

## IV. Write-In Candidates

### Declaration of Intent Requirement

An individual who wishes to seek nomination or election to a federal, state, county, city, township, village or school office with write-in votes is required to file a “Declaration of Intent” with the appropriate election official by 4:00 p.m. on the second Friday preceding the election. An example of the form appears in *Appendix I*. (Exception: An individual who wishes to seek a precinct delegate position as a write-in candidate is required to file a Declaration of Intent by 4:00 p.m. on the first Friday preceding the August primary or, as an alternative, may file a Declaration of Intent with his or her board of election inspectors on Election Day. (See: “Precinct Delegate Positions” in this chapter for additional information.)

- The local clerk is responsible for notifying the precinct board of any write-in candidates who filed a Declaration of Intent by the filing deadline. (See: XI. “Election Day Issues, Instructing Voters” for additional information.)
- A write-in vote cast for an individual who has *not* filled a Declaration of Intent *does not count*. Similarly, a write-in vote cast for an individual who filed a Declaration of Intent does not count unless the office for which the write-in vote was cast corresponds to the office identified on the Declaration of Intent; if a partisan primary, a write-in vote cast for an individual who filed a Declaration of Intent does not count unless the *office and party* correspond. Write-in votes which do not count for the above reasons are *not* considered when determining whether an “over vote” has occurred or whether a “crossover” vote has been cast at a partisan primary.
- The Declaration of Intent requirement is *waived* if a candidate appearing on the ballot for the office involved dies or is otherwise disqualified on or after the Wednesday immediately preceding the election. If the waiver is invoked, all write-in votes cast for the office must be counted including any write-in votes cast for candidates who have not filed a Declaration of Intent. The waiver does *not* apply to precinct delegate positions.

***Precinct Delegate Positions:*** An individual who wishes to seek a precinct delegate position with write-in votes is required to file a Declaration of Intent with the city or township clerk by 4:00 p.m. on the Friday preceding the August primary. As an alternative, such candidates may file a Declaration of Intent with their board of election inspectors on the date of the August primary anytime prior to the close of the polls. Individuals seeking precinct delegate positions as write-in candidates are the *only* persons permitted to file a Declaration of Intent with the board of election inspectors on Election Day; all other write-in candidates must file the form with the appropriate election official prior to the election.

- The local city or township clerk is responsible for notifying the precinct board of any precinct delegate write-in candidates who filed a Declaration of Intent prior to the August primary. If an individual interested in seeking a precinct delegate position with write-in votes asks for Declaration of Intent form on Election Day, the precinct board has an obligation to provide the requested form.

- A write-in vote cast for a precinct delegate candidate who has not filed a Declaration of Intent *does not count*. Similarly, a write-in vote cast for a precinct delegate candidate who filed a Declaration of Intent does not count unless the write-in vote was cast under the political party column identified on the Declaration of Intent. Write-in votes which do not count for the above reasons are *not* considered when determining whether an “over vote” has occurred or whether a “crossover” vote has been cast at a partisan primary.
- The Declaration of Intent “waiver” *does not* apply to precinct delegate positions. (The Declaration of Intent waiver, applicable to all other offices on the ballot, is invoked if a candidate appearing on the ballot for the office involved dies or is otherwise disqualified on or after the Wednesday immediately preceding the election. In such an instance, all write-in votes cast for the office are counted including any write-in votes cast for candidates who have not filed a Declaration of Intent.)

### **Recording Write-In Votes**

Election inspectors must record all write-in votes exactly as cast. The record should reflect the candidate’s name with any name variations or misspellings preserved; the office; and the political party (if a partisan primary). Note: Write-in votes are only recorded for declared write-in candidates and must be recorded by the voter under the proper office and political party, if applicable, as indicated on the Declaration of Intent submitted by the candidate. If the name of a write-in candidate is recorded by the voter under an office or political party that differs from the office and or political party listed on the Declaration of Intent, the write-in vote is not recorded.

- Example:** John A. Smith – County Treasurer – Democrat – 16 votes.  
 Jon Smith – County Treasurer – Democrat – 2 votes.  
 J. A. Smith – County Treasurer – Democrat – 1 vote.

### **Canvassing and Certifying Write-In Votes**

It is the Board of Canvassers’ responsibility to review all write-in votes to determine their validity. In Petrie v Curtis, 387 Mich 436 (1972), the Michigan Supreme Court stated:

“Where the intent of the voter as expressed by his ballot, when considered in the light of such surrounding circumstances, is not doubtful, the ballot should be counted and allowed for the person intended.”

Consequently, the Board may accept variations in the spelling of a write-in candidate’s name if the voter’s intent in casting the vote is clear.

A write-in vote for a candidate seeking *nomination* to a partisan office in a primary is not valid unless the candidate’s party affiliation, as provided on the Declaration of Intent, is indicated. As the candidate’s party affiliation is a critical part of a write-in vote cast for a partisan office in a primary, write-in votes cast under a different political party are not recorded or certified.

Write-in candidates seeking *election* to a partisan office at a general election are required to run *without party affiliation*.

### **Determining if a Write-In Candidate Has Been Nominated or Elected**

- If the office involved appears on a partisan or *nonpartisan general election ballot*, a write-in candidate is elected to the office if he or she receives more votes than any other candidate seeking the office; a minimum number of write-in votes is not required.
- If the office involved appears on a *nonpartisan primary ballot*, a write-in candidate is nominated to the office if he or she receives more votes than any other candidate seeking nomination to the office; again, a minimum number of write-in votes is not required.
- If the office involved appears on a *partisan primary ballot*, a write-in candidate is nominated to the office if he or she 1) receives more votes than any other candidate seeking nomination to the position and 2) meets a vote threshold provided under Michigan election law. (MCL 168.582) Under the vote threshold formula, the number of votes received by the write-in candidate must equal the greater of the following:
  - 1) 10 votes.
  - 2) .15 of 1% (.0015) of the total population, as reflected by the last official federal census, of the district represented by the office sought by the write-in candidate.
  - 3) **Apply following only if write-in candidate seeks nomination to an office for which only one candidate is to be elected:** 5% (.05) of the greatest number of votes cast under the write-in candidate's party for all candidates running for any office for which only one candidate is to be elected within the district represented by the office sought by the write-in candidate. To determine the number of votes required under this formula:
    - A. Working with the write-in candidate's party, identify the "Vote for One" office on the ballot that received the greatest total number of votes. In a partisan primary, this office is typically a "top of the ticket" office, i.e., Governor or U.S. Senator. Do not take into consideration any office where more than one candidate is to be elected (e.g., township trustee).
    - B. Next, determine the total number of votes received by all candidates who ran for that office within the district represented by the office sought by the write-in candidate. (For example, if the write-in candidate ran for a countywide office, it would be necessary to include all of the votes cast for all of the candidates running for the office that received the greatest number of votes within the county. If the write-in candidate ran for a township office, it would only be necessary to include all of the votes cast for all of the candidates running for the office that received the highest number of votes within the township.)

- C. Take 5% of that number to find the number of votes required under this formula.

EXAMPLE: Write-In candidate seeking a township clerk position.

- A. The office that received the greatest total number of votes under the write-in candidate's party was the office of U.S. Senator.
- B. The total number of votes received in the township by all candidates who ran for U.S. Senator under the write-in candidate's party was 520.
- C. As a result, the number of votes required under this formula is 26 (5% of 520).

- 4) *Apply following only if write-in candidate seeks nomination to an office for which more than one candidate is to be elected: 5% (.05) of the greatest number of votes cast by any party on the ballot for any candidate seeking the same office as the write-in candidate.*