

1981 WL 158040 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 6, 1981

*1 Mr. James B. Ellisor
Executive Director
State Election Commission
Post Office Box 5987
Columbia, South Carolina 29250

Dear Mr. Ellisor:

Mr. McLeod has referred your recent letter, in which you raised various questions concerning petition candidates, to me for reply.

Specifically you have inquired if a single petition bearing the names of more than one candidate would be valid. There is no clear cut answer to this question. The general rule of law is that a single petition in the absence of a contrary statute may include the name of one candidate for every office to be filled. 29 C.J.S. Elections, § 108. Additionally South Carolina Code of Laws, 1976, Section 7-13-350 speaks in terms of '[t]he nominees in a petition . . .'

However, the intent of the law seems to be that each candidate would be nominated by his own petition. Section 7-11-70 provides that

A candidate's nominating petition for any office in this State shall contain the signatures of at least five percent of the qualified registered electors of the geographical area of the office for which he offers as a candidate . . . (emphasis added)

Section 7-11-80(2) provides that the nominating petition shall contain . . . in the case of nomination of candidates, the name of the candidate, the office for which he offers and the date of the election for such office . . . (Emphasis added)

Further, Section 7-13-350 provides for the procedure for certifying candidates to be placed on the ballot and sets out the requirements for receiving ' . . . a petition when the candidate is not a party nominee.' (emphasis added).

Our Office issued an opinion of July 8, 1976 concerning this question, a copy of which is attached. The letter set forth that one petition could be filed for all presidential electors because they were essentially offering for one office. The opinion further stated that this was not the general law and in all other offices a separate petition would be required.

Therefore, in all cases other than a petition nominating presidential electors, it would be necessary to have a separate petition for each office.

Secondly, you have asked if a person can be nominated by a petition without his consent. Again there is no absolute answer to this question; however, I believe that the answer would be yes. In 25 Am.Jur.2d, Elections § 174 the general rule is set out that Whether one offers himself as a suitable person for the office or is put forward by others, he is nevertheless a candidate, and he is a candidate even if he is put forward contrary to his own wishes.

Sincerely,

Treva G. Ashworth
Senior Assistant Attorney General

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