

DE 92-06 - January 23, 1992

**Redesignation of Office and Use of Petitions by Candidate Qualifying by the Alternative Method
Sections 99.095 and 106.021(1), F.S.**

*TO: The Honorable Ion Sancho, Supervisor of Elections, Leon County, Leon County Courthouse,
Tallahassee, Florida 32301-1853*

Prepared by: Division of Elections

This is in reference to your recent letter requesting an opinion on the use of petitions when qualifying by the alternative method pursuant to Section 99.095, Florida Statutes, and on the applicability of the notification procedures set forth in Section 106.021, Florida Statutes, to a candidate who has filed for a single member district seat and then seeks to run for an at-large seat. You are the Supervisor of Elections for Leon County and pursuant to Section 106.23(2), Florida Statutes, the Division of Elections has authority to issue an advisory opinion to you relating to the Florida Election Code, Chapters 97-106, Florida Statutes.

You ask, essentially:

1. Whether a candidate seeking to qualify by petition for a single-member district county commission seat can apply such petition signatures to qualify for an at-large seat or vice versa?
2. Whether a candidate who has filed for a single-member district seat must comply with the notification provisions of Section 106.021(1), Florida Statutes, if such candidate changes the designated office for which he is a candidate?

Your first question is answered in the negative; your second question is answered in the affirmative.

Sections 99.095 and 105.035, Florida Statutes, provide that candidates seeking to qualify for office may qualify by the petition method as an alternative to paying the qualifying fee. This method is available to partisan candidates, persons seeking to qualify for nomination by their party, or nonpartisan judicial candidates.

Section 99.095, Florida Statutes, requires that when qualifying by the alternative method, the candidate must file an oath stating that he is qualifying by the alternative method and indicating the group or district office for which he is running. No signatures may be obtained by a candidate on any nominating petition until he has filed his oath and designated the office for which he is running. See, Op. Div. Elec. Fla. 88-2. Upon receipt of the oath, the supervisor is required to provide the candidate with petition forms with the designated group or district specified thereon. Id.

Section 99.095, Florida Statutes, also specifically provides that only the signatures of electors who are registered in the county, district, or other geographical area represented by the office sought shall be

counted toward obtaining the minimum number of required signatures.

Thus, the requirement that an oath be filed designating the group or district sought prior to a certain date, before which no collected signatures can be counted coupled with the limitation that only electors' signatures within the specific district or group office designated can be counted, leads us to conclude that after filing an oath, receiving petitions, and obtaining petition signatures, the candidate cannot, at a later date, use the signatures he has collected for one office to qualify for another office. Whether the candidate is going from district to at-large or vice versa is of no consequence.

It is, therefore, the opinion of the division that a person who qualifies by the alternative petition method cannot redesignate the office for which he is a candidate and use the petition signatures he obtained for the originally designated office to qualify for the redesignated office.

As to your second question, Section 106.021(1)(a), Florida Statutes, provides, in pertinent part:

Each candidate for nomination or election to office and each political committee shall appoint a campaign treasurer. Each person who seeks to qualify for nomination or election to, or retention in, office shall appoint a campaign treasurer and designate a primary campaign depository prior to qualifying for office. Any person who seeks to qualify for election or nomination to any office by means of the petitioning process shall appoint a treasurer and designate a primary depository on or before the date he obtains the petitions. Each candidate shall at the same time he designates his campaign depository and appoints his treasurer also designate the office for which he is a candidate. If the candidate is running for an office which will be grouped on the ballot with two or more similar offices to be filled at the same election, the candidate must indicate for which group or district office he is running. Nothing in this subsection shall prohibit a candidate, at a later date, from changing the designation of the office for which he is a candidate. However, if a candidate changes the designated office for which he is a candidate, he must notify all contributors in writing of his intent to seek a different office and offer to return pro rata, upon their request, those contributions given in support of the original office sought.... The notice requirement shall not apply to any change in a numerical designation resulting solely from redistricting....

(Emphasis supplied.)

Thus, Section 106.021(1)(a), Florida Statutes, allows any candidate, whether qualifying by the petition method or otherwise, to change the designation of the office for which he is a candidate and to use the contributions he received in support of the original office sought to support his candidacy for the redesignated office, provided he complies with the notification procedures of Section 106.021(1)(a), Florida Statutes.

Therefore, it is the opinion of the division that the notification provision of Section 106.021(1)(a), Florida Statutes, is applicable to all candidates, whether or not a candidate qualifies by the alternative method.

SUMMARY

Candidates qualifying by the petition method can redesignate the office for which they are a candidate. However, they cannot use the petition signatures obtained for the originally designated office to qualify for a redesignated office. The notification provision of Section 106.021(1), Florida Statutes, is applicable to all candidates, whether or not a candidate qualifies by the alternative method.