



FYI

FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

June 21, 2018

Ms. Rhonda Rebman-Lopez
7501 Southwest 67th Street
Miami, Florida 33143

Re: DE 18-10: Petitions; Candidate Qualifying – Married Candidate Using Only Husband's Last Name on Ballot when Candidate Petitions Contained the Candidate's Name as a Hyphenated Maiden Name and Husband's Last Name – §§ 99.021(1)(a), 99.095, and 105.031(4)(b), Florida Statutes

Dear Ms. Rebman-Lopez:

This letter responds to the request from your attorney¹ for an advisory opinion concerning your name on your candidate petitions and Candidate Oath form. Because you are a candidate proposing to take action relating to Florida's election laws, the Division of Elections is authorized to issue you an opinion pursuant to section 106.23(2), Florida Statutes (2018).

FACTS

The request for an advisory opinion reflects that your full name is presently Rhonda Rebman-Lopez, which is the name on your voter registration card and driver's license. Your current name results from being born as Rhonda Grace Rebman, then later marrying Jorge Lopez. You chose to use the hyphenated last name, Rebman-Lopez, as a result of your marriage. You remain married to Jorge Lopez. After becoming a candidate, you placed your full name, Rhonda Rebman-Lopez, on candidate petitions when you obtained the requisite signatures to have the qualifying fee and party assessment waived for your candidacy for Florida's State House of

¹ Where a principal is represented by an attorney, the Division will address the opinion to the principal, not to the attorney. *See* Fla. Admin. Code R. 1S-2.010(2)(b).

Representatives. You indicate that you are generally known by the shortened version of your name, *i.e.*, Rhonda Lopez, which is the name you desire to place on your Candidate Oath form as the name you wish to appear on the ballot.

You ask whether your candidate petitions would remain valid if you choose to have the shortened version of your last name on the ballot and whether you must provide any disclosures to the Division of Election to use the shortened version of your name on your Candidate Oath form.

ANALYSIS

First, the Division of Elections opines that based upon current case law, you have the right to have placed on the ballot any legal form of your name. You desire to use only Lopez as your last name which you legally acquired when you married your spouse whose last name is Lopez. Rebman is your birth and maiden name. In *Levey v. Dijols*, 990 So. 2d. 688 (Fla. 4th DCA 2008), a judicial candidate filed to run under her maiden name of Mardi Anne Levey instead of her married name, Mardi Levey Cohen. When legally challenged by an opponent for only using only her maiden name and not the name she customarily used, the court reviewed the language found in the candidate oath statute, “please print your name as you wish it to appear on the ballot.”² The court held: “In the context of this statute, the term “name” connotes any legal form of name the person is entitled to use and have printed on the ballot. ... In Florida, a woman does not lose her birth-given name upon marriage.” [Citations omitted.]

Applying the same rationale to your situation, a married woman is legally entitled to assume her spouse’s last name upon marriage. Therefore, a married woman is entitled to use, at least, the following last names: her maiden name, her spouse’s last name, or a combined hyphenated maiden and last name of her spouse that she had chosen at the time of marriage. She may use any of these last names on her Candidate Oath form as the name she wishes to have on the ballot. If the qualifying officer can make a determination that the candidate is using one of the candidate’s legal names, the qualifying officer would not need to request any other documentation from the candidate.³ Based upon the facts in your advisory opinion request, the Division has sufficient evidence that you are entitled to designate Rhonda Lopez as your name to be printed on the ballot.

² See § 105.031(4)(b), Fla. Stat. (2018) (oath for judicial candidates); § 99.021(1)(a), Fla. Stat. (2018) (oath for all other candidates, except federal candidates, has the identical language).

³ Cf. *Division of Elections Advisory Opinion 86-06* (May 1, 2006) regarding the use of nicknames by candidates on the ballot (“Election officials, however, may be justified in refusing to print on the ballot a candidate's nickname when it is not shown that the nickname ever was used by the candidate as part of his legal name, and such officials may be equally justified in refusing to print on the ballot a candidate's choice of a name which has not been adopted by him or her and under which the candidate has not transacted private and official business.”)

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Second, section 99.095, Florida Statutes (2018), provides a candidate petition process in lieu of paying a qualifying fee and party assessment. Pursuant to that statute, the Division of Elections has prescribed by rule⁴ the format of the petition in Form DS-DE 104, Candidate Petition. The rule and form do not specify how the candidate's name is to be listed on the form other than the signer of the form is petitioning to have the named candidate "placed on the Primary/General Election Ballot." The Division of Elections is of the opinion that if the qualifying officer can reasonably determine that the candidate's name on the Candidate Oath form is a shortened version of the candidate's full name that appears on the previously submitted candidate petitions, then a candidate using a shortened version of his or her name as the name by which the candidate wishes to have placed on the ballot does not invalidate the candidate petitions gathered and validated under the full name of the candidate. Again, in your case, it is clear based upon the facts you have presented that if you place Rhonda Lopez on the Candidate Oath form as the name you wish to appear on the ballot and sign the form Rhonda Rebman-Lopez, the Division will not question the validity of its certification of your candidate petitions.

SUMMARY

A candidate who is a married woman may designate any name on her Candidate Oath form by which she is legally entitled to use. For a married woman candidate, the last name may be designated to appear on the ballot as her maiden name, her spouse's last name, or a combined hyphenated maiden and last name of her spouse that she had chosen at the time of marriage.

If the qualifying officer can reasonably determine that the candidate's name on the Candidate Oath form is a shortened version of the candidate's full name that appears on previously submitted and certified candidate petitions from the candidate, then the candidate petitions remain valid.

Respectfully,

A handwritten signature in blue ink that reads "Maria I. Matthews". The signature is written in a cursive style with a large initial "M".

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

cc: Jeffrey P. Leary, Esq.

⁴ Fla. Admin. Code R. 1S-2.045.