late-filed waiver.

# Example 1 – Calculating Fines

- Monthly report filed 4 days late.
  - Expenditures were \$5000 / Receipts were \$10,000
- Fine under *Daily Method*= \$650
  - [ $\$50 \times 3 \text{ days} + \$500 \times 1 \text{ day} = \$650$ ]
- Fine under *Percentage Method* = \$2,500
  - [ $25\% \times \$10,000 = \$2,500$ ]
- In this scenario, the fine would be assessed under the *Daily Method*, which is the lesser amount of the two calculation methods.

## Example 2 - Calculating Fines

- Monthly report filed 4 days late.
  - Expenditures were \$1,000 / Receipts were \$500
- Fine under *Daily Method* = \$650
  - [ $\$50 \times 3 \text{ days} + \$500 \times 1 \text{ day} = \$650$ ]
- Fine under *Percentage Method* = \$250
  - [ $25\% \times \$1,000 = \$250$ ]
- In this scenario, the fine would be assessed under the *Percentage Method*, which is the lesser amount of the two calculation methods.

# Reports

## ➤ **Termination report** (s. 106.141)

- File within 90 days of withdrawal, becoming unopposed, elected or eliminated
- Provides disposition of all funds from campaign account- account need not be closed

## ➤ **Campaign Loan Report** (for elected person - s.106.075)

- Within 10 days of being elected to office
- Report all loans exceeding \$500 in value
  - made for campaign purposes
  - within the 12 months preceding election to office

# Allowable expenses after campaign

## Section 106.11(5)

- Once a candidate becomes unopposed, elected, eliminated or withdraws, the individual may only expend funds for the following:
  - Purchase thank-you advertising (for up to 75 days).
  - Pay for items obligated.\*
  - Pay for expenditures necessary to close down the campaign office and to prepare final report.
  - Pay candidate back, in full or in part, for any contributions contributed to own campaign.

\* Example: Election party on/after Election Day – all expenses must have been obligated prior to candidate being elected or eliminated and cannot obligate unless sufficient funds are in campaign depository to pay the full amount of the expenses.



# Disposal of Surplus Funds

## Section 106.141

- Once a candidate withdraws, becomes unopposed, is eliminated or elected to office, surplus funds are to be used to:
  - Reimburse candidate petition verification fees waived for undue burden; then
  - Can dispose of by any combination of:
    - Return contributions pro rata to each contributor.
    - Donate funds to a charitable organization or an organization that meets the qualifications of s. 501(c)(3) of the Internal Revenue Code.

# Disposal of Surplus Funds (cont'd)

Section 106.141

- Give funds to applicable **general revenue fund**.
  - Give funds to candidate's **political party or to APC. (Amount given to the party limited to NMT \$25,000)**
  - For elected candidates, transfer funds to an **office account**.
- 
- NOTE: See s. 106.141(2) – prior to disposition of funds, the candidate may be reimbursed by campaign for contributions by the candidate to the campaign.

# Office Accounts

Section 106.141(5)

- A candidate elected to office or a candidate who will be elected to office by virtue of his or her being unopposed may, in addition to the disposition methods provided in subsection (4), transfer from the campaign account to an office account any amount of the funds on deposit in such campaign account...



# Office Accounts

Section 106.141(5)

Maximum allowable amount is based upon elected office

Statewide office • \$50,000	Multi- county office • \$10,000	Legislative office • \$10,000 x years in term	County or local office • \$5,000 x years in term	Supreme Court Justice • \$6,000	Other judges • \$3,000
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# Office Accounts

Section 106.141(5)

➤ **Legitimate expenses only in connection with public office, which may include:**

- Travel by officer or staff member
- Personal taxes payable on office account funds
- Expenses incurred in operation of the office
- CPA or attorney services for preparation of financial disclosure filing

(Cont'd next slide)

# Office Accounts (cont'd) – Legitimate expenses

Section 106.141(5)

- Costs for holiday cards or newsletters to constituents re officer's official business (may be not be political advertisement)
  - Fees or dues to religious, civic, or charitable orgs to which officer is a member
  - Items of modest value for use at a constituent's special event or family occasion (flowers, cards, personal notes)
  - Personal expenses of officer attending a constituent event where public policy is discussed (limited to 1 per week)

# Office Accounts – Reporting and final disposition

Section 106.141(5), FS

- **Quarterly reports** to filing officer until funds expended
  - Official must file reports on the 10th day following the end of the quarter until the account is closed (s. 106.141(9), FS)
- **Final disposition upon leaving office**
  - Donate to 501(c)3 charitable organization
  - Donate to applicable government general revenue fund
  - Pay towards cost of certified public account or attorney to prepare final report

# **Municipal Elections/Clerks**

**Chapter 106, FS**

# Application of Florida Election Code

- ▶ Applies to municipalities in the absence of a special act, charter or ordinance provision.
- ▶ No charter or ordinance provision shall be adopted which conflicts with or exempts a municipality from any provision in the Election Code that expressly applies to municipalities.
- ▶ Chapter 106 expressly applies; thus, municipal requirements cannot conflict with those in Chapter 106, but may supplement them (see DE 15-02).

# Political Committees (PCs)

Chapter 106, FS

# Political Committees – Definition

Section 106.011(16), FS

- ▶ Two or more individuals, or a “person” as legally defined (e.g., a business entity, law firm, etc.), who in an aggregate amount in excess of \$500 in a calendar year:
  - Accept contributions to give to candidates, other Florida PCs, affiliated political committees, or political parties; or
  - Accept contributions or makes expenditures for purpose of “expressly advocating” the election/defeat of candidate or issue.
- ▶ The sponsor of a proposed constitutional amendment by initiative who intends to seek the signatures of registered electors.



# PC Statement of Organization

Section 106.03, F.S.

## Where to File – If organized to support or oppose

- Municipal candidates or issues
  - ✓ File with Municipal clerk
- County or other local jurisdiction (other than municipal) candidates or issues
  - ✓ File with Supervisor of Elections
- Statewide, legislative, or multicounty candidates or issues
  - ✓ File with Division of Elections

## When to File

- Within 10 days of exceeding \$500 in contributions or expenditures during a calendar year or immediately if organized within 10 days of an election
- Before seeking voter signatures on an initiative

# PC Limitation on Receipt of Contributions

Section 106.08(4), FS

- ▶ Any contribution received by the chair, treasurer, or deputy treasurer of a political committee supporting or opposing an issue or a candidate with opposition less than five days prior to an election or on election day may not be obligated or expended until after the election unless the contributions are reported prior to election day (additional report).
- ▶ Worley v. Detzner

# PC – Disposition of Surplus Funds

Section 106.03, FS

- ▶ Disposition of funds upon termination of the organization for PCs must be stated in the Statement of Organization at the time of their registration.
- ▶ Note: Statement of Organization can be amended at any time

# **Electioneering Communications Organizations (ECOs)**

**Sections 106.011(9), 106.03 and 106.0703, FS**

# ECOs – Definition

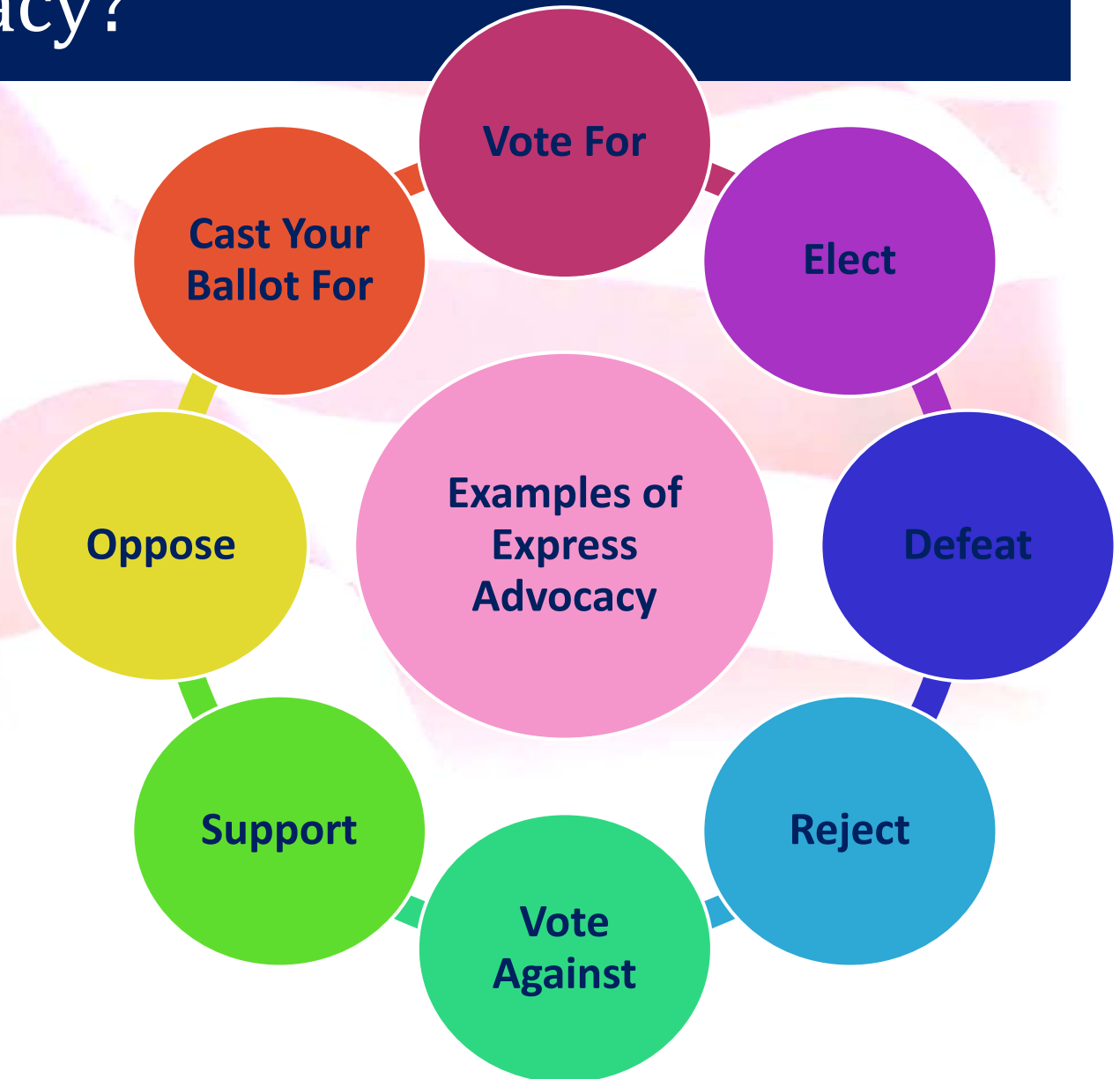
- ▶ Definition: Any group (not a political party, APC, or PC)
  - Whose election-related activities are limited to
  - making expenditures for electioneering communications or
  - accepting contributions for purpose of making electioneering communications, and
  - whose activities would not otherwise require the group to register as a political party or political committee.
- ▶ Key: ECOs may not “expressly advocate.”

# ECOs – Definition for Organization

- ▶ Definition: Any group (not a political party, APC, or PC)
  - Whose election-related activities are limited to
  - making expenditures for electioneering communications or
  - accepting contributions for purpose of making electioneering communications, and
  - whose activities would not otherwise require the group to register as a political party or political committee.
- ▶ Key: ECOs may not “expressly advocate.”

# What is Express Advocacy?

- Express advocacy – The language of the communication, by its express terms, makes an appeal to the viewer to take a specific electoral action for or against a particular candidate or issue (see DE 16-03).





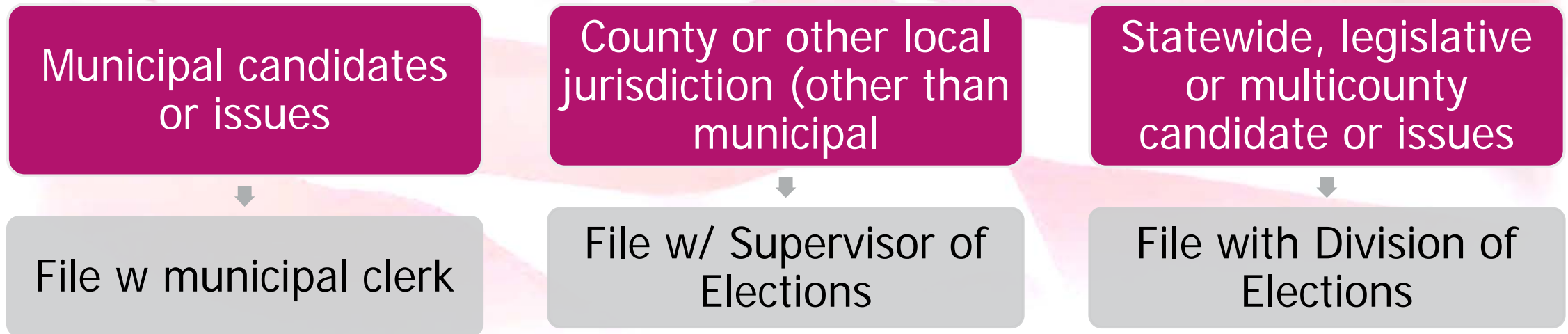
# Electioneering Communications – Definition

Section 106.011(8), FS

- ▶ Any communication publicly distributed by a TV station, radio station, cable TV system, satellite system, newspaper, direct mail, or telephone that:
- ▶ Refers to or depicts a clearly identified candidate without expressly advocating for/against a candidate's election/defeat BUT is susceptible of no reasonable interpretation other than an appeal to vote for or against a specific candidate; and
- ▶ Is made within 30 days before a primary/special primary, or 60 days before any other election for office sought by the candidate; and
- ▶ Is targeted to the relevant electorate in the geographic area the candidate would represent if elected.
- ▶ Disclaimer (s. 106.1439) – must use language in law (misdemeanor)

# ECO – Statement of Organization – Where to File

Section 106.03, FS



# ECOs – Disposition of Surplus Funds

Section 106.03, FS

- ▶ Same as for PC:
- ▶ Disposition of funds upon termination of the organization for ECOs must be stated in the Statement of Organization at the time of their registration. (Section 106.03, F.S.)
- ▶ Note: Statement of Organization can be amended at any time

# PCs versus ECOs - Comparison

Section 106.03, FS

- ▶ See DE Guide 0017 Political Committees and Electioneering Communications Organizations
- ▶ Available on the SOE internal resource webpage

# PCs/ECOs - Registration Cancellation Process

- ▶ Rule 1S-2.021 – Cancellation of Registration of Political Committees and Electioneering Communications Organizations

# Political Clubs

- ▶ A political club is a social/civic organization.
  - If the club wants to engage in political activity, it would have to form a political committee. The PC would be a separate entity and must have its own bank account.
  - Only \$500 of club funds could be given to the PC per election cycle. Individual members of the club could donate unlimited personal funds to the PC.
  - The PC could accept unlimited funds from other sources.

# **Jurisdictional Administration and Enforcement**

**Sections 106.011(9), 106.03 and 106.0703, FS**



# Division of Elections/Office/Agency

## Division of Elections/Bureau of Election Records

- Administers ch. 106, FS
- Operates state level electronic filing system
- Maintains campaign docs, candidate and committee databases
- Oversees registration of political entities
- Assesses statutory fines
- Conducts audits

## Office of Election Crimes and Security

- Investigations of candidate or initiative petitions
- Campaign/qualifying criminal violations

## Florida Elections Commission

- Enforces ch. 106, Fla. Stat.
- Investigates sworn complaints
- Decides appeals of automatic fines and revocations of political committees
- Determines violations of chapters 104 and 106, FS
- Issues final orders

# Need Help

Publications – manuals, forms, reference guides

Website - [dos.myflorida.com](http://dos.myflorida.com)

Email address (dedicated to BER related questions) [elecrecords@dos.myflorida.com](mailto:elecrecords@dos.myflorida.com)

Direct line - Chief Donna Brown 850-245-6280

# Q & A



FLORIDA DEPARTMENT *of* STATE  
DIVISION OF ELECTIONS

