

Electioneering Communications Organization Handbook



Florida Department of State
Division of Elections
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(Rev. 7/23/2019)

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Chapter 1: Background

This handbook serves only as a quick reference guide.

This handbook is not a substitute for the [Florida Election Code](#) or applicable constitutional and rule provisions, the text of which controls. 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 applicable forms and publications are available on the Division of Elections' (Division) website at dos.myflorida.com/elections/forms-publications.

Please direct any questions to either your county [supervisor of elections](#) or the Division at **850.245.6280**. (See also [Appendix B: Frequently Asked Questions](#).)

Other Resources and Websites

Florida Elections Commission

www.fec.state.fl.us

Florida Elected Officials

dos.myflorida.com/elections/contacts/elected-officials

Florida Supervisors of Elections

dos.myflorida.com/elections/contacts/supervisor-of-elections

Florida Association of City Clerks

www.floridaclerks.org

Florida Attorney General

myfloridalegal.com

Federal Election Commission

www.fec.gov

Chapter 2: Campaign Finance

The [Florida Election Code](#) comprises Chapters 97-106, Florida Statutes. [Chapter 106](#), Florida Statutes, regulates campaign financing for all candidates, including judicial candidates, political committees, electioneering communications organizations, and political parties. It does not regulate campaign financing for candidates for federal office.

The Division:

- Oversees the interpretation of and provides guidance on the election laws.
(Section [97.012\(1\)](#), Fla. Stat.)
- Provides advisory opinions to supervisors of elections, candidates, local officers having election-related duties, political parties, political committees, 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\(2\)](#), Fla. Stat.)
- Prescribes rules and regulations to carry out the provisions of [Chapter 106](#), Florida Statutes.
(Section [106.22\(9\)](#), Fla. Stat.)
- Conducts audits with respect to reports and statements filed under [Chapter 106](#), Florida Statutes.
(Section [106.22\(6\)](#), Fla. Stat.)
- Reports to the Florida Elections Commission any apparent violations of [Chapter 106](#), Florida Statutes.
(Section [106.22\(7\)](#), Fla. Stat.)

Chapter 3: Glossary of Terms

Campaign Fund Raiser: Any affair held to raise funds to be used in a campaign for public office.

(Section [106.011\(1\)](#), Fla. Stat.)

Campaign Treasurer: An individual appointed by a candidate or political committee as provided for in [Chapter 106](#), Florida Statutes (*Section [106.011\(2\)](#), Fla. Stat.*). For an electioneering communications organization, this person is officially called “treasurer.”

(Sections [106.03](#) and [106.0703](#), Fla. Stat.)

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

- Seeks to qualify for nomination or election by means of the petitioning process;
- Seeks to qualify for election as a write-in candidate;
- Receives contributions or makes expenditures, or gives their consent for any other person to receive contributions or make expenditures, with a view to bringing about their nomination or election to, or retention in, public office;
- Appoints a treasurer and designates a primary depository; or
- Files qualification papers and subscribes to a candidate’s oath as required by law.

This definition does not include an individual seeking a publically elected position for a political party executive committee.

(Sections [97.021\(6\)](#) and [106.011\(3\)](#), Fla. Stat.)

Contribution: (See Section [106.011\(5\)](#), Florida Statutes, and [Chapter 5: 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\(7\)](#), Fla. Stat.)

Electioneering Communication: (See Section [106.011\(8\)](#), Florida Statutes, and [Chapter 10: Electioneering Communications](#).)

Expenditure: (See Section [106.011\(10\)](#), Florida Statutes, and [Chapter 6: Expenditures](#).)

Filing Officer: The person before whom a candidate qualifies or the agency or officer with whom a political committee or an electioneering communications organization registers.

(Section [106.011\(11\)](#), Fla. Stat.)

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\(16\)](#), Fla. Stat.)

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\(5\)](#), Florida Statutes, or endorsements of three or more candidates by an affiliated party committee or a political party.

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](#), Fla. Stat.)

Nominal Value: Having a retail value of \$10 or less.

(Section [97.021\(21\)](#), Fla. Stat.)

Nonpartisan Office: An office for which a candidate is prohibited from campaigning or qualifying for election or retention in office based on party affiliation.

(Sections [97.021\(22\)](#) and [106.143\(3\)](#), Fla. Stat.)

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, affiliated party committee, or political committee.

(Section [106.011\(14\)](#), Fla. Stat.)

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\(29\)](#), Fla. Stat.)

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\(17\)](#), Fla. Stat.)

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\(34\)](#), Fla. Stat.)

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\(35\)](#), Fla. Stat.)

Statewide Office: Governor, Cabinet (Attorney General, Chief Financial Officer, and Commissioner of Agriculture), 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\(3\)](#), Florida Statutes, 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\(18\)](#), Fla. Stat.)

Chapter 4: Electioneering Communications Organization

An **electioneering communications organization** is any group, other than a political party or political committee 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 or political committee under [Chapter 106](#), Florida Statutes. (See [Appendix C](#) for a comparison chart between an Electioneering Communications Organization and a Political Committee.)

(Section [106.011\(9\)](#), Fla. Stat.)

For information about what constitutes an electioneering communication, refer to Section [106.011\(8\)](#), Florida Statutes, and [Chapter 10: Electioneering Communications](#).

When and What to File

Form [DS-DE 103](#), Electioneering Communications Organization Statement of Organization

– Each group shall file a statement of organization as an electioneering communications organization within 24 hours after that date on which it makes expenditures for an electioneering communication in excess of \$5,000, if such expenditures are made within the timeframes specified in Section [106.011\(8\)\(a\)2](#), Florida Statutes. If the group makes expenditures for an electioneering communication in excess of \$5,000 before the timeframes specified in Section [106.011\(8\)\(a\)2](#), Florida Statutes, it shall file the statement of organization within 24 hours after the 30th day before a primary or special primary election, or within 24 hours after the 60th day before any other election, whichever is applicable.

Form [DS-DE 103](#) *must* include:

1. The name, mailing address, street address, and telephone number of the organization.
2. The names, addresses, and relationships of affiliated or connected organizations.
3. The area, scope or jurisdiction of the organization as it relates to the support or opposition of statewide, legislative, multi-county candidates.
4. The name, mailing address, street address, and position of the custodian of books and accounts.
5. A statement of whether the organization was formed as a newly created organization during the current calendar quarter or was formed from an organization existing prior to the current calendar quarter. (Calendar quarters end on the last day of March, June, September, and December.)
6. The name, mailing address, street address, and position of other principal officers, including the treasurer and deputy treasurer, if any.

7. Plans for the disposition of residual funds which will be made in the event of dissolution.
8. A listing of all banks, safe-deposit boxes, or other depositories used for organization funds.
9. A statement of the reports required to be filed with federal officials, if any, and names, addresses, and positions of such officials.

The form is considered “filed” only when the filing officer receives the form **and** determines that the form is complete with *original* signatures.

Any change in information previously submitted in a statement of organization shall be reported to the agency or officer with whom such organization is required to register within 10 days following the change.

(Section [106.03\(1\), \(2\), and \(4\)](#), Fla. Stat.)

Note: The bank account for an electioneering communications organization does not have to be separate from other accounts of the electioneering communications organization.

Form [DS-DE 41](#), Registered Agent Statement of Appointment – Each electioneering communications organization shall have and continuously maintain in this state a registered office and a registered agent. The electioneering communications organization must file Form [DS-DE 41](#) at the same time the organization files the Electioneering Communications Statement of Organization. An electioneering communications organization 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 their appointment by filing a signed, written statement of resignation with the filing officer. An electioneering communications organization without a registered agent may not make expenditures or accept contributions until Form [DS-DE 41](#) has been filed with the filing officer.

(Section [106.022](#), Fla. Stat.)

Where to File

- **Division:** Organizations supporting or opposing statewide, legislative, multi-county candidates.
- **Supervisor of Elections:** Organizations supporting or opposing countywide or less than countywide candidates (except municipal).
- **Municipal Clerk:** Organizations supporting or opposing only municipal candidates.

Exception: Any electioneering communications organization that would be required to file in two or more locations need only file with the Division.

(Section [106.03\(1\)\(b\)2.](#), Fla. Stat.)

Disbandment

Any organization may voluntarily disband by filing a written statement signed by the treasurer or registered agent with the filing officer. The organization will be closed and must dispose of its funds pursuant to its statement on the [DS-DE 103](#), Item 7.

The report due immediately following the organization's disbandment notice to the filing officer will serve as the organization's final report.

Cancellation of Registration

The filing officer shall cancel the registration of an electioneering communications organization when:

- The organization fails to maintain a registered office and a registered agent.
- The organization fails to file the appointment of a successor within 10 days after the death, resignation or removal of its treasurer.
- The organization fails to file the appointment of a successor within 10 days after the death, resignation or removal of its chairperson.
- The organization fails to file treasurer's reports for more than six months.
- The organization's aggregate reported financial activity in each of two consecutive calendar years is \$5000 or less.
- The organization has an unpaid fine or civil penalty imposed under [Chapter 106](#), Florida Statutes, which has become final, meaning all appeals regarding the imposition of the fine or civil penalty have been exhausted or the time for such appeals has passed.

*(Section [106.03\(5\) and \(7\)](#), Fla. Stat.,
and Rule [1S-2.021](#), F.A.C.)*

Chapter 5: Contributions

A **contribution** is one or more of the following:

- A gift, subscription, conveyance, deposit, loan, payment or distribution of money or anything of value, including in-kind contributions, made for the purpose of influencing the results of an election or making an electioneering communication.
- A transfer of funds between political committees, between electioneering communication organizations or between any combination of these groups.
- 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.
- The transfer of funds by a treasurer or deputy 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:

- 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.
- Editorial endorsements.

Note: The law provides no exceptions for reporting contribution information, regardless of the size of the contribution.

(Sections [106.011\(5\)](#) and [106.0703\(3\)\(a\)](#), Fla. Stat.)

In-Kind Contributions

In-kind contributions are anything of value having an attributable monetary value in any form made for the purpose of influencing the results of an election.

The **exceptions** are:

- Money;
- Personal services provided without compensation by individual volunteers;
- Independent expenditures, as defined in Section [106.011\(12\)](#), Florida Statutes; or
- Endorsements of three or more candidates by political parties.

Note: 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\(5\)](#), [106.021](#), [106.055](#), and [106.08](#), Fla. Stat.)

Loans

Loans are considered contributions and are subject to contribution limitations. Loans to or from each person or political committee 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 treasurer's report.

(Sections [106.011\(5\)](#), [106.0703\(3\)](#), [106.075](#), and [106.08](#), Fla. Stat.)

Money Order, Debit and Credit Card Contributions

An electioneering communications organization 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\(2\)](#), Fla. Stat.;
Division of Elections Advisory Opinions [94-02](#) and [00-03](#))*

Chapter 6: Expenditures

An **expenditure** is a purchase, payment, distribution, loan, advance, transfer of funds by a treasurer or deputy 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.

An expenditure for an electioneering communication is made when the earliest of the following occurs:

- A person executes a contract for applicable goods or services;
- A person makes payment, in whole or in part, for the production or public dissemination of applicable goods or services; or
- The electioneering communication is publicly disseminated.

(Section [106.011\(10\)](#), Fla. Stat.)

Note: An electioneering communications organization cannot use a credit card to make an expenditure.

(Section [106.0703\(8\)](#), Fla. Stat.)

Chapter 7: Recordkeeping

Bookkeeping

The Division offers the following best practices to help treasurers in setting up a system to record and maintain campaign information.

- Keep a schedule of due dates for treasurer's reports. For a calendar of election and reporting dates, see [Calendar of Reporting Dates](#) on the Division's website.
- Know what period of time each report covers and only report activity that occurred during that reporting period.
- Keep a copy of the electronic receipt for each report filed for your own records if filing with the Division. Keep a certificate of mailing for each report filed if filing with other filing officers.
- 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.
- 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 specific purpose.
- Keep a petty cash ledger of all expenditures. The individual expenditures do not have to be listed on treasurer's reports. However, you must list the total amount of petty cash withdrawn and total amount spent during the reporting period.
- 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.
- Maintain a listing of all funds currently in the separate interest-bearing account, certificate of deposit, or money market account.

Chapter 8: Filing Campaign Reports

Each treasurer designated by an electioneering communications organization shall file regular reports of all contributions received and all expenditures made by or on behalf of such organization. The treasurer shall certify as to the correctness of each report. Each person so certifying shall bear the responsibility for the accuracy and veracity of each report. Any treasurer who willfully certifies the correctness of any report while knowing that such report is incorrect, false or incomplete commits a misdemeanor of the first degree.

(Section [106.0703\(4\)](#), Fla. Stat.)

Where to File

A treasurer of an electioneering communications organization is required to file treasurer's reports with the filing officer with whom the organization registers.

Organizations filing reports with the Division are required to file by means of the [Electronic Filing System](#) (see [Chapter 9: Electronic Filing of Campaign Reports](#)). If the organization's filing officer is other than the Division, contact the appropriate filing officer to find out their requirements.

(Sections [106.0703](#) and [106.0705](#), Fla. Stat.)

When to File

Reports must be filed on the 10th day following the end of each calendar month from the time the organization 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.

Electioneering communications organizations required to file campaign reports with the Division must file:

1. On the 60th day immediately preceding the primary election, and each week thereafter, with the last weekly report being filed on the 4th day immediately preceding the general election.
2. On the 10th day immediately preceding the general election, and every day thereafter, excluding the 4th day immediately preceding the general election, with the last daily report being filed the day before the general election.

Any electioneering communications organizations required to file reports with a filing officer other than the Division must file reports on the 60th day immediately preceding the primary election and bi-weekly on each Friday thereafter through and including the 4th day immediately preceding the general election, with additional reports due on the 25th and 11th days before the primary election and the general election.

In addition to the previously mentioned reports, an electioneering communications organization that is registered with the Division and that makes a contribution or expenditure to influence the results of a county or municipal election that is not being held at the same time as a state or federal election must file reports with the county or municipal filing officer on the same dates as county or municipal candidates or committees for that election. The electioneering communications organization must also include the expenditure in the next report filed with the Division following the county or municipal election.

(Section [106.0703\(1\)\(e\)](#), Fla. Stat.)

Organizations that file with the Division should refer to the [Calendar of Reporting Dates](#) for specific dates. Organizations registered with a county or city should contact the appropriate filing officer for reporting schedules.

Unless the electronic filing requirements of Section [106.0705](#), Florida Statutes, apply, reports shall be filed no later than 5 p.m. of the day designated. A report postmarked by the U.S. Postal Service no later than midnight of the day designated is deemed timely filed. A report received by the filing officer within five days after the designated due date that was delivered by the U.S. Postal Service is deemed timely filed unless it has a postmark indicating the report was mailed after the designated due date. A certificate of mailing obtained from and dated by the U.S. Postal Service at the time of mailing or a receipt from an established courier company, which bears a date on or before the date on which the report is due, is proof of mailing in a timely manner.

Reports required to be filed with the Division through the [Electronic Filing System](#) are due no later than midnight, Eastern Time, of the due date.

(Sections [106.07](#), [106.0703](#), [106.0705](#), and [106.141](#), Fla. Stat.)

Penalty for Late Filing

Any electioneering communications organization failing to file a report on the designated due date shall be subject to a fine of \$50 per day for the first three 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. However, for the reports immediately preceding the primary and general election, the fine shall be \$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.

(Section [106.0703\(7\)](#), Fla. Stat.)

Report of No Activity

When there has been no reportable activity in the account during a reporting period (no funds expended or received), the treasurer shall file a written report with the filing officer that no activity occurred. This filing must be made by the prescribed reporting date.

(Section [106.0703\(6\)](#), Fla. Stat.)

All reports filed with the Division must be filed electronically using the Division's [Electronic Filing System \(EFS\)](#).

(Sections [106.0703](#) and [106.0705](#), Fla. Stat.)

Special Election Reports

When a special election is called to fill a vacancy in office, all electioneering communications organizations making contributions or expenditures to influence the results of the special election shall file treasurers' reports with the filing officer on the dates set by the Department of State pursuant to Section [100.111](#), Florida Statutes.

(Section [106.0703](#), Fla. Stat.)

Organizations are to include on the special election treasurer's reports only expenditures related to the special election made by the organization during the special election reporting periods. All contributions received and all expenditures made not related to the special election during the current quarter should be filed on the next monthly report. Once an organization has participated in the special election and has filed a special election treasurer's report, all other special election reports remaining must also be filed by the organization, even if there is no further special election activity.

Incomplete Reports

If a treasurer files a report that is deemed incomplete, the treasurer will be notified by the filing officer as to why the report is incomplete by certified mail or by another method using a common carrier that provides a proof of delivery as to why the report is incomplete. The treasurer must file an addendum to the incomplete report within seven days of notification. The addendum must include all necessary information to complete the report. The failure to file a complete report after notice constitutes a violation of [Chapter 106](#), Florida Statutes.

(Section [106.0703\(2\)\(b\)1.](#), Fla. Stat.)

Reporting Total Sums

Each treasurer's report required by [Chapter 106](#), Florida Statutes, shall contain the total sums of all loans, in-kind contributions, and other receipts, and total sums of all expenditures made during the reporting period. The reporting forms shall be designed to elicit separate totals for in-kind contributions, loans, and other receipts.

Form [DS-DE 12](#), Campaign Treasurer's Report Summary, is used to report totals for all contributions, in-kind contributions, loans, and other receipts.

(Section [106.0703\(3\)](#), Fla. Stat.)

Reporting Contributions

Each report *must* contain:

1. Full name, address, specific occupation, amount, and date for each person making a contribution. Reports must provide as clear a description as practicable of the principal type of business conducted for corporations contributing. The occupation or principal type of business is not required if the contribution is \$100 or less.
2. Name, address, amount, and date for each political committee or organization making any transfer of funds.
3. Full name, address, specific occupation, principal place of business of the lender and endorser, amount, and date for each loan.
4. Statement of each contribution, rebate, refund or other receipts not listed in items 1 through 3 above.

(Section [106.0703\(3\)](#), Fla. Stat.)

Reporting Expenditures

Each report *must* contain:

1. Full name and address of each person to whom expenditures have been made, along with the amount, date, and clear purpose of the expenditure.
2. Full name and address of each person to whom an expenditure for personal services, salary, or reimbursement for expenses was made, along with the amount, date, and clear purpose of the expenditure. (See also [Reporting Other Distributions](#).)
3. Amount and nature of debts and obligations owed by or to the organization, which relate to the conduct of any electioneering communication.

4. The amount and nature of any separate interest-bearing accounts or certificates of deposit. Identification of the financial institution in which such accounts or certificates of deposit are located must be identified.
5. The primary purposes of an expenditure made indirectly through an electioneering communications organization for goods and services such as communications media placement or procurement services and other expenditures that include multiple components as part of the expenditure. The primary purpose of an expenditure shall be that purpose, including integral and directly related components, that comprises 80 percent of such expenditure. *(See also [Reporting Other Distributions.](#))*

(Section [106.0703\(3\)](#), Fla. Stat.)

Reporting Other Distributions

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

Types of distributions:

- In-Kind
- Prepaid
- Reimbursement

Reports must contain:

- Full name and address of each person to whom payment was made for which reimbursement was made by check together with the purpose of such payment.
- Expenditures made indirectly through a treasurer for goods or services, such as communications media placement or procurement services and other expenditures that include multiple integral components as part of the expenditure.

(Section [106.0703\(3\)](#), Fla. Stat.)

Chapter 9: 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 electioneering communications organization required to file reports with the Division pursuant to Section [106.0703](#), Florida Statutes, must file such reports with the Division by means of the [EFS](#).

Reports filed:

1. Must be completed and filed through the [EFS](#) no later than midnight, Eastern Time, of the due date. Late filed reports are subject to the penalties under Section [106.0703\(7\)](#), Florida Statutes, as applicable.
2. Are considered to be under oath by the treasurer, and such person is subject to provisions of Section [106.0703\(4\)](#), Florida Statutes. 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](#), Fla. Stat.)

Accessing the EFS

The [EFS](#) can be accessed at efs.dos.state.fl.us. The Division provides each person filing a report an identification number and initial password to gain entry. After logging in using the initial password, the system will prompt the user to change it to a confidential one.

A person given a secure sign-on to the [EFS](#) is responsible for protecting the password from disclosure. Contact the Division immediately if your password has been compromised.

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.

For instructions on uploading reports, see the [Electioneering Communications Organizations EFS User Guide - PDF \(DS-DE 110D\)](#) located on the Division's website.

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 via the [EFS](#) is considered to be under oath and such persons filing the report are subject to the provisions of [Chapter 106](#), Florida Statutes.

Help Line and User Guide

EFS HELP LINE

(850) 245-6280

EFS USER GUIDE

EFS Electioneering Communications Organizations User Guide (DS-DE 110D)
(Listed under Electronic Filing System Resources.)

dos.myflorida.com/elections/candidates-committees/campaign-finance/filing-campaign-reports

Note: For further information on the [EFS](#), see Rule [1S-2.017](#), Florida Administrative Code, *Reporting Requirements for Campaign Treasurer's Reports*.

Chapter 10: Electioneering Communications

Electioneering communication means any communication publicly distributed by a television station, radio station, cable television system, satellite system, newspaper, magazine, direct mail, or telephone that:

1. Refers to or depicts a clearly identified candidate for office without expressly advocating the election or defeat of a candidate but that is susceptible of no reasonable interpretation other than an appeal to vote for or against a specific candidate;
2. Is made within 30 days before a primary or special primary election or 60 days before any other election for the office sought by the candidate; and
3. Is targeted to the relevant electorate in the geographical area the candidate would represent if elected.

The **exceptions** are:

1. A communication disseminated through a means of communication other than a television station, radio station, cable television system, satellite system, newspaper, magazine, direct mail, telephone, or statement or depiction by an organization, in existence prior to the time during which a candidate named or depicted qualifies for that election, made in that organization's newsletter distributed only to members of that organization;
2. A communication in a news story, commentary or editorial distributed through the facilities of any radio station, television station, cable television system, or satellite system unless the facilities are owned or controlled by any political party, political committee, or candidate. A news story distributed through the facilities owned or controlled by any political party, political committee, or candidate may nevertheless be exempt if it represents a bona fide news account communicated through a licensed broadcasting facility and the communication is part of a general pattern of campaign-related news accounts that give reasonably equal coverage to all opposing candidates in the area;
3. A communication that constitutes a public debate or forum that includes at least two opposing candidates for an office or one advocate and one opponent of an issue, or that solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum, provided that the staging organization:
 - a. Is either a charitable organization that does not make other electioneering communications and does not otherwise support or oppose any political candidate or political party; or a newspaper, radio station, television station, or other recognized news medium; and
 - b. Does not structure the debate to promote or advance one candidate or issue position over another.

An expenditure made for, or in furtherance of, an electioneering communication shall not be considered a contribution to or on behalf of any candidate and shall not constitute an independent expenditure, nor be subject to the limitations applicable to independent expenditures.

(Section [106.011\(8\)](#), Fla. Stat.)

Electioneering Communication Disclaimers

Any electioneering communication, other than a telephone call, shall prominently state *“Paid electioneering communication paid for by (Name and address of person paying for the communication).”*

(Section [106.1439](#), Fla. Stat.)

Electioneering Communication Telephone Call Disclaimer

Any electioneering communication telephone call shall identify the persons or organizations sponsoring the call by stating either: *“Paid for by (name of persons or organizations sponsoring the call)”* or *“Paid for on behalf of (name of persons or organizations authorizing call).”* This telephone disclaimer does not apply to any telephone call in which the individual making the call is not being paid and the individuals participating in the call know each other prior to the call.

(Sections [106.1439](#) and [106.147](#), Fla. Stat.)

Penalty for Electioneering Communication Disclaimer Violation

Any person who fails to include the disclaimer in any electioneering communication that is required to contain such disclaimer commits a misdemeanor of the first degree, punishable as provided in Section [775.082](#) or [775.083](#), Florida Statutes.

(Sections [106.1439](#) and [106.147](#), Fla. Stat.)

Chapter 11: Florida Elections Commission

The [Florida Elections Commission \(FEC\)](#) is a separate and independent entity from the Division. The FEC consists of nine members appointed by the Governor from lists of names submitted by legislative leaders.

Automatic Fine Appeal Process

The treasurer of an electioneering communications organization may appeal or dispute a fine for a late filed campaign 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 treasurer may request and is entitled to a hearing before the FEC, which has the authority to waive the fine in whole or in part.

The appeal must be made within 20 days of the receipt of the notice of payment due. The treasurer must, within the 20-day period, notify the filing officer in writing of their intention to bring the matter before the FEC.

(Section [106.0703\(7\)\(c\)](#), Fla. Stat.)

Complaint Process

Any person who has information of a violation of Chapter [104](#) or [106](#), Florida Statutes, shall file a sworn complaint with the FEC by completing a complaint form and addressing it to:

**The Florida Elections Commission
107 West Gaines Street
Suite 224, Collins Building
Tallahassee, FL 32399-1050**

A complaint form ([FEC Form 1](#)) may be obtained from the FEC or downloaded from the FEC's website at www.fec.state.fl.us. For additional information, contact the FEC at **850.922.4539**.

(Sections [106.25](#) and [106.28](#), Fla. Stat.)

Appendices

Appendix A: Legal References and Rules Cited

Constitutions

- [United State Constitution](#)
- [Constitution of the State of Florida](#)

Florida Election Code

- [Chapter 104](#) Election Code: Violations; Penalties
- [Chapter 106](#) Campaign Financing

Florida Statutes

- [97.021](#) Definitions.
- [98.015](#) Supervisor of elections; election, tenure of office, compensation, custody of registration-related documents, office hours, successor, seal; appointment of deputy supervisors; duties.
- [100.111](#) Filling vacancy.
- [100.371](#) Initiatives; procedure for placement on ballot.
- [105.011](#) Definitions.
- [106.011](#) Definitions.
- [106.021](#) Campaign treasurers; deputies; primary and secondary depositories.
- [106.022](#) Appointment of a registered agent; duties.
- [106.03](#) Registration of political committees and electioneering communications organizations.
- [106.05](#) Deposit of contributions; statement of campaign treasurer.
- [106.055](#) Valuation of in-kind contributions.
- [106.07](#) Reports; certification and filing.
- [106.0703](#) Electioneering communications organizations; reporting requirements; certification and filing; penalties.
- [106.0705](#) Electronic filing of campaign treasurer's reports.
- [106.0706](#) Electronic filing of campaign finance reports; public records exemption.
- [106.071](#) Independent expenditures; electioneering communications; reports; disclaimers.
- [106.075](#) Elected officials; report of loans made in year preceding election; limitation on contributions to pay loans.
- [106.08](#) Contributions; limitations on.
- [106.11](#) Expenses of and expenditures by candidates and political committees.
- [106.125](#) Credit cards; conditions on use.
- [106.141](#) Disposition of surplus funds by candidates.
- [106.143](#) Political advertisements circulated prior to election; requirements.
- [106.1437](#) Miscellaneous advertisements.
- [106.1439](#) Electioneering communications; disclaimers.
- [106.147](#) Telephone solicitation; disclosure requirements; prohibitions; exemptions; penalties.
- [106.22](#) Duties of the Division of Elections.
- [106.23](#) Powers of the Division of Elections.
- [106.25](#) Reports of alleged violations to Florida Elections Commission; disposition of findings.

- [106.265](#) Civil penalties.
- [106.28](#) Limitation of actions.
- [775.082](#) Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison.
- [775.083](#) Fines.
- [849.09](#) Lottery prohibited; exceptions.

Florida Administrative Code

- Rule [1S-2.017](#) Reporting Requirements for Campaign Treasurer's Reports
- Rule [1S-2.021](#) Cancellation of Registration of Political Committees and Electioneering Communications Organizations

Forms

- [DS-DE 12](#) Campaign Treasurer's Report Summary
- [DS-DE 41](#) Registered Agent Statement of Appointment
- [DS-DE 103](#) Electioneering Communications Statement of Organization

Division of Elections Advisory Opinions

- [DE 94-02](#) Use of Money Orders as Campaign Contribution
- [DE 00-03](#) Use of Debit and Credit Cards for Campaign Contributions and Expenditures
- [DE 12-08](#) Corporations; Independent Expenditures; Political Committees § 106.011 and 106.071, Florida Statutes
- [DE 14-03](#) Campaign Financing; Political Committees; Contributions; Expenditures - political club activity; § 106.011, Florida Statutes
- [DE 16-12](#) Advertising - Political Disclaimers; Meaning of "Expressly Advocates;" Electioneering Communications; §§ 106.011, 106.143, 106.1439, Florida Statutes

Campaign Finance Reporting Guides and System

- [Electronic Filing System](#)
- [EFS User Guide](#) (see specifically *Electioneering Communications Organizations User Guide - PDF (DS-DE 110D)*)
- [Calendar of Reporting Dates](#) (see specifically *Candidates, Political Committees, Electioneering Communications Organizations - PDF* under Campaign Finance Reporting Dates)

Appendix B: Frequently Asked Questions

1. What is an electioneering communication?

Any communication publicly distributed by a television station, radio station, cable television system, satellite system, newspaper, magazine, direct mail, or telephone that (1) refers to or depicts a clearly identified candidate for office without *expressly advocating* the election or defeat of a candidate but that is susceptible of no reasonable interpretation other than an appeal to vote for or against a specific candidate; (2) is made within 30 days before a primary or special primary election or 60 days before any other election for the office sought by the candidate; and (3) is targeted to the relevant electorate in the geographical area the candidate would represent if elected.

(Section [106.011\(8\)](#), Fla. Stat.)

“Expressly advocate” means the communication has words such as “vote for,” “vote against” “elect,” “support,” “cast your ballot for,” “(Name) for Mayor,” “defeat,” or “reject.”

(See *Buckley v. Valeo*, 96 S. Ct. 612 (1976); Division of Election Advisory Opinions [14-03](#) and [16-12](#))

2. Do electioneering communications need disclaimers?

Yes. The disclaimer, except for telephone calls, must read:

*“Paid electioneering communication paid for by
(name and address of person paying for the communication).”*

The disclaimer for an electioneering communication telephone call must read:

“Paid for by (name of persons or organizations sponsoring the call)”

OR

“Paid for on behalf of (name of persons or organizations authorizing call).”

(Section [106.1439](#), Fla. Stat.)

3. Who is responsible for keeping tabs on aggregate totals of campaign contributions?

The treasurer is responsible for receiving and reporting all contributions.

(Section [106.0703](#), Fla. Stat.)

4. May an electioneering communications organization accept a contribution from a trust fund?

Yes. [Chapter 106](#), Florida Statutes, 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 or political committee.

(Section [106.011\(14\)](#), Fla. Stat.)

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

Yes. The law provides no exceptions for the reporting of contribution information, regardless of the size of the contribution. The full name and address of the contributor are also required.

(Section [106.0703\(3\)\(a\)](#), Fla. Stat.)

6. 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](#), Fla. Stat.)

7. Can a corporation give to an electioneering communications organization?

Yes. A corporation is under the definition of a "person" in [Chapter 106](#), Florida Statutes.

(Section [106.011\(14\)](#), Fla. Stat.)

8. Can I conduct a raffle to raise money for my campaign?

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.

9. Do I have to file campaign reports on the [Electronic Filing System \(EFS\)](#)?

If the Division of Elections is your filing officer, you are required to file all campaign reports via the [EFS](#). If your filing officer is other than the Division, contact that office to find out its requirements.

(Section [106.0705](#), Fla. Stat.)

10. 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 [106.0703\(4\)](#), Fla. Stat.)

11. 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."

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

\$50 per day for the first three 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. However, for reports immediately preceding the primary and general election, the fine shall be \$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.

(Section [106.0703\(7\)](#), Fla. Stat.)

13. How long are campaign records kept at the Division of Elections or the supervisor of elections?

Ten years from the date of receipt.

(Sections [98.015\(5\)](#) and [106.22\(4\)](#), Fla. Stat.)

Appendix C: DE Reference Guide 0017 – PCs and ECOs



Political Committees and Electioneering Communications Organizations

DE Reference Guide 0017 (Updated 06/2019)

These guidelines are for reference only. They are not to be construed as legal advice or representation. For any particular set of facts or circumstances, refer to the applicable state law, federal law, and case law, and/or consult a private attorney before drawing any legal conclusions or relying upon this information.

COMPARISON CHART

	Political Committee (PC)	Electioneering Communication Organization (ECO)
Purpose	<ul style="list-style-type: none"> To support or oppose any candidate, issue*, PC, ECO, or political party. May make independent expenditures May make electioneering communications (if political committee supports candidates). *A sponsor of a constitutional initiative petition must be a PC. (§ 100.371, F.S.) <p>Independent expenditure = An expenditure made for the purpose of expressly advocating the election/defeat of candidate/issue, which expenditure is not controlled by, coordinated with, or made upon consultation with any candidate, political committee, or agent of such. (§ 106.011(12), F.S.)</p> <p><i>Note about independent expenditures:</i></p> <ul style="list-style-type: none"> If made by an individual: No limit on amount of independent expenditures exists, but if \$5000 or more, must file reports as if was a PC. (§ 106.071, F.S.) If made by a corporation or business entity: If independent expenditure is for/against an issue: No limit on the amount of independent expenditures exists, but if \$5000 or more, must file reports as if was a PC. (§ 106.071, F.S.) However, if independent expenditure is for/against a candidate > \$500: no limit, but must register as PC and file reports as PC. (§ 106.011(16)(b)2., F.S.) – See Advisory Opinion DE 12-08. 	<ul style="list-style-type: none"> 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, or political committee. (§ 106.011(9), F.S.) 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(8), F.S.) <p>Electioneering communications =</p> <ol style="list-style-type: none"> Communication publicly distributed by TV station, radio station, cable TV system, satellite system, newspaper, magazine, direct mail, or telephone; Refers to a clearly identified candidate without expressly advocating election or defeat, but is susceptible of no reasonable interpretation other than appeal to vote for or against a specific candidate; Is made w/in 30 days before a primary or special primary or 60 days before any other election for the office sought by the candidate; and Is targeted to the relevant electorate in the geographic area the candidate would represent if elected. (§ 106.011(8)(a), F.S.)

Electioneering Communications Organization Handbook

	Political Committee (PC)	Electioneering Communication Organization (ECO)
Initial Filings	<ul style="list-style-type: none"> • Statement of Organization must be filed within 10 days after its organization 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. Also, must file immediately when organized within 10 days of any election. (§ 106.03, F.S.) • Appointment of Campaign Treasurer and Designation of Campaign Depository (§ 106.021, F.S.) • Registered Agent Statement of Appointment (§ 106.022, F.S.) 	<ul style="list-style-type: none"> • Statement of Organization must be filed within 24 hours when ECO makes expenditures in excess of \$5,000 in a calendar year if made <u>within</u> 30 days before a primary or 60 days before any other election for the office sought by the candidate. If made <u>before</u> the 30/60 day timeframe, the statement of organization must then be filed within 24 hours after the 30th day before the primary or within 24 hours after the 60th day before any other election, whichever is applicable. (§ 106.03(1)(b)1., F.S.) • Registered Agent Statement of Appointment (§ 106.022, F.S.)
Limits on Contributions To the Entity	No monetary limit	No monetary limit
Limits on Contributions By the Entity	<ul style="list-style-type: none"> • PC to a candidate – \$1000 per election, except limit to candidates for statewide office or Supreme Court Justice = \$3000 • PC to a political party – no limit • PC to ECO – no limit • PC to PC – no limit 	<ul style="list-style-type: none"> • Limited to making electioneering communications (§ 106.011(9), F.S.) • May not make contributions to candidates (§ 106.011(9), F.S.) • May not make contributions to a political party or a political committee (§ 106.011(9), F.S.) • May make contributions to another ECO
Disposition of Residual Funds in the Event of Dissolution	In accordance with the plans stated in the PC's Statement of Organization (§ 106.03(2)(j) , F.S.)	In accordance with the plans stated in the ECO's Statement of Organization (§ 106.03(2)(j) , F.S.)
Restrictions	<ul style="list-style-type: none"> • Funds may be used only for PC activity and only for the purpose of influencing the results of an election. • Credit cards: PC created to support/oppose a statewide candidate or to support/oppose any statewide issue, may use credit cards in making travel-related campaign expenditures subject to the conditions in § 106.125, F.S. 	<ul style="list-style-type: none"> • Funds for its election-related activities may only be used to make electioneering communications. (§ 106.011(9), F.S.) (Thus, ECO may not make expenditures for an ad which is distributed outside the 30/60-day timeframe since the ad would not be an electioneering communication) • May not make independent expenditures • May not expressly advocate • May not use credit cards (§ 106.0703(8), F.S.)

Electioneering Communications Organization Handbook

	Political Committee (PC)	Electioneering Communication Organization (ECO)
Where to File	<ul style="list-style-type: none"> • Division of Elections – if supports or opposes statewide, legislative, or multicounty candidates or issues. • Supervisor of Elections – if supports or opposes candidates or issues in a countywide or less than a countywide election, except if supports or opposes <i>only</i> municipal candidates or issues. • Municipal Clerk – if supports or opposes <i>only</i> municipal candidates or issues. <p>Any political committee which would be required under this subsection to file a statement of organization in two or more locations need file only with the Division of Elections. (§ 106.03(3)(d), F.S.)</p>	<ul style="list-style-type: none"> • Division of Elections – if relates to statewide, legislative, or multicounty candidates. • Supervisor of Elections – if relates to candidates in a countywide or less than a countywide election, except if relates <i>only</i> to municipal candidates. • Municipal Clerk – if relates to <i>only</i> municipal candidates. <p>Any electioneering communications organization that would be required to file a statement of organization in two or more locations need only file a statement of organization with the Division of Elections. (§ 106.03(1)(b)2.d., F.S.)</p>
When to File Reports	<p>Monthly; except for additional reports due beginning 60 days before the primary election; thereafter, reports are due as follows for political committees who:</p> <ol style="list-style-type: none"> 1. File with Division of Elections — <ul style="list-style-type: none"> • WEEKLY full reports of contributions and expenditures on the 4th day before the general election; and • DAILY contribution-only reports beginning on the 10th day before the general election and ending on the 5th day before the general election. 2. File with a filing officer other than the Division of Elections— <ul style="list-style-type: none"> • BI-WEEKLY full reports of contributions and expenditures on the 4th day before the general election, with an additional report due on the 25th and 11th days before the primary and general election. (§ 106.07(1), F.S.) <p>See Campaign Finance Reporting Dates on the Division’s web site. For filing date calendars for counties and municipalities, contact the respective county supervisor of elections and municipal clerk, respectively.</p>	<p>Monthly; except for additional reports due beginning 60 days before the primary election; thereafter, reports are due as follows for ECOs who:</p> <ol style="list-style-type: none"> 1. File with Division of Elections — <ul style="list-style-type: none"> • WEEKLY full reports of contributions and expenditures on the 4th day before the general election; and • DAILY contribution-only reports beginning on the 10th day before the general election and ending on the day before the general election (excluding the 4th day before the general election). 2. File with a filing officer other than the Division of Elections— <ul style="list-style-type: none"> • BI-WEEKLY full reports of contributions and expenditures on the 4th day before the general election, with an additional report due on the 25th and 11th days before the primary and general election. (§ 106.0703(1), F.S.) <p>See Campaign Finance Reporting Dates on the Division’s web site. For filing date calendars for counties and municipalities, contact the respective county supervisor of elections and municipal clerk, respectively.</p>

Electioneering Communications Organization Handbook

	Political Committee (PC)	Electioneering Communication Organization (ECO)
Political Disclaimers on ads	<ul style="list-style-type: none"> • Political advertisements – see § 106.143(1)(c) & (2), F.S. • Independent expenditures – see § 106.071(2), F.S. • Electioneering communication – see § 106.1439, F.S. • Telephone solicitation – see §§ 106.147(1) & 106.1439(2), F.S. • Miscellaneous advertisement – see § 106.1437, F.S. 	<ul style="list-style-type: none"> • Electioneering communication – see § 106.1439, F.S. • Electioneering communication telephone solicitation – see §§ 106.1439(2) & 106.147, F.S.
Pros/Cons	<p>Pros:</p> <ul style="list-style-type: none"> • May accept unlimited contributions • May communicate with public • May expressly advocate • May contribute to candidate, political party, or any other political organization • May make electioneering communications, which are not considered contributions to the candidate <p>Cons:</p> <ul style="list-style-type: none"> • Cannot coordinate with the candidate on political advertisements without the political advertisement becoming a contribution to the candidate 	<p>Pros:</p> <ul style="list-style-type: none"> • May accept unlimited contributions • May communicate with public • May coordinate with candidates on electioneering communications (not subject to the limitations applicable to independent expenditures) (§ 106.011(8)(d), F.S.) • Expenditures made for, or in furtherance of, an electioneering communication are not considered a contribution to the candidate (§ 106.011(8)(c), F.S.) <p>Cons:</p> <ul style="list-style-type: none"> • May not expressly advocate • May not contribute to candidates, political parties, affiliated party committees, or political committees • Cannot use credit card