



FLORIDA DEPARTMENT *of* STATE

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December 22, 2023

Wendy Sartory Link
Palm Beach County Supervisor of Elections
c/o Stacey J. Manning, Esq.
240 South Military Trail
West Palm Beach, Florida 33415

Re: DE 23-01 Vote-by-Mail Ballots – Public
Records – Political Purposes § 101.62(2),
Florida Statutes

Dear Supervisor Link:

This letter responds to your request for an advisory opinion concerning whether the statute prohibits you from providing certain vote-by-mail information prior to “8 a.m. of each day...beginning 60 days before the primary until 15 days after the general election” to the entities entitled to this information. See §101.62(2), Fla. Stat. (2023). Additionally, you ask whether it is the Division’s position that the term, found at the conclusion of section 101.62(2), “for political purposes only,” refers only to registered political committees. Because you are a supervisor of elections, are acting related to this statute, and have taken or propose to take action related to whether you must provide the vote-by-mail request information outside of the window specified in the statute, the Division of Elections is authorized to issue an opinion to you pursuant to section 106.23(2), Florida Statutes (2023).

FACTS

Your request for an advisory opinion asks whether under section 101.62(2), Florida Statutes, you are allowed to, or forbidden from, providing the confidential and exempt voter information submitted with the vote-by-mail request, to the entities entitled to this information as specified in the statute, prior to 60 days before the primary and/or later than 15 days after the general election. You also ask whether it is the Division’s position that the term “for political

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purposes only,” which is at the end of section 101.62(2), refers only to registered political committees. See § 101.62(2), Fla. Stat.

ANALYSIS

Florida law requires that supervisors of elections record the following information when receiving a vote-by-mail request:

For each request for a vote-by-mail ballot received, the supervisor shall record the following information: the date the request was made; the identity of the voter’s designee making the request, if any; the Florida driver license number, Florida identification card number, or last four digits of the social security number of the voter provided with a written request; the date the vote-by-mail ballot was delivered to the voter or the voter’s designee or the date the vote-by-mail ballot was delivered to the post office or other carrier; the address to which the ballot was mailed or the identity of the voter’s designee to whom the ballot was delivered; the date the ballot was received by the supervisor; the absence of the voter’s signature on the voter’s certificate, if applicable; whether the voter’s certificate contains a signature that does not match the voter’s signature in the registration books or precinct register; and such other information he or she may deem necessary.

§ 101.62(2), Fla. Stat.

This same statute then explains that vote-by-mail information shall remain confidential and exempt except that “this information” is provided as follows:

1. This information must be provided in electronic format as provided by division rule. The information must be updated and made available no later than 8 a.m. of each day, including weekends, beginning 60 days before the primary until 15 days after the general election and shall be contemporaneously provided to the division.
2. This information is confidential and exempt from section 119.07(1) and shall be made available to or reproduced only for the voter requesting the ballot, a canvassing board, an election official, a political party or official thereof, a candidate who has filed qualification papers and is opposed in an upcoming election, and registered political committees for political purposes only.

Id.

In response to your first question, the statute states that “this information” is confidential and exempt and shall be “made available to or reproduced only for” the specific entities¹. The

1. For the purposes of this Advisory Opinion, “specific entities” means “the voter requesting the ballot, a canvassing board, an election official, a political party or official thereof,

statute explains that “[t]he information must be updated and made available no later than 8 a.m. of each day, including weekends, beginning 60 days before the primary until 15 days after the general election and shall be contemporaneously provided to the division.” The Division interprets this to mean that “this information” is confidential and exempt except during the window “beginning 60 days before the primary until 15 days after the general election.” During that window, the information “must be updated and made available,” to the six entities. “[M]ade available” is a constraint on when the supervisors may release this confidential and exempt information. Thus, under the statute, “this information” remains confidential and exempt except for 60 days before the primary until 15 days after the general election.” Moreover, only the six entities may request this information during that window.

Likewise, per this statute and Florida Administrative Code Rule 1S-2.043, you are required to provide this information to the Division during the same timeframe. See §101.62(2) (“This information must be provided in electronic format as provided by division rule.”). Rule 1S-2.043 states that any one of the six entities, “may access online daily county files of vote-by-mail ballot request information as directly received from the Supervisor and posted on the Division’s website.” However, consistent with the time constraint in section 101.62(2), the Division removes “this information” from access the day after the last file is transmitted on the 15th day after the election.²

Regarding your second question, the Division has previously stated that “for political purposes only,” as used at the end of section 101.62(2), refers only to the registered political committees. See DE 18-02 n.1 (“The phrase “for political purposes only” modifies only “registered political committees.”³ See § 101.62(2), Fla. Stat.).

SUMMARY

The confidential and exempt information that you record can only be “[made] available” beginning 60 days before the primary until 15 days after the general election. As to the second question, at the conclusion of Florida Statute section 101.62(2), “for political purposes only” refers only to the registered political committees.

Respectfully,



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

a candidate who has filed qualification papers and is opposed in an upcoming election, and registered political committees for political purposes only.

2. This timeline applies to the presidential preference primary election, primary election, general election, and special elections.

3. “Political committee” is defined in section 106.011(16), Florida Statutes (2023).