

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2026-029802

08/19/2026

HONORABLE DAVID MCDOWELL

CLERK OF THE COURT
M. Jones
Deputy

JENNIFER CLARK, et al.

KORY A LANGHOFER

v.

ADRIAN FONTES, et al.

KAREN HARTMAN-TELLEZ

JAMES E BARTON II
JUDGE MCDOWELL

RULING AFTER MANDATE

On August 13, 2026 this court entered a Ruling on Plaintiffs Jennifer Clark, Shannon Graeff, Julie Batt, and Greg Blackie's July 21, 2026 *Amended Complaint*. On August 13, 2026, Protect Education, Accountability Now (the "Committee") filed an appeal with the Arizona Supreme Court. Plaintiffs filed a cross appeal.

On August 18, 2026 the Supreme Court issued its *Decision Order* and a *Mandate to the Superior Court*. The Supreme Court (a) affirmed this court's rulings overruling Plaintiffs' objections to this court's definition of "residence", (b) affirmed this court's ruling disqualifying the circulator's signature sheets on which the circulator did not provide the address where she was living, (c) reversing this court's ruling to the extent it struck entire signature sheets containing more than one line written in the same hand and directing that only the individual signature lines printed by someone other than the elector be stricken, and (d) affirming this court's calculation method for determining whether the Initiative received a sufficient number of votes.

The Supreme Court returned this case to this court to "apply the county validity rate to the remaining signatures and to determine whether the petition satisfies the constitutional signature requirement." The Supreme Court affirmed this court's method of calculation which specified there are two methods of calculating signatures depending on whether the method specified by A.R.S. §19-121.04 results in an initiative failing to qualify for the ballot.

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A. CALCULATION OF SIGNATURES PURSUANT TO A.R.S. §19-121.04

As indicated in the August 13, 2026 Ruling,

A.R.S. §19-121.04 specifies how the number of qualifying signatures are to be counted to determine if this Initiative meets the requirement to be placed on the November 2026 general election ballot. However, *Smith v. Fontes* recognizes the formula in A.R.S. §19-121.04 results in double counting of some invalid signatures. 260 Ariz. 201 (2025). If the double counting results in an initiative failing to qualify for the ballot, where it would qualify without double-counting, the Court in *Smith* said A.R.S. §19-121.04 would be unconstitutionally applied. *Id* at ¶34 and 35. While *Smith v. Fontes* did not declare A.R.S. §19-121.04 unconstitutional, it declared that if that calculation results in a double count that is dispositive, it cannot be applied as written and the double count must be eliminated. Specifically, to avoid double-counting, the Secretary should not subtract the signatures disqualified by the county recorders and instead should the validity rate calculated by the counties which already takes into account the disqualified signatures. *Smith v. Fontes*, ¶25.

Thus, the first step is to determine whether the Initiative qualifies for the ballot based upon application of A.R.S. §19-121.04.

The Committee turned in 41,995 initiative signature sheets containing 629,937 lines. The Secretary of State eliminated 1,493 signature sheets under A.R.S. §19-121.01. After removal of blank lines and lines that had been crossed off, the parties' stipulated that the total number of signatures submitted was 421,451.

The parties stipulated that the Secretary of State invalidated 32,075 signatures pursuant to A.R.S. § 19-121.01(A)(1).¹

The invalidations by the Secretary of State dropped the number of signatures to 389,376. As indicated previously, those signatures were then sent to the counties for random sampling.

At the county-level an additional 4,814 signatures were invalidated.

Between the stipulations of the parties; the decisions made by the Special Master; and this court's determination that some circulators were not statutorily qualified to gather signatures, failed to

¹ This court's earlier Ruling stated the number of signatures rejected by the Secretary of State at 28,205 based upon Exhibit 6 admitted at trial. That number was an estimate and did not include the signatures on the 1,493 signature sheets invalidated by the Secretary of State.

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comply with Arizona statutes in registering or completing the signature affidavits, or made knowingly false statements to obtain signatures an additional 65,206² signatures were invalidated. After subtracting county-level invalidations and signatures invalidated through the litigation process the number of valid signatures dropped to 319,356.

The parties' agreed the 65,206 invalidations contained 211 duplicate invalidations, so 211 signatures will be added back to the total increasing the number of signatures to 319,567.

The parties agreed the county validity rate is 75.2735%.

Multiplying the validity rate by the net number of signatures (319,567) results in 240,550 signatures. That number is less than the 255,949 required by the Arizona Constitution to qualify for the November 2026 general election ballot.

B. CALCULATION OF SIGNATURES UNDER THE ALTERNATIVE METHOD.

However, the analysis does not end there. As indicated in this court's prior Ruling, if this Initiative does not qualify for the ballot based upon an application of A.R.S. §19-121.04, the court must apply the calculation adopted by the Supreme Court in *Smith v. Fontes*, 260 Ariz. 201 (2025). Specifically, the court previously stated:

IT IS ORDERED if the Initiative does not qualify for the ballot based upon the calculation performed pursuant to A.R.S. §19-121.04, the Secretary of State shall re-calculate the number of signatures by using the formula set forth in *Smith v. Fontes*, provided below:

1. Determine Valid Signatures by taking the total number of eligible signatures and subtracting the signatures invalidated by the Secretary of State under A.R.S. §19-121.01(A) and the signatures invalidated by this Ruling (which include the findings of fact made by the Special Master).³

$$\text{Valid Signatures} = A - (B + C)$$

² Approximately 35,719 of these signatures were determined invalid by the Special Master. The remaining 29,487 were either invalidated by the August 13, 2026 ruling or the parties stipulated the signatures were not valid and should not be counted.

³ Note, this step did not involve subtracting signatures disqualified by the county recorders to avoid double counting. The county recorders use the signatures determined to be invalid in determining the invalidity rate, so subtracting that gross number and using the invalidity rate results in double counting.

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A is the total number of eligible signatures
B is the signatures invalidated under A.R.S. §19-121.01(A)
C is the signatures invalidated in this Ruling

2. Determine if any signatures invalidated by the county recorders were also invalidated in this litigation. If there are any, add back the number of signatures invalidated by the county recorders to avoid double counting. This shall be referred to as the adjusted valid signatures.

Adjusted valid signatures = D + E

D is the Valid Signatures calculated above
E is the signatures invalidated by the county recorder which were also invalidated in this litigation.

3. Determine the validity rate based upon the random sampling conducted by the county recorders.

(100% - Invalidity percentage rate determined by county recorders)

4. Multiply the Adjusted valid signatures (determined in step #2) by the validity rate (step #3). If the result equals or exceeds the number of signatures required to place the Initiative on the ballot then disregard the calculation performed under A.R.S. §19-121.04 and use this calculation instead.

Total Valid Signatures = Adjusted valid signatures x Validity Rate

Again, 421,451 total signatures were submitted. The Secretary of State invalidated 32,075 signatures and another 65,206 were invalidated after this case was filed. This results in 325,170 valid signatures pursuant to the formula above.

Then the court adds back the 211 signatures invalidated in this litigation that were also invalidated by the county recorders resulting in an adjusted valid signature total of 324,381.

Multiplying the adjusted valid signature total (324,381) by the validity rate of 75.2735 percent results in 244,173 total valid signatures. This sum is still short of the constitutional requirement to qualify for the November 2026 general election ballot.

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Under either method of calculation, the court finds this Initiative does not meet the Arizona Constitution's requirements to qualify for the general election ballot.

IT IS ORDERED the Secretary of State shall not place Initiative I-09-2026 on the November 2026 general election ballot because it fails to meet the Arizona Constitution's requirements to qualify for the ballot.

No further matters remain pending. The Court enters this ruling as a final judgment pursuant to Rule 54(c), Ariz.R.Civ.Proc..

A handwritten signature in blue ink, appearing to read "David McDowell", is written above a horizontal line.

HONORABLE DAVID MCDOWELL
JUDICIAL OFFICER OF THE SUPERIOR COURT