

1974 WL 28067 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 9, 1974

\*1 John R. Etheridge, Jr., Esq.  
P. O. Box 77  
Darlington, South Carolina 29532

Dear Mr. Etheridge:

Thank you for your letter of August 2, 1974, in which you requested information concerning the procedure for running as a petition candidate.

In the case of [Toporek v. South Carolina Elections Commission, 362 F.Supp. 613 \(1973\)](#) the court found unconstitutional the statutory requirement that petition candidates file for office as of the day of the primary. This was held to be unconstitutional due to the disparity of requiring petition candidates to file up to five months before the November general election and yet allowing candidates nominated by a political party to withdraw up to thirty (30) days prior to an election. In 1974, the General Assembly included in the House Reapportionment Act an amendment to Section 23-400.16 of the South Carolina Code of Laws which deals with petition procedures. The language previously held to be unconstitutional in the [Toporek](#) case was reenacted in this act. As the language reenacted the precise language held to be unconstitutional, the court's decision in the [Toporek](#) case would still be applicable and this provision would still be deemed to be unconstitutional.

The Reapportionment Act states that one thousand signatures would be required in order to petition to run for the office of House of Representatives.

Sincerely,

Treva G. Ashworth  
Assistant Attorney General

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