



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

February 7, 2022

Gavin D. Burgess
General Counsel, Florida Healthy Kids Corporation
1203 Governor's Square Boulevard, Suite 400
Tallahassee, Florida 32301

Re: DE 22-02 Public Assistance – Voter
Registration Agency – §§ 97.021; 97.053;
97.058, Florida Statutes

Dear Mr. Burgess:

This letter responds to your request for an advisory opinion regarding whether your client, Florida Healthy Kids Corporation (FHKC), qualifies as a Voter Registration Agency (VRA) under Florida law. Because you represent an organization that is or is proposing to take action related to Florida's election laws, the Division of Elections is authorized to issue an opinion to you pursuant to section 106.23(2), Florida Statutes (2021).

FACTS

Your request for an advisory opinion states that you are asking whether FHKC is required by Florida law to offer to register people to vote as a VRA. You identify FHKC as a statutorily created entity under the Florida KidCare program (KidCare) and question whether FHKC provides "public assistance" as defined by section 97.021(33), Florida Statutes.

ANALYSIS

The short answer to your question is no. FHKC is not a VRA as defined by section 97.021(44), Florida Statutes because it does not provide "public assistance" as defined by section 97.021(33).

The National Voting Rights Act (NVRA) requires states to designate all offices that provide "public assistance" or provide state-funded programs "primarily engaged in providing

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services to persons with disabilities” as voter registration agencies. 52 U.S.C. § 20506(a)(2)(A)-(B) (1993). Florida similarly defines a “voter registration agency” as “any office that provides public assistance, any office that serves persons with disabilities, any center for independent living, or any public library.” § 97.021(44), Fla. Stat.

Federal law does not define “public assistance.” However, Florida law defines it as:

[A]ssistance provided through the food assistance program under the federal Supplemental Nutrition Assistance Program; the Medicaid program; the Special Supplemental Food Program for Women, Infants, and Children; and the Temporary Cash Assistance Program.

§ 97.021(33), Fla. Stat. Whether FHKC meets the statutory definition of a voter registration agency thus depends on whether it provides assistance under one of the four programs enumerated in section 97.021(33). VRAs are required to provide applicants the opportunity to register to vote in accordance with sections 97.053 and 97.058, Florida Statutes.

The Florida Legislature has designated FHKC as “one of several providers of services to children eligible for medical assistance under Title XXI of the Social Security Act.” § 624.91(2)(b), Fla. Stat. (2021). Specifically, the legislature “intends the primary recipients of services provided through the corporation be school-age children with a family income below 200 percent of the federal poverty level, who do not qualify for Medicaid.” *Id.* Title XXI of the Social Security Act pertains to the State Children’s Health Insurance Program (CHIP), whereas Title XIX of the Social Security Act pertains to Grants to States for Medical Assistance Programs. 42 U.S.C. Ch. 7, Subchs. XIX; XXI. Additionally, since FHKC does not primarily serve disabled persons, that portion of the definitional statute does not apply either. *See* 52 U.S.C. § 20506(a)(2)(B); § 97.021(44), Fla. Stat.

Thus, the plain text of section 624.91(2)(b), states that FHKC does not provide assistance through Medicaid or the other three programs identified in section 97.021(33). Accordingly, FHKC is not statutorily defined as providing “public assistance” or primarily serving persons with disabilities and therefore is not required to register voters.

However, to the extent that FHKC has implied that it is a Voting Registration Agency by soliciting applicants’ interest in registering to vote, it is incumbent upon FHKC to contact the affected persons and refer them to a proper Voting Registration Agency.

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SUMMARY

FHKC is not a mandatory Voting Registration Agency as defined by section 97.021(44) and is therefore not required to register applicants to vote. However, to the extent FHKC has implied that it is a VRA, it is FHKC's responsibility to remedy the defect and inform any affected persons.

Respectfully,

A handwritten signature in blue ink, appearing to read "M. Matthews", written over a faint, illegible printed name.

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