



OFFICE OF THE SECRETARY OF STATE

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September 1, 1982

The Honorable L. E. Eguia, Judge  
Justice Court, Pct. 3  
Fort Bend County  
610 F.M. 1092, Suite 107  
Stafford, Texas 77477

Election Law Opinion DAD-56  
Re: Whether variations in the  
manner of writing in a  
candidate's name or a  
misspelling of either a  
given name or surname  
determine whether a  
write-in vote is counted.

Dear Judge Eguia:

This opinion is rendered in response to your inquiry of August 6, 1982.

This official election law opinion is rendered by me as chief election officer of the state in accordance with V.A.T.S. Election Code, art. 1.03, subd. 1.

The inquiries presented in your letter can be summarized as follows: when a write-in vote for a candidate whose name appears on the list of qualified write-in candidates is not written in exactly as it appears on the list, may the vote be counted?

The answer to this question is governed by V.A.T.S. Election Code, art. 6.06, which provides that a ballot is not invalidated by virtue of the fact that it is not marked in strict conformity with the requirements of the Election Code. This statute requires that a vote be counted if ". . . the intention of the voter is clearly ascertainable, except where the law expressly prohibits the counting of the ballot." Id.

There are no provisions in the Election Code expressly prohibiting the counting of a vote cast for a qualified write-in candidate because the voter misspells or writes in a variation of the candidate's name. Therefore, a write-in vote must be counted if the voter's intent can be determined. Variations in the manner of writing the candidate's given name or initials, or a misspelling of either a given name or surname, does not invalidate the ballot where it is evident that the voter intended to vote for a particular candidate. However, if the variation is so great that any reasonable doubt of identity might arise, the vote should not be counted.

SUMMARY

It is not necessary that a write-in vote be written in on the ballot exactly as it appears on the list of qualified write-in candidates.

A vote for a write-in candidate must be counted if it is clear that the voter intended to vote for that candidate.

Sincerely,



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Secretary of State

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