



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

August 19, 2022

Florida Association of Broadcasters
c/o Richard Coates
115 East Park Avenue, Suite 1
Tallahassee, Florida 32301

Re: DE 22-06- Lowest Unit Rate ; Broadcast
Stations; Political Committee - § 106.161,
Florida Statutes

Dear Florida Association of Broadcasters:

This letter responds to a request from your attorney for an advisory opinion as to whether the members of your organization—the Florida Association of Broadcasters (“FAB”)—must make air time available to political committees at the lowest unit rate pursuant to section 106.161, Florida Statutes. Because FAB’s question relates to proposed election-related actions of its members, the Division of Elections is authorized to issue an opinion to you pursuant to section 106.23(2), Florida Statutes.

ANALYSIS

As explained by your attorney, FAB represents all the FCC licensed cable TV and radio stations in Florida. Your attorney also states that FAB’s members routinely receive requests, and enter into contracts, to air political messaging. Section 106.161, Florida Statutes, therefore, requires your members, “to the extent permitted by federal law,” to “make air time available to candidates for public office at the lowest unit rate.” FAB understands that its members “must comply with section 106.161” “with respect to candidates,” and asks the following instead:

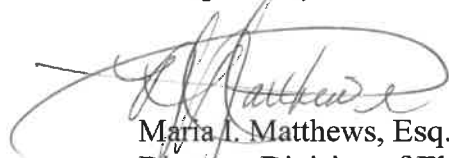
Must FAB's members make air time available at the lowest unit rate to a political committee, where such committee seeks to air an electioneering communication concerning a candidate?

The short answer is "no." The plain language of section § 106.161 expressly states that the lowest unit rate for air time must be made available "to *candidates* for public office." (emphasis added). There is no mention of "political committees," only "candidates." "Candidates" and "political committees" are two different political beings. Compare § 106.011(3) (defining "candidate"), with § 106.011(16) (defining "political committee"). The broader context of Chapter 106 is consistent with this reading of section § 106.161. See generally Chapter 106, Fla. Stat. (Chapter is replete with the phrase candidate *or* political committee) (emphasis added). Nor does the statute's requirement depend upon the kind of communications to be aired. The statute only states to whom the lowest unit rate must be made available— "to candidates."

SUMMARY

Broadcast radio and cable television stations do not have to make air time available to political committees at the lowest unit rate.

Respectfully,



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