Standards for

Determining

Voter Intent

REDRAFT for Rulemaking v 20240424 (uncoded)



DS-DE 420 (eff XX-XX) R1S – 2.027, Fla. Admin. Code

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| Section A. General applicability |

1. The standards in this rule apply to determine whether the voter has made a clear indication on the ballot showing a definite choice for a candidate, ballot measure, or judicial retention choice.

2. References to the “General Rule” refer to the voter following the instructions on the ballot or machine to properly mark his or her choices by filling in the oval completely. See 1S-2.032, F.A.C.

3. Every overvote, undervote, blank vote, ambiguous mark, and write-in vote in the races or measures subject to the ballot duplication process, or manual recount must be reviewed in accordance with these standards.

4. The standards and scenarios in this rule apply in all instances where the voter did not follow the General Rule for marking a ballot so that a review of the voter’s markings on a ballot is required to determine whether there is a clear indication that the voter has made a definite choice in a race. A vote shall not count for a candidate, issue choice, or judicial retention choice in a contest unless determined to be a valid vote pursuant to this rule.

5. If a voter does not mark a choice for candidate, judicial retention or ballot measure in a race, the valid votes for other candidates or issues on the same ballot shall still be counted. If a voter does not follow the General Rule and there is only one race on the ballot card, consistency is undeterminable, and the race cannot be counted unless the race is marked as in Section H.

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| Section B. Digital scan voting system |

1. A vote cast on the voting system is valid for a particular candidate (printed or qualified write-in), ballot measure, write-in, or judicial retention choice when the voter marks the ballot by following the General Rule.

2. A vote cast on the voting system is valid for a qualified write-in candidate when the voter marks the ballot and writes in the name of a candidate in the designated write-in space or next to the write-in candidate’s name. If the voter does not follow the General Rule, then the write-in votes must be marked consistently.

|  |
| --- |
| Section C. Review for consistency |

1. The canvassing board should first review the entire ballot card for consistency in the way the voter marked the races. A ballot card consists of two sides (front and back). A ballot may consist of multiple ballot cards. Consistency is necessary to determine voter intent when the voter does not follow the General Rule. If the votes are consistent as in example C.2., apply section D to determine voter intent. If the votes are inconsistent as in C.3., do not apply section D.

C.2. The following are examples of valid votes after review for consistency:

|  |  |
| --- | --- |
| **Ballot Marking Scenario I:**  | **Race for Chief Financial Officer** |
| Since the voter marked each race in the same manner as in the other races on this ballot card, it can be determined that the voter has indicated a definite choice for Candidates B, D, and H. |

|  |
| --- |
| **Attorney General** |
| Vote for One |
|  | Candidate A | REP |
|  | Candidate B | DEM |
|  | Candidate C | GRN |
| **Chief Financial Officer** |
| Vote for One |
|  | Candidate D | REP |
|  | Candidate E | DEM |
|  | Candidate F | NPA |
| **Commissioner of Agriculture** |
| Vote for One |
|  | Candidate G | REP |
|  | Candidate H | DEM |

 |

C.3. The following are examples of invalid votes after review for consistency:

|  |  |
| --- | --- |
| **Ballot Marking Scenario II:**  | **Race for Commissioner of Agriculture**  |
| The voter has marked the other races on this ballot card in the same manner and following the General Rule. However, the voter marked differently in the Commissioner for Agriculture race. Since this is inconsistent with the other markings, it cannot be determined that the voter has indicated a definite choice for Candidate H.  |

|  |
| --- |
| **Attorney General** |
| Vote for One |
|  | Candidate A | REP |
|  | Candidate B | DEM |
|  | Candidate C | GRN |
| **Chief Financial Officer** |
| Vote for One |
|  | Candidate D | REP |
|  | Candidate E | DEM |
|  | Candidate F | NPA |
| **Commissioner of Agriculture** |
| Vote for One |
|  | Candidate G | REP |
|  | Candidate H | DEM |

 |

|  |  |
| --- | --- |
| **Ballot Marking Scenario III:** |  |
| These votes are invalid. Since the voter did not mark the races on this ballot card in the same manner, the voter has not made a clear indication on the ballot for a definite choice.  |

|  |
| --- |
| **Attorney General** |
| Vote for One |
|  | Candidate A | REP |
|  | Candidate B | DEM |
|  | Candidate C | GRN |
| **Chief Financial Officer** |
| Vote for One |
|  | Candidate D | REP |
|  | Candidate E | DEM |
|  | Candidate F | NPA |
| **Commissioner of Agriculture** |
| Vote for One |
|  | Candidate G | REP |
|  | Candidate H | DEM |

 |
| **Ballot Marking Scenario IV:** | **Race for Chief Financial Officer** |
| The votes for Attorney General and Commissioner of Agriculture are valid because they are marked in a consistent manner.The vote for Chief Financial Officer is invalid because the marking is inconsistent with the other markings on the ballot card. |

|  |
| --- |
| **Attorney General** |
| Vote for One |
|  | Candidate A | REP |
|  | Candidate B | DEM |
|  | Candidate C | GRN |
| **Chief Financial Officer** |
| Vote for One |
|  | Candidate D | REP |
|  | Candidate E | DEM |
|  | Candidate F | NPA |
| **Commissioner of Agriculture** |
| Vote for One |
|  | Candidate G | REP |
|  | Candidate H | DEM |

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|  |
| --- |
| Section D. Intent based on consistency of marks and/or words |

When a voter marks his or her ballot in a manner other than by following the General Rule set forth in Section A.2., but there is consistency with the type of mark or word(s) used, the following examples illustrate valid or invalid votes.

### 1. Circled or underlined vote target area

The voter consistently circles or consistently underlines the vote target area next to a candidate’s name, ballot measure, or judicial retention choice.

|  |  |  |
| --- | --- | --- |
| **Valid vote for Candidate A** |  | **Valid vote for Candidate D** |
|

|  |
| --- |
| **Attorney General** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |  |

|  |
| --- |
| **Chief Financial Officer** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |

### 2. Circled or underlined name or choice

 The voter consistently circles or consistently underlines candidate’s name, ballot measure, or judicial retention choice.

|  |  |  |
| --- | --- | --- |
| **Valid vote for Candidate A** |  | **Valid vote for Candidate A** |
|

|  |
| --- |
| **State Senator District 1** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |  |

|  |
| --- |
| **Circuit Judge** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |

### 3. Circled or underlined party abbreviation

 The voter consistently circles or consistently underlines the party abbreviation associated with a candidate’s name.

|  |  |  |
| --- | --- | --- |
| **Valid vote for Candidate A** |  | **Valid vote for Candidate C** |
|

|  |
| --- |
| **Attorney General** |
| Vote for One |
|  | Candidate A | REP |
|  | Candidate B | DEM |
|  | Candidate C | NPA |
|  | Candidate D | GRN |

 |  |

|  |
| --- |
| **Board of County Commissioners**  |
| Vote for One |
|  | Candidate A | REP |
|  | Candidate B | DEM |
|  | Candidate C | NPA |
|  | Candidate D | GRN |

 |

4. Marks – X, check, cross, plus sign, asterisk, star

The voter consistently uses “X,” consistently uses check marks, consistently uses crosses, consistently uses plus signs, consistently uses asterisks or consistently uses stars, and these are contained in a vote target. However, the marking must not enter another vote target. Regardless of consistency, when a mark enters more than one vote target, it is an overvote and the voter intent cannot be determined, making it an invalid vote.

|  |  |  |
| --- | --- | --- |
| **Valid vote for Candidate A** |  | **Valid vote for Candidate D** |
|

|  |
| --- |
| **United States Senator** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |  |

|  |
| --- |
| **Chief Financial Officer** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |
|  |  |  |
| **Invalid vote** |  | **Invalid vote** |
|

|  |
| --- |
| **School Board Member** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |  |

|  |
| --- |
| **State Senator District 8** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |

### 5. Marks – diagonal, horizontal, or vertical lines

The voter draws a diagonal, horizontal, or vertical line, any portion of which intersects two points on the vote target and which does not intersect another vote target. If it is a horizontal line, the line must not strike through the name of the candidate. If the line crosses through the name of the candidate or through two or more vote targets, the vote is invalid.

|  |  |  |
| --- | --- | --- |
| **Valid vote for Candidate A** |  | **Valid vote for Candidate B** |
|

|  |
| --- |
| **United States Senator** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |  |

|  |
| --- |
| **Attorney General** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |
| **Invalid vote** |  | **Invalid vote** |
|

|  |
| --- |
| **Chief Financial Officer** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |  |

|  |
| --- |
| **Circuit Judge** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |

### 6. Additional marks or clarification

The voter marks all the choices for a race but further clarifies a choice for a particular candidate, ballot measure, or judicial retention choice by placing an additional mark or marks showing support solely for that candidate, ballot measure, or judicial retention choice.

|  |  |  |
| --- | --- | --- |
| **Valid vote for Candidate A** |  | **Valid vote for Candidate B** |
|

|  |
| --- |
| **Attorney General** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |  |

|  |
| --- |
| **United States Senator** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |
| **Valid vote to keep Justice in office** |
|

|  |
| --- |
| **Justice of the Supreme Court** |
| Vote for One |
| Shall Justice A. A. Apple of the Supreme Court be retained in office?  |
|  | Yes |
|  | No |

 |

### 7. Strikethroughs

The voter strikes through all the choices for candidates and leaves the write-in candidate space blank.

|  |  |
| --- | --- |
| **Invalid vote for Candidate D** | **Valid vote for Candidate D** |
|

|  |
| --- |
| **United States Senator** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |
|  | Write-In |

 |

|  |
| --- |
| **Attorney General** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate B |
|  | Candidate D |
|  | Write-In |

 |

### 8. Mark outside the vote target

If a voter marks outside the vote target such that the voter’s choice cannot be determined, it shall be considered an invalid vote.

**Invalid vote**

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|

|  |
| --- |
| **Attorney General** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |

### 9. Words

The voter writes words such as “Vote for [candidate’s name],” “Count this vote” or “Vote no on amendment or referendum,” or “I want this one,” provided there are no other markings in the race that would constitute a valid vote for a different candidate, ballot measure, or judicial retention choice pursuant to rule. If there are other markings, Section F. regarding overvotes shall control.

|  |  |  |
| --- | --- | --- |
| **Valid vote for Candidate D** |  | **Valid “No” vote** |
|

|  |
| --- |
| **Attorney General** |
| Vote for One |
|  | Candidate A | REP |
|  | Candidate B | DEM |
|  | Candidate C | NPA |
|  | Candidate D | GRN |

` |  |

|  |
| --- |
| **No. 1 Constitutional Amendment****Article \_\_\_, Section \_\_** |
| An amendment to limit the increase in the assessed value of a taxpayer’s real property after a countywide reappraisal and to require a property tax credit. |
|  | Yes |
|  | No |

 |
|  |  |  |
|  |  |

**Invalid “No” vote**

|  |
| --- |
| **No. 1 Constitutional Amendment****Article \_\_\_, Section \_\_** |
| An amendment to limit the increase in the assessed value of a taxpayer’s real property after a countywide reappraisal and to require a property tax credit. |
|  | Yes |
|  | No |

|  |
| --- |
| Section E. Determination of voter intent for write-in votes  |

## 1. Last name of candidate or joint candidate

A voter is determined to have made a definite choice for a write-in vote for the joint office of President/Vice-President if the voter writes in either the last name of the qualified write-in candidate for President or Vice-President or the last name of a candidate for President or the last name of the candidate for Vice-President who is named on the ballot in that race. This standard similarly applies to constitute a valid write-in vote for the joint office of Governor/Lieutenant Governor. If the voter writes in the name of a candidate on the ballot, review the ballot card for consistency following Section C.

|  |
| --- |
| **Valid vote for joint qualified write-in President and Vice President Candidate E when consistently**  |
|

|  |
| --- |
| **President and Vice President** |
| Vote for One |
|  | Candidate A Joint Candidate A | REP |
|  | Candidate B Joint Candidate B | DEM |
|  | Candidate C Joint Candidate C | NPA |
|  | Candidate D Joint Candidate D | GRN |
|  | Joint Candidate E Write-In |

 |

## 2. Filled in vote target and write-in name

A voter is determined to have made a definite choice for a named candidate if the voter indicates a vote for a candidate named on the ballot and writes-in the name of that same candidate in the blank space for ‘write-in’ candidate.

|  |
| --- |
| **Valid vote for Candidate A** |
|

|  |
| --- |
| **Attorney General** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |
|  | Candidate A. Write-In |

 |

## 3. Name written in

A voter is determined to have made a definite choice for a candidate if the voter writes in the name of a qualified write-in candidate, whether the vote target designating the selection of a write-in candidate has been marked or not marked. However, if the voter writes in the name of a candidate who is named on the ballot in that race, the ballot card must follow the rule of consistency as explained in Section C.

|  |  |  |
| --- | --- | --- |
| **Valid vote for Candidate E if Candidate E is a qualified write-in candidate** |  | **Valid vote for Candidate A if consistent on ballot card** |
|

|  |
| --- |
| **United States Senator** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |
|  | Candidate E Write-In |

 |  |

|  |
| --- |
| **Attorney General** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |
|  | Candidate A Write-In |

 |

## 4. Abbreviation, misspelling, or variation

A voter is determined to have made a definite choice even if a voter abbreviates, misspells, uses only the first or last name, or varies the form of the name of a candidate in the write-in candidate space, as long as the name can be clearly attributed to only one candidate or qualified write in candidate. If voter writes in a candidate on the ballot, review the ballot card for consistency following Section C.

|  |
| --- |
| **Valid vote for misspelled Candidate A** |
|

|  |
| --- |
| **Board of County Commissioners**  |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |
|  | Candata A Write-In |

 |
| Section F. Overvotes |

1. If a voter marks more choices than there are positions or choices for that office or issue, there is no clear indication on the ballot that the voter has made a definite choice for an office or ballot measure and the elector’s ballot shall not be counted for that office or measure.

#

|  |  |  |
| --- | --- | --- |
| **Invalid vote - overvote** |  | **Invalid vote - overvote** |
|

|  |
| --- |
| **Chief Financial Officer** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |  |

|  |
| --- |
| **State Senator District 2** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |
| **Invalid vote - overvote** |  | **Invalid vote - overvote** |
|

|  |
| --- |
| **State Representative** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |  |

|  |
| --- |
| **Circuit Judge** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |

|  |  |  |
| --- | --- | --- |
| **Invalid vote - overvote** |  | **Invalid vote- overvote** |
|

|  |
| --- |
| **United States Senator** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |  |

|  |
| --- |
| **Attorney General** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |

2. If a voter marks a choice for a candidate named on the ballot and writes in any other name in the write-in candidate space, there is no clear indication on the ballot that the voter has made a definite choice for a candidate the elector’s ballot shall not be counted for that office.

|  |
| --- |
| **Invalid vote** |
|

|  |
| --- |
| **Governor and Lt. Governor** |
| Vote for One |
|  | Candidate A Joint Candidate A | REP |
|  | Candidate B Joint Candidate B | DEM |
|  | Candidate C Joint Candidate C | NPA |
|  | Candidate D Joint Candidate D | GRN |
|  | Candidate M.Write-In |

 |

3. If a voter marks the vote target area for a candidate named on the ballot and marks the vote target area next to the write-in candidate space but does not indicate a name in that space, there is a clear indication of voter intent and it is a valid for that candidate. As in the example above, if any other name is written in the write-in space, it is an invalid vote.

|  |
| --- |
| V**alid vote for Candidate C** |
|

|  |
| --- |
| **Attorney General** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |
|  | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Write-In |

 |

 Invalid vote

|  |
| --- |
| **Commissioner of Agriculture**  |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |
|  | jolly green giant\_\_\_Write-In |

|  |
| --- |
| Section G. Undervote  |

If a voter marks fewer candidates than there are positions to be elected for those offices, then the votes for all the marked candidates shall count. For example, if the voter is allowed to vote for 5 candidates in a special district election (“Vote for 5”) and the voter marks 2 candidates, the votes for those two marked candidates shall count.

|  |  |  |
| --- | --- | --- |
| **Two of the three available valid votes (for Candidates A and B)** |  | **One of the three available valid votes (for Candidate B)** |
|

|  |
| --- |
| **County Commissioner At Large** |
| Vote for Three |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |  |

|  |
| --- |
| **School Board Member At Large** |
| Vote for Three |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |

If a voter marks through a race in its entirety, even if candidates were chosen to be elected for those offices, there is no clear indication on the ballot that the voter has made a definite choice for an office or ballot measure and the elector’s ballot shall not be counted for that office or measure.

|  |  |  |
| --- | --- | --- |
| **Invalid vote - undervote** |  | **Invalid vote - undervote** |
|

|  |
| --- |
| **County Water Management Committee At Large** |
| Vote for Two |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |  |

|  |
| --- |
| **School Board Member At Large** |
| Vote for Two |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |
| Section H. When Consistency is Unnecessary  |

### 1. Partially marked vote target

The voter fills in more than half of the vote target designating a particular candidate, ballot measure, or judicial retention choice, and the voter followed the General Rule for the other votes, such a marking is consistent with the General Rule and valid.

|  |
| --- |
|  **Valid vote for Candidate C** |
|

|  |
| --- |
| **Attorney General** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |

|  |
| --- |
| **United States Senator** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

###   Valid vote for Candidate A

###

### 2. Marginal Marks

If a voter marks the vote target area in its entirety or marks more than half of the vote target area, it shall be considered a valid vote for that race even if there is a pen rest, stray, or hesitation mark~~s~~ on another vote target area. However, Section F. regarding overvotes shall control.



**Valid vote for Candidate D Invalid vote for Candidate A**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|

|  |
| --- |
| **School Board Member** |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |

|  |
| --- |
| **State Representative**  |
| Vote for One |
|  | Candidate A |
|  | Candidate B |
|  | Candidate C |
|  | Candidate D |

 |  |

### 3. Marks with words

The voter marks two or more choices similarly and additionally writes in comments such as “not this,” “ignore this,” “don’t want,” or “wrong,” or “Vote for [candidate’s name]” such that voter’s definite choice is clearly indicated.

|  |  |  |
| --- | --- | --- |
| **Valid vote for Candidate D** |  | **Valid vote for Candidate A** |
|

|  |
| --- |
| **Circuit Judge** |
| Vote for One |
|  | Candidate A | REP |
|  | Candidate B | DEM |
|  | Candidate C | NPA |
|  | Candidate D | GRN |

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| --- |
| **Attorney General** |
| Vote for One |
|  | Candidate A | REP |
|  | Candidate B | DEM |
|  | Candidate C | NPA |
|  | Candidate D | GRN |

 |
|  | **Invalid vote for Candidate D** |
|  |

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| --- |
| **School Board Member** |
| Vote for One |
|  | Candidate A | REP |
|  | Candidate B | DEM |
|  | Candidate C | NPA |
|  | Candidate D | GRN |

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