



Committee of Continuous Existence Handbook

August 2010

**Florida Department of State
Division of Elections
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Table of Contents

CHAPTER 1 – Explanation	1
CHAPTER 2 – The Campaign Financing Act	2
CHAPTER 3 – Offices Up for Election in 2010	3
Federal Offices	3
State Offices	3
Multicounty and District Offices	3
County Offices	3
Judicial Retention (Nonpartisan)	3
Circuit Judges (Nonpartisan)	3
County Court Judges (Nonpartisan)	3
CHAPTER 4 – 2010 Dates to Remember	4
CHAPTER 5 – Glossary of Terms	5
CHAPTER 6 – What is a Committee of Continuous Existence?	8
Comparisons	9
CHAPTER 7 – Applying for Certification as a Committee of Continuous Existence	12
Revocation of Certification	13
CHAPTER 8 – Treasurer and Depository	14
Resignation or Removal of Treasurers	14
Depository	14
CHAPTER 9 – Contributions	15
In-Kind Contributions	15
Loans	16
Cash Contributions	16
Debit and Credit Card Contributions	16
Contribution Limits	16
2010 Deadlines for Making Contributions to Candidates	16
Violations	17
CHAPTER 10 – Expenditures	18
Petty Cash	18
Credit Cards	18
Debit Cards	18
CHAPTER 11 - Recordkeeping	19
CHAPTER 12 – Filing Campaign Reports	20
Where to File	20
When to File	20
Penalty for Late Filing	20
Waiver of Report	20
Special Election Reports	20
Incomplete Reports	21
Reporting Contributions	21
Reporting Expenditures	22
Reporting Other Distributions	22

CHAPTER 13 – Electronic Filing of Campaign Reports	23
Accessing the EFS.....	23
Creating Reports.....	23
Submitting Reports	23
Electronic Receipts	24
CHAPTER 14 – Political Advertising	25
Disclaimers.....	25
Disclaimers on Novelty Items.....	26
Items Designed to be Worn by a Person	26
Fund Raiser Mailouts	27
Language Other Than English.....	27
Miscellaneous Provisions.....	27
CHAPTER 15 – Telephone Solicitation.....	28
Telephone Solicitation.....	28
Telephone Solicitation, Registered Agent.....	29
CHAPTER 16 – Florida Elections Commission	30
Automatic Fine Appeal Process.....	30
Complaint Process	30
CHAPTER 17 – Frequently Asked Questions	31
Campaign Advertising.....	31
Campaign Finance.....	31

Chapter 1

Explanation

The information contained in this publication is intended as a quick reference guide only and is current upon publication. Chapters 97-106, Florida Statutes, the Constitution of the State of Florida, Division of Elections' opinions and rules, Attorney General opinions, county charters, city charters and ordinances, and other sources should be reviewed in their entirety for complete information regarding campaign financing.

All Division forms and publications are available on the Division of Elections' website at <http://elections.myflorida.com>.

Please direct any questions to either your county supervisor of elections or the Florida Department of State, Division of Elections at 850.245.6240. Below you will find some other useful websites:

- Florida Division of Elections<http://elections.myflorida.com>
- Florida Elections Commission <http://www.fec.state.fl.us>
- Florida Elected Officials <http://election.dos.state.fl.us/contact-us/contact-elected-officials.shtml>
- Florida Supervisors of Elections https://doe.dos.state.fl.us/SOE/supervisor_elections.shtml
- Florida Association of City Clerks..... <http://www.floridaclerks.org>
- Florida Attorney General <http://myfloridalegal.com>
- Federal Election Commission..... <http://www.fec.gov>

Chapter 2

The Campaign Financing Act

The Florida Election Code is comprised of Chapters 97-106, Florida Statutes. Chapter 106, Florida Statutes, regulates campaign financing for all candidates, including judicial candidates, political committees, committees of continuous existence, and political parties. ***It does not regulate campaign financing for candidates for federal office or candidates for a political party executive committee.***

The Division of Elections:

- Oversees the interpretation of and provides guidance on the election laws.
- Provides advisory opinions to supervisors of elections, candidates, local officers having election related duties, political parties, political committees, committees of continuous existence, or other persons or organizations engaged in political activity, relating to any provisions or possible violations of Florida election laws with respect to actions such person or entity has taken or proposes to take. (*Section 106.23(2), F.S.*)
- Prescribes rules and regulations to carry out the provisions of Chapter 106, Florida Statutes. (*Section 106.22(9), F.S.*)

Chapter 3

Offices Up for Election in 2010

Federal Offices

Unites States Senator
Representative in Congress (all districts)

State Offices

Governor and Lieutenant Governor
Attorney General
Chief Financial Officer
Commissioner on Agriculture

Multicounty and District Offices

State Attorney (20th Circuit)
Public Defender (20th Circuit)
State Senator (even-numbered districts)
State Representative (all districts)

County Offices

These vary from county to county, however, most will elect:

Board of County Commissioners
School Board
Other offices depending on county

Information for a particular county can be obtained from the county supervisor of elections.

Judicial Retention (Nonpartisan)

Justice of the Supreme Court (only those whose terms expire January 2011)
Judge, District Court of Appeal (only those whose terms expire January 2011)

Circuit Judges (Nonpartisan)

Only those whose terms expire January 2011

County Court Judges (Nonpartisan)

Only those whose terms expire January 2011

Chapter 4

2010 Dates to Remember

March 2	Legislative Session begins (<i>Article III, Section 3, Fla. Const. – 1st Tuesday after the 1st Monday in March</i>)
April 12	Q1 report due for candidates, political committees, committees of continuous existence, electioneering communications organizations, independent expenditure organizations, and political party executive committees
July 23	F1 report due for candidates, political committees, committees of continuous existence, electioneering communications organizations, and independent expenditure organizations
August 6	F2 report due for candidates, political committees, committees of continuous existence, electioneering communications organizations, and independent expenditure organizations
August 20	F3 report due for candidates, political committees, committees of continuous existence, electioneering communications organizations, independent expenditure organizations, and political party executive committees
August 24	PRIMARY ELECTION (<i>Section 100.061, F.S. – on the Tuesday 10 weeks prior to the general election</i>)
September 17	G1 report due for candidates, political committees, committees of continuous existence, electioneering communications organizations, and independent expenditure organizations
October 1	G2 report due for candidates, political committees, committees of continuous existence, electioneering communications organizations, and independent expenditure organizations
October 15	G3 report due for candidates, political committees, committees of continuous existence, electioneering communications organizations, and independent expenditure organizations
October 29	G4 report due for candidates, political committees, committees of continuous existence, electioneering communications organizations, independent expenditure organizations, and political party executive committees
November 2	GENERAL ELECTION (<i>Section 100.041, F.S. – on the 1st Tuesday after the 1st Monday in November of each even-numbered year</i>)

Chapter 5

Glossary of Terms

Campaign Fund Raiser: Any affair held to raise funds to be used in a campaign for public office. *(Section 106.011(11), F.S.)*

Campaign Treasurer: An individual appointed by a candidate or political committee as provided for in Chapter 106, F.S. *(Section 106.011(9), F.S.)* For a committee of continuous existence, this person is officially called only "treasurer." *(106.04, F.S.)*

Candidate: Any person to whom any one or more of the following applies:

- Any person who seeks to qualify for nomination or election by means of the petitioning process;
- Any person who seeks to qualify for election as a write-in candidate;
- Any person who receives contributions or makes expenditures, or gives his or her consent for any other person to receive contributions or make expenditures, with a view to bringing about his or her nomination or election to, or retention in, public office;
- Any person who appoints a campaign treasurer and designates a primary depository; or
- Any person who files qualification papers and subscribes to a candidate's oath as required by law.

This definition does not include any candidate for a political party executive committee. *(Sections 97.021(5) and 106.011(16), F.S.)*

Contribution: *(See Section 106.011(3), F.S. and Chapter 9, Contributions.)*

Election: Any primary election, special primary election, general election, special election, or municipal election held in this state for the purpose of nominating or electing candidates to public office, choosing delegates to the national nominating conventions of political parties, or submitting an issue to the electors for their approval or rejection. *(Section 106.011(6), F.S.)*

Electioneering Communication Organization: any group, other than a political party, political committee, or committee of continuous existence, whose election-related activities are limited to making expenditures for electioneering communications or accepting contributions for the purpose of making electioneering communications and whose activities would not otherwise require the group to register as a political party, political committee, or committee of continuous existence under chapter 106, Florida Statutes *(Section 106.011(19), F.S.)*

Expenditure: *(See Section 106.011(4), F.S. and Chapter 10, Expenditures.)*

Filing Officer: The person before whom a candidate qualifies, the agency or officer with whom a political committee registers, or the agency by whom a committee of continuous existence is certified. *(Section 106.011(14), F.S.)*

General Election: An election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law. *(Section 97.021(15), F.S.)*

Independent Expenditure: *(See Section 106.011(5), F.S. and Chapter 10, Expenditures.)*

In-Kind Contribution: In-kind contributions are anything of value made for the purpose of influencing the results of an election except money, personal services provided without compensation by individual volunteers, independent expenditures, as defined in Section 106.011(5), F.S., or endorsements of three or more candidates by political committees or political parties.

Judicial Office: Includes the office of Justice of the Supreme Court, judge of a district court of appeal, judge of a circuit court, and county court judge. A judicial office is a nonpartisan office and a candidate for election or retention thereto is prohibited from campaigning or qualifying for such an office based on party affiliation. (*Section 105.011, F.S.*)

Minor Political Party: Any group which on January 1 preceding a primary election does not have registered as members five percent of the total registered electors of the state. (*Section 97.021(18), F.S.*)

Nominal Value: Having a retail value of \$10 or less. (*Section 97.021(20), F.S.*)

Nonpartisan Office: An office for which a candidate is prohibited from campaigning or qualifying for election or retention in office based on party affiliation. (*Section 97.021(21), F.S.*)

Office Account: A candidate elected to office or a candidate who will be elected to office by virtue of his or her being unopposed may transfer funds from the campaign account to an office account up to limits listed under Section 106.141(5), F.S. This fund must be used only for legitimate expenses in connection with the candidate's public office. (*Section 106.141, F.S.*)

Person: An individual or a corporation, association, firm, partnership, joint venture, joint stock company, club, organization, estate, trust, business trust, syndicate, or other combination of individuals having collective capacity. The term includes a political party, political committee, or committee of continuous existence. (*Section 106.011(8), F.S.*)

Petty Cash: Cash spent in amounts of less than \$100 to be used only for office supplies, transportation expenses, and other necessities by the candidate or political committee. (*Sections 106.07 and 106.12, F.S.*)

Political Advertisement: (*See Section 106.011(17), F.S., and Chapter 15, Political Advertising.*)

Primary Election: An election held preceding the general election for the purpose of nominating a party nominee to be voted for in the general election to fill a national, state, county, or district office. (*Section 97.021(28), F.S.*)

Public Office: Any state, county, municipal, or school or other district office or position which is filled by vote of the electors. (*Section 106.011(10), F.S.*)

Special Election: Called for the purpose of voting on a party nominee to fill a vacancy in the national, state, county, or district office. (*Section 97.021(33), F.S.*)

Special Primary Election: A special nomination election designated by the Governor, called for the purpose of nominating a party nominee to be voted on in a general or special election. (*Section 97.021(34), F.S.*)

Statewide Office: Governor, Cabinet, and Supreme Court Justice.

Unopposed Candidate: A candidate for nomination or election to an office, who, after the last day on which any person, including a write-in candidate, may qualify, is without opposition in the election at which the office is to be filled or who is without such opposition after such date as a

result of any primary election or of withdrawal by other candidates seeking the same office. A candidate is not an unopposed candidate if there is a vacancy to be filled under Section 100.111(4), F.S., if there is a legal proceeding pending regarding the right to a ballot position for the office sought by the candidate, or if the candidate is seeking retention as a justice or judge. *(Section 106.011(15), F.S.)*

Chapter 6

What is a Committee of Continuous Existence? (CCE)

A committee of continuous existence means any group, organization, association, or other such entity which is certified pursuant to the provisions of Section 106.04, F.S.

In order to qualify as a committee of continuous existence, a group, organization, association, or other entity that is involved in making contributions to candidates, political committees, or political parties, shall meet the following criteria:

1. It shall be organized and operated in accordance with a written charter or set of bylaws which contains procedures for the election of officers and directors and which clearly defines membership in the organization; and
2. At least 25% of the income of such organization, excluding interest, must be derived from dues or assessments payable on a regular basis by its membership pursuant to provisions contained in the charter or bylaws.

(Sections 106.011(2) and 106.04, F.S.)

A CCE may:

1. Contribute to candidates, political committees, other committees of continuous existence, electioneering communication organizations or political parties. No funds of a committee of continuous existence shall be expended on behalf of a candidate, except by means of a contribution made through the duly appointed campaign treasurer of the candidate.
2. Contribute to political committees supporting or opposing issues, but only up to 25% of its aggregate income, as reflected in the annual report for the previous year.

A committee of continuous existence may **not**:

1. Make independent expenditures.
2. Make electioneering communications.
3. Support or oppose issues without first registering as a political committee.

(Section 106.04(5), F.S.)

Comparison of Political Committee, Committee of Continuous Existence And Electioneering Communication Organization

	Political Committee (PC)	Committee of Continuous Existence (CCE)	Electioneering Communication Organization (ECO)
Purpose	<p>To support or oppose any candidate, issue*, PC, CCE, ECO, or political party.</p> <p>May make independent expenditures.</p> <p>May make electioneering communications.</p> <p>*A sponsor of a constitutional initiative petition must be a PC. (100.371, F.S.)</p>	<p>To make contributions to candidates, committees, or political parties. (106.04, F.S.)</p> <p>May contribute to PCs supporting or opposing an issue if such contributions do not exceed 25% of its annual income as reported for the previous year. (106.04(5), F.S.)</p> <p>May contribute to an ECO. (DE 06-09)</p> <p>May not make independent expenditures. (DE 04-09)</p> <p>May not make electioneering communications. (106.04(5), F.S.)</p>	<p>Election-related activities are limited to making expenditures for electioneering communications or accepting contributions for the purpose of making electioneering communications and such activities would not otherwise require the organization to register as a political party, political committee, or committee of continuous existence. (106.011(19), F.S.)</p> <p>May not "expressly advocate" the election or defeat of a candidate, but the communication must be susceptible of no reasonable interpretation other than an appeal to vote for or against a specific candidate. (106.011(18), F.S.)</p>
Special Organizational Criteria	None.	<p>Must be organized and operated in accordance with a written charter or bylaws that contain procedures for the election of officers and defines membership in the organization. (106.04(1)(a), F.S.)</p> <p>At least 25% of the income, excluding interest, of the organization must come from dues of members. (106.04(1)(b), F.S.)</p>	None.
Initial Filings	<p>Statement of Organization (106.03, F.S.) when PC receives contributions or makes expenditures in excess of \$500 in a calendar year <u>or</u> seeks signatures of voters in support of an initiative.</p> <p>Appointment of Campaign Treasurer and Designation of Campaign Depository (106.021, F.S.)</p> <p>Registered Agent Statement of Appointment (106.022, F.S.)</p>	<p>Application for Certification</p> <p>Charter or Bylaws</p> <p>Dues or assessment schedule</p> <p>Financial statement for preceding 12 months</p> <p>Registered Agent Statement of Appointment (106.04(2), F.S.)</p>	<p>Statement of Organization (106.03, F.S.) when ECO receives contributions or makes expenditures in excess of \$5,000 in a calendar year.</p> <p>Registered Agent Statement of Appointment (106.022, F.S.)</p> <p>Periodic reports since last general election (106.0703(8), F.S.)</p>

	Political Committee (PC)	Committee of Continuous Existence (CCE)	Electioneering Communication Organization (ECO)
Campaign Accounts	Funds must be deposited in a campaign depository designated “ <i>((Name of Committee) Campaign Account).</i> ” (106.11(1)(b), F.S.)	May use the organization’s checking account.	May use the organization’s checking account.
Limits on Contributions To the Entity	PC supporting or opposing issues only - no limit. PC supporting or opposing one or more candidates - \$500 per election PC supporting or opposing both candidates and issues - \$500 per election (106.08, F.S.)	As long as the requirements under “Special Organizational Criteria” are maintained there is no limit.	No monetary limit
Limits on Contributions By the Entity	PC to a candidate - \$500 per election. PC expenditures in support of or opposition to issues – no limit. PC to a political party – no limit.	CCE to a candidate or PC supporting candidates - \$500 per election. (106.08, F.S.) CCE to an ECO or a political party – no limit. CCE to a PC supporting issues – not to exceed 25% of its annual income as reported on the annual report filed from the previous year. (106.04(5), F.S.)	Limited to electioneering communications (106.011(19), F.S.) May not make contributions to candidates (106.011(19), F.S.)
Restrictions	Funds may be used only for PC activity and only for the purpose of influencing the results of an election.	A CCE must register as a PC in order to directly support or oppose issues. (106.04(5), F.S.) May not make independent expenditures (DE 04-09) May not make electioneering communications. (106.04(5), F.S.)	Funds may only be used to make electioneering communications. (106.011(19), F.S.) May not use credit cards. (106.0703(9), F.S.) May not make independent expenditures.
When to File Reports	See Calendar of Reporting Dates on the Division’s web site.	See Calendar of Reporting Dates on the Division’s web site. Annual report filed in January of each year.	See Calendar of Reporting Dates on the Division’s web site. See also section 106.0703 for additional reporting requirements

	Political Committee (PC)	Committee of Continuous Existence (CCE)	Electioneering Communication Organization (ECO)
Where to File Reports	<p>Division of Elections – if supports or opposes statewide, legislative, or multicounty candidates or issues.</p> <p>Supervisor of Elections – if supports or opposes candidates or issues in a countywide or less than a countywide election, except municipal.</p> <p>Municipal Clerk – if supports or opposes only municipal candidates or issues.</p> <p>Any political committee which would be required under this subsection to file a statement of organization in two or more locations by reason of the committee's intention to support or oppose candidates or issues at state or multicounty and local levels of government need file only with the Division of Elections.</p> <p style="text-align: right;">(106.03(3), F.S.)</p>	<p>Division of Elections (106.04(4), F.S.)</p>	<p>Division of Elections – if supports or opposes statewide, legislative, or multicounty candidates.</p> <p>Supervisor of Elections – if supports or opposes candidates in a countywide or less than a countywide election, except municipal.</p> <p>Municipal Clerk – if supports or opposes only municipal candidates.</p> <p>Any electioneering communications organization that would be required to file a statement of organization in two or more locations by reason of the organization's intention to support or oppose candidates at state or multicounty and local levels of government need only file a statement of organization with the Division of Elections.</p> <p style="text-align: right;">(106.03(1)(b)2., F.S.)</p>

Chapter 7

Applying for Certification as a Committee of Continuous Existence

Any group, organization, association, or other entity may seek certification from the Department of State as a committee of continuous existence by filing **Form DS-DE 1, Application for Certification** with the Division of Elections.

Form DS-DE 1 must include:

1. The name, mailing address, and street address of the committee.
2. The names, street addresses, and relationships of affiliated or connected organizations.
3. The area, scope or jurisdiction of the committee.
4. The name, mailing address, and position of the custodian of books and accounts.
5. The name, mailing address, street address and position of other principal officers, including the treasurer and deputy treasurer, if any.
6. The name, address, office sought, and party affiliation of each candidate whom the committee is supporting.
7. The name, address, office sought, and party affiliation of any other individual, if any, whom the committee is supporting for nomination or election to any public office.
8. Any issue or issues the committee is supporting or opposing.
9. If the committee is supporting the entire ticket of any party, a statement to that effect and the name of the party.
10. A statement of whether the committee is a continuing one.
11. Plans for the disposition of residual funds which will be made in the event of dissolution.
12. A listing of all banks, safe-deposit boxes, or other depositories used for committee funds.
13. A statement of the reports required to be filed with federal officials, if any, and names, addresses, and positions of such officials.

Each application shall be accompanied by:

1. A copy of the charter or bylaws of the organization;
2. A copy of the dues or assessment schedule of the organization, or formula by which dues or assessments are levied;
3. A complete financial statement on **Form DS-DE 63A, Financial Statement (Certification Only)** or annual audit summarizing all income received, and all expenses incurred, by the organization during the 12 months preceding the date of application; and

4. Form DS-DE 41, Registered Agent Statement of Appointment. Each committee of continuous existence shall have and continuously maintain in this state a registered office and a registered agent. The committee of continuous existence must file **Form DS-DE 41, Registered Agent Statement of Appointment** at the same time the committee files the Application for Certification. A committee of continuous existence may change the registered agent appointment by filing Form DS-DE 41 indicating it is a "change of appointment." A registered agent may also resign his or her appointment by filing a written statement of resignation with the filing officer. A committee of continuous existence without a registered agent may not make expenditures or accept contributions until Form DS-DE 41 has been filed with the filing officer.

A membership list shall be made available for inspection if deemed necessary by the Division of Elections.

If the Division of Elections finds that the organization meets the criteria for a committee of continuous existence it shall certify such findings to the applying organization of such certification. If it finds that an applying organization does not meet the criteria for certification, it shall notify the organization of such findings and shall state the reasons why such criteria are not met.

(Sections 106.04 and 106.022, F.S.)

Revocation of Certification

If at any time the committee of continuous existence ceases to meet the following criteria, the Division of Elections may revoke the committee's certification until such time the criteria are again met:

1. The committee is organized and operated in accordance with a written charter or set of bylaws which contains procedures for the election of officers and directors and which clearly defines membership in the organization; and
2. At least 25% of the income of the committee is derived from dues or assessments payable on a regular basis by its membership pursuant to provisions contained in the charter or bylaws. The written charter or bylaws must set forth the specific time period for which membership dues are assessed so that the Division of Elections may determine whether 25% of the income is derived from dues. If the written charter or bylaws do not set forth the time period, the membership dues will be deemed to be for a calendar year.

(Section 106.04(7), F.S., and Rule 1S-2.020, F.A.C.)

Chapter 8

Treasurer and Depository

Resignation or Removal of Treasurers

A treasurer or deputy treasurer can **resign** by:

1. Notifying the committee; and,
2. Filing a written statement with the Division of Elections. The resignation is not effective until the written statement is filed with the Division of Elections.

A committee may **remove** the treasurer or deputy treasurer by:

1. Giving notice to the treasurer or deputy treasurer; and,
2. Filing written notice with the Division of Elections. The removal is not effective until the written notice is filed with the Division of Elections.

Depository

The account does not have to be separate from other accounts.

Chapter 9

Contributions

A contribution is:

1. A gift, subscription, conveyance, deposit, loan, payment or distribution of money or anything of value made for the purpose of influencing the results of an election or making an electioneering communication. These include contributions in-kind, having an attributable monetary value in any form;
2. A transfer of funds between political committees, between committees of continuous existence, between electioneering communication organizations, or between any combination of these groups;
3. The payment, by any person other than a candidate or political committee of compensation for the personal services of another person which are rendered to a candidate without charge to the candidate or political committee for such services; or
4. The transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit. The term includes any interest earned on such account or certificate.

The exceptions are:

1. Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political committee including, but not limited to, legal and accounting services.
2. Editorial endorsements.

In-Kind Contributions

In-kind contributions are anything of value made for the purpose of influencing the results of an election.

The exceptions are:

1. Money;
2. Personal services provided without compensation by individual volunteers;
3. Independent expenditures, as defined in Section 106.011(5), F.S.; or
4. Endorsements of three or more candidates by political committees or political parties.

IMPORTANT: Any person who makes an in-kind contribution shall, at the time of making the contribution, place a fair market value on the contribution. In-kind contributions are subject to contribution limitations.

(Sections 106.011, 106.02 and 106.055, F.S.)

Loans

Loans are considered contributions and are subject to contribution limitations. Loans to or from each person must be reported together with names, addresses, occupations and principal places of business, if any, of the lenders and endorsers, including the date and amount of each loan on the campaign treasurer's report.

(Sections 106.011, and 106.075, F.S.)

Cash Contributions

A person may not make or accept contributions in cash or by means of a cashier's check in excess of \$50.

IMPORTANT: Cash contributions should be reported on treasurer's reports to include full name and address of each person who gave a cash contribution during the reporting period, together with the amount and date of such cash contribution.

(Sections 106.04 and 106.09, F.S.)

Debit and Credit Card Contributions

A committee of continuous existence may accept contributions via a credit card, debit card, or money order. These contributions are categorized as a "check" for reporting purposes.

(Section 106.11(2), F.S., and Division of Elections Opinion 00-03)

Contribution Limits

At least 25 percent of the income of such organization, excluding interest, must be derived from dues or assessments payable on a regular basis by its membership pursuant to provisions contained in the charter or bylaws.

(Section 106.04(1)(b), F.S.)

2010 Deadlines for Making Contributions to Candidates

Any contribution received by a candidate with opposition in an election, or the treasurer or deputy treasurer, on the day of that election or less than five days prior to the day of that election must be returned to the contributor. It may not be used or expended by or on behalf of the candidate.

The primary and general elections are considered separate elections for contribution purposes.

If opposed in the primary election the candidate may accept:

- \$500 no later than midnight on **August 19, 2010**

If opposed in the primary and general elections the candidate may accept:

- \$500 no later than midnight on **August 19, 2010**
- \$500 between August 25 and midnight on **October 28, 2010**

If opposed in the general election only the candidate may accept:

- \$500 up through the day of the primary election on **August 24, 2010**
- \$500 between August 25 and midnight on **October 28, 2010**

Justice of the Supreme Court or Judge, District Court of Appeal (considered an opposed candidate but only has one election, the general election) may accept:

- \$500 no later than midnight on **October 28, 2010** (contributions may be accepted during the primary election, but must be applied toward the general election limitation).

Circuit Judge or County Court Judge candidates (have two elections, the primary and general elections) may accept:

If opposed in the primary election only:

- \$500 no later than midnight on **August 19, 2010**

If opposed in the primary and general elections:

- \$500 no later than midnight on **August 19, 2010**
- \$500 between August 25 and midnight on **October 28, 2010**

Any person who commits a willful violation of this section commits a misdemeanor of the first degree, punishable as provided in Section 775.082 or Section 775.083, F.S.

(Sections 106.08, F.S.)

Violations

Any person who knowingly and willfully:

1. Accepts a contribution in excess of the limits prescribed by Section 106.08, F.S.;
2. Fails to report any contribution required to be reported by this chapter;
3. Falsely reports or deliberately fails to include any information required by this chapter; or
4. Makes or authorizes any expenditure in violation of Chapter 106, F.S.;

is guilty of a misdemeanor of the first degree, punishable as provided in Section 775.082 or Section 775.083.

(Section 106.19, F.S.)

Chapter 10

Expenditures

An expenditure is a purchase, payment, distribution, loan, advance, transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit, or gift of money or anything of value made for the purpose of influencing the results of an election or making an electioneering communication.

(Section 106.011(4)(a), F.S.)

Petty Cash

A committee of continuous existence may withdraw and use petty cash for expenditures. Such expenditures must be reported on its treasurer reports.

Credit Cards

A committee of continuous existence may use a credit card to make expenditures.

Debit Cards

A committee of continuous existence may use a debit card to make campaign expenditures.

(Division of Elections Opinion 06-13)

Chapter 11

Recordkeeping

The Division of Elections has a few suggestions which may be helpful to treasurers in setting up a system to record and maintain campaign information.

1. Keep a schedule of due dates for treasurer's reports. The Division of Elections website (<http://www.elections.myflorida.com/>) contains a calendar of election and reporting dates.
2. Know what period of time each report covers and only report activity occurring during that reporting period. (See 2010 Calendar of Reporting Dates)
3. Keep a copy of the electronic receipt for each report filed for your own records.
4. Record all contributions when received. Make sure to include the name, address, specific occupation, or principal type of business if over \$100, of the contributor, and the amount and date of each contribution. Keep contributions itemized by monetary, in-kind and loans.
5. Record all expenditures when they occur. List the name and address of each person to whom the expenditure was made along with the amount, date, and purpose.
6. Monitor the cash flow to know how much money is available at all times in the account to avoid any possibility of authorizing an expenditure when money is not available to pay for such expenditure.
7. Maintain a listing of all funds currently in the separate interest-bearing account, certificate of deposit, or money market account.
8. Make sure authorization for advertising has been obtained from the candidate.

Chapter 12

Filing Campaign Reports

Where to File

All committees of continuous existence file reports with the Division of Elections and are required to file by means of the **Electronic Filing System** (see Chapter 13, *Electronic Filing of Campaign Reports*).

(Section 106.04(4)(c), F.S.)

When to File

Reports must be filed on the 10th day following the end of each calendar quarter (January, April, July and October) from the time the committee registers, except that if the 10th day occurs on a Saturday, Sunday or legal holiday, the report shall be filed on the next business day that is not a Saturday, Sunday or legal holiday.

Following the last day of qualifying, the reports must be filed on the 32nd, 18th and 4th days immediately preceding the primary election and on the 46th, 32nd, 18th and 4th days immediately preceding the general election. (Refer to the **2010 Calendar of Reporting Dates** for specific dates.)

Pursuant to Section 106.0705, Florida Statutes, all reports filed with the Division of Elections must be filed electronically by midnight, Eastern Standard Time, of the due date.

Penalty for Late Filing

Any committee of continuous existence failing to file a report on the designated due date shall be subject to a fine. The fine shall be \$50 per day for the first 3 days late and, thereafter, \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. The fine shall be assessed by the filing officer, and the moneys collected shall be deposited in the General Revenue Fund.

(Section 106.04(8)(a), F.S.)

Waiver of Report

When there has been no activity in the campaign account during a reporting period (no funds expended or received) the committee is required to file a waiver. All waivers filed with the Division of Elections must be filed electronically using the Division's electronic filing system. The waiver must be filed by the due date.

(Sections 106.07 and 106.0705, F.S.)

Special Election Reports

When a special election is called to fill a vacancy in office, committees of continuous existence making contributions or expenditures to influence the results of the special election shall file campaign treasurers' reports with the filing officer on the dates set by the Department of State pursuant to Section 100.111, F.S.

Committees are to include on the special election campaign treasurer's reports **all contributions received and all expenditures made by the committee during the special election reporting periods.** All contributions received and expenditures made during the current quarter that occurred before or after the special election campaign treasurer cover periods should be filed on the next quarterly report. Once a committee has participated in the special election and has filed a special election campaign report, all other special election reports remaining must also be filed by the committee, even if there is no further special election activity.

(Section 106.07(1), F.S.)

Incomplete Reports

If a treasurer files a report that is deemed incomplete, he or she will be notified by the filing officer as to why the report is incomplete. The treasurer must file an addendum to the incomplete report within three days of notification. The addendum must include all necessary information to complete the report.

In lieu of a notice by registered mail, the filing officer may notify the treasurer by telephone that the report is incomplete and request the information necessary to complete the report. If such information is not received by the filing officer within three days after the telephone request, notice shall be sent by registered mail.

(Sections 106.07(2) and 106.04(4)(6), F.S.)

Reporting Contributions

All committees of continuous existence shall file their reports with the Division of Elections. Reports shall be filed in accordance with s. 106.0705 and shall contain the following information:

1. The full name, address, and occupation of each person who has made one or more contributions, including contributions that represent the payment of membership dues, to the committee during the reporting period, together with the amounts and dates of such contributions. For corporations, the report must provide as clear a description as practicable of the principal type of business conducted by the corporation. However, if the contribution is \$100 or less, the occupation of the contributor or principal type of business need not be listed. **However, for any contributions that represent the payment of dues by members in a fixed amount aggregating no more than \$250 per calendar year, pursuant to the schedule on file with the Division of Elections, only the aggregate amount of such contributions need be listed, together with the number of members paying such dues and the amount of the membership dues.**
2. The name and address of each political committee or committee of continuous existence from which the reporting committee received, or the name and address of each political committee, committee of continuous existence, or political party to which it made, any transfer of funds, together with the amounts and dates of all transfers.
3. Any other receipt of funds not listed pursuant to subparagraph 1. or subparagraph 2., including the sources and amounts of all such funds.

Reporting Expenditures

1. The name and address of, and office sought by, each candidate to whom the committee has made a contribution during the reporting period, together with the amount and date of each contribution.
2. The full name and address of each person to whom expenditures have been made by or on behalf of the committee within the reporting period; the amount, date, and purpose of each such expenditure; and the name and address, and office sought by, each candidate on whose behalf such expenditure was made.
3. The full name and address of each person to whom an expenditure for personal services, salary, or reimbursement for authorized expenses has been made. (see also Reporting Other Distributions)
4. Transaction 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.

(Section 106.04, F.S.)

Reporting Other Distributions

Every distribution should be reported during the coverage period when the distribution actually happened, as is the case with the expenditures and contributions. The related distribution(s) and expenditure can and often do occur in different reports.

Types of distributions:

1. Prepaid
2. Credit card purchases/payments
3. Reimbursements
4. In-kind

Reports must contain:

1. Full name and address of each person to whom payment was made for which reimbursement was made by check drawn upon the campaign account together with the purpose of such payment.
2. Expenditures made indirectly through a treasurer for goods or services, such as communications media placement or procurement services, campaign signs, insurance or other expenditures that include multiple integral components as part of the expenditure.
3. Distribution of goods and services to a candidate, committee or party.

(Section 106.04, F.S.)

Chapter 13

Electronic Filing of Campaign Reports

The Electronic Filing System (EFS) is an Internet system for recording and reporting campaign finance activity by reporting period. Each committee of continuous existence required to file reports with the Division of Elections pursuant to Section 106.07, F.S., must file such reports with the division by means of the EFS.

Reports filed pursuant to this section:

1. Shall be completed and filed through the EFS not later than midnight, EST, of the day designated. Reports not filed by midnight of the day designated are late filed and are subject to the penalties under Section 106.04(4)(d), F.S., as applicable.
2. Are considered to be under oath by the treasurer, and such person is subject to provisions of Section 106.04(4)(d), F.S. Persons given a secure sign-on to the EFS are responsible for protecting such from disclosure and are responsible for all filings using such credentials, unless they have notified the division that their credentials have been compromised.

(Sections 106.0705 and 106.0706, F.S.)

Accessing the EFS

From *Internet Explorer* you can access the EFS at <https://efs.dos.state.fl.us>. Each committee is provided an identification number and initial password to gain entry. Once you log in using the initial password, you will be prompted to change it to a confidential one.

Creating Reports

Campaign reports must be entered, saved, reviewed, and filed via the EFS either by directly entering data into the web application or by uploading data using an approved vendor's software. The division maintains a list of approved software vendors whose programs meet the file specifications for filing campaign reports. Instructions for uploading reports are provided in the *EFS Help Guide*.

Submitting Reports

Reports will be held in pending status until the report is ready to be filed. Each person eligible to file a report will receive a PIN (personal identification number) that allows the person to file reports via the EFS. **A person's PIN is considered the same as that person's signature on a filed report.**

Electronic Receipts

The person filing a report on the EFS may print an electronic receipt verifying the report was filed with the division. Each report filed by means of the EFS is considered to be under oath and such persons filing the report are subject to the provisions of Chapter 106, F.S.

EFS HELP LINE

(850) 245-6280

EFS HELP GUIDE

http://www.elections.myflorida.com/publications/pdf/2007-2008/EFS_Manual.pdf

NOTE: For further information on the EFS, see Rule 1S-2.017, Reporting Requirements for Campaign Treasurer's Reports, Florida Administrative Code.

Chapter 14

Political Advertising

A political advertisement is a paid expression in any communications media, 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.

(Section 106.011(17), F.S.)

Disclaimers

Any political advertisement, other than an advertisement that is paid for by a candidate, that is published, displayed, or circulated prior to, or on the day of, any election must prominently be marked “paid political advertisement” or “pd. pol. adv.” and must state the name and address of the persons sponsoring the advertisement.

The political advertisement must also state whether the advertisement and cost of production is paid for or provided in-kind by or at the expense of the entity publishing, displaying, broadcasting or circulating the political advertisement; or state who provided or paid for the advertisement and cost of production, if different from the source of sponsorship. (This paragraph does not apply if the source of sponsorship is patently clear from the content or format of the political advertisement.)

Any political advertisement, including those paid for by a political party, other than an independent expenditure, offered by or on behalf of a candidate must be approved in advance by the candidate. Such political advertisement must expressly state that the content of the advertisement was approved by the candidate and must state who paid for the advertisement. The candidate shall provide a written statement of authorization to the newspaper, radio station, television station or other medium for each such advertisement submitted for publication, display, broadcast or other distribution. This paragraph does not apply to messages used by a candidate and his or her supporters if those messages are designed to be worn by a person.

(Section 106.143, F.S.)

Examples:

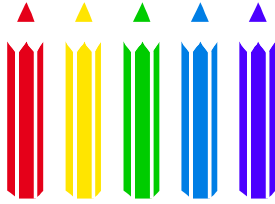
1. Political advertisement for a candidate representing that an organization supports him or her, paid for in-kind by the organization, with specific approval from the organization in writing:

<p>July 15, 2010</p> <p>Dear Sir or Madam:</p> <p>Please let this letter serve as my approval of the political advertisement by the Pup P. Dog Foundation supporting my candidacy for County Commission, District 1.</p> <p>Sincerely,</p> <p><i>Joe Cool</i></p>	<p>ELECT Joe Cool</p> <p>For County Commission, District 1 Democrat <u>Supported by Pup P. Dog Foundation</u></p> <p>Pd. Pol. Adv. sponsored and paid for in-kind by Pup P. Dog Foundation, Zero Street, Jupiter, FL 32323 Approved by Joe Cool, Democrat, For County Commission</p>
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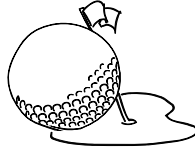
Disclaimers on Novelty Items

None of the requirements of Section 106.143, F.S., apply to novelty items having a retail value of \$10 or less which support, but do not oppose, a candidate or issue.

Examples:



Pens/Pencils



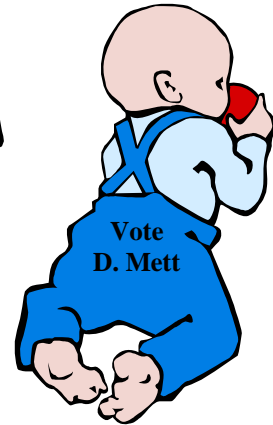
Golf Balls





Balloons

Items Designed to be Worn by a Person

Items designed to be worn by a person are not subject to the requirements of Section 106.143, F.S.



Fund Raiser Mailouts

 <p>Mr. John Doe 333 Three Street Miami, FL 33333</p>	 <p>COME ONE! COME ALL!</p> <p>Fish Fry to Raise Funds for FRANK JONES (Adults \$10.00 – Kids Under 12 Free)</p> <p>Pd. Pol. Adv. Paid for in-kind by ABC Committee, Third Street, Miami, FL 33333 Approved by Frank Jones (NPA) for Dog Catcher</p> <p>The purchase of a ticket for or a contribution to the campaign fund raiser is a contribution to the campaign of Frank Jones.</p>
<p><i>I'LL BE THERE!</i></p> <p><i>Put me down for _____ tickets</i></p> <p><i>Pd. Pol. Adv. Paid for in-kind by ABC Committee, Third Street, Miami, FL 33333 Approved by Frank Jones (NPA) for Dog Catcher</i></p> <p><i>The purchase of a ticket for or a contribution to the campaign fund raiser is a contribution to the campaign of Frank Jones.</i></p>	

Language Other Than English

Any political advertisement which is published, displayed or produced in a language other than English may provide the information required by section 106.143, F.S., in the language used in the advertisement.

Miscellaneous Provisions

It is unlawful for any candidate or person on behalf of a candidate to represent that any person or organization supports such candidate, unless the person or organization so represented has given specific approval in writing to the candidate to make such representation. However, this paragraph does not apply to editorial endorsement by any newspaper, radio or television station, or other recognized news medium, and publication by a party committee advocating the candidacy of its nominees.

(Section 106.143(3), F.S.)

Chapter 15

Telephone Solicitation

Telephone Solicitation

1. Disclosure requirements:

- a. Any telephone call supporting or opposing a candidate, elected public official or ballot proposal must identify the persons or organizations sponsoring the call by stating either: “paid for by _____ (insert name of persons or organizations sponsoring the call)” or “paid for on behalf of _____ (insert name of persons or organizations authorizing call).” This does not apply to any telephone call in which both the individual making the call is not being paid and the individuals participating in the call know each other prior to the call.
- b. Any telephone call conducted for the purpose of polling respondents concerning a candidate or elected public official which is a part of a series of like telephone calls that consists of fewer than 1,000 completed calls and averages more than two minutes in duration is presumed to be a political poll and not subject to the provisions of the above paragraph.

2. Prohibitions:

- a. No telephone call shall state or imply that the caller represents any person or organization unless the person or organization so represented has given specific approval in writing to make such representation.
- b. No telephone call shall state or imply that the caller represents a nonexistent person or organization.

3. **Written authorization requirements:** Any telephone call, not conducted by independent expenditure, supporting or opposing a candidate or ballot proposal, requires prior written authorization by the candidate or sponsor of the ballot proposal that the call supports. A copy of such written authorization must be placed on file with the qualifying officer by the candidate or sponsor of the ballot proposal prior to the time the calls commence.

4. **Penalties:** Any person who willfully violates any provision of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

The term “person” includes any candidate; any officer of any political committee, committee of continuous existence or political party executive committee; any officer, partner, attorney, or other representative of a corporation, partnership, or other business entity; and any agent or other person acting on behalf of any candidate, political committee, committee of continuous existence, political party executive committee, or corporation, partnership, or other business entity.

(Section 106.147, F.S.)

Telephone Solicitation, Registered Agent

1. Disclosure requirements:

- a. Any person or organization that conducts any business in this state which consists of making paid telephone calls supporting or opposing any candidate or elected public official must, prior to conducting such business, have and continuously maintain, for at least 180 days following the cessation of such business activities in the state, a registered agent for the purpose of any service of process, notice, or demand required or authorized by law and must file with the Division of Elections a notice of such registered agent. Such registered agent must be an individual who is a resident of this state, a domestic corporation, or a foreign corporation authorized to do business in this state. However, this section does not apply to any person or organization already lawfully registered to conduct business in this state.
- b. Conducting business in this state as specified in the preceding paragraph includes both placing telephone calls from a location in this state and placing telephone calls from a location outside this state to individuals located in this state.
- c. **Form DS-DE 100, Telephone Solicitation, Resident Agent Notice** shall be filed with the Division of Elections and, at a minimum, must elicit all of the following information:
 - (1) The name, address and telephone number of the registered agent.
 - (2) The name, address and telephone number of the person or organization conducting business in this state as specified.
- d. The Division of Elections must be notified immediately of any changes in the information required in a. above.

2. **Violations:** Any person or organization that violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(Section 106.1475, F.S.)

Chapter 16

Florida Elections Commission

The Florida Elections Commission is a separate and independent entity from the Division of Elections. Commissioners are appointed by the Governor from lists of names submitted by legislative leaders.

Automatic Fine Appeal Process

A political committee may appeal or dispute a fine for a late filed treasurer's report. The appeal must be based upon, but not limited to, unusual circumstances surrounding the failure to file on the designated due date. The political committee may request and is entitled to a hearing before the Florida Elections Commission, which has the authority to waive the fine in whole or in part. The Florida Elections Commission must consider the mitigating and aggravating circumstances contained in Section 106.265(1), F.S., when determining the amount of a fine, if any, to be waived. The appeal must be made within 20 days of the receipt of the notice of payment due. The committee must, within the 20 day period, notify the filing officer in writing of his or her intention to bring the matter before the Commission.

(Section 106.07(8)(c), F.S.)

Complaint Process

Any person who has information of a violation of Chapters 104 or 106, F.S., shall file a sworn complaint with the Florida Elections Commission, 107 West Gaines Street, Suite 224, Tallahassee, Florida 32399-1050 or call 850-922-4539. A complaint form may be obtained from the Florida Elections Commission or downloaded from the Commission's website at www.fec.state.fl.us.

(Sections 106.25 and 106.28, F.S.)

Chapter 17

Frequently Asked Questions

Campaign Advertising

What information must be included on a political disclaimer?

Political advertisement not paid for by a candidate:

"paid political advertisement" or "pd. pol. adv."
"(name and address of the persons sponsoring the advertisement)"

Political advertisement not paid for by a candidate, that supports a candidate, but is not an independent expenditure:

"paid political advertisement" or "pd. pol. adv."
"(name and address of the persons sponsoring the advertisement)"
"The content of this advertisement was approved by the candidate."

Campaign Finance

Can a deputy treasurer file and submit campaign reports?

Yes. A deputy treasurer may perform all of the duties of a treasurer when specifically authorized to do so by the treasurer.

May a committee of continuous existence accept a contribution from a trust fund?

Yes. Chapter 106, F.S., defines a "person" as an individual, corporation, association, firm, partnership, joint venture, joint stock company, club, organization, estate, trust, business trust, syndicate, or other combination of individuals having collective capacity. The term also includes a political party, political committee or committee of continuous existence. (Section 106.011(8), F.S.)

Do I have to itemize small contributions of \$5, \$10, \$50, etc.?

Yes, unless they represent the payment dues by members in a fixed amount aggregating no more than \$250 per calendar year. The law provides no exceptions for the reporting of other types of contribution information, regardless of the size of the contribution. The full name and address of the contributor are also required. (Section 106.04(4)(c), F.S.)

How is the value of an in-kind contribution determined?

The contributor must inform the person receiving the contribution of the fair market value at the time it is given. (Section 106.055, F.S.)

Can a corporation give to a committee of continuous existence?

Yes. A corporation is under the definition of a "person" in Chapter 106, F.S. (Section 106.011(8), F.S.)

Can I conduct a raffle to raise money for the committee?

No. Pursuant to Section 849.09, Florida Statutes, it is unlawful for any person in this state to set up, promote, or conduct any lottery for money or anything of value.

If my treasurer is out of town, can I have an extension to file my report?

No. The election laws do not provide for an extension under these circumstances. (Section 106.04(4)(b)1., F.S.)

If I make a mistake on my report can I go back in and correct it on the EFS?

Once the report is submitted to the Division of Elections, the EFS will not permit you to go back and make changes. In order to correct mistakes or add and delete information, you must submit an "amendment."

If I am late submitting my report, how is my fine calculated?

\$50 per day for the first 3 days late and, thereafter, \$500 per day for each late day, not to exceed 25% of the total receipts or expenditures, whichever is greater for the period covered by the late report.

How long are campaign records kept at the Division of Elections?

Ten years from the date of receipt. (Sections 98.015(5) and 106.22(4), F.S.)

This publication is available in alternate format upon request by contacting 850.245.6240.