

COUNTING VOTES
AT THE SPRING PRIMARY, SPRING ELECTION
& GENERAL ELECTION

Public Counting

The counting of votes is always done **publicly** after the polls close at 8:00 p.m. The counting is done by the election inspectors. The governing body of a municipality may also appoint tabulators to assist election inspectors in the counting of votes. Any person, including candidates at the election, may observe the counting of votes.

Counting Paper Ballots

Accuracy is essential when counting votes. Election inspectors should familiarize themselves with the proper procedures for counting votes on paper ballots as set out on pages 97-101 of the *Election Day Manual*. To alleviate fatigue and assure accuracy, all election inspectors and tabulators should be involved in counting votes. For each different type of ballot or for each office to be counted, the duties should be rotated among all inspectors and tabulators.

Special Considerations Where Optical Scan Voting Systems are Used

Since the law does not require a voter to complete an arrow/oval in order to vote for a write-in candidate, care must be taken to assure that write-in votes are counted (if eligible-see Counting Write-in Votes section of this manual) when the elector fails to complete the arrow/oval next to the write-in line. Because the equipment will not pick up a write-in vote where the arrow/oval has not been completed, inspectors must **inspect each ballot** to determine if a write-in vote has been cast. See pages 101 and 102 of the *Election Day Manual*.

In a case where a voter has completed the arrow/oval next to a ballot candidate and has also written in a name but did not complete the arrow/oval next to the write-in line, the equipment will “see” only the vote for the ballot candidate. In this case, the inspectors must adjust the machine tape to subtract one vote from the ballot candidate’s total and then determine the eligibility of the vote for the write-in candidate. (See the Counting Write-in Votes section of this manual.)

When an optical scan ballot has been overvoted, the ballot must be remade. Two election inspectors transfer the votes onto a new ballot, duplicating the votes as they were marked by the voter on the original ballot. If voter intent can be determined in the overvoted office(s), the office is marked to reflect the voter’s intent. If intent cannot be determined, the overvoted office(s) is left blank. The duplicated ballot is put through the electronic equipment and the original ballot is preserved. See the instructions for remaking ballots on pages 94-96 of the *Election Day Manual*.

Defective, Objected To and Rejected Ballots

Whenever a ballot is found to be defective, is objected to, or is rejected, the ballot must be identified with a number and a notation must be made on the Inspectors' Statement (GAB-104).

- Defective Ballot: A ballot that is damaged, overvoted or otherwise difficult or impossible to determine voter intent.
- Objected To Ballot: A ballot on which one or more offices are defective and a minority of inspectors disagree with the intent determination of the majority.
- Rejected Ballot: An absentee ballot which does not contain the signatures of the voter and a witness. A ballot is also rejected if the certificate envelope contains more than one marked ballot of the same type.

When there is a question of how a vote should be counted, because the choice(s) is not clearly marked as the instructions on the ballot indicate, the decision is made by a majority of the election inspectors. Even though tabulators may be used to assist in the counting, the decision on how to treat a questionable ballot is made by the election inspectors.

One common example of when a determination of voter intent and the validity of a ballot must be made is when an elector has overvoted for a particular office on the ballot. This ballot should be treated as an overvote for that office only. A recording is made on the Inspectors' Statement (GAB-104) that a vote was not counted for that office because of an overvote. All other offices on that ballot must be counted as the voter intended.

Write-In Votes

In most cases, a write-in vote will take precedent over a vote for a person whose name is printed on the ballot for the same office. However, determining the proper way to count write-in votes is dependent several criteria:

- Voter intent
- The provisions of the Elector Intent Statute, Wis. Stat. § 7.50, from which the examples in this manual are taken
- The provisions of 2013 Act 178 which limits the number of nonregistered write-in candidate votes that may be counted.

2013 Wisconsin Act 178 sets the criteria for when write-in votes are required to be counted. The basic provisions of this legislation are:

A. Always count votes for registered write-in candidates.

B. Count votes for nonregistered write-in candidates only if:

1. *There are no candidates on the ballot for the office.*
2. *There are candidates on the ballot for the office, but one or more is deceased.*

Analyzing the Viability of Write-in Votes

The following steps should be used when considering whether a write-in vote should be counted.

A. If there is at least one ballot candidate for the office where the name is written, and all of the ballot candidates are alive and well--

1. Check the registered write-in candidate list for the name written on the ballot.
 - a. If the write-in name appears on the registered write-in candidate list for the office where the name was written--
 - 1) Consult the situations below to determine if the vote should be counted.
 - b. If the name does not appear on the registered write-in candidate list.
 - 1) Write-in vote is not counted.

B. If there are no ballot candidates for the office, or one or more of the ballot candidates are deceased?

1. Consult the situations below to determine if the vote should be counted.

Examples of Write-in Irregularities

The examples set out below include, but are not limited to, general situations for spring primaries, spring elections and general elections.

GENERAL SITUATIONS

Count Write-in Votes When:

1. The name of the person is misspelled, but the intent of the voter can be reasonably determined.
2. The name of the person is abbreviated, but the intent of the voter can be reasonably determined.
3. The name of the person contains a wrong initial or an initial is omitted.
4. Only the last name of a person is written in,
 - If the person is a registered write-in candidate and/or
 - the intent of the voter can be reasonably determined.

5. The voter did not make an X, fill in an oval or complete an arrow next to the write-in line.
 - An X or any other mark is not required in order to cast a write-in vote.
6. A sticker contains **only the name of a person** and is placed on a ballot.
 - The vote is counted for the person named on the sticker for the office listed in the space where the sticker is placed.
7. A sticker contains **only the name of a person** and is **placed in the margin**, not in an office space. Voter intent must be determined.
 - If the person named on the sticker has filed a campaign registration statement indicating the office sought,
 - the vote should be counted for the person named on the sticker for the office named on the campaign registration statement.
8. A sticker contains the **name and the office** the person is seeking and is placed **elsewhere than in a particular office** space.
 - This vote is counted for the person for the office listed on the sticker.
9. The instructions to voters are "**Vote for one**", and the voter marks the ballot for a name that is printed on the ballot and also writes in another person's name for the same office.
 - Only the write-in vote is counted. This is not an overvote.
10. The instructions to voters say "**Vote for not more than two.**" The voter marks the ballot for two names that are printed on the ballot, and also writes in another person's name.
 - Only the write-in vote is counted. This is not an overvoted ballot.
11. In a **nonpartisan election**, a candidate's name is printed on the ballot for an office and the voter writes in that candidate for another office.
 - The vote is counted for the office where the candidate's name is written.
12. The name of a **person, who has filed a campaign registration statement indicating the office sought**, is written in under an office other than the one indicated on the campaign registration statement.
 - The vote counts for the person for the office where the name is written.
13. A sticker containing the **name of a candidate and the office sought** is placed under a different office than the one indicated on the sticker.
 - The vote counts for the person named on the sticker for the office under which the sticker is placed.

Do Not Count Write-in Votes When:

1. A name is misspelled or abbreviated and the intent of the voter can not be reasonably determined.
2. A write-in sticker is placed on the endorsement (back) side of a paper ballot.
3. A write-in sticker is found in the ballot box and is not attached to any ballot.
4. The instructions on the ballot are "**Vote for one**" and the name of more than one person has been written in for a single office.
 - This is an overvote. No votes are counted for that office.
5. The instructions on the ballot are "**Vote for One**" and the name of more than one person has been written in and a vote has also been cast for a candidate whose name is printed on the ballot for the same office.
 - This is an overvote. No votes are counted for that office.
6. In the November General Election, when a candidate's name is printed on the ballot for an office and the voter writes in that candidate's name for a different office.
 - The write-in vote does not count.

GENERAL ELECTION

When counting votes at a General Election it is important to remember that all votes are counted for the person for the office in which the elector has cast the vote. If a name is written in by the voter, the party affiliation does not matter when it comes to determining the number of votes cast for that person.

Straight Party Voting has Been Eliminated

At a General Election electors must now vote for individual candidates of their choice. Straight party voting was eliminated with 2011 Act 23.

When voting for Governor and/or Lieutenant Governor:

If an elector writes in the name of a candidate for governor, but does not write in a name of a candidate for lieutenant governor, a vote is counted for the candidate for governor.

If an elector writes in the name of a candidate for lieutenant governor, but does not write in a name of a candidate for governor, a vote is counted for the candidate for lieutenant governor.

However a write-in vote for governor shall not be added to the votes of the same candidate if there are different combinations of governor/lieutenant governor. For example:

- a write-in vote for Mary Jones for governor and Samuel Smith for lieutenant governor may not be added to a write-in vote for Mary Jones for governor with a different candidate for lieutenant governor or no candidate for lieutenant governor.
- a write-in vote for Mary Jones for governor and Samuel Smith for lieutenant governor may not be added to a write-in vote for Samuel Smith for lieutenant governor with a different candidate for governor or no candidate for governor.
- a write-in vote for Mary Jones for governor may not be added to a write-in vote for Mary Jones for governor with a different candidate for lieutenant governor.
- a write-in vote for Samuel Smith for lieutenant governor may not be added to a write-in vote for Samuel Smith for lieutenant governor with a different candidate for governor.

In these situations, the write-in votes are listed separately on the tally sheet for each combination of candidates.

When voting for President and Vice President of the United States:

An elector casting a write-in vote for President and Vice President must designate the presidential candidate of his or her choice. A vote for a candidate for President only will be counted. If the elector casts a write-in vote for only a candidate for Vice President, the vote will not be counted.

This information was prepared by the staff of the Government Accountability Board, and represents the staff's view of the application of the law set out in Wis. Stat. § 7.50(2), to the general situations described. Election inspectors and candidates should review the law or consult an attorney about any specific application of the law. Any questions should be directed to an Elections Specialist by calling 608-261-2028 or by emailing the Help Desk at gab@wi.gov.