

# **Board of Elections**

## **Ballot Review & Determination of Voter Intent Guide**



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## **Purpose**

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The Division of Elections, in consultation with representatives of various county boards of elections, issues these guidelines pursuant to P.L. 2025, c. 150 (effective October 1, 2025) with the purpose of assisting district boards canvassing ballots or county boards, as the case may be, in evaluating ballots that contain unclear, ambiguous, or extraneous markings. In accordance with P.L. 2025, c. 150, which amends N.J.S.A. 19:16-3 and 19:16-4, these guidelines are intended to ensure that boards exercise their discretion and judgment consistently and in accordance with the law when making a determination as to whether the placement of a mark on a ballot reflects a voter's intent to vote for any candidate or public question on a ballot, and whether a mark was intended to identify or distinguish the ballot.

## **General Principles**

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1. Ballots must be counted whenever the voter's intent to vote for any candidate or public question can be reasonably determined, to the extent permitted by law, even if markings are imperfect. However, where a ballot is marked in order to identify or distinguish the ballot, the ballot must be invalidated.
2. Ballots must not be invalidated solely because they do not conform precisely to ballot instructions, provided the intent is clear.

## **Standards for Ballot Review**

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The Board must exercise its discretion and judgement in the following situations and in others not specifically listed. Each ballot must be reviewed by the Board based upon the specific markings contained on the ballot. This is necessary in order to ensure that the Board's exercise of its discretion is applied consistently as to any marks placed on the ballot by the voter in order to discern, if possible, the voter's intent.

### Marks by Candidate Name

A vote shall be counted for each candidate so marked, in the following situations, as long as the total number voted for, for each office, does not exceed the number of candidates to be elected to each office.

- Marks to the left of candidate names
  - Marks to the right of candidate names
  - Marks to both the left and right of candidate names
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- If the mark made is substantially a cross X, plus + or check X for any candidate, and is substantially within the square, it shall be counted as a vote for such candidate.
  - The mark shall be counted as a vote irrespective of the type of mark or its location on the ballot, provided the mark is reasonably close to the square that would be marked to indicate a vote for any candidate.
  - Where a candidate's name appears on the ballot, and the voter writes the candidate's name in the write-in/personal choice column without recording an appropriate mark where the candidate's name is printed on the ballot, the vote shall not be counted. However, where a voter *both* writes the candidate's name in the write-in/personal choice column *and* records an appropriate mark where the candidate's name is printed on the ballot, the vote shall be counted.

#### Public Question

- Where a proper mark is made in the square to the left of the word “Yes,” it shall be counted as a vote in favor of such public question.
- If a proper mark is made in the square to the left of the word “No,” it shall be counted as a vote against.
- If no mark is made in the square to the left of either the word “Yes” or “No”, it shall not be counted as a vote either in favor of or against said public question.
- If a mark is made in each of the squares to the left of both the words “Yes” and “No”, it shall not be counted either as a vote in favor of or against the public question nor shall it invalidate the ballot.
- If the mark made is substantially a cross X, plus + or check X and is substantially within the square, it shall be counted for or against the public question, as the case may be. Such mark shall be counted irrespective of the type of mark or its location on the ballot, provided the mark is reasonably close to the square that would be marked to indicate a vote for or against any public question.

#### Personal Choice

- Where the name of any person is written or pasted in the column designated personal choice, and a cross X, plus + or check X appears in

the square to the left of the name, it shall be counted as a vote for such person.

- If a voter writes or pastes the name of any person in the column designated personal choice, and such person's name is printed upon the ballot as a candidate under the same title, if the voter has not marked the ballot next to the candidate's printed name, the ballot shall not be counted for that office.
  - The ballot shall be counted for such other offices as are plainly marked.
  - Under no circumstances can a write-in/personal choice be counted when a candidate's name is on the ballot.
- Where a person's name is not on the ballot, and the voter writes in the name of the person in a location other than the personal choice/write-in space provided, but the location is reasonably close to the position on the ballot of other candidates for a specific office, the vote is to be counted if, in the judgment of the Board, it was the voter's intent to vote for such a candidate for such office.
- If the voter's choice on the ballot cannot be determined, the ballot shall not be counted for that office.
- Irrespective of the type of mark or its location on the ballot, provided the mark is reasonably close to the square that would be marked to indicate a vote for any candidate, the vote should count.

#### Invalid Ballots

A Ballot or portion of a ballot shall be deemed to be invalid in the following instances:

- A ballot is wholly blank.
- A ballot on which more names have been marked for *every* office than there are persons to be elected to such office, and on which both "Yes" and "No" have been marked upon *every* public question
- Ballots determined by the Board to be identifiable or distinguishable by an unauthorized mark, sign, erasure, designation or device on such ballot

No ballots shall be deemed invalid for any of the following reasons:

- The mark made with ink or the mark made with lead pencil appears other than black.
- The name of such candidate may be misprinted, or the candidate's first name or initials may be omitted.

- The use of any label or pasting permitted by Title 19 on a ballot for a write-in vote may be printed or the name of such candidate may be misprinted in part or part of the candidate's first name, last name, or initials is omitted, or the voter filling in the write-in vote of such candidate misspells the candidate's name or in part omits part of the candidate's first name, last name, or initials.