



FLORIDA DEPARTMENT of STATE

Ron DeSantis
Governor

Laurel M. Lee
Secretary of State

MEMORANDUM

TO: Supervisors of Elections

FROM: Laurel M. Lee *LML*
Florida Secretary of State

DATE: February 15, 2019

SUBJECT: Directive 2019-01 — Early Voting Sites on College and University Campuses

1. I issue this directive in my capacity as “chief election officer” with the responsibility to “[o]btain and maintain uniformity in the interpretation and implementation of election laws,” § 97.012(1), Fla. Stat., and “[p]rovide written direction and opinions to the supervisors of elections on the performance of their official duties.” *Id.* § 97.012(16). Specifically, I issue this directive to clarify any misunderstandings concerning section 101.657 of the Florida Statutes stemming from Division of Elections Advisory Opinion 14-01 (since rescinded). In so doing, I recognize that some supervisors of elections might still treat Advisory Opinion 14-01 “as ‘authoritative’ and [might] follow [the Opinion] ‘absent contrary directive.’” *League of Women Voters of Fla. v. Detzner*, 314 F. Supp. 3d 1205, 1211 (N.D. Fla. 2018) (quoting declaration of a former supervisor).

2. Section 101.657(1)(a) of the Florida Statutes provides as follows:

As a convenience to the voter, the supervisor of elections shall allow an elector to vote early in the main or branch office of the supervisor. The supervisor shall mark, code, indicate on, or otherwise track the voter’s precinct for each early voted ballot. In order for a branch office to be used for early voting, it shall be a permanent facility of the supervisor and shall have been designated and used as such for at least 1 year prior to the election. *The supervisor may also designate any city hall, permanent public library facility, fairground, civic center, courthouse, county commission building, stadium, convention center, government-owned senior center, or government-owned community center as early voting sites*; however, if so designated, the sites must be geographically located so as to provide all voters in the county an equal opportunity to cast a ballot, insofar as is practicable. In addition, a supervisor may designate one early voting site per election in an area of the county that does not have any of the eligible early voting locations. Such additional early voting site must

be geographically located so as to provide all voters in that area with an equal opportunity to cast a ballot, insofar as is practicable. Each county shall, at a minimum, operate the same total number of early voting sites for a general election which the county operated for the 2012 general election. The results or tabulation of votes cast during early voting may not be made before the close of the polls on election day. Results shall be reported by precinct.

(Emphasis added).

3. Advisory Opinion 14-01 addressed the following question: “Does the J. Wayne Reitz Union on the University of Florida campus constitute a government-owned community center or a convention center for purposes of early voting under section 101.657, Florida Statutes (2013)?” Ad. Op. 14-01 at 1 (Jan. 17, 2014). In summary, relying on the facts presented, Advisory Opinion 14-01 answered the question as follows: “The J. Wayne Reitz Union on the University of Florida campus does not constitute a ‘government-owned community center’ or ‘convention center’ for purposes of early voting under section 101.657, Florida Statutes (2013).” *Id.* at 2.

4. Advisory Opinion 14-01’s scope and effect remain at issue in Case No. 4:18-cv-00251-MW-CAS, currently pending before the U.S. District Court for the Northern District of Florida. At the preliminary injunction stage of the proceeding, the Court concluded that “Florida’s public college and university students are *categorically prohibited* from on-campus early voting because of [Advisory Opinion 14-01],” and that such a prohibition violates the U.S. Constitution. *League of Women Voters of Fla.*, 314 F. Supp. 3d at 1216 (emphasis in original); *see also id.* at 1211, 1213-14. In reaching this conclusion, at the preliminary injunction stage, the Court rejected arguments concerning Advisory Opinion 14-01’s limited scope and effect rooted in the facts presented when the City Attorney for the City of Gainesville sought guidance in 2014. *See League of Women Voters of Fla.*, 314 F. Supp. 3d at 1213-14 and n.7. Advisory Opinion 14-01 was rescinded to comply with the Court’s order granting preliminary injunction. *See Directive 2018-01* (July 27, 2018).

5. Through this directive, I hereby make the following clarification: Section 101.657(1)(a) of the Florida Statutes states that supervisors may designate “any city hall, permanent public library facility, fairground, civic center, courthouse, county commission building, stadium, convention center, government-owned senior center, or government-owned community center as early voting sites” where the sites are “geographically located so as to provide all voters in the county an equal opportunity to cast a ballot, insofar as is practicable.” The plain text of the statute does not prohibit supervisors from placing early voting sites on college and university campuses. Of course, under the statute, supervisors also remain free to use college and university campuses to “designate one early voting site per election in an area of the county that does not have any of the eligible early voting locations” so long as it is “geographically located so as to provide all voters in that area with an equal opportunity to cast a ballot, insofar as is practicable.” § 101.657(1)(a), Fla. Stat. Accordingly, it is the position of this Office that early voting sites may be located on college and university campuses where the requirements of section 101.657(1)(a) of the Florida Statutes are met.