

DETERMINING THE VALIDITY OF BALLOT MARKINGS

Michigan election law, MCL 168.799a(3), provides the following direction on recounting ballots:

If the electronic voting system requires that the elector place a mark in a predefined area on the ballot in order to cast a vote, the vote shall not be considered valid unless there is a mark within the predefined area. A stray mark made within a predefined area is not a valid vote. In determining whether a mark within a predefined area is a stray mark, the board of canvassers or election official shall compare the mark subject to recount with other marks appearing on the ballot. The secretary of state shall issue instructions, subject to the approval of the board of state canvassers, relevant to stray marks to ensure the fairness and uniformity of determinations made under this subsection. A secretary of state's instruction relevant to stray marks shall not be applied to a ballot unless the secretary of state issued the instruction not less than 63 days before the date of the election.

Similar direction is provided under Michigan election law, MCL 168.803(2):

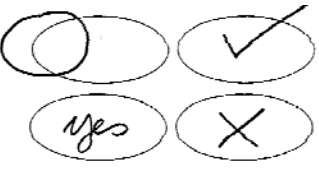
If an electronic voting system requires that the elector place a mark in a predefined area on the ballot in order to cast a vote, the vote shall not be considered valid unless there is a mark within the predefined area. A stray mark made within a predefined area is not a valid vote. In determining whether a mark within a predefined area is a stray mark, the board of canvassers or election official shall compare the mark with other marks appearing on the ballot. The secretary of state shall issue instructions, subject to the approval of the board of state canvassers, relevant to stray marks to ensure the fairness and uniformity of determinations made under this subsection. A secretary of state's instruction relevant to stray marks shall not be applied to a ballot unless the secretary of state issued the instruction not less than 63 days before the date of the election.

The above provisions of law were enacted to accommodate those situations where the tabulating equipment employed to count ballots cast at an election is unable to recognize a properly cast vote. Such situations generally stem from the voter not making a mark in the predefined target area. They can also occur if the ballot marking is too light or small for the tabulator to recognize the presence of a vote.

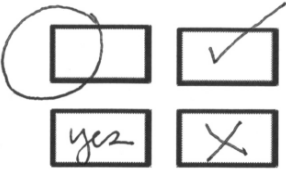
The proper way to indicate a vote on a ballot is to make a mark **within the predefined area designated for casting a vote**. Markings that are inconsistent with this standard cannot be counted as votes.

Valid markings: Each of the examples provided below is a **valid vote** as there is a mark within the predefined target area for casting a vote.

For ballots with ovals:



For ballots with boxes:

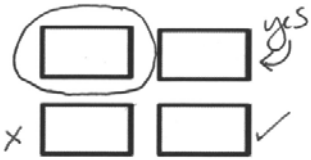


Invalid markings: Each of the examples provided below is an **invalid vote** as a mark does not appear within the predefined target area designated for casting a vote.

For ballots with ovals:



For ballots with boxes:

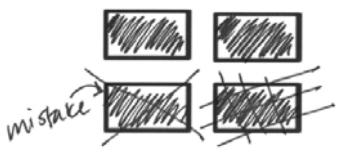


Corrections: A correction that causes a false tabulator read does not count as a valid vote.

For ballots with ovals:



For ballots with boxes:

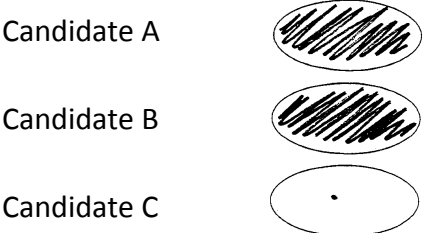


In each example above, count the top position only.

Stray Marks: A stray mark made within a predefined target area is not a valid vote. In determining whether a mark within a predefined target area is a stray mark, the board of canvassers or election official (or board of election inspectors, when visually inspecting an absentee ballot rejected by the tabulator) shall compare the mark with other marks appearing on the ballot. Note, a cross or checkmark appearing in the predefined target area is not considered a stray mark and is a **valid vote** even if the voter does not consistently mark the entire ballot with a cross or checkmark.

For ballots with ovals:

For ballots with boxes:

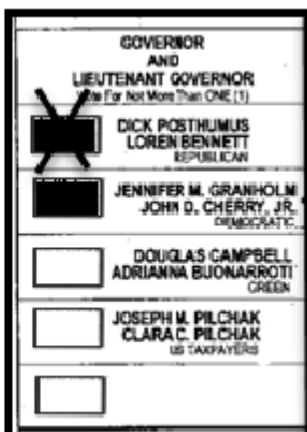
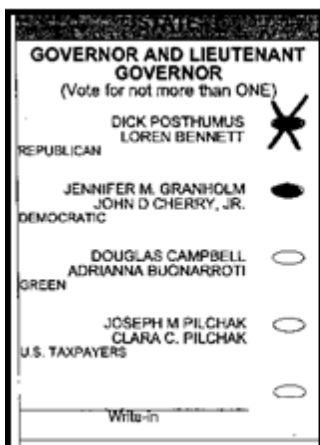


In all three examples above, count the top two positions only.

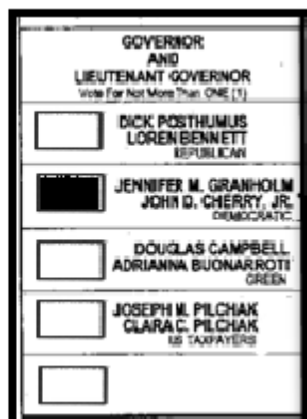
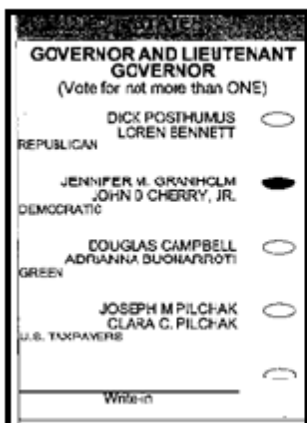
Examples of false read situations requiring duplication of the ballot:

False overvote created by ballot correction

False Overvote/
Ballot Correction:

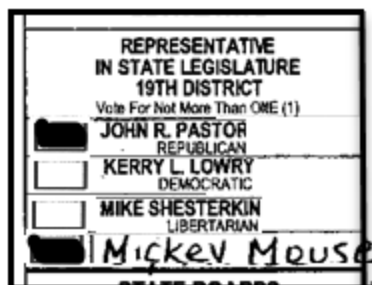
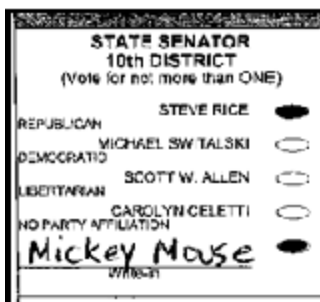


Proper Duplication:

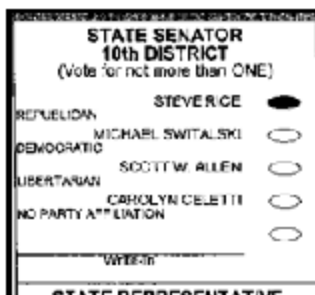


False overvote created by invalid write-in

False Overvote/
Invalid Write-in:

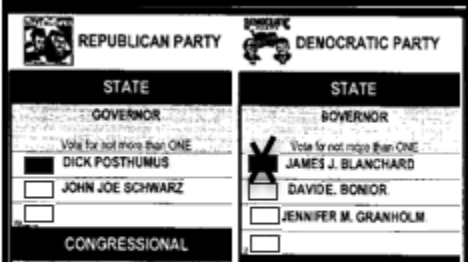
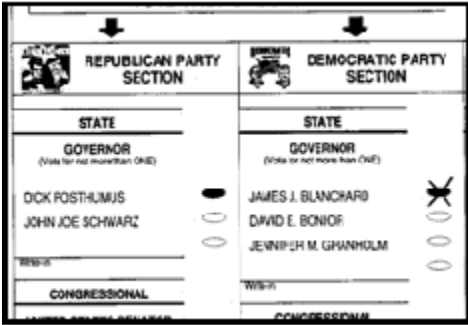


Proper Duplication:

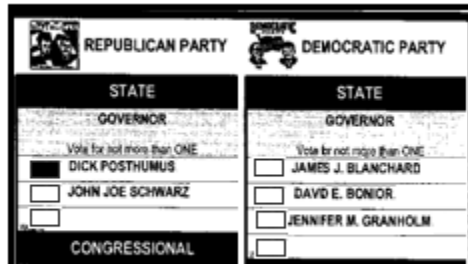
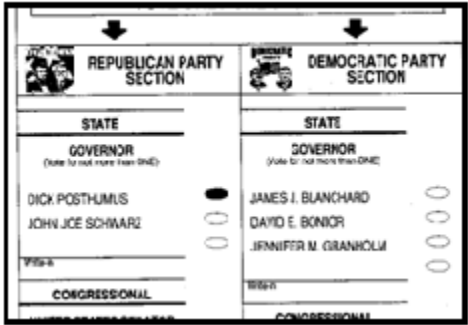


False crossover vote created by ballot correction

False Crossover/
 Ballot Correction:

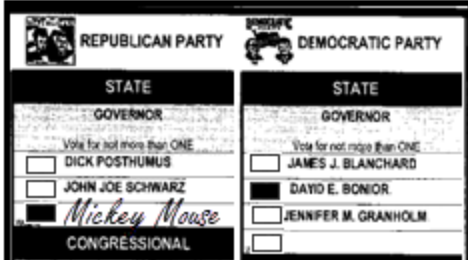
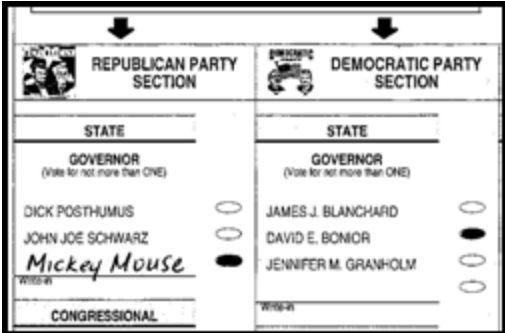


Proper Duplication:



False crossover vote created by invalid write-in

False Overvote/
 Invalid Write-in:



Proper Duplication:

