

Subject: "year of apportionment" and petitions



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Updated position on "year of reapportionment" and petitions

**Question:** Whether the "apportionment year" exception applies to candidates qualifying by petition for the 2023 City of Jacksonville election?

**Short Answer:** Yes.

**Long Answer:** Florida Statute section 99.095(2)(d) provides that "in a year of apportionment" candidates may obtain signatures from any registered voter in the respective county. The historic application of the reapportionment year to the petition process by your predecessor and the local judiciary has been longer than a "year" period. Further, the State of Florida's November 2021 Candidate Handbook specifically mentions that 2022 is considered an apportionment year.

However, because there are no opinions from the appellate courts or the Florida Supreme Court interpreting or defining "year of apportionment, or any official opinions from the Division of Elections on the subject, the determination that a candidate can use the apportionment year process even after the redistricting process is complete may be subject to litigation to more formally resolve the question between candidates. This type of litigation is likely to involve the SOE by seeking to enjoin the office from placing a name on a ballot.

As an example, if the re-districting is complete, a candidate qualifying only by achieving the 1% of the countywide calculation may be subject to a lawsuit by an opposing candidate, who qualifies by fee or by collecting petitions from within the district only.

Accordingly, it would be advisable to provide candidates with the choice between the two figures/estimates – qualify by 1% of county-wide calculation or 1% of the district calculation. Collecting the higher of the two numbers from within the designated district would protect the candidate and the SOE from at least one layer of legal challenge.

Since the number of signatures needed under either calculation will not be known until the voter registration deadline in the middle of October, candidates should be prepared for a potentially different figure than the estimate in the last two months of the election cycle prior to the December petition deadline.