



**FLORIDA
DEPARTMENT
of STATE**

Campaign Finance

New Supervisor of Elections'

Workshop

September 2019

**Kristi Reid Willis, Chief
Bureau of Election Records**



Campaign Finance Resources

- Chapter 106, Florida Statutes
- Online Handbooks
 - ❖ Candidate and Campaign Treasurer Handbook
 - ❖ Electioneering Communications Organization Handbook
 - ❖ Political Committee Handbook

Independent Expenditures

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).
- Examples:
 - VOTE FOR
 - VOTE AGAINST
 - ELECT
 - SUPPORT
 - DEFEAT
 - OPPOSE
 - REJECT
 - CAST YOUR BALLOT FOR _____

Independent Expenditure

- **Definition** (s. 106.011(12))
 - ❖ Is an expenditure totally independent – no coordination or consultation with, or control by, any candidate or political committee
 - ❖ Requires “**express advocacy**” for/against candidate or issue
- **Amount:** No limit on amount of the expenditure
- **Disclaimer** (s. 106.071(2))
 - ❖ See statute for language - must appear (penalty is misdemeanor)
- **Reports** (s. 106.071(1))
 - ❖ If \$5,000 or more spent in aggregate, must file reports as if a political committee



Political Committees

Political Committees (PCs)

s. 106.011(16)

- 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 (s. 106.03)

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
 - ❖ If would be required to file in 2 or more locations, need only 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

Disposition of Surplus Funds by PCs

- Disposition of funds upon termination of the organization for PCs must be stated in the [Statement of Organization](#) at the time of their registration. (s. 106.03)
- Note: Statement of Organization can be amended at any time



Electioneering Communications Organizations

Electioneering Communication Defined

s. 106.011(8)

- 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) – see statute for language; must appear (penalty is misdemeanor)

Electioneering Communications Organizations (ECOs)

(ss. 106.011(9), 106.03, and 106.0703)

- Definition: Any group (not a political party, APC, or PC)
 - ❖ Whose election-related activities *are limited to*
 - making expenditures for **electioneering communications** or
 - accept 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.**”

ECO Statement of Organization (s. 106.03)

WHERE TO FILE

- 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
 - ❖ If would be required to file in 2 or more locations, need only file with Division of Elections.

WHEN TO FILE

- If expenditures > \$5000 before the "30/60-day" window → Register within 24 hours after the start of the window
- If expenditures > \$5000 during the "30/60-day" window → Register within 24 hours after the start of the window

ECOs – Contributions Limits

To the ECO

- No limit

From the ECO

- No limit
- Election-related activities must only be for electioneering communications
- ECO is limited to making its own electioneering communications or contributing to other ECOS
- ECO cannot contribute directly to candidates

Disposition of Surplus Funds for ECOs (s. 106.03)

- 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.
 - ❖ Note: Statement of Organization can be amended at any time

PC and ECO Comparison

- *See DE Guide 0017 Political Committees and Electioneering Communications Organizations*
- Available on the SOE Resource Webpage

Frequently Asked Questions

Campaign Treasurer Reports

- Maintain operation of electronic filing system for campaign finance reports
- Provide reporting schedules for candidates and political entities
- Send reminder notices for upcoming reports
 - Only **required** for termination reports
- Send notices of failure to file – reports and waivers
- Send fine letters
- Refer to Florida Elections Commission any failure to file campaign reports or failure to pay fines

Review of Campaign Treasurer Reports

Two types of review:

Completion – required information provided

Compliance – activities in compliance with Chapter 106

FEC referrals for failure to amend or provide requested information

PC Limitation on Receipt of Contributions (s. 106.08(4))

Any contribution received by the chair, treasurer, or deputy treasurer or 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.

PC/ECO Cancellation Process

See Handout.

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.

Florida Department of State/Division of Elections

Administers ch. 106, Fla. Stat.

Operates **state level electronic filing system**

Maintains campaign documents, candidate, and committee databases

Oversees registration and dissolution of political entities

Issues advisory opinions

Assesses statutory fines

Conducts audits

Florida Elections Commission

Enforces ch. 106, Fla. Stat.

Investigates sworn complaints

Decides appeals of automatic fines and revocations of political entities

Determines violations of chapters 104 and 106, Fla. Stat.

Imposes fines for violations of chapters 104 and 106, Fla. Stat.

Issues final orders

Calculation of Fines

- *See DE Guide 0013 Calculation of Fine for Late Campaign Treasurer's Reports*
- Available on the SOE Resource Webpage

Use of Candidate Funds

Candidate may not give their campaign funds to another candidate, a PC, an ECO, or a political party. The only exception would be purchasing something that will further their own campaign such as an event ticket or advertising.

Use of Items from a Previous Campaign (Candidate)

Once a campaign is over, items bought by the campaign (office items, signs, etc.) become the personal property of the candidate.

If the candidate engages in a new campaign, they may donate the items to the new campaign and, after determining the fair market value of the items, report the items as in-kind contributions from themselves.