

1S-2.027 Clear Indication of Voter's Choice on a Ballot.

(1) The following are standards to determine in a manual recount as provided specifically by Section 102.166, F.S., on an optical scan ballot, whether there is a clear indication on the ballot that the voter has made a definite choice. The following marks constitute a valid vote for the candidate, issue choice, or judicial retention choice, provided no other race on the ballot is marked or the choices in all other races are marked in the same manner:

(a) The oval or arrow next to a candidate's name, issue choice, or judicial retention choice is circled or underlined.

(b) The name of a candidate, issue choice, or judicial retention choice is circled or underlined.

(c) The party abbreviation associated with a candidate's name is circled or underlined.

(d) There is an "X," a check mark, a plus sign, an asterisk or a star, any portion of which is contained in a single oval or within the blank space between the head and tail of a single arrow and which does not enter into another oval or the space between the head and tail of another arrow.

(e) There is a diagonal, horizontal, or vertical line, any portion of which intersects two points on the oval and which does not intersect another oval at any two points. If it is a horizontal line, the line must not strike through the name of the candidate.

(f) There is a diagonal or vertical line that intersects an imaginary line extending from the center of the head of a single arrow to the center of the tail of the same arrow, provided the diagonal or vertical line does not intersect the imaginary line joining the head and tail of another arrow.

(g) Written words naming a specific candidate, issue choice, or judicial retention choice that expressly direct the canvassing board to cast a vote for that candidate, issue choice, or judicial retention choice, such as "Vote for Doe," or "Please count this vote for Jameson," "Vote no on amendment," provided there are no other markings in the race that would constitute a valid vote for a different candidate, issue choice, or judicial retention choice pursuant to rule.

(2) If the majority of an oval or the majority of the distance between the head and the tail of an arrow designating a candidate, judicial retention choice, or issue choice is filled in, that constitutes a valid vote for the candidate, judicial retention choice, or issue choice, regardless of how other races on the ballot are marked.

(3) Subject to the provisions of (4)(f), the written name of a qualified write-in candidate in the write-in space or the written name of a candidate whose name is on the ballot in that race in the write-in space, whether or not the oval or arrow designating the selection of a write-in candidate has been marked, constitutes a valid vote for the candidate.

(4) Notwithstanding (1), (2) or (3), the following circumstances apply to determining whether there is a clear indication on the ballot that the voter has made a definite choice:

(a) With the exception of (4)(f)1., if a voter marks more candidates than there are positions to be elected for that office in one or more of the manners prescribed in (1), (2), or (3), the marks do not constitute a valid vote for any candidate in that race.

(b) If a voter marks fewer candidates than there are positions to be elected for those offices, the votes for all of those 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.

(c) Where one oval or arrow is marked as provided in (1), (2) or (3), and one or more other ovals or arrows are similarly marked and contain an "X," a cross-out, or another mark obscuring the filled in area, or contain words of error or affirmative choice directed to one of the ovals or arrows, such as "no," "not this," "ignore this," "don't want," "wrong," "vote for Smith," or "Vote yes," the choice without the additional markings, or in the absence of additional markings, the choice indicated by the written words shall constitute a valid vote.

(d) Any abbreviation, misspelling, or other minor variation in the form of the name of a candidate must be disregarded in determining the validity of a write-in vote.

(e) The write-in of the last name of the candidate for Governor or the write-in of the last name of the candidate for Lieutenant Governor shall be sufficient to cast a write-in vote for the joint office. The write-in of the last name of the candidate for President or the write-in of the last name of the candidate for Vice President shall be sufficient to cast a write-in vote for the joint office.

(f) If a voter designates a vote for a named candidate on the ballot and also provides for a write-in candidate in the same race it shall be treated as follows:

1. If a voter designates a vote for a named candidate on the ballot and writes-in the same candidate in the write-in area, the vote shall count for that candidate.

2. If a voter designates a vote for a named candidate on the ballot and writes in the name of a qualified write-in candidate or the name of a different named candidate on the ballot in that race, it shall be considered an overvote with neither candidate receiving credit for the vote.

3. If a voter designates a vote for a named candidate on the ballot and writes in the name of a person who is not a qualified write-in candidate and not a named candidate on the ballot in that race, it shall be considered an overvote with no candidate receiving credit for the vote.

(g) If a voter does not mark a candidate, judicial retention choice, or issue choice, the valid votes for other candidates or issues on the same ballot shall be counted.

(5) A mark for a candidate, issue choice, or judicial retention choice at issue in the recount shall not count unless determined to be a valid vote pursuant to this rule.

Specific Authority 102.166(5)(b) FS. Law Implemented 102.166(5)(b) FS. History—New 6-6-02.