

Agency # 108.00

# **RULES FOR VOTER INTENT**

(Effective April 14, 2002; Revised September 25, 2009)



**State Board of Election Commissioners  
501 Woodlane, Suite 401N  
Little Rock, AR 72201  
(501) 682-1834 or (800) 411-6996  
[www.arkansas.gov/sbec](http://www.arkansas.gov/sbec)**

# **TABLE OF CONTENTS**

Scope of Rules.....	3
§ 300 Definitions.....	3-4
§ 301 Paper Ballots.....	5-10
§ 302 Direct Recording Electronic Voting Machine.....	11

## 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.<sup>1</sup>
- (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.<sup>2</sup> Paper ballots counted by hand shall be marked using permanent ink.<sup>3</sup> 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.<sup>4</sup>
- (e) Over-vote – A ballot containing marks for more than the maximum allowable number of candidates in any one (1) contest<sup>5</sup> or containing marks both “FOR” and “AGAINST” a single issue.
- (f) Paper ballot – a paper vote sheet that is either counted by hand or by use of an electronic vote tabulating device. The heading of each paper ballot must read: “OFFICIAL BALLOT (description) ELECTION (date), (year). Vote by placing an appropriate mark opposite the person for whom you wish to vote”.<sup>6</sup> If the paper ballot contains an initiated or referred amendment, act, or measure, the heading must also include the language: “Vote on amendments, acts, and measures by placing an appropriate mark below the amendment (or act or measure) either “FOR” or “AGAINST”.<sup>7</sup> Every paper ballot must contain printed instructions under the heading 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.<sup>8</sup> 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

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<sup>1</sup> A.C.A. § 7-1-101(11), as amended by Acts 659, 959, and 1480 of 2009

<sup>2</sup> A.C.A. § 7-1-101(16), as amended by Acts 659, 959, and 1480 of 2009

<sup>3</sup> A.C.A. § 7-5-602(c), as amended by Act 1480 of 2009

<sup>4</sup> A.C.A. § 7-5-211(a)(2)(H)

<sup>5</sup> A.C.A. § 7-5-603(2)(B), as amended by Act 1480 of 2009

<sup>6</sup> A.C.A. § 7-5-208(b)(1), as amended by Act 1480 of 2009

<sup>7</sup> A.C.A. § 7-5-601(d)(2), as amended by Act 1480 of 2009

<sup>8</sup> A.C.A. § 7-5-601(e), as amended by Act 1480 of 2009

marking a vote for each act, amendment, or measure adjacent to and on the same line of each word.<sup>9</sup>

- (g) Properly marked – A paper ballot appropriately marked in the appropriate places for marking a vote that contains no marks for more than the maximum allowable number of candidates in any one (1) contest or marks both “FOR” and “AGAINST” any single issue.
- (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.<sup>10</sup>

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<sup>9</sup> A.C.A. § 7-5-208(d), as amended by Act 1480 of 2009

<sup>10</sup> A.C.A. § 7-1-101(33), as amended by Acts 659, 959, and 1480 of 2009

## § 301 Paper Ballots

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

- when paper 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 paper 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 paper ballot, or
- when counting paper ballots manually 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 paper 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:**

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

2. Any paper 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 paper 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.<sup>11</sup>

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

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

**For Attorney General**  
(Vote for one)

Lucille Ball

~~Jack Benny~~

~~Desi Arnaz~~

~~Lenny Bruce~~

Vote counted for Lucille Ball

<sup>11</sup> A.C.A. § 7-5-603(2)(B), as amended by Act 1480 of 2009

5. Any paper 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 paper ballot that has any mark in the target area or candidate or issue area for only one (1) candidate or issue, 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

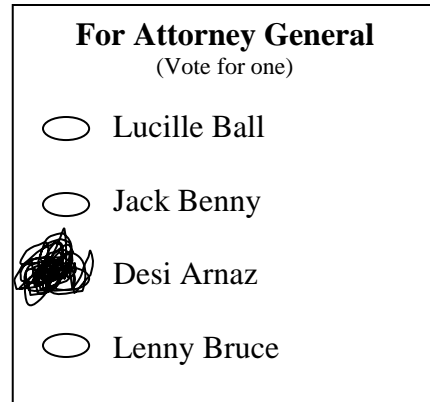
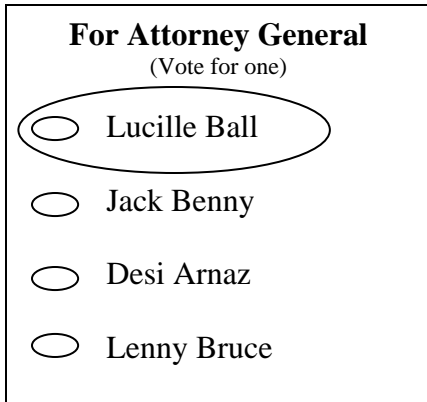
Jack Benny

Desi Arnaz

Lenny Bruce

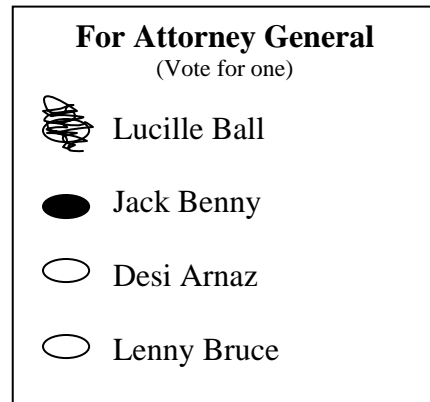
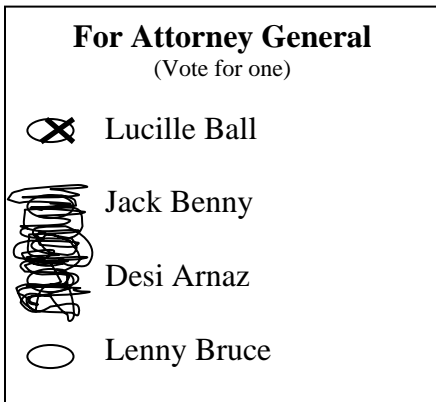
7. Any paper ballot that has a mark in the target area or candidate or issue area for one (1) candidate or issue, which partially extends into one (1) or more other target areas or candidate or issue areas shall be counted as a vote for the candidate or issue so marked only if it is readily apparent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

**Votes to be counted:**



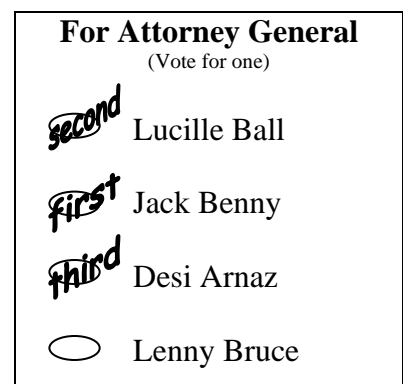
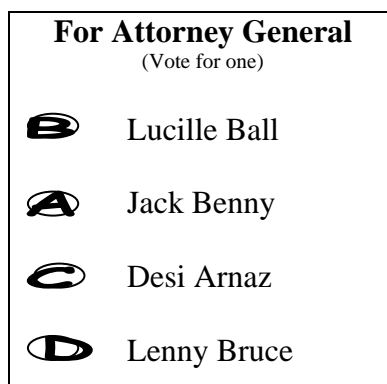
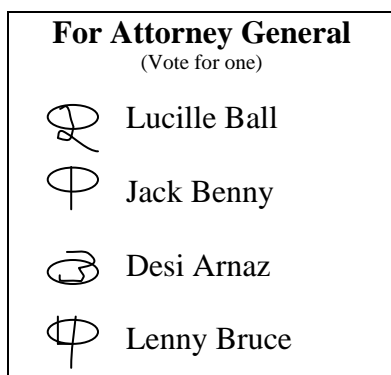
8. Any paper ballot that has a mark in the target area or candidate or issue areas for one (1) candidate or issue and on which other marks in the target area or candidate or issue areas for any other candidates or issues have been partially erased, scratched out, or otherwise removed, shall be counted 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 paper 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 paper 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)

**GO GIRL** Lucille Ball

Jack Benny

Desi Arnaz

Lenny Bruce

**For Attorney General**  
(Vote for one)

Lucille Ball

**NEVER** Jack Benny

Desi Arnaz

Lenny Bruce

**Votes to be counted:**

**For Attorney General**  
(Vote for one)

Lucille Ball

**NEVER** Jack Benny

**MY GUY** Desi Arnaz

Lenny Bruce

Vote counted for Lucille Ball

**For Attorney General**  
(Vote for one)

**GO GIRL** Lucille Ball

Jack Benny

**MY GUY** Desi Arnaz

Lenny Bruce

Vote counted for Desi Arnaz

11. Any paper 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. A write-in vote is not counted unless the name of the write-in candidates shall have been hand-written on the paper ballot.<sup>12</sup>
13. Any abbreviation, misspelling, or other minor variation in the hand-written form of the name of a qualified write-in candidate must be disregarded if the intention of the voter can be reasonably determined.<sup>13</sup>
14. If a paper ballot is left at a voting booth or anywhere else in the polling site without being inserted by the voter into the ballot box before departing the polling site, a poll worker shall write “Abandoned” on the ballot and place it into an “Abandoned Ballot” envelope with a notation on the outside of the envelope of the circumstances surrounding the abandoned ballot. The ballot shall not be counted.<sup>14</sup>
15. If a paper ballot that is fed by a voter into an electronic vote tabulating device is rejected by the device but is in the receiving part of the counter, and the voter has departed the polling site without instructing a poll worker to cancel or replace the ballot, then two (2) poll workers shall override warnings and complete the process of casting the ballot. The poll workers shall document the time they completed the process of casting the ballot, the name of the voter, the names of the poll workers completing the process, and all other circumstances surrounding the abandoned ballot.<sup>15</sup>

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<sup>12</sup> A.C.A. § 7-5-205(4), as amended by Act 1480 of 2009

<sup>13</sup> A.C.A. § 7-5-205(4), as amended by Act 1480 of 2009

<sup>14</sup> A.C.A. § 7-5-309(g), as amended by Act 959 of 2009

<sup>15</sup> A.C.A. § 7-5-309(h), as amended by Act 959 of 2009

## **§ 302 Direct Recording Electronic Voting Machine**

Voting machines are constructed to notify a voter when more than the maximum allowable number of selections in any one (1) contest are made, thus preventing the voter from over-voting any contest on the ballot. Voting machines can be programmed to alert the voter of any under-voted contest.<sup>16</sup>

If a voter fails to complete the process of casting an electronic ballot on a voting machine and departs the polling site without notifying a poll worker of his or her desire to cancel the ballot prior to departing, two (2) poll workers shall take action to complete the process of casting the ballot. The poll workers must document the time, the name of the voter, if known, the names of the poll workers completing the process of casting the ballot, and all other circumstances surrounding the abandoned ballot.<sup>17</sup>

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<sup>16</sup> A.C.A. § 7-5-504(9)

<sup>17</sup> A.C.A. § 7-5-522(d), as amended by Act 959 of 2009