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Title IX SUFFRAGE AND ELECTIONS

Chapter 115

115.456. Responsibilities of election authority — counting optical scan ballots — counting paper ballots — marks indicating political party preference, how construed. — 1. (1) The election authority shall be responsible for ensuring that the standards provided for in this subsection are followed when counting ballots cast using optical scan voting systems.

(2) Prior to tabulating ballots, all machines shall be programmed to reject blank ballots where no votes are recorded or where an overvote is registered in any race.

(3) In jurisdictions using precinct-based tabulators, the voter who cast the ballot shall review the ballot if rejected, if the voter wishes to make any changes to the ballot, or if the voter would like to spoil the ballot and receive another ballot.

(4) In jurisdictions using centrally based tabulators, if a ballot is so rejected it shall be reviewed by a bipartisan team using the following criteria:

(a) If a ballot is determined to be damaged, the bipartisan team shall spoil the original ballot and duplicate the voter's intent on the new ballot, provided that there is an undisputed method of matching the duplicate card with its original after it has been placed with the remainder of the ballot cards from such precinct; and

(b) Voter intent shall be determined using the following criteria:

- a. There is a distinguishing mark in the printed oval or divided arrow adjacent to the name of the candidate or issue preference;
- b. There is a distinguishing mark adjacent to the name of the candidate or issue preference; or
- c. The name of the candidate or issue preference is circled.

(5) In jurisdictions using optical scan systems, a valid vote for a write-in candidate shall include the following:

(a) A distinguishing mark in the designated location preceding the name of the candidate;

(b) The name of the candidate. If the name of the candidate as written by the voter is substantially as declared by the candidate it shall be counted, or in those circumstances where the names of candidates are similar, the names of candidates as shown on voter registration records shall be counted; and

(c) The name of the office for which the candidate is to be elected.

(6) Whenever a hand recount of votes of optical scan ballots is ordered, the provisions of this subsection shall be used to determine voter intent.

2. (1) The election authority shall be responsible for ensuring that the standards provided for in this subsection are followed when counting ballots cast using paper ballots.

(2) Voter intent shall be determined using the following criteria:

(a) There is a distinguishing mark in the square adjacent to the name of the candidate or issue preference;

(b) There is a distinguishing mark adjacent to the name of the candidate or issue preference; or

(c) The name of the candidate or issue preference is circled.

(3) In jurisdictions using paper ballots, a valid vote for a write-in candidate shall include the following:

(a) A distinguishing mark in the square immediately preceding the name of the candidate;

(b) The name of the candidate. If the name of the candidate as written by the voter is substantially as declared by the candidate it shall be counted, or in

those circumstances where the names of candidates are similar, the names of candidates as shown on voter registration records shall be counted; and

(c) The name of the office for which the candidate is to be elected.

(4) Whenever a hand recount of votes of paper ballots is ordered, the provisions of this subsection shall be used to determine voter intent.

3. Notwithstanding any other provision of law, a distinguishing mark indicating a general preference for or against the candidates of one political party shall not be considered a vote for or against any specific candidate.

(L. 2006 S.B. 1014 & 730, A.L. 2013 S.B. 99)

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