



## FLORIDA DEPARTMENT of STATE

RON DESANTIS  
Governor

LAUREL M. LEE  
Secretary of State

September 21, 2020

The Honorable William "Bill" Keen  
Supervisor of Elections, Sumter County  
7375 Powell Road, Suite #125  
Wildwood, Florida 34785

Re: DE 20-02 Solicitation at Polling Place –  
Signs – § 102.031(4), Florida Statutes

Dear Supervisor Keen:

This letter responds to your request, by and through your counsel, for an advisory opinion as to whether Sumter County's continued enforcement of its local sign ordinance, prohibiting the posting of signs on all county owned or leased property, conflicts with section 102.031(4)(e), Florida Statutes (2019), which prohibits an owner, operator, or lessee of property on which a polling place or early voting site is located, from prohibiting the solicitation of voters outside of the no-solicitation zone during polling hours. Because you are a supervisor of elections proposing to take action relating to the Florida election laws, the Division of Elections is authorized to issue you an opinion pursuant to section 106.23(2), Florida Statutes.

### FACTS

You state in your request that Section 13-592 of Sumter County's Code of Ordinances provides in relevant part that:

No person shall erect or display, or cause or authorize any person or entity to erect or display, any private sign or temporary display on property owned by the board or controlled by the board under a lease which through its terms requires that the board maintain said property...

You explain that Sumter County enforces this ordinance on all county owned or leased property, including a county service center and a county courthouse complex, both of which serve as a polling place and early voting site. Enforcement means that individuals at the locations are

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prohibited from placing any signs in or on the ground. Instead, individuals often wear sandwich board signs or otherwise hold signs at the locations, even outside of the no-solicitation zone.

You ask whether the aforementioned section of the Sumter County Ordinance conflicts with section 102.031(4)(e), enacted in 2019. Section 102.031(4)(e), Florida Statutes, provides:

The owner, operator, or lessee of the property on which a polling place or an early voting site is located, or an agent or employee thereof, may not prohibit the solicitation of voters outside of the no-solicitation zone during polling hours.

§ 102.031(4)(e), Fla. Stat. (2019).

### ANALYSIS

Resolution of whether Sumter County Ordinance 13-592 conflicts with section 102.031(4)(e), Florida Statutes, turns on whether posting a sign in the ground is “solicitation” as defined in section 102.031(4)(b), such that posting could not be prohibited during polling hours outside of the no-solicitation zone at a polling place or early voting location. Section 102.031(4)(b) defines solicitation as including, but not limited to:

*[S]eeking or attempting to seek any vote, fact, opinion, or contribution; distributing or attempting to distribute any political or campaign material, leaflet, or handout; conducting a poll except as specified in this paragraph; seeking or attempting to seek a signature on any petition; and selling or attempting to sell any item.*

§ 102.031(4)(b), Fla. Stat. (2019) (emphasis added). “[S]eeking or attempting to seek any vote, fact, opinion, or contribution” is the relevant clause herein because signs placed at a polling location generally attempt to communicate a message to a voter meant to sway action.

The United States Supreme Court, in the course of analyzing the constitutionality of a local sign ordinance prohibiting the posting of signs on public property, described at various turns the posting of political signs as “expression”, “expressive activity” “free communication”, a “tangible medium of expressing [a] message”, a “mode” or “method of communication”, and a “form of expression.” *See Members of City Council of City of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 795-96, 803, 805, 810, 812 (U.S. 1984). With the understanding that posting a sign is deemed by the United States Supreme Court to be “expression,” and “communicating with the public in a certain manner,” among other descriptors, one need only find that the expression and communication at issue seeks or attempt to seeks “any vote, fact, opinion, or contribution” in order to meet the definition of “solicitation” under section 102.031(4)(b), Florida Statutes. From a practical standpoint, that is precisely what posted political signs at polling locations do – seek to persuade voters for or against a candidate or issue.



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An individual or group placing a sign at a polling location is, through the tangible medium of a posted sign, "seeking or attempting to seek a vote, fact, opinion, or contribution..." § 102.031(4)(b), Fla. Stat. (2019). As such, placing a sign in the ground falls under the definition of solicitation under section 102.031(4)(b), Florida Statutes. Enforcement of the Sumter County Ordinance to prohibit the posting of signs outside the no-solicitation zone at a polling place or early voting location *during polling hours* would conflict with section 102.031(4)(e), Florida Statutes, which prohibits the owner, operator, or lessee of the property on which a polling place or early voting site is located from prohibiting the solicitation of voters outside of the no-solicitation zone during polling hours.

SUMMARY

Posting a sign in the ground at a polling place or early voting location constitutes "solicitation" as that term is defined in section 102.031(4)(a), Florida Statutes (2019). Therefore, Section 13-592 of the Sumter County Ordinance that prohibits the posting of signs on all county owned or leased property conflicts with section 102.031(4)(e), Florida Statutes.

Respectfully,

A handwritten signature in black ink, appearing to read "Maria T. Matthews", written over a horizontal line.

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