



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

January 9, 2018

The Honorable Deborah Clark
Supervisor of Elections, Pinellas County
315 Court Street, Room 117
Clearwater, Florida 33756

Re: DE 18-02 Vote-by-Mail Ballots – Public
Records – § 101.62(3), Florida Statutes

Dear Supervisor Clark:

This letter responds to your request for an advisory opinion as to what records you must provide to a candidate who makes a request for vote-by-mail ballot information. Because you are a supervisor of elections proposing to take action relating to the Florida election laws, the Division of Elections is authorized to issue you an opinion pursuant to section 106.23(2), Florida Statutes.

FACTS

You state in your request that a candidate, pursuant to section 101.62(3), Florida Statutes, requested vote-by-mail ballot information for Pinellas County voters. The office sought by the candidate, however, was not a countywide office. You ask whether the candidate was entitled to vote-by-mail ballot information for all voters in Pinellas County, or only for voters living within the district represented by the office sought by the candidate.

ANALYSIS

Florida law requires that certain vote-by-mail ballot information remains confidential except when the information is requested by one of six specified entities, as follows:

For each request for a vote-by-mail ballot received, the supervisor shall record the date the request was made, 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 date the ballot

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was received by the supervisor, the absence of the voter's signature on the voter's certificate, if applicable, and such other information he or she may deem necessary.

...

This information shall be confidential and exempt from s. 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.

§ 101.62(3), Fla. Stat. (emphasis supplied).

Thus, a candidate who has filed qualification papers and who is opposed in an upcoming election is entitled to receive countywide vote-by-mail ballot information, regardless of the office sought by the candidate. The statute does not limit the vote-by-mail ballot information to be disclosed based on the office sought by a candidate. *Id.* As long as the candidate has filed qualification papers and is opposed in an upcoming election, he or she is entitled to countywide vote-by-mail ballot information, including information relating to voters residing outside the district of the office sought by the candidate.¹

SUMMARY

A candidate who has filed qualification papers and is opposed in an upcoming election is entitled to countywide vote-by-mail ballot information under section 101.62(3), regardless of the boundaries of the district of the office sought.

Respectfully,



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

¹ The candidate need not show that he or she is seeking the information “for political purposes only.” The phrase “for political purposes only” modifies only “registered political committees.” *See* § 101.62(3), Fla. Stat. To read “for political purposes only” to modify all entities listed in the statute would render the statute nonsensical, since the voter requesting the ballot, a canvassing board, and an election official are listed, and there is almost never any “political purpose” for those entities to obtain vote-by-mail ballot information. *See id.*