



FYI

FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

June 3, 2016

The Honorable Chris Chambless
Supervisor of Elections, Clay County
500 North Orange Avenue
Green Cove Springs, Florida 32043

Re: DE 16-04 Petitions – Format and
Verification of Candidate Petitions –
§§ 99.095, 99.097, Florida Statutes

Dear Supervisor Chambless:

As supervisor of elections for Clay County, Florida, you have requested an advisory opinion from the Division of Elections regarding whether you are legally precluded from validating certain candidate petition forms submitted to you by a candidate. As the supervisor, you have a statutory duty under section 99.097, Florida Statutes, to determine the validity of candidate petitions. Accordingly, the Division has the authority to issue you an advisory opinion pursuant to section 106.23(2), Florida Statutes.

FACTS

You indicate in your request that you have received several candidate petitions where the party affiliation line has been filled with the candidate's correct party affiliation, but the box itself next to the party affiliation line has not been checked. You ask whether this failure to check the box invalidates those petitions.

ANALYSIS

Section 99.095, Florida Statutes, allows candidates to qualify for office without paying a qualifying fee by submitting candidate petitions to the supervisor of elections. See § 99.095(1), Fla. Stat. That statute also provides that "[t]he format of the petition shall be prescribed by the division and shall be used by candidates to reproduce petitions for circulation." § 99.095(2)(c), Fla. Stat. The Division, in turn, prescribes the format of the candidate petition form through Rule 1S-2.045, Florida Administrative Code.

Division of Elections

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Rule 1S-2.045 lists in detail several requirements for a candidate petition form, in pertinent part as follows:

(f) In addition to the above requirements, the supervisor of elections shall not verify as valid a signature on a candidate petition form unless all of the following information is contained on the petition form:

1. The voter's name;
2. The voter's address (including city and county);
3. The voter's complete voter registration number or date of birth (to include the month, day, and year) that matches the date of birth on the voter's registration application;
4. The voter's original, ink signature; and,
5. The date the voter signed the petition (to include the month, day, and year) as recorded by the voter.

(g) If all other requirements for the petition are met, a signature on a petition *shall be verified and counted as valid* for a registered voter if, after comparing the signature on the petition and the signature of the registered voter in the voter registration system, the supervisor is able to determine that the petition signer is the same as the registered voter, even if the name on the petition is not in substantially the same form as in the voter registration system.

Rule 1S-2.045(f) – (g), F.A.C. (emphasis supplied). The rule goes on to list several examples of deficiencies that could make a petition invalid. *See* Rule 1S-2.045(5)(i), F.A.C. Where the prescribed form is utilized and the requested information is provided, there is nothing that supports invalidating the petition based solely on the failure to also check a box.

SUMMARY

Where a candidate submits a candidate petition form that identifies the candidate's party affiliation but leaves the box next to the party affiliation line unchecked, nothing in Rule 1S-2.045, Florida Administrative Code, or section 99.095, Florida Statutes, supports invalidation of the petition based solely on the failure to also check the box.

Respectfully,



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