



FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

FYI

January 17, 2017

Mr. John J. Mannion, Jr.
P.O. Box 620721
Oviedo, Florida 32762

Re: DE 16-17 Advertising; Nonpartisan
Candidate; §§ 97.021(22), 106.143(3),
Florida Statutes.

Dear Mr. Mannion:

As a nonpartisan candidate for municipal office, you have requested an advisory opinion regarding whether, under the Florida Election Code, you may make it known which candidate you support in the Presidential election. Because you are a candidate proposing to take certain actions with respect to the Florida Election Code, the Division is authorized to issue an opinion pursuant to section 106.23(2), Florida Statutes.¹

FACTS

You state that you are a candidate for Oviedo city councilmember, which is a nonpartisan office. You also state that you have been asked whom you support for President of the United States, and you indicate that if you give a response, it may be published. You ask whether stating your preferred candidate would violate the prohibition in section 106.143(3), Florida Statutes, against a nonpartisan candidate "campaigning based on party affiliation."

ANALYSIS

Under Florida law, a "nonpartisan office" is defined as "an office for which a candidate is prohibited from campaigning or qualifying for election or retention in office based on party

¹ The Division has authority to interpret provisions of the Florida Election Code, but has no authority to interpret local provisions such as a city ordinance or a city charter. See § 106.23(2), Fla. Stat. Therefore, this opinion limits itself to interpreting the Florida Election Code.

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affiliation.” § 97.021(22), Fla. Stat. A candidate for nonpartisan office is restricted on how he or she campaigns, as follows:

A political advertisement of a candidate running for nonpartisan office may not state the candidate’s political party affiliation. This section does not prohibit a political advertisement from stating the candidate’s partisan-related experience. A candidate for nonpartisan office is prohibited from campaigning based on party affiliation.

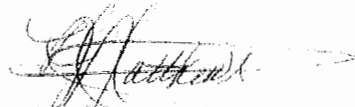
§ 106.143(3), Fla. Stat.

While this provision prohibits a candidate for nonpartisan office from “campaigning based on party affiliation,” it does not prohibit such candidate from “stating the candidate’s partisan-related experience.” *Id.* Nor is there anything in the provision that expressly prohibits the candidate from stating opinions about other races, whether partisan or nonpartisan. Therefore, it is the opinion of the Division that section 106.143(3), Florida Statutes, does not prohibit you as a candidate for the nonpartisan office of city councilmember from stating that you support a particular candidate for President as long as you are not “campaigning based on party affiliation.”²

SUMMARY

Section 106.143(3), Florida Statutes, does not prohibit a candidate for the nonpartisan office of city councilmember from expressing an opinion about another candidate for partisan office as long as the candidate is not “campaigning based on party affiliation.”

Respectfully,



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

² Of course, candidates seeking a nonpartisan *judicial* office are prohibited outright from endorsing *any* candidate. See § 105.071(4), Fla. Stat.