

Agency # 108.00

RULES FOR VOTER INTENT

(Effective April 14, 2002; Revised October 5, 2007)



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Scope of Rules

These rules and regulations set forth the procedures for determining voter intent. These rules are subject to revisions due to the use of new types of equipment and/or ballot formats, or changes in laws and are in addition to and not a substitute for the laws of the State of Arkansas.

§ 300 Definitions

- (a) Candidate area – the area(s) on or between the lines separating candidate names.
- (b) Electronic vote tabulating device – a device, commonly referenced as an optical scanner, used to electronically scan a marked paper ballot for the purpose of tabulation.¹
- (c) Issue area – the area(s) on or between the lines separating issues.
- (d) Marking device – any approved device for marking a paper ballot with ink or other substances that will enable votes to be tabulated by means of an electronic vote tabulating device.² Paper ballots counted by hand shall be marked using permanent ink.³ If an electronic vote tabulating device (optical scanner) is used to count paper ballots, the marking instrument recommended by the manufacturer of the optical scanner for proper marking shall be used.⁴
- (e) Over-vote – A voter casts votes for more than the allowable number of candidates in a contest or casts votes both for and against an issue in a contest.
- (f) Paper ballot – a paper vote sheet that is either counted by hand or by use of an electronic vote tabulating device. The paper ballot must contain a place for marking a vote for a candidate adjacent to and on the same line as the name of each candidate. Below each act, amendment, or measure to be voted on, the words “For” and “Against” shall be situated one above the other with a place for marking a vote for each act, amendment, or measure adjacent to and on the same line of each word.⁵ The paper ballot must include instructions to vote by placing an appropriate mark, such as to blacken the oval (●), opposite the person for whom you wish to vote.⁶ The paper ballot should also include, if applicable, instructions to vote on amendments, acts, and measures by placing an appropriate mark, such as to blacken the oval (●), below the amendment, act, or measure either “For” or “Against”.⁷ Every paper ballot must contain printed instructions that inform the voter of the effect of casting multiple votes for an office and how to correct the ballot before it is cast and counted.⁸

¹ A.C.A. § 7-1-101(9)

² A.C.A. § 7-1-101(14)

³ A.C.A. § 7-5-212

⁴ A.C.A. § 7-5-211(a)(2)(H)

⁵ A.C.A. § 7-5-208(g)/Act 705 of 2007

⁶ A.C.A. § 7-5-208(d)(1)/Act 705 of 2007

⁷ A.C.A. § 7-5-208(d)(2)/Act 705 of 2007

⁸ A.C.A. § 7-5-208(e)/Act 705 of 2007

(g) Properly marked – A paper ballot on which the appropriate mark has been placed in the appropriate place for marking a vote and on which the voter has not cast votes for more than the allowable number of candidates in a contest or cast votes both for and against an issue in a contest.

(h) Target area – the place on the paper ballot for marking a vote adjacent to and on the same line as the candidate’s name or issue to be voted on.

(i) Under-vote – no vote is recorded for a contest.

(j) Voting machine – a direct recording electronic voting machine that records votes by means of a ballot display provided with mechanical or electro-optical components that may be actuated by the voter, processes data by means of a computer program, records voting data and ballot images in internal and external memory components and produces a tabulation of the voting data stored in a removable memory component and in a printed copy.⁹

§ 301 Paper Ballots

The following standards shall apply in determining whether a ballot has been properly voted and whether a vote should be counted for any contest in question:

- when ballots are not scanned in the presence of the voter due to malfunction of a precinct electronic vote tabulating device and the prescribed counting machine will not accept an individual ballot during tabulating,
- when using an electronic vote tabulating device at a central counting location and the prescribed counting machine will not accept an individual ballot, or
- when counting paper ballots by hand.

The following instructions assume a single-seat office, that is, the voter is only permitted to vote for one (1) candidate per contest.

1. Any ballot that is properly marked, as specified by the ballot instructions, in the target area for one (1) candidate or issue per contest shall be counted as a vote for that candidate or issue.

Vote to be counted:

For Attorney General	
<i>(Vote for one)</i>	
<input type="radio"/>	Lucille Ball
<input checked="" type="radio"/>	Jack Benny
<input type="radio"/>	Desi Arnaz

2. Any ballot that is properly marked with any device other than the approved marking device which prevents a machine count, shall be counted as a vote.

3. Any ballot with identical marks for more than one (1) candidate or issue per contest, without additional clarifying marks, shall be deemed an over-vote, and no vote shall be counted.¹⁰

Votes NOT counted:

For Attorney General
(Vote for one)

Lucille Ball

Jack Benny

Desi Arnaz

For Attorney General
(Vote for one)

Lucille Ball

Jack Benny

Desi Arnaz

Proposed Constitutional Amendment No. 1
(Referred to the People by the General Assembly)
(Popular Name)

An amendment to limit the increase in the assessed value of a taxpayer's real property after a countywide reappraisal and to require a property tax credit.

FOR Proposed Referred Constitutional Amendment No. 1

AGAINST Proposed Referred Constitutional Amendment No. 1

4. Any ballot with marks for more than one (1) candidate per contest, where the names for all but one (1) candidate are stricken through, shall be counted for the one (1) candidate whose name was not stricken.

Vote to be counted (for candidate not stricken through):

For Attorney General
(Vote for one)

Lucille Ball

~~Jack Benny~~

~~Desi Arnaz~~

~~Lenny Bruce~~

Vote counted for Lucille Ball

¹⁰ A.C.A. § 7-5-315(4)/Act 1020 of 2007
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5. Any ballot with identical marks for more than one (1) candidate per contest, clarified by an additional mark or marks that indicate support for a single candidate, shall be counted as a vote for the candidate with the additional clarifying marks.

Votes to be counted (for candidate with additional clarifying mark):

For Attorney General
(Vote for one)

Lucille Ball

Jack Benny

Desi Arnaz

Lenny Bruce

Vote counted for Jack Benny

For Attorney General
(Vote for one)

↓

Lucille Ball

Jack Benny

Desi Arnaz

Lenny Bruce

Vote counted for Lucille Ball

6. Any ballot that has any mark in the target area or candidate or issue area for one (1) candidate or issue only, including circling the target area and/or the candidate's name or issue or making a mark through the target area or candidate's name or issue, provided no other candidate for that office or issue is similarly marked, shall be counted as a vote for that candidate or issue, unless the mark is clearly a negative comment.

a. Votes to be counted:

For Attorney General
(Vote for one)

Lucille Ball

Jack Benny

Desi Arnaz

Lenny Bruce

For Attorney General
(Vote for one)

Lucille Ball

Jack Benny

Desi Arnaz

Lenny Bruce

b. Vote NOT counted:

For Attorney General
(Vote for one)

Lucille Ball

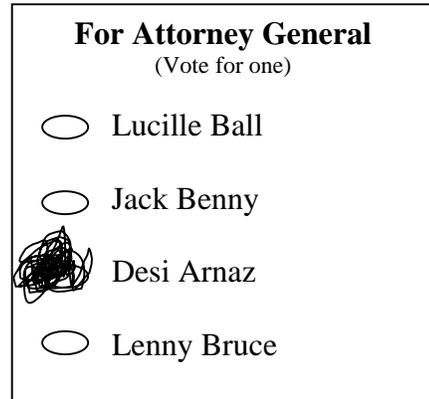
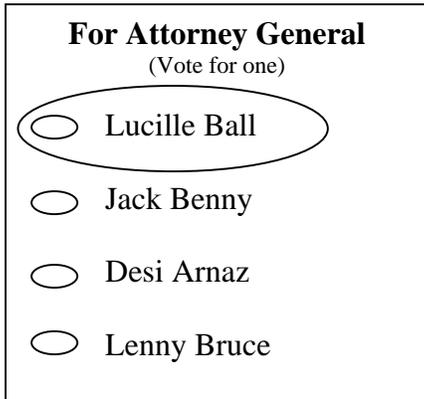
Jack Benny

Desi Arnaz

Lenny Bruce

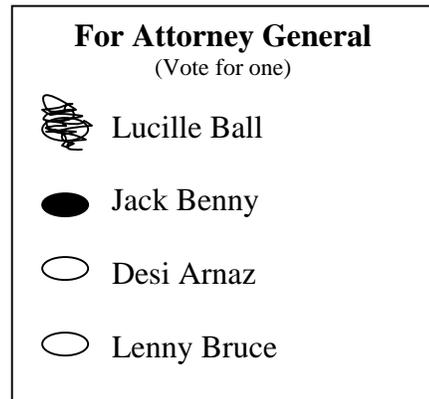
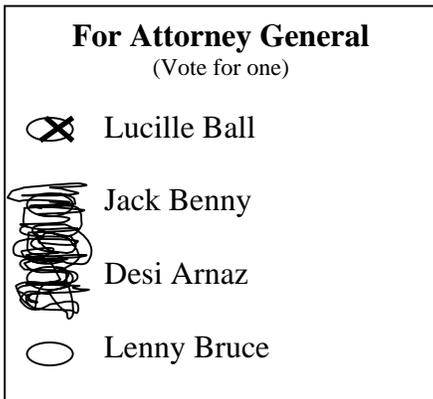
7. Any ballot that has a mark in the target area or candidate or issue area for one (1) candidate or issue, which partially extends into one (1) or more other target areas or candidate or issue areas shall be counted as a vote for the candidate or issue so marked only if it is readily apparent that most of the mark is in that candidate or issue area or target area.

Votes to be counted:



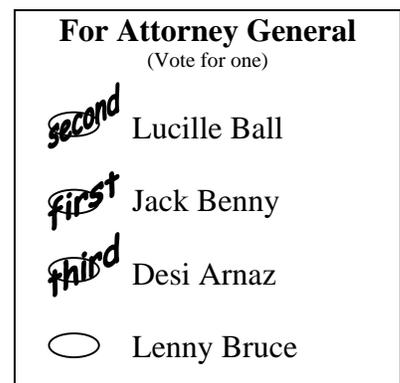
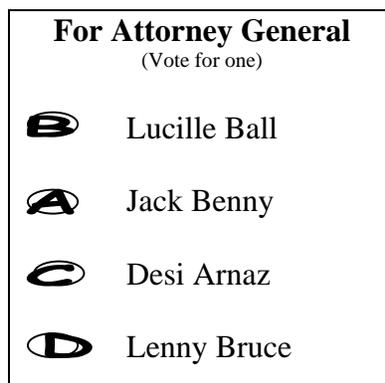
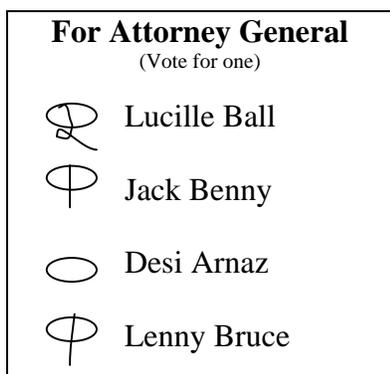
8. Any ballot that has a mark in the target area or candidate or issue areas for one (1) candidate or issue and on which other marks in the target area or candidate or issue areas for any other candidates or issues have been partially erased, scratched out, or otherwise removed, shall be counted as a vote for the candidate or issue for which the mark was not erased, scratched out, or otherwise removed.

Votes to be counted:



9. Any ballot in which writings or remarks appear to be ranking the candidates (letters, numbers) shall be counted as a vote for the top ranked candidate.

Vote to be counted for Jack Benny in all cases:



10. Any ballot with positive or negative writings or remarks regarding one (1) or more candidates or issues, shall not be counted as a vote for that contest, unless clarified by an additional mark or marks that indicate support for a single candidate.

Votes NOT counted:

For Attorney General
(Vote for one)

Lucille Ball **GO GIRL**

Jack Benny

Desi Arnaz

Lenny Bruce

For Attorney General
(Vote for one)

Lucille Ball

Jack Benny **NEVER**

Desi Arnaz

Lenny Bruce

Votes to be counted:

For Attorney General
(Vote for one)

Lucille Ball

Jack Benny **NEVER**

Desi Arnaz **MY GUY**

Lenny Bruce

Vote counted for Lucille Ball

For Attorney General
(Vote for one)

Lucille Ball **GO GIRL**

Jack Benny

Desi Arnaz **MY GUY**

Lenny Bruce

Vote counted for Desi Arnaz

11. Any ballot on which the voter casts a vote on the ballot and writes in a different, qualified candidate in the write-in area shall be considered an over-vote for that contest and neither vote shall be counted.

Vote NOT counted:

For Attorney General (Vote for one)	
<input type="radio"/>	Lucille Ball
<input type="radio"/>	Jack Benny
<input checked="" type="radio"/>	Desi Arnaz
<input checked="" type="radio"/>	<i>Lenny Bruce</i>

12. No write-in vote may be counted unless the name of the write-in candidates shall have been hand-written on the ballot .¹¹
13. Any abbreviation, misspelling, or other minor variation in the form of the name of a candidate must be disregarded in determining the validity of the ballot if it can reasonably be determined that the write-in vote is for a write-in candidate who has qualified for that office.¹²
14. If a voter leaves a paper ballot at a voting booth or anywhere else in the polling site without inserting it into the ballot box before departing the polling site, the election officer shall write “Abandoned” on the ballot and place it in an Abandoned Ballot envelope with a notation on the outside of the envelope of the circumstances surrounding the abandoned ballot. The election commission shall not count the ballot.¹³
15. If a voter leaves the polling site after feeding a paper ballot into an electronic vote tabulating device, and the ballot is rejected by the device but is in the receiving part of the counter, two (2) election officers shall complete the process of casting the ballot unless the voter told an election officer to cancel or replace the ballot prior to leaving the polling site. The election officers shall document the time they completed casting the ballot, the name of the voter, the names of the election officers completing the process and all other circumstances surrounding the abandoned ballot.¹⁴

¹¹ A.C.A. § 7-5-315(2)/Act 1020 of 2007

¹² A.C.A. § 7-5-205(a)(2)

¹³ A.C.A. § 7-5-309(g)/Acts 224 and 834 of 2007

¹⁴ A.C.A. § 7-5-309(h)/Acts 224 and 834 of 2007

§ 302 Direct Recording Electronic Voting Machine

Voting machines are programmed to prevent a voter from voting for more than the maximum allowable number of candidates in any one (1) contest preventing the voter from over-voting any contest on the ballot. The voter is also alerted of any under-voted contest.

If a voter fails to complete the process of casting an electronic ballot on a voting machine and departs the polling site without notifying an election officer of his or her desire to cancel the ballot prior to departing, two (2) election officers shall take action to complete the process of casting the ballot. The election officers must document the time, the name of the voter, if known, the names of the election officers completing the process of casting the ballot, and all other circumstances surrounding the abandoned ballot.¹⁵

¹⁵ A.C.A. § 7-5-522(d)/Act 835 of 2007
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