

State of Wisconsin \ Government Accountability Board

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JUDGE THOMAS H. BARLAND
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MEMORANDUM – IMMEDIATE ATTENTION REQUIRED

DATE: August 12, 2014

TO: Wisconsin County Clerks
Wisconsin Municipal Clerks
Milwaukee County Election Commission
City of Milwaukee Election Commission

FROM: Michael Haas
Elections Division Administrator

SUBJECT: Clarification Regarding Write-In Votes For Ballot Candidates of Other Party

Please note this guidance: If a voter has not selected a party preference, casts votes on one political party's ballot, then writes in on that same party ballot the name of a person whose name appears on a different party ballot, the write-in vote is not counted but the remaining votes are counted. The ballot is treated the same as if the voter had marked a party preference.

The Government Accountability Board has received several questions about how to handle Partisan Primary ballots which include a write-in vote for a ballot candidate of another party, when the voter has not marked a party preference. Specifically, it appears that this may be occurring in a number of elections for Sheriff throughout the State where there are ballot candidates in only one party. We are issuing this communication as the most efficient means of clarifying the rules for counting those ballots.

Wis. Stat. §7.50(2)(g) states "In partisan primaries, if an elector writes in the name of an individual on a ballot other than the one in which that individual's name is shown as a candidate, the write-in vote may not be counted." This provision is the most specific statutory guidance regarding the treatment of write-in votes for candidates who appear on a different party ballot, and it does not require the rejection of the remaining votes. Whether or not a party preference is marked, the elector's intent is clearly to vote for the ballot candidates in the party selected, and the invalid write-in vote does not override that intent. The additional protection that the party preference provides is to preserve votes for the candidates in the party selected in the event that a vote is cast on the other party ballot.

The following examples may help in applying this guidance:

- 1) If the voter has not selected a party preference, casts votes for ballot candidates in one political party, and writes in on that same party ballot the name of a person who appears as a ballot candidate in a different party, the write-in vote is not counted but the remaining votes are counted.

- 2) If the voter has selected a party preference, casts votes for ballot candidates in the party selected, and writes in on that same party ballot the name of a person who appears as a ballot candidate in a different party, the write-in vote is not counted but the remaining votes are counted.
- 3) If the voter has not selected a party preference, casts votes for ballot candidates in one political party, and votes for or writes in the name of a person on another party's ballot, a crossover vote is created and the entire ballot is not counted.
- 4) If the voter has selected a party preference, casts votes for ballot candidates in the party selected, and votes for or writes in the name of a person on another party's ballot, votes are counted for the candidates in the party selected.

This issue has arisen and been analyzed in several different ways over the years, and this guidance supersedes any previous interpretation by the G.A.B. We apologize for any confusion regarding these points, and hope that your Election Day is going smoothly

Any questions regarding this information may be directed to the G.A.B. Help Desk at gabhelpdesk@wi.gov or (608) 261-2028.