

DE 88-31 - August 5, 1988

Verifying Initiative Petitions
Art. XI, Section 3, Fla. Const.; Fla. Admin. Code Rule 1C-7.0091

To: Honorable David C. Leahy, Supervisor of Elections, Dade County, Post Office Box 012241, Miami, Florida 33101-2241

Prepared by: Division of Elections

This is in reference to your request for an advisory opinion. Under Section 106.23(2), Florida Statutes, the Division of Elections has authority to issue advisory opinions relating to the Florida Election Code, Chapters 97-106, Florida Statutes, to several categories of persons including supervisors of elections.

Your specific questions are:

1. When verifying a constitutional amendment initiative petition pursuant to Florida Administrative Code Rule 1C-7.0091, should a petition be considered valid if the elector's address on the petition is different from the address on the registration records for that election?
2. If the answer to the first question is in the affirmative, should the petition be certified as being in the congressional district in which the address on the registration records is located or in the congressional district in which the address on the petition is located?

Your first question is when verifying a constitutional amendment on an initiative petition, should a petition be considered valid if the elector's address on the petition is different from the address on the registration records for that elector. Article XI, Section 3, of the Florida Constitution, allows electors to initiate proposed amendments to the Florida Constitution by petition. Signatures from electors in at least half of the congressional districts of the state must be obtained and the number of signatures must equal eight percent of the votes cast in the preceding presidential election in each of those congressional districts and in the state as a whole.

Florida Administrative Code Rule 1C-7.0091 provides that initiative petitions must be submitted to the supervisors in the county where the petitions were circulated. Supervisors verify signatures to insure that each person signing the petition is a registered elector in that county.

Supervisors should verify an initiative petition when the elector's address on the initiative petition is different from the address on the registration records for that elector. The Constitution requires only that the signee be an "elector" and according to your official voter registration records that person is an elector in your county.

Supervisors have the discretionary authority normally conferred upon constitutional officers when

they verify an elector's signature. See Op. Div. Elect. Fla. 78-29. Thus, a discrepancy in an address does not itself require the supervisor to declare the signee an ineligible elector.

The Division of Elections recently opined that a supervisor could not verify "the name of an elector when the address on the petition is different than the address on the registration books and when the address on the petition is in a different precinct and would change the eligibility of the elector's signature to be counted on a petition." (Emphasis added.) The facts in that situation, however, were different. Op. Div. Elect. Fla. 87-16. In the former situation, signatures were being collected in a single-member legislative district in order to place a candidate's name on the ballot. As the language of that opinion makes clear, if the change in address causes a change in eligibility (i.e., the address on the petition is in a precinct which is not in the single member district), then the supervisor cannot verify that signature.

In the present situation dealing with initiative petitions, neither a change of address nor a change in precincts change the elector's eligibility to sign an initiative petition as long as the elector is a registered voter in Florida.

Article XI, Section 3 of the Constitution provides that any person who is an elector in Florida may sign an initiative petition. These signatures are verified by a supervisor to verify only that the elector is an elector in that county. In addition, the Constitution provides that petitions must be signed by electors in one-half of the state's congressional districts and that the number of signatures from each of these congressional districts and in the state as a whole must equal eight percent of the votes cast in the preceding presidential election. Therefore, the supervisor must also indicate in which congressional district the elector is registered to determine if an initiative petition has met the numerical threshold for both the state as a whole and the respective congressional districts.

Your second question is if the signature may be verified, is the petition certified as being in the congressional district in which the address on the registration records is located or in the congressional district in which the address on the petition is located. The supervisor should certify the petition for the congressional district in which the official voter registration records reflect as being the address of the signee.

When a supervisor has a petition which contains an address for an elector which differs from the voter registration records, the supervisor should advise the elector in writing of this discrepancy and, also, advise the elector of the procedure for changing the elector's address on the voter registration records, if necessary.

SUMMARY

When verifying a constitutional amendment initiative petition pursuant to Florida Administrative Code Rule 1C-7.0091, the supervisor should verify an initiative petition when the elector is a registered voter in the county even though the elector's address on the initiative petition is different from the address on the registration records for that elector. The supervisor should certify the petition for the congressional district in which the official voter registration records reflect as being the address of the

signee. We recommend that when the supervisor is confronted with this situation, that the supervisor contact the elector to see if the elector's address has changed.