Voter Intent

Determination of Voter Intent for Colorado Elections

Published by the Colorado Secretary of State Elections Division

CONTENTS

OVERVIEW

This guide outlines specific scenarios to aid election judges in determining voter intent consistently with statute and rules and must be used in every situation requiring resolution of voter intent.

Bipartisan teams of election judges will review ballots for voter intent in the following situations:

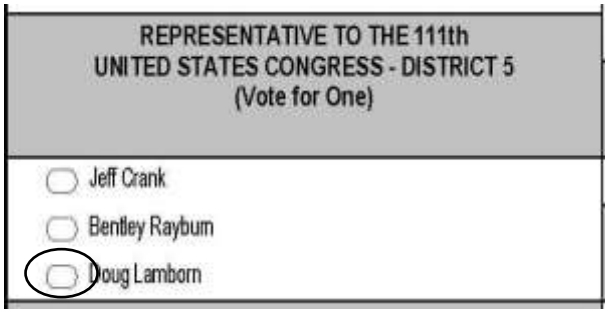
1. When a county is hand-counting paper ballots;
2. When a bipartisan team of election judges is resolving damaged ballots;
3. When a bipartisan team of election judges is resolving ballots that are unreadable by an optical scan voting device;
4. When a bipartisan team of election judges is resolving ballots containing votes for write-in candidates.

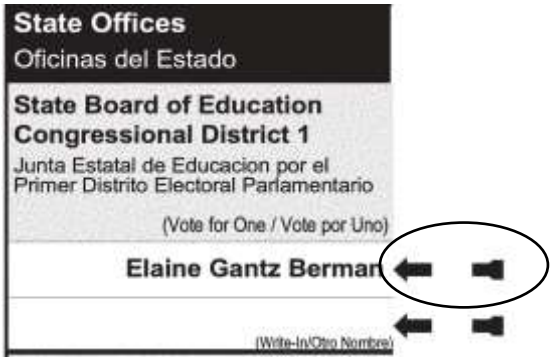
CHAPTER 1: THE TARGET AREA

The “target area” is the oval, square, or incomplete arrow opposite a candidate’s name or ballot response.

Example 1: Types of target areas

Examples of different types of target areas are circled below:

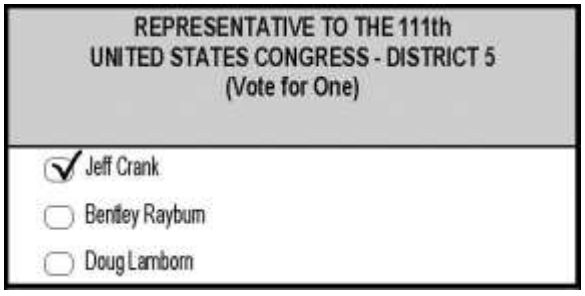


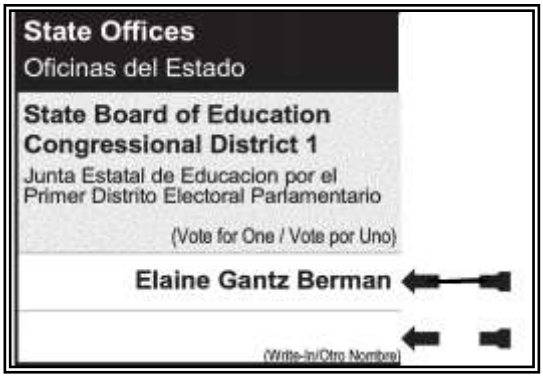


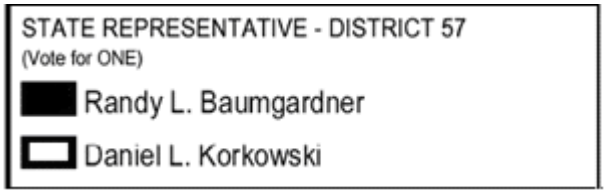
Example 2: Valid target area markings

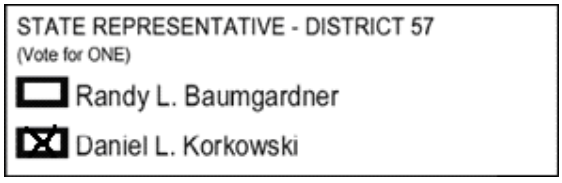
All votes within the target area are considered valid and will count as long as the voter did not select more candidates or ballot measure responses than the maximum number allowed (see Chapter 4).

For example:





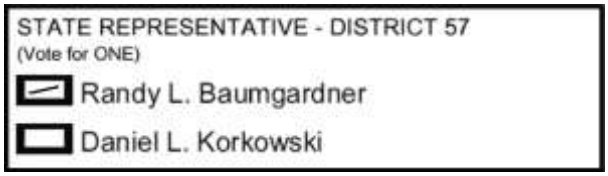




Example 3: Incomplete marks that count as a valid vote

An incomplete or defective mark on any ballot in the target area will be counted if no other cross mark or comment appears on the ballot indicating an intention to vote for some other candidate or ballot issue.

For example:



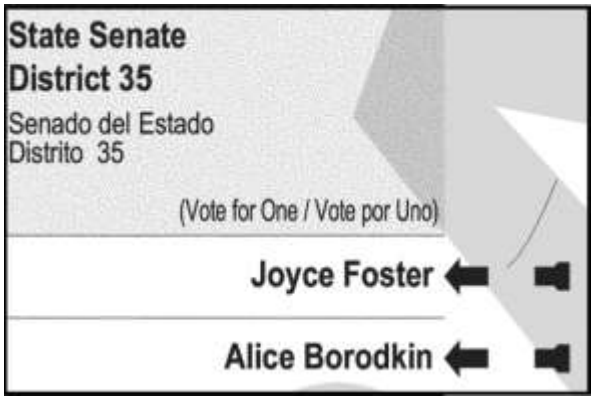
Exceptions: Marks made in the target area are not counted as valid votes if one or more of the following apply:

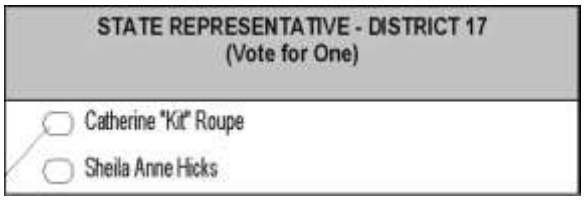
1. Obvious stray marks
2. Hesitant marks
3. Parts of written notes
4. Corrected vote (see Chapter 3)

1. Obvious stray marks

Example 4: Obvious stray marks outside the target area

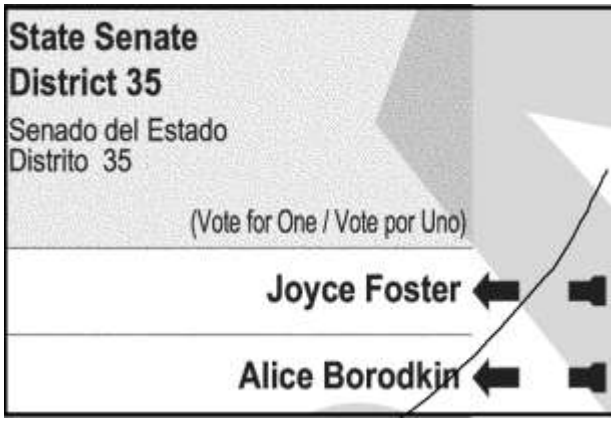
In the examples below, the mark near a candidate's name is a stray mark that is not counted. Even though it partially extends into the target area of one candidate, it is not primarily concentrated in that area. Because the mark is considered stray, it is not counted.

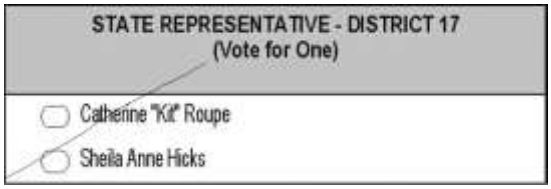




Example 5: Obvious stray marks through the target area

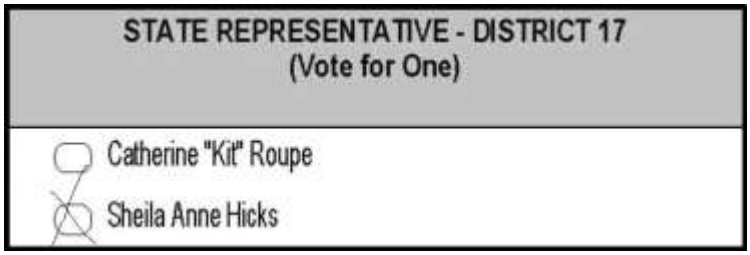
Both examples below show stray marks that are not counted, even though the marks extend through the target areas. Note that to determine whether a mark in a target area is a stray mark, it may be necessary to review the race for consistent patterns, which are discussed in Chapter 3.





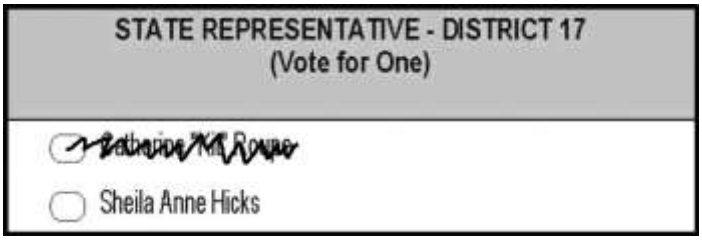
Example 6: Stray marks extending outside one target area into another target area

In the example below, the mark extends outside the target area of one candidate and into another target area. But the mark clearly indicates a preference for one candidate. This race would be counted as a vote for Sheila Anne Hicks.



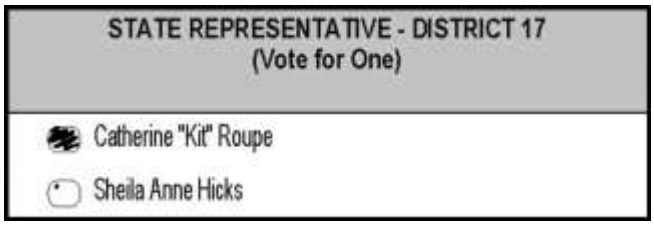
Example 7: Candidate's name stricken

In this example, the voter has stricken the name of candidate Catherine "Kit" Roupe. Part of this mark extends into the target area, but it is considered a stray mark and no vote is counted for the candidate. This would be considered an undervote.



2. Hesitant Marks

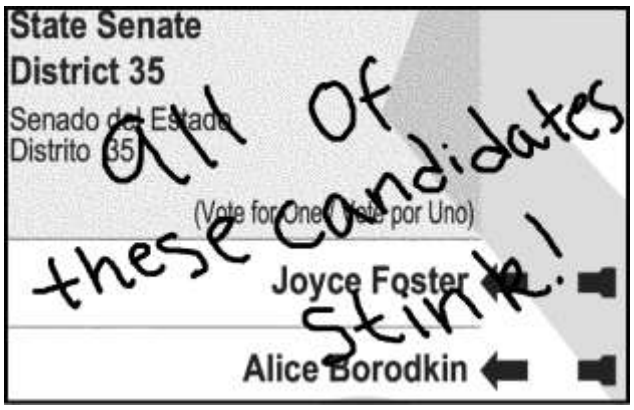
While there is a mark in the target area for both candidates in the examples below, the smaller mark appears to be the result of a hesitation and should be disregarded. The first race would count as a vote for Catherine “Kit” Roupe. The second race would count as a vote for Joyce Foster.



3. Parts of Written Notes

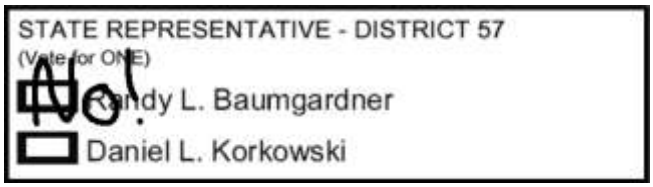
Example 1: Notes written outside the target area

In the example below, the note extends into the target areas. But here, the voter intent dictates clearly that none of the written remarks would be considered a valid vote.



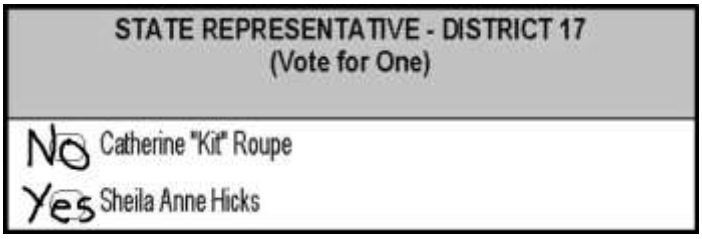
Example 2: Marks inside the target area as written comments

As with the previous example, although the note extends into the target area, the voter intent is clear. This would not be counted as a vote for either candidate.



Example 3: Marks either within or outside the target area as written instructions

In this example, the voter provided clear instructions that dictate that the vote is counted for Sheila Anne Hicks.



4. Corrected Vote

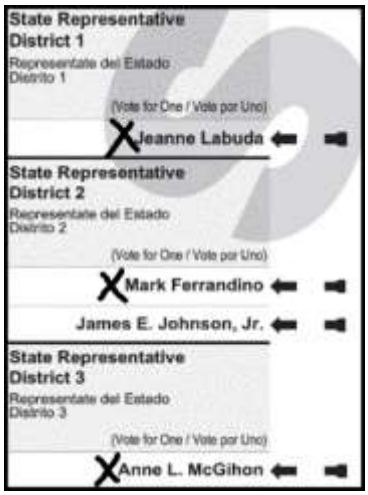
Please see Chapter 3 for an explanation and examples of this exception

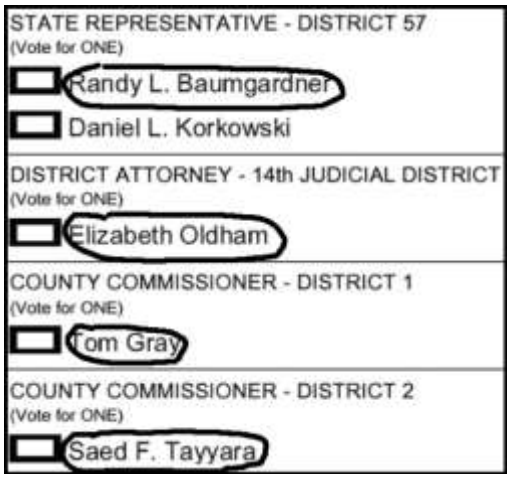
CHAPTER 2: CONSISTENT PATTERNS

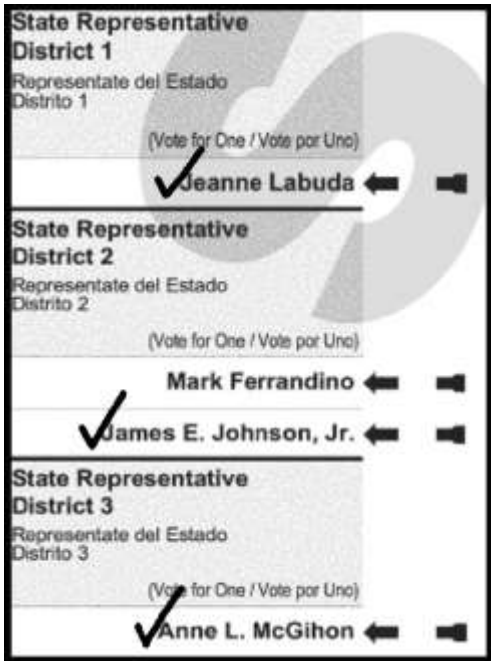
If a voter marks **outside** the target area, those votes are considered valid if the voter uses a consistent pattern or method of marking. All marks must follow the same pattern or method.

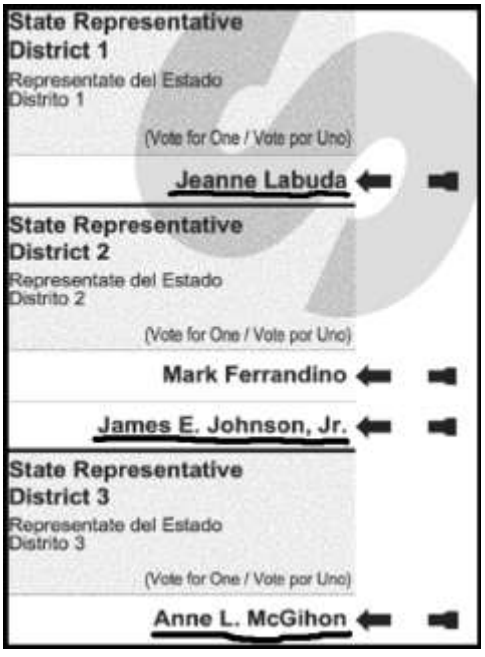
1. Consistent marking patterns outside the target area

Example 1: The examples below illustrate a consistent pattern of marking outside the target area

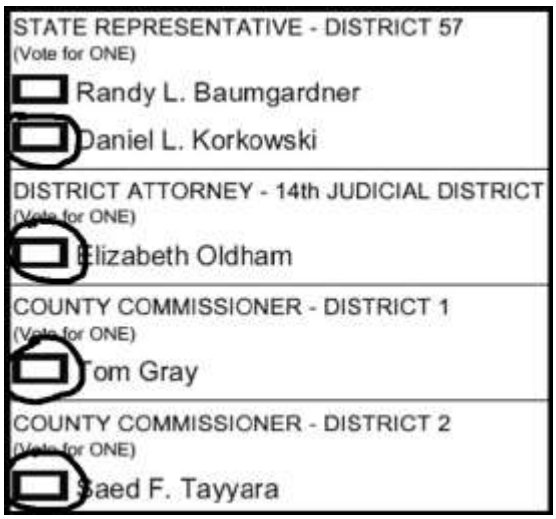








Example 2: In this example, the voter has consistently made the same mark that falls outside the target areas. Because the marks are all the same, all the votes on this race are valid.



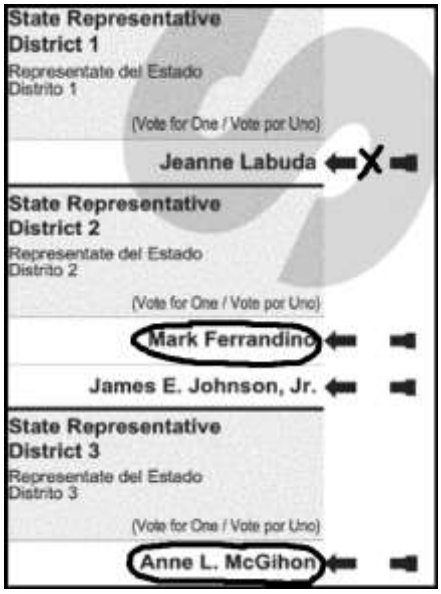
Note that if the voter had marked any choices with an X, check, or other mark in the target area, only the responses where the target area is marked would be counted (see Example 3 in the next section).

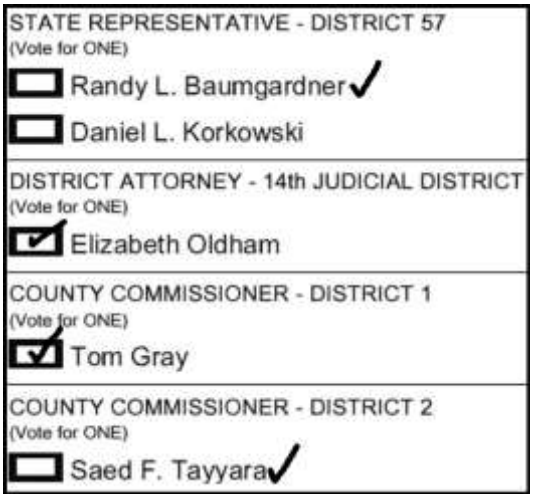
2. Inconsistent Marking Patterns

Example 1: Inconsistent marking patterns that enter the target area

In the examples below, the voter has used inconsistent patterns to mark his or her votes. In this case, only the marks in the target areas would count as valid votes.

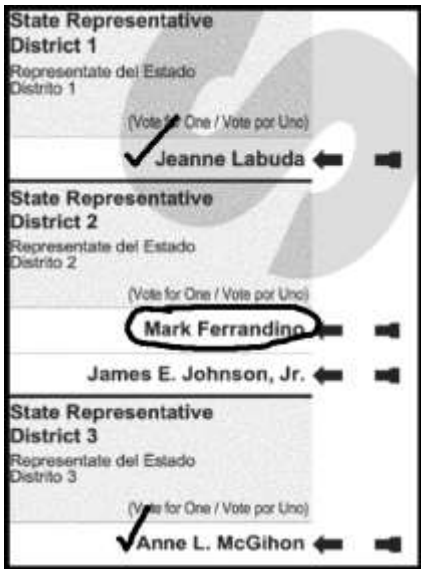
On the left, a valid vote would only be counted for Jeanne Labuda. On the right, only valid votes for Elizabeth Oldham and Tom Gray would be counted.





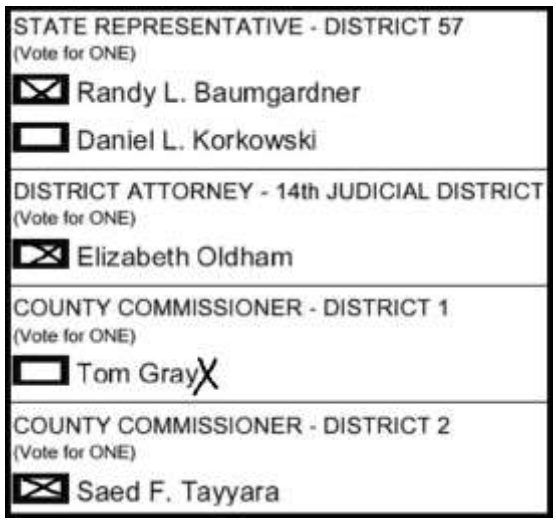
Example 2: Inconsistent marking outside the target area.

In this example, the voter made all of his or her marks outside the target areas, but did not make them in a consistent manner. Since there are no marks in any target area and there is no consistent pattern to the selections, there are no valid votes on this ballot.



Example 3: Inconsistent marking inside and outside the target area

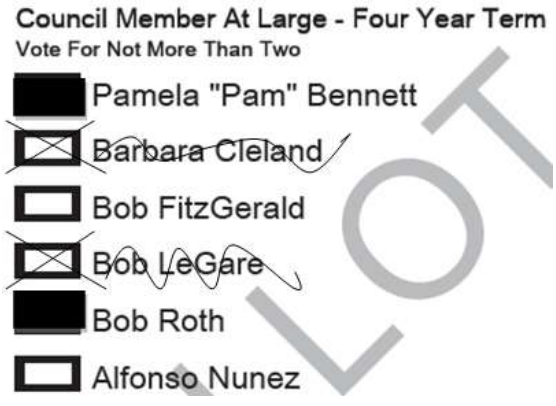
While the voter has made the same type of marks throughout the ballot, not all of the marks are uniformly inside or outside of the target areas. In this scenario, only the marks within the target areas count. The votes for Randy L. Baumgardner, Elizabeth Oldham, and Saed F. Tayyara would be counted as valid votes, but the vote for Tom Gray would not be counted as valid.



Example 4: Vote for two or more

If the voter can choose more than one candidate in a race, all marks must follow the same pattern or method. If the voter uses inconsistent marks, the entire race will be invalidated, except where the voter uses an inconsistent mark to clearly indicate his or her intention not to vote for a candidate (see Chapter 3, Part 2, "Valid Correction of Votes" and Chapter 4, "Written Instructions"). In the examples below, all of the marks extend into the target area and the voter's intent cannot be determined because the voter has used inconsistent marks.

In the following examples, although the marks are inconsistent, the voter has made a correction to indicate his or her intent.

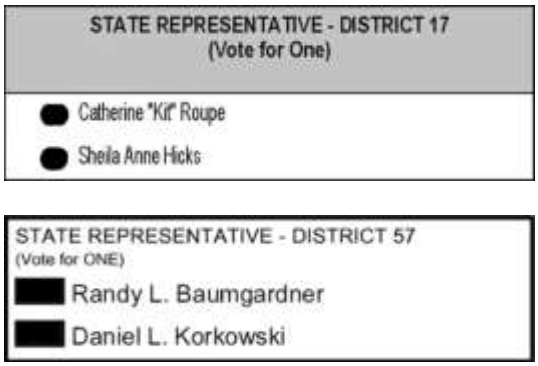


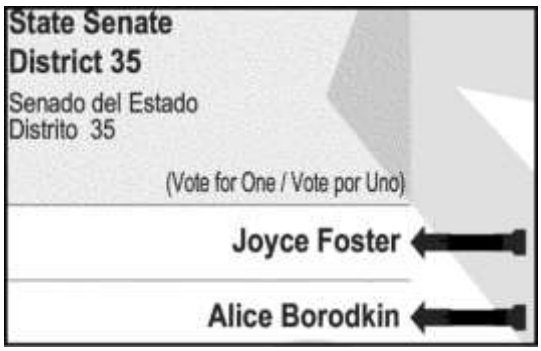
CHAPTER 3: OVERVOTES AND CORRECTED VOTES

An overvote is a race or ballot measure where the voter has selected more options than are allowed. No votes for that race or measure will be counted unless the voter provided written instructions, corrections, or some other clear explanation of his or her intent. If an elector has corrected the vote or provided instructions, the vote will be counted as indicated.

The optical scanning equipment will reject ballots with overvoted races or measures and the resolution board must determine whether the voter clearly indicated his or her choice. Keep in mind that it is also possible that the overvote is the result of a stray mark.

Example 1: The examples below illustrate an overvoted race where the voter has not clearly indicated a single choice

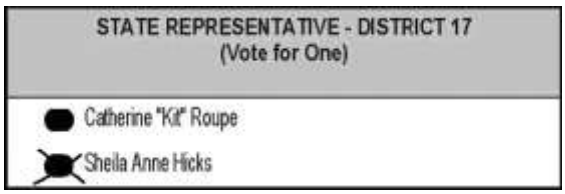




1. Invalid Correction of Votes

Example 1: Second choice marked

When it is not possible to clearly determine the voter's choice of candidate or vote, the vote will not be counted. In the examples below, it is unclear whether the "X" is a vote or an attempt to strike a vote because both target areas are completely filled in. Because the voter's intent is unclear the race is overvoted and a vote will not be counted for either candidate (Section 1-7-508(2), C.R.S.).

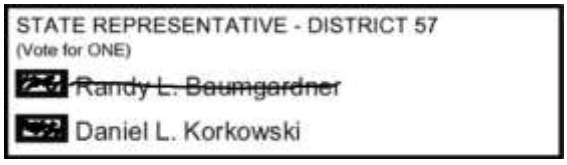


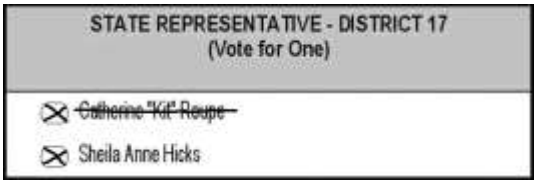
2. Valid Correction of Votes

If a voter marked more than one target area, but clearly indicates a single selection (or no more than allowed for the race) the vote will be counted according to the correction.

Example 1: Striking through the name of the candidate that the voter did not intend to mark

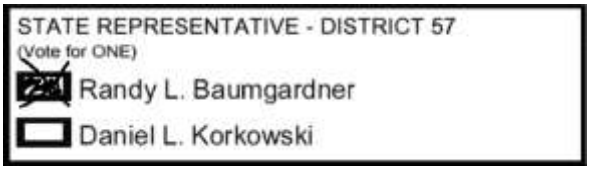
In the examples below, the voter has attempted to correct or clarify the vote by crossing out the name of the candidate he or she did not intend to vote for. Here, the strike through amounts to written instructions. In these examples, a vote would be counted according to the correction.





Example 2: Filling in the target area to correct an incomplete or incorrect mark

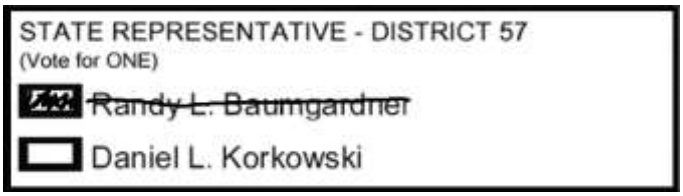
In this example, it appears that the voter may have initially marked his or her selection using an "X". The voter then filled in the entire target area, attempting to clearly indicate their vote. This will be counted as a valid vote for Randy L. Baumgardner.



Example 3: Corrections without second choices

In this example, the voter corrected the vote but did not make a second choice. In this case, the voter undervoted, and neither candidate receives a vote.

Note that the voter's intent in this example would only be discovered during a hand-count or if the ballot were rejected by the optical scanner for some other reason, such as unreadable or damaged.



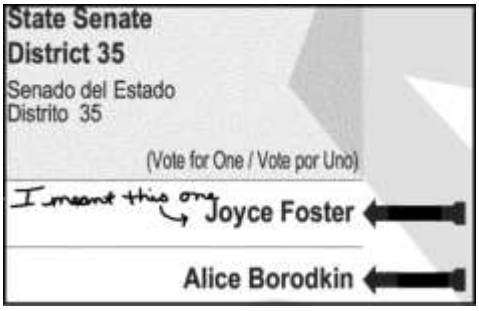
CHAPTER 4: WRITTEN INSTRUCTIONS

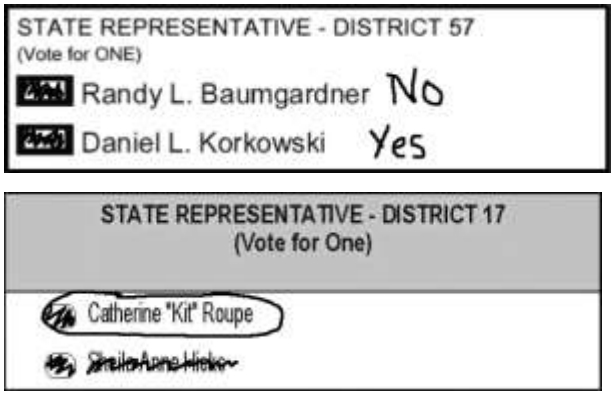
If a voter corrects a vote and provides written instructions that clarify his or her intent, the vote will be counted according to the instructions. Written instructions may include words, circles, or arrows.

Note: If ballots are counted using an optical scan machine, all overvoted races will be rejected by the voting system and will require resolution.

Example 1: All targeted areas marked and voter provides instructions or indications

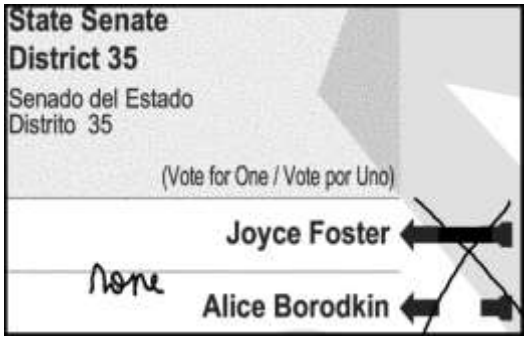
The examples below illustrate written instructions clearly indicating which candidate the voter intended to mark.

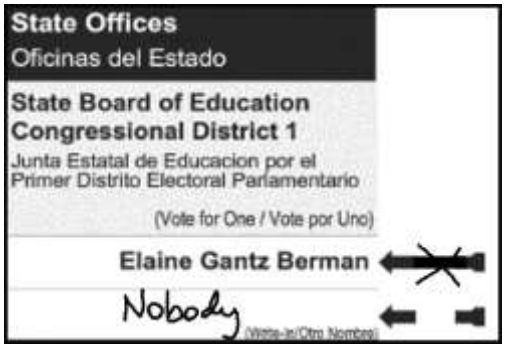




Example 2: Valid written instructions cancelling a vote

In the examples below, the voter selected a candidate and then drew an “X” through one or both target areas to indicate he or she did not want to vote for either candidate. Based on the “none” or “nobody” comment, this race is considered undervoted and neither candidate will receive a vote.





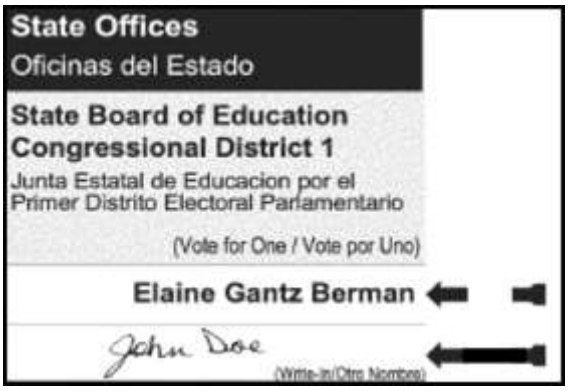
CHAPTER 5: WRITE-IN CANDIDATES

To properly cast a valid vote for a write-in candidate, the voter must correctly mark the target area and write the name of a legally qualified write-in candidate in the space provided.

Note: If the voter writes in the name of a qualified write-in candidate, but fails to complete the target area, the write-in selection is not counted in the initial count. If after the initial count, the number of undervotes in the race could change the outcome or cause a recount if attributed to a legally qualified write-in candidate, the undervotes in that race will be reviewed for voter intent. In this case, the votes for a legally qualified write-in candidate are counted regardless of whether the target area was marked, as long as number of candidates selected does not exceed the number of candidates permitted for that office.

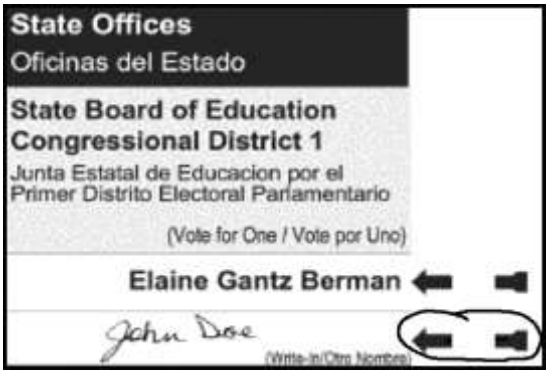
Example 1: A valid vote for a write-in candidate

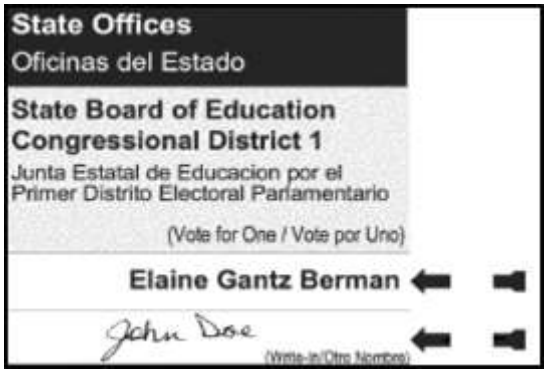
The example below illustrates a valid vote for a write-in candidate as long as John Doe is a legally qualified write-in candidate for that race.



Example 2: Write-in votes where the target area is not marked

If the voter fails to mark the target area, the write-in vote will not be counted in the initial count in a county using optical scanning equipment (see the note above). If the voter clearly uses an alternative mark in the target area, the ballot must be resolved and the vote will be counted. The consistent marking standards identified in Chapter 2 of this guide apply.

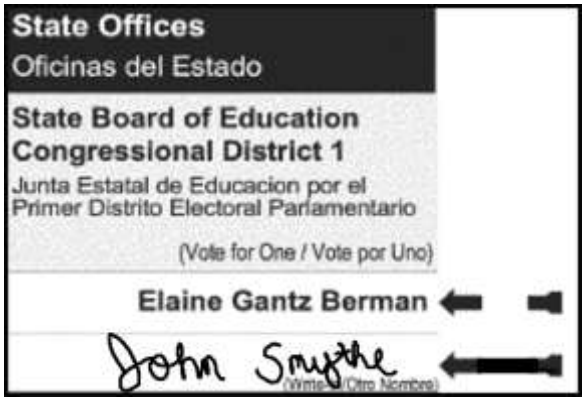




Example 3: The write-in candidate's name is misspelled

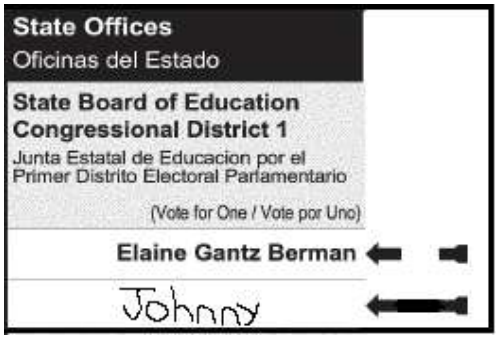
In this scenario, John Smith is a qualified write-in candidate. Although the last name is misspelled, the vote is counted.

The last name of the candidate must be provided. The voter may also provide the candidate's nickname or initial of the first name, and as long as the voter provides a reasonable correct spelling of at least the last name of a qualified write-in candidate, the vote will be counted (Section 1-7-114, C.R.S.).



Example 4: Voter fails to list a candidate's last name

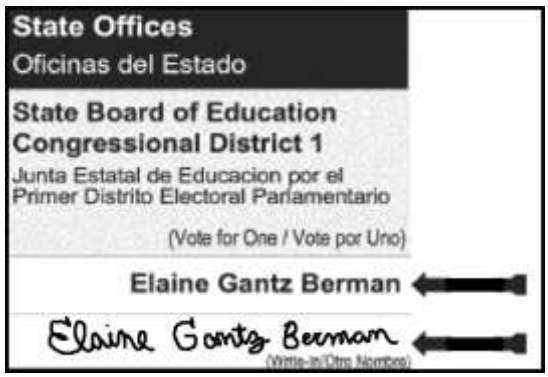
In the example below, the voter has only provided a first name. Here, the vote would not count even if there was only one qualified write-in candidate with the name Jonathan, John, or even Johnny. The voter must include at least a reasonably correct spelling of a qualified write-in candidate's **last** name in order for the vote to count (Section 1-7-114(1), C.R.S.).



Example 5: Repeat of a candidate's name

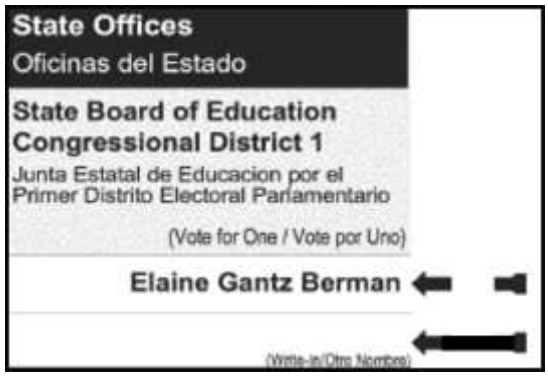
In the example below, the name of a candidate who is already printed on the ballot is written in. In this case, the vote is not be tallied as an overvote, but is instead counted as a valid vote for candidate whose name was printed on the ballot

This applies even if both target areas are marked, as in this example where the optical scanner would have rejected the ballot for an overvote.



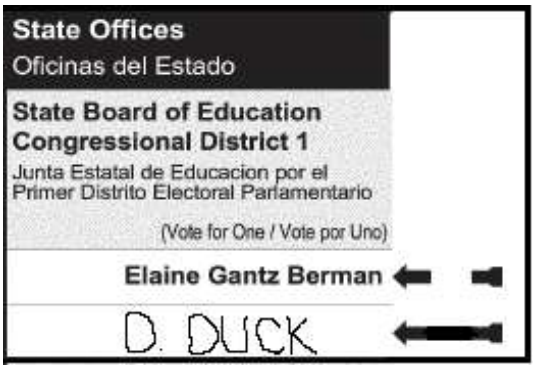
Example 6: No write-in candidate provided

In the example below, the write-in target area is marked, but no name is written on the line. No candidate would receive a vote in this case because only the write-in target area is marked and no name is listed in the space provided.



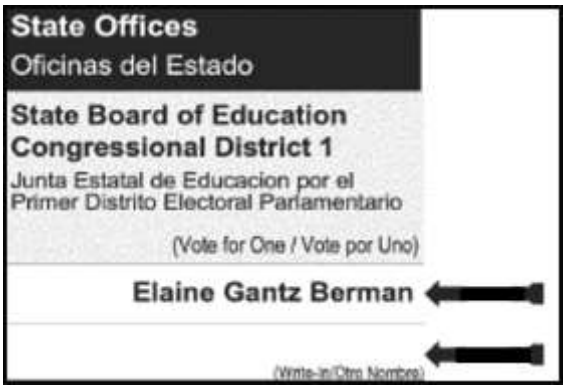
Example 7: Voter fails to list a qualified write-in candidate

In the example below, the voter has properly marked the target area, but has not written in the name of a qualified candidate. In this case, no candidate would receive a vote because the voter must write the name of a legally qualified write-in candidate in order for the vote to count (Sections 1-4-1101 and 1-7-114, C.R.S.).



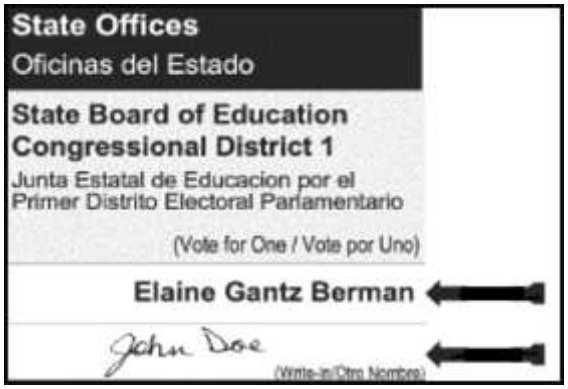
Example 8: Both target areas marked

In the example below, the voter marked both target areas, but did not write-in a name in the space provided. Because there is no name written in, this would not be tallied as an overvote. It would be tallied as a valid vote for candidate whose name is listed on the ballot.



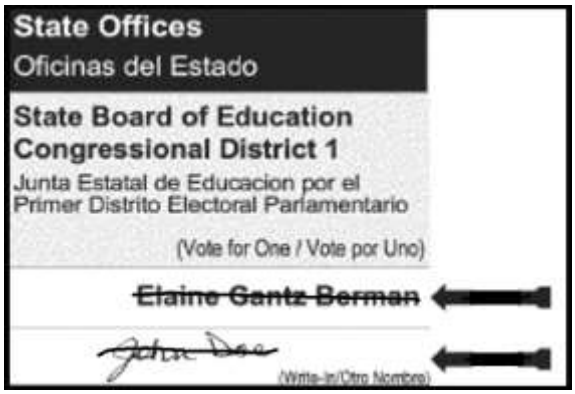
Example 9: Both target areas marked and a write-in candidate listed

In the example below, both target areas are marked and a name is written in the space provided. In this case, the race will be tallied as an overvote because the voter did not provide any instructions clearly indicating which candidate he or she intended to vote for.



Example 10: Both target areas marked with write-in candidate listed, but the voter provided written instructions

In the example below, both target areas are marked and a write-in candidate is written in the space provided, but the voter has also stricken through both names. In this case a vote is not tallied for either candidate according to the voter instructions.



Note that if the voter had instead written a note indicating he or she meant to vote for one of the candidates, the vote would have been tallied for that candidate according to the voter's instructions.