

# Candidate Seminar 2020

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# Overview of Chapter 106

- Although chapter is entitled Campaign Financing, it also covers political organization registration, reporting, political advertising, and political disclaimer requirements.
- Division of Elections interprets chapter, but Florida Elections Commission investigates and determines violations (+ imposes administrative fines)
- Some provisions are expressly made criminal; therefore, state attorney also has jurisdiction over these violations.

# Chapter 106, Fla. Stat. (2019)

- **Regulates:**
  - Candidates (except those for federal office)
  - Political Parties
  - Affiliated Party Committees
  - Political Committees
  - Electioneering Communications Organizations
  - “Persons” -- definition in s. 106.011(14)

# Candidate Requirements

- Before accepting “contribution” or making an “expenditure,” an appointment of campaign treasurer and designation of a primary depository (s. 106.021, F.S.) must be filed.
- Cannot obligate funds unless sufficient funds are in the campaign account to cover the expenditure (s. 106.11). Payment must be made upon receipt and acceptance of goods or services.
- Must file periodic reports (s. 106.07) – at least monthly, more often as election nears.

# Candidate Filing Offices

- **DOS Division of Elections** = filing office for federal, state, multi-county district, and judges (except county judges).
- **Supervisor of Elections** = filing office for county, all other candidates, except some municipal candidates.
- **Municipal Clerk** = is the filing office for some municipal candidates. (Islamorada)

# Duties of a Campaign Treasurer

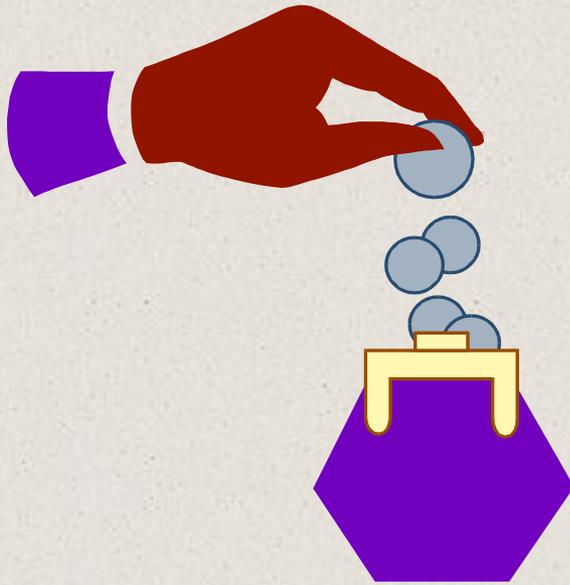
- Must keep detailed accounts current within 2 days.
- File regular reports of all contributions received and expenditures made.
- Preserve these records for the number of years equal to the term of the office sought.
- Only the campaign treasurer or deputy treasurer can sign campaign check.
- Contributions must be deposited in the depository within 5 days of receipt.

# What is a Contribution?

- Anything of value made for the purpose of influencing the results of an election. This Includes in-kind contributions (s.106.011(5), F.S.)
- Major Exception:
  - Services provided without compensation by individuals volunteering their time on behalf of a candidate or committee.

# Cash Contributions - Limitations

(s. 106.09, F.S.)



**Cash** contributions and contributions by **cashier's check** to a candidate may not exceed **\$50** in the aggregate per election per contributor.

**Note: Money orders and travelers checks are not considered “cash.”**

# Contributions

(s. 106.08, F.S.)

- Any contribution received by an opposed candidate, their treasurer, or deputy treasurer less than five days prior to an election must be returned.



# Last Day To Accept Contributions

- If the candidate has opposition in the election Friday 12AM before the election (s. 106.08 (3) (a), FS). The law does not prohibit the acceptance; it prohibits the use. So, to preclude having to refund the contribution, the candidate should only accept it before midnight, Thursday night.

# Contribution Limits for Candidates (s. 106.08, F.S.)



- Except for political parties or affiliated party committees, no person or political committee may contribute in excess of the following amounts to any candidate:
  - Statewide office or
    - Supreme Court Justice: **\$3,000 per election**
  - All other candidates: **\$1,000 per election**

# Contribution Limits for Candidates

106.141 (2) 106.11 (6)

Candidates may contribute as much as they want of their personal funds to their campaign.

Candidates may be reimbursed by the campaign at any time the campaign account has sufficient funds, in full or in part, for any reported contributions by the candidate to the campaign.

# Limits for Political Parties

Contributions from Political Party to a Candidate: (APCs = Affiliated Party Committees)

**New law (s. 106.08(2)(a)(b), F.S.):**

- Statewide candidate: \$250,000 aggregate from all party sources & APCs (**No change**)
- Other candidate: \$50,000 aggregate from a county party executive committee + \$50,000 from all other party or APC sources (**New**)

# Reporting Contributions

s. 106.07(4)(a), F.S.

- Date, name and address of contributor, and amount of contribution must be included on report
- Contributions over \$100 must also have the occupation or nature of business of contributor
- In-kind contributions - must have a description of the contribution; the contributor must provide the fair market value

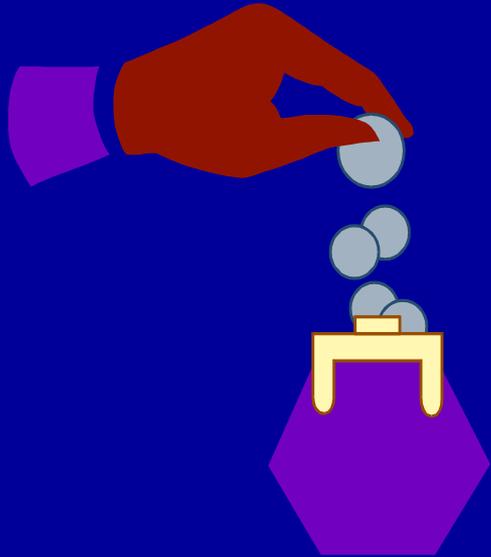
# Use of Campaign Funds

Proper “expenditure:” Spend on items that will influence results of the election.

May not use to defray normal living costs for the candidate or his family.



# Petty Cash Withdrawal from Campaign Account (s. 106.12, FS)



- \$500 per quarter until the end of qualifying
- \$100 per week after qualifying
- Only** can be used for office supplies, transportation, and necessities in amounts less than \$100
- May **not** be used for the purchase of time, space, or services from a communication media

# Debit Cards

(s. 106.11, FS)

- Obtained from the same bank as the primary depository
- Can be issued to any treasurer or authorized user – limit of 3 cards total for campaign
- Card must include the name of the campaign account of the candidate
- User cannot receive cash back using the debit card.
- Receipt must contain specific information; if not on printed receipt, can be handwritten on it.

# Info needed on Debit Receipt

## All debit card receipts must contain:

- Last four digits of the debit card number
- Exact amount of expenditure.
- Name of payee.
- Signature of campaign treasurer, deputy treasurer, or authorized user
- Exact purpose of expenditure.

# Reporting Expenditures

All expenditures must be reported and report must include:

- Date of the expenditure
- Name and address of payee
- Purpose of expenditure

(make notes on “for” line)

- Amount of expenditure



# Law has Increased Frequency of Campaign Reports

- **Quarterly to monthly:** All candidates, PCs, and ECOs.
- **Beginning on 60<sup>th</sup> day before Primary, reports due:**
  1. **Weekly for a statewide candidate or a PC/ECO filing with the Division of Elections** until the 4<sup>th</sup> day before General Election.
  2. **Bi-weekly on Friday for any other candidate/PC/ECO** until the 4<sup>th</sup> day before General. Also, additional reports required on 25<sup>th</sup> and 11<sup>th</sup> days before Primary and General Elections.

# # of Candidate Reports under New 2014 Law



Candidate	Prior law	New law
□ Election Year (Jan 1 <sup>st</sup> thru General Election): if file w/		
– Division (statewide)	10	31
– Division (non-statewide)	10	20
– Supervisor of Elections	10	20
□ Non-Election Year (Jan 1 <sup>st</sup> thru Dec 31 <sup>st</sup> ): if file w/		
– Division (statewide)	4	12
– Division (non-statewide)	4	12
– Supervisor of Elections	4	12
➤ Termination reports not included in above numbers		

# Effect of New Reporting Schedule on Municipal Elections

**How does new reporting frequency apply to municipal elections?**

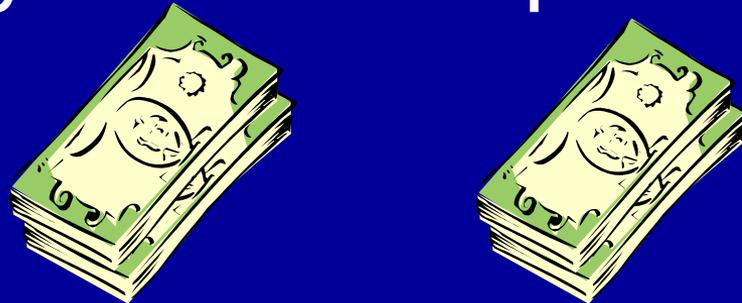
**(Remember: The expedited reporting begins 60 days before the “primary election” and goes through the 4<sup>th</sup> day before the “general election.”)**

**Answer:** Except for the normal monthly reports, the expedited reporting schedule only applies to the reports due on the 25<sup>th</sup>, 11<sup>th</sup>, and 4<sup>th</sup> day before the municipal election.

- **See DE 98-03:** Statutory provisions relating to campaign finance reports become problematic because municipalities do not hold primary elections; therefore, municipalities are to apply the Chapter 106 campaign finance reporting schedules to the extent possible.

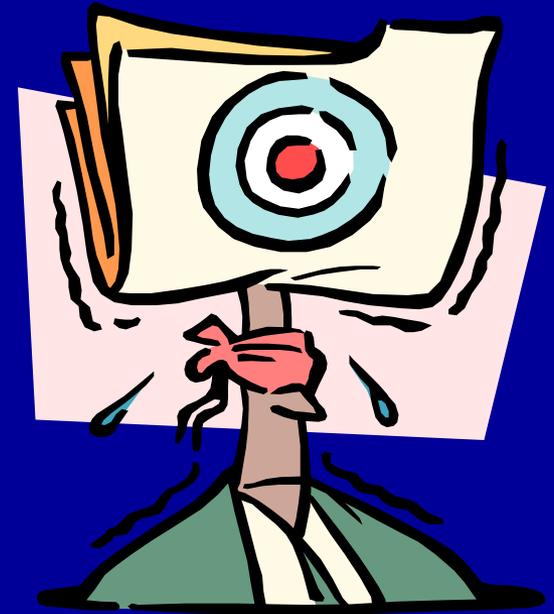
# Penalty for Late Report Filing (s. 106.07(8), FS)

- Filing officer imposes fines
- \$50 per day for the first three days and \$500 per day thereafter
- Not to exceed 25% of the expenditures or contributions, whichever is greater for reporting period



# Penalty for Late Filing

- **HOWEVER:** Reports due immediately prior to Primary or General election are \$500 per day - not to exceed 25% of the expenditures or contributions, whichever is greater for reporting period.



# \$\$\$\$\$\$ LATE FINES \$\$\$\$\$\$

Fines for late filings must be paid out of the candidate's own personal funds.

Filing officers are required to assess the fine and have no discretion in the amount imposed. Appeal is to Florida Elections Commission.

# Repeated Late Filers

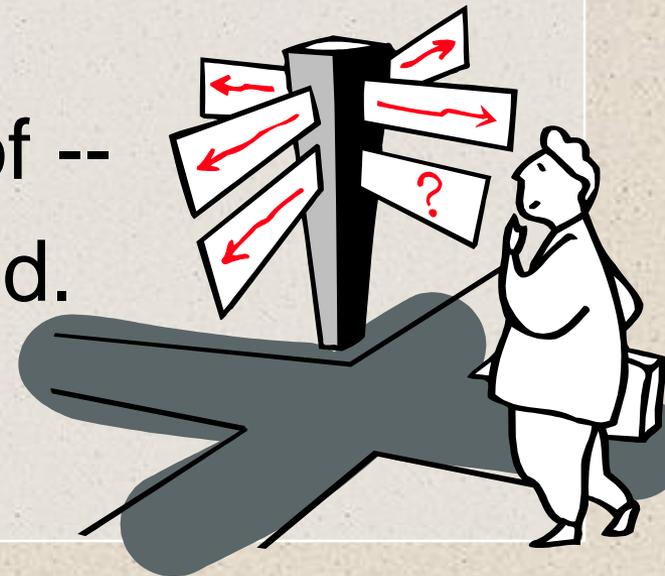
- Filing officers are required to notify the Florida Election Commission (FEC) of any candidate who files late reports.



# Termination Reports

(s. 106.141, F.S.)

- A termination report must be filed within 90 days of withdrawing as a candidate, becoming unopposed, elected, or eliminated.
- Funds must be disposed of -- account need not be closed.



# After the Campaign

(s. 106.075, F.S.)

**Loan Report** - A person who is elected to office must report all loans, exceeding \$500 in value, made to him or her and used for campaign purposes, made within the 12 months preceding his or her election to office, (prior to filing for office) to the filing officer, within 10 days of being elected.



# After the Campaign

(ss. 106.11 & 106.141, F.S.)

Once a candidate becomes unopposed, elected, eliminated or withdraws, the individual may only expend funds for the following:

- ❑ Purchase thank-you advertising (for up to 75 days).
- ❑ Pay for items obligated.
- ❑ Pay for expenditures necessary to close down the campaign office and to prepare final report.
- ❑ Pay candidate back, in full or in part, for any contributions contributed to own campaign. (including In-Kind)

# After the Campaign

(s. 106.141(7), F.S.)



- If candidate qualified by the petition method and has surplus funds, the candidate must pay any **petition verification fees** that were waived due to filing an **undue burden oath**.

# Disposing of Surplus Funds

(s. 106.141(4), F.S.)

Can dispose of by any combination of:

1. **Return contributions pro rata** to each contributor.

2. **Donate funds to a charitable organization or** an organization that meets the qualifications of **501(c)(3)** of the Internal Revenue Code.

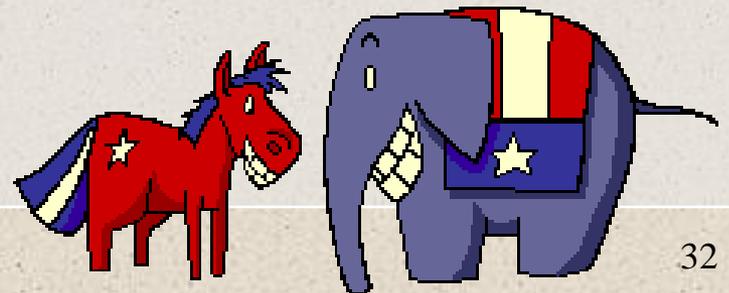
*(continued on next slide)*



# Disposing of Surplus Funds

(ss. 106.141(4) & (5), F.S.)

3. Give funds to applicable **general revenue fund**.
4. Give funds to candidate's **political party or to APC**. (APCs = Affiliated Party Committees)  
**(Amount given to the party limited to No More Than \$25,000)**
5. For those candidates who were elected, transfer funds to an **office account**.



## APC = Affiliated Party Committee

(they are treated like a political party – came into being in 2013).

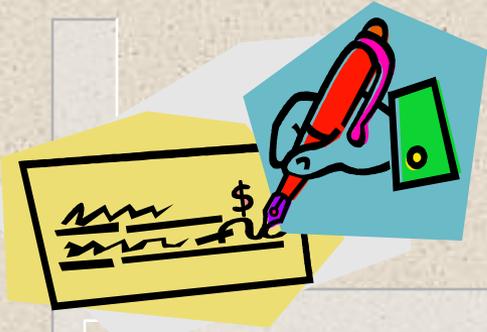
103.092(2), F.S. –The leader of each political party conference of the House of Representatives and the Senate may establish a separate, affiliated party committee to support the election of candidates of the leader’s political party. The affiliated party committee is subject to the same provisions of chapter 106 as a political party.



# Office Accounts

(s. 106.141(5), F.S.)

- **Maximum allowable office account amount is based upon elected office** (*see* s. 106.141(5), F.S.) –
  - **Statewide office: \$50,000**
  - **Multicounty office: \$10,000**
  - **Legislative: \$10,000 x # of years in term**
  - **County or lesser office: \$5,000 x # of years in term**
  - **Supreme Court: \$6,000**
  - **Other judges: \$3,000**



# Office Accounts

(s. 106.141(5), FS)

**May only be used for legitimate expenses in connection with public office**

Sample legitimate expenses:

- ❑ Travel
- ❑ Personal taxes payable on office account funds
- ❑ Expenses incurred in operation of the office



# Office Accounts

(s. 106.141(5), FS)

## **Expanded sample listing of legitimate expenses:**

- **CPA or attorney services for preparation of financial disclosure filing**
- **Costs for holiday cards or newsletters to constituents re: officer's official business (may be not be political advertisement)**
- **Fees or dues to religious, civic, or charitable orgs to which officer is a member**
- **Items of modest value for use at a constituent's special event or family occasion**
- **Personal expenses of officer attending a constituent event where public policy is discussed (limited to 1 per week)**

# Office Accounts

(s. 106.141(5), F.S.)

- **Official must file reports** on the 10<sup>th</sup> day following the end of the quarter until all funds are gone.
- **Upon leaving office**, official must give the remaining funds to:
  - A 501(c)(3) charitable organization; or
  - Applicable gov't general revenue fund
  - Officer may use funds to pay for CPA or attorney for preparation of final report.

# Candidate Prohibited Acts

## (s. 106.15, FS)



- Cannot pay or give anything of value to speak in furtherance of his/her candidacy
- Cannot use a state-owned aircraft or motor vehicle to further his candidacy
- Cannot solicit or accept a contribution in a government-owned building
  - Unless the Government building is leased.
  - Accept means - to receive a contribution by personal hand delivery from a contributor or his/her agent.

# Candidate Prohibited Acts

- Cannot use the services of any state, county, municipal, or district officer or employee of the state during working hours. (s 106.15(3), FS)
- Cannot solicit contributions, in exchange for political support, from any religious, charitable, civic, or other causes or organizations established primarily for the public good. (s. 106.08(5)(c), FS)

# More Prohibited Acts

- A “person” may not make a contribution through or in the name of another, directly or indirectly (s 106.08(5), FS)
- Political parties cannot accept any contribution that has been designated for use of a particular candidate (s. 106.08(6), FS)

# Prohibited Acts

(s. 104.271, FS)

- A candidate may not, with actual malice, make any false statement about an opposing candidate (s. 104.271, FS)
- A candidate may not misrepresent that he or she has served or is serving in the military (s. 104.2715)

# Disclaimers on Advertising

# “Political Advertisements” (s. 106.011(15), F.S.)

Before disclaimer is mandated on a “political advertisement,” it must be:

- A paid expression;
- Be in a “communications medium” (defined in s. 106.011(4), F.S.); and
- Expressly advocate the election or defeat of candidate or approval or rejection of an issue. (see next slide)

# “Expressly Advocate”

- The language of the communication, by its express terms, makes an appeal to the viewer to take a specific electoral action for or against a particular candidate or issue
- For example: vote for, vote against, elect, support, cast your ballot for, Smith for Mayor, defeat, oppose, reject

# Disclaimers

## Political Advertisements

**Paid for by a candidate (not a write-in):**

“Paid by (Name), (party affiliation), for (office sought).”

**Nonpartisan Office**

“Paid by (Name), for (office Sought)”

# Exceptions to candidate disclaimer requirement for political ads:

- Ad is designed to be worn by a person
- No-cost blog on Internet
- Placed on unpaid profile or on social networking Internet website if source is patently clear
- Distributed as text message if not more than 200 characters
- Any other technology item where it is not reasonably practical due to size or nature of item or the means of displaying the message makes compliance impracticable.
- + other exceptions in s. 106.143(10), F.S.

# Other Requirements

- If the candidate is not an incumbent for the office sought, the candidate:
  - Cannot use the word “re-elect”
  - Must use the word “for” between their name and the office sought

# Independent Expenditures

## (s. 106.071, FS)

- = an expenditure independent of any candidate or political committee
- “Express advocacy” for/against candidate or issue required
- If spend over \$5,000, must file reports
- Disclaimer must appear on independent expenditure political ads (misdemeanor)
- No limit on amount of the expenditure

# Local Gov't Expenditures

(s. 106.113, FS)

- Local government or person acting on behalf of local government may not expend or authorize the expenditure of public funds for a “political advertisement” concerning any proposition that is subject to vote of electors.
- Does not prohibit an elected official from expressing an opinion on any issue at any time.

# Questions



# What is the Required Fee?

- **Partisan candidate: 6% of salary**
- **NPA & Non-partisan: 4% of salary**
  - Based on salary as of preceding July 1st: 12 x monthly salary (excluding any special qualifications pay)

## Collecting Signatures – How Many?

- 1% of the registered voters in the geographical area represented by the office for immediately preceding general election.
  - Exception: Special districts – 25 signatures
- Candidates elected on county-wide or greater – See Division website under Qualifying Information
- Candidates elected on less than county-wide basis:
  - SOE calculates based on registration
  - Exclude the number of voters on the inactive list

# Petitions: the Alternate Method of Qualifying

F.S.99.095

F. S. 105.035

As candidates collect petitions they should turn in small groups of petitions.

**Do not wait until you have them all.**

Deadline: Before noon on the 28<sup>th</sup> day preceding the first day of qualifying.

**Voter must SIGN & DATE**

# Petition Helpful Hints

You may pre-fill your information or all information including voter's name, and address, voter number or date of birth.

## Voters must sign and date

If you are running as a Non-Partisan, or NPA, place XXXXXXXXX on the line for Party.

You may **highlight** the area the voter must complete

## 106.06

# Treasurer To Keep Records

- Timely file all reports.
- Timely deposit, return or hold unauthorized contributions.
- Keep detailed accounts current. Not more than **two** days after receiving a contribution or making an expenditure

# Pay Pal

- Contributions from Pay Pal must have all the contributor's information.
- You report the entire contribution on the contribution form.
- You report the Pay Pal fee as an expenditure on the expenditure form.

- If a candidate travels to a campaign event, do they report the mileage traveled as an expenditure?

The answer is no.

However, the candidate may be reimbursed from the campaign for actual expenses incurred for transportation.  
(s. 106.1405, FS).

# 106.15 Certain Acts Prohibited

- No person shall pay money or give anything of value for the privilege of speaking at a **political meeting** in furtherance of his/her candidacy, nor shall anyone speaking for such person, pay money or give anything of value for such privilege.
- May not use the services of any **officer** or **employee** of the **state** during **working hours**.

# Election Day

Polls Open 7:00 A.M.

Polls Close 7:00 P.M.

F.S 100.011

**County Early Voting Starts 15 days  
prior to the Election**

**8:30 a.m. to 5:00 p.m.**

**Ends the Saturday prior to the Election**

**(Cities may have other days and times.)**

# Early Voting Sites for County Elections

- Supervisor of Elections Offices:

- 530 Whitehead St #101, Key West
- 10015 Overseas Hwy, Marathon - **New Location 2014**
- 102050 Overseas Hwy #137, Key Largo

- Other Locations:

- Big Pine Key Community Park, 31009 Atlantis Dr.,  
End of Sands Rd. **New Location 2016**
- Islamorada Branch Library, U.S. Hwy. 1, MM. 81.7  
Islamorada

# 102.031

## Maintenance and Good Order at Polls and Early voting area

- **No person** may enter **any** polling room or polling place where the polling place is also a polling room or early voting area during the hours of voting **except**:  
Poll watchers, inspectors, clerks, the SOE or SOE deputies, persons there to vote or persons caring for such voter.  
(Law-enforcement officers **Per the Clerk**)

- No person, (candidate), political committee, or other group or organization, may solicit voters within **150 feet** of the entrance to any polling place, early voting site or an office of the Supervisor of Elections where absentee ballots are requested and printed.

- Florida statute 102.031 defines solicitation as: including, but not limited to, seeking any vote, fact, opinion, or contribution; distributing any political or campaign material; seeking signatures on any petition; or selling any item.

# Don't forget our web site

## www.KeysElections.org

**MONROE COUNTY FL**  
SUPERVISOR OF ELECTIONS  
Joyce Griffin

Active Registered Voters as of 02/02/2008:  
Democrats: 00,000  
Republicans: 00,000  
Others: 00,000  
Total: 00,000

Register To Vote | Update Voter Info | My Registration Status | Vote By Mail | Early Voting | Where Do I Vote? | Predict Details | Sample Ballot List | Election Results

**HOME**  
Current Elected Officials  
Upcoming Elections

**VOTERS**  
Voter Application  
My Registration Status  
Request an Absentee  
My Absentee Status  
Signature (Address Update Reminder)  
Within Monroe County Address Change  
Change of Name/Party

**CANDIDATE INFORMATION**  
Candidates & Their Finances  
Elections 2009 and Later  
Search 2009 and Later  
Becoming a Candidate  
Candidate Forms  
Reporting Dates  
Candidate Login  
Link for Candidate Use

**VOTER INFORMATION**  
Menu Item Here  
Menu Item Here  
Menu Item Here  
Menu Item Here

**ELECTION DATA**  
Menu Item  
Menu Item  
Elections 2009 and Later  
Search 2009 and Later  
Menu Item Here  
Menu Item Here

**POLLING LOCATION**  
Menu Item Here  
Menu Item Here  
Menu Item Here

**OFFICE LOCATION**

**MAPS**

**POLL WORKER INFORMATION**  
Menu Item Here

**LINKS**

**Welcome**  
Pelletentesque habitant morbi tristique senectus et netus et malesuada fames ac turpis egestas. Vestibulum tortor quam, feugiat vitae, ultricies eget, tempor sit amet, ante. Donec eu libero sit amet quam egestas semper. Aenean ultricies mi vitae est. Mauris placerat eleifend leo. Quisque sit amet est et sapien ullamcorper pharetra. Vestibulum erat wisi, condimentum sed, commodo vitae, ornare sit amet, wisi. Aenean fermentum, elit eget tincidunt condimentum, eros ipsum rutrum orci, sagittis tempus lacus enim ac dui. Donec non enim in turpis pulvinar facilisis. Ut felis. Praesent dapibus, neque id cursus faucibus, tortor neque egestas augue, eu vulputate magna eros eu erat. Aliquam erat volutpat. Nam dui mi, tincidunt quis, accumsan porttitor, facilis luctus, metus.

**Upcoming Elections & Updates**  
Important Notices & Updates  
View Public Notices  
Broadcasting Elections  
Additional Title Here  
Dates to Remember

Joyce Griffin, Supervisor of Elections, Monroe County  
1234 Street Name, City, FL 12345  
PHONE: (000) 000-0000 • PHONE (TF): (000) 000-0000 • FAX: (000) 000-0000 • EMAIL: name@emailaddress.com

Hours of Operation (M-F): 8:30 a.m. - 5 p.m.  
Pelletentesque habitant morbi tristique senectus et netus et malesuada fames ac turpis egestas. Vestibulum tortor quam, feugiat vitae, ultricies eget, tempor sit amet, ante. Donec eu libero sit amet quam egestas semper. Aenean ultricies mi vitae est. Mauris placerat eleifend leo. Quisque sit amet est et sapien ullamcorper pharetra. Vestibulum erat wisi, condimentum sed, commodo vitae, ornare sit amet, wisi. Aenean fermentum, elit eget tincidunt condimentum, eros ipsum rutrum orci, sagittis tempus lacus enim ac dui. Donec non enim in turpis pulvinar facilisis. Ut felis. Praesent dapibus, neque id cursus faucibus, tortor neque egestas augue, eu vulputate magna eros eu erat. Aliquam erat volutpat. Nam dui mi, tincidunt quis, accumsan porttitor, facilis luctus, metus.

Thank you for joining the other 000,000 visitors to our website.

Thank you for coming!

We are here if you need us.