



# The Florida House of Representatives


Office of the Speaker

Marco Rubio  
Speaker

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## ADVISORY OPINION OF THE SPEAKER 08-01

To: Nancy Staff Terrel, Deputy General Counsel, The Florida Department of Revenue

From: Marco Rubio, Speaker, The Florida House of Representatives 

Date: February 21, 2008

RE: Child Support Enforcement Calendars

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You requested an opinion, pursuant to House Rule 16.3(b), on whether the distribution of the 2008 Florida Child Support Enforcement Calendars to legislative offices would violate section 11.045, Florida Statutes.

Your question is answered in the affirmative.

The Calendars are distributed by the Florida Department of Revenue (D.O.R.), which is registered with the State as a principal. The fact that D.O.R. is a state agency does not alter the analysis under section 11.045, F.S.

The principal/lobbyist expenditure ban found in section 11.045, F.S., prohibits principals and/or lobbyists from making an expenditure to a Legislative member or Legislative employee. Therefore, the crux of the analysis is whether the calendars constitute expenditures pursuant to section 11.045, F.S.

Expenditures are defined in section 11.045(1)(d), F.S.:

"Expenditure" means a payment, distribution, loan, advance, reimbursement, deposit, or anything of value made by a lobbyist or principal for the purpose of lobbying. The term "expenditure" does not include contributions or expenditures reported pursuant to chapter 106 or federal election law, campaign-related personal services provided without compensation by individuals volunteering their time, any other contribution or

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expenditure made by or to a political party, or any other contribution or expenditure made by an organization that is exempt from taxation under 26 U.S.C. s. 527 or s. 501(c)(4).

In these types of situations, we look at each item on a case-by-case basis to determine whether the item is an expenditure. If the item has no ascertainable value or if the item is designed for purely informational purposes, then we would likely find the item does not violate the expenditure ban. Calendars that contain important dates, organizational contact information, and various other pieces of information, would likely be found informational. Calendars that are merely date grids and inspirational pictures with little pertinent information would likely not be informational in nature.

Here, the analysis turns on whether the calendar is designed to communicate information about the organization. The calendar is twenty-six pages long. Twenty four of the pages contain the basic date grid with pictures of children above each month. Page twenty-five sets forth the vision, mission and beliefs of the D.O.R. The last page contains contact information, however, the phone numbers and websites listed are for various state agencies and not necessarily related to the D.O.R. As a whole, the calendar does not consistently include pertinent organizational information about the Child Support Enforcement Program or D.O.R.; therefore, it is my opinion that the calendar would be a prohibited expenditure under section 11.045, F.S.

*Prepared by the Office of the General Counsel pursuant to Rule 16.3(b)*

MR/jmh/jta