



# Write-In Voting



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Traditionally, most voters select between the candidates, whose names are pre-printed on a ballot for election to a given political office. Sometimes candidates are put forth by parties through nominating conventions or primaries, and sometimes these individuals run in nonpartisan races, qualifying for the ballot through other means. However, despite this more traditional approach to voting, many voters will write in the name of a candidate for whom they wish to cast a vote. These votes are commonly called write-in votes, though are also known as “sticker votes” or “personal choice votes” in certain jurisdictions. Votes may be a “protest vote,” such as Mickey Mouse or a voter’s own name.

States and jurisdictions have taken numerous approaches on how write-in votes are handled. Considerations for jurisdictions relate to whether candidates need to register ahead of time to qualify as a valid write-in, as well as questions about how election officials should count these votes: should they require an exact name match, and how should votes be tallied?

## Running as a Write-in Candidate

Several states bar write-in voting. For example, in Nevada, “voting must be only upon candidates whose names appear upon the ballot prepared by the election offices, and no person may write in the name of an additional candidate for any office.”<sup>1</sup> Similarly, in Oklahoma, “If the name of any person is written on a ballot, the name shall not be counted.”<sup>2</sup> Other states that bar write-in voting include Louisiana and South Dakota. Mississippi only permits write-in candidates if the candidate from a given party for a specific office dies, resigns, or withdraws.<sup>3</sup>

Approximately twelve states that permit write-in candidates have no registration requirement to be an official candidate. Nonetheless, some states have additional requirements beyond registration for write-in candidates to qualify for a general election ballot or to be elected. For example, in Iowa, though a write-in candidate does not need to register, to win a primary, the candidate must “receive at least thirty-five percent of the total vote cast for all of that party’s candidates for that office in the last preceding primary election for which the party had candidates on the ballot for that office.”<sup>4</sup> New Jersey has a similar “minimum vote” threshold for a write-in candidate to win elected office.<sup>5</sup>



### Think write in votes are unlikely to matter in deciding the outcome of an election?

In Alaska, Senator Lisa Murkowski won the U.S. Senate Race of 2010 after losing her primary by mounting a write in campaign that was ultimately successful.

*Senator Lisa Murkowski wins Alaska write in campaign, Rosen, Yereth, available at <https://www.reuters.com/article/us-usa-elections-murkowski/idUSTRE6AG51C20101118> (last accessed August 18, 2023)*

<sup>1</sup> Nev. Rev. Stat. Sec. 293.270.

<sup>2</sup> Okla. Stat. tit. 26, Sec. 7-127.

<sup>3</sup> Miss. Code Sec. 23-15-365.

<sup>4</sup> Iowa Code Sec. 43.66.

<sup>5</sup> N.J. Stat. Sec. 19:14-2.1.



Most states that permit write-in candidates require them to register before the election to receive official vote tallies. Alaska requires candidates to file a “letter of intent” with information related to the candidates’ residency, and assertions of qualifications.<sup>6</sup> Similarly, in Kentucky, candidates must file a “declaration of intent” with the Secretary of State or county clerk by a specified date in October.<sup>7</sup> In total, 31 states that permit write-in candidates have some filing requirement. Virginia, unique in the nation, permits write-in candidates for all offices, but requires registration only for those running for president and vice president.<sup>8</sup>



### Case Study: Ferrysburg, Michigan 2023

Due to errors in candidate petition filings, Ferrysburg, Michigan’s Election Commission voted in 2023 to conduct an all write in election for mayor and city council members. Candidates still had to register as write ins, but it allowed all interested candidates to legally run in the election, despite unintentional errors.

*Election commission votes to leave Ferrysburg ballots blank in upcoming election, Cho, Micah, available at [https://www.wzzm13.com/article/news/local/ferrysburg ballots to be blank in](https://www.wzzm13.com/article/news/local/ferrysburg%20ballots%20to%20be%20blank%20in)*

To register as a qualified write in candidate, the registration processes may be different than typical candidate filing requirements. For example, in Michigan, candidates may file up until the Friday before the election.<sup>9</sup> In Florida, write-in candidates do not need to pay filing fees.<sup>10</sup>

## Casting a Write-In Vote

States take differing approaches as to whether they explicitly create ballots with write-in voting in mind. Alabama, for example, allows a voter to “write in the column under the title of the office the name of any person whose name is not printed upon the ballot for whom the elector may desire to vote,” though

### How To Cast A Write-In Vote

1. On your ballot, find the office for which the candidate is running
2. Print or write the candidate's name on the Write-in line for that office
3. Fill in the oval next to the candidate's name

*Example of instructions on casting a Write-In Vote from LaSalle County, Illinois<sup>13</sup>*

such candidates are barred in municipal races.<sup>11</sup> In New Jersey, election officials may either provide a “separate write-in ballot” or provide a space on the general ballot for write-in candidates.<sup>12</sup>

Regardless of how the ballot is created,

<sup>6</sup> Alaska Stat. Sec. 15.25.105.

<sup>7</sup> Ky. Rev. Stat. Sec. 117.265(2).

<sup>8</sup> Va. Code 24.2-644.

<sup>9</sup> Mich. Comp. Laws Sec. 168.737a(1).

<sup>10</sup> Fla. Stat. § 99.061(4)(b).

<sup>11</sup> Ala. Code Sec. 17-6-27.

<sup>12</sup> N.J. Stat. Sec. 19:53A-5(e).



there is nonetheless a question about whether voters must write in the candidate’s name, or whether another means of casting their ballot is permissible. For example, Idaho and Indiana bar the use of stickers with the candidate’s name, Massachusetts permits stickers, and New York permits stamps, but not stickers.<sup>13</sup>

**Case Study: New Hampshire 2022**

In 2022, in response to an anticipated increase in write in votes, some New Hampshire towns added extra staff to help count on election night to avoid delays in the official results of the election.

*Increase in write in votes may delay New Hampshire election results, Sexton, Adam, available at <https://www.wmur.com/article/write-in-votes-new-hampshire-election-102722/41794574#> (last accessed August 18, 2023)*

Voters that use accessible voting equipment such as ballot marking devices (BMDs) or direct electronic recorders (DREs) for voting cast write-in votes in a similar manner to hand marked ballots. If available for the contest, voters select write-in on the screen and are presented with an electronic keyboard that voters can

use to type in their response. Voters may use assistive technology if necessary to navigate the electronic keyboard. Voters are able to verify their selection after recording their response.

### Counting Write-In Votes

There is a broad range of practices regarding the processing of ballots that include write-in votes. Alabama will not count write-in ballots, unless the total number of votes cast for a write-in candidate are greater than or equal to the difference in votes between the top two candidates in that race or if a voter provides a bond or certified check covering the costs of the count.<sup>14</sup> Colorado will only count write-in votes for President and Governor if the write-in vote also includes a name for Vice President and Lieutenant Governor, respectively.<sup>15</sup>

Determining a voter’s intent is also key to counting write-in ballots. North Carolina judges whether the “voter’s choice can be clearly determined” in ascertaining how to count a write-in vote.<sup>17</sup> In contrast, Montana case law has disallowed write-in votes for a candidate where the misspelling by a voter was

Example of a tally sheet for counting Write-In votes from Menomonee Falls, WI <sup>16</sup>

<sup>13</sup> Idaho Code Sec. 34-702A(2); Ind. Code Sec. 3-12-1-1.7(a)(3); Mass. Gen. Laws ch. 54, Sec 105A; N.Y. Elec. Law Sec. 8-308(5).

<sup>14</sup> Ala. Code Sec. 17-6-28.

<sup>15</sup> Colo. Rev. Stat. Sec. 1-4-1103.

<sup>16</sup> See: [www.menomonee-falls.org/DocumentCenter/View/12683/Counting-write-ins](http://www.menomonee-falls.org/DocumentCenter/View/12683/Counting-write-ins), accessed 4 August 2023

<sup>17</sup> N.C. Gen. Stat. Sec. 163-182.1.

not one of the variations submitted by the candidate in their declaration of intent.<sup>18</sup> Nebraska will not count a write-in vote that is only a candidate's last name if anyone else in the county has the same last name unless the last name is reasonably close to the proper spelling of the last name of a candidate engaged in or pursuing a write-in campaign.<sup>19</sup>

If a voter writes in a name for a candidate whose name already appears on the ballot, their ballot will count in New Hampshire, but not in New York or Pennsylvania.<sup>20</sup> Alabama will not count a write-in vote if the voter both writes a name on the ballot in the appropriate space and casts a vote for a candidate otherwise listed on the ballot, instead opting to count the printed name.<sup>21</sup> In California, the voter must fill in the bubble next to the "write-in" space for any text written to be counted as a valid write-in vote, whereas Minnesota does not require the bubble to be filled in.<sup>22</sup>

In Indiana, "[w]rite-in votes for each write-in candidate shall be counted separately using the tally sheets provided by the county election board."<sup>23</sup> Utah also provides that an election official must "separate, count, and tabulate any ballots containing valid write-in votes."<sup>24</sup> In Maine, write-in candidates who receive at least 5% of the votes for that office are reported by name, and all other write-in votes are reported as "others."<sup>25</sup>



### Case Study: Massachusetts 2018

In Massachusetts, a space for write in candidates is not printed on ballots in towns that hand count, according to state law. To address concerns that voters may be disenfranchised when voting for write in candidates, the Secretary of the Commonwealth printed materials explaining to voters how to properly cast their vote in the 2018 primary ballot.

*Ballots in towns that hand count votes lack write in spaces, Dunau, Bera, available [https://www.recorder.com/Ballot confusion in Senate race revolves around write in process 19546767](https://www.recorder.com/Ballot%20confusion%20in%20Senate%20race%20revolves%20around%20write%20in%20process%2019546767) (last accessed August 18, 2023)*

Whether a write-in candidate needs a specific number of votes in order to actually be elected varies nationwide. Arizona and North Dakota require a write-in candidate in a nonpartisan election to receive, at minimum, the number of votes equivalent to the number of signatures needed to qualify via a nominating petition.<sup>26</sup> New Mexico requires a candidate to receive the number of votes equal to "two percent of the total vote in the state, district or county in which the candidate seeks election that were cast for governor in the last preceding general election in which a governor was elected."<sup>27</sup>

New Hampshire provides its election officials with specific rules related to the treatment of ballot images that include write-in candidates, stating that these ballots are non-public records.<sup>28</sup>

<sup>18</sup> Mont. Code Secs. 13-10-211, 13-15-202(7); Paulsen v. Huestis, 13 P.3d 931, 302 Mont. 157 (2000).

<sup>19</sup> Neb. Rev. Stat. Sec. 32-1007.

<sup>20</sup> N.H. Rev. Stat. 659:64-a(II), N.Y. Elec. Law Sec. 8-308(2), 25 Pa. Stat. Sec. 3031.12(3).

<sup>21</sup> Ala. Code Sec. 17-6-28(b).

<sup>22</sup> Cal. Elec. Code Sec. 15342(a); Minn. Stat. Sec. 204C.22(4).

<sup>23</sup> Ind. Code Sec. 3-12-1-1.7(5).

<sup>24</sup> Utah Code Sec. 20A-4-104(7)(a)(i).

<sup>25</sup> 21-A Me. Rev. Stat. Sec 722(1-A).

<sup>26</sup> Ariz. Rev. Stat. Sec. 16-645(C); N.D. Cent. Code Sec. 16.1-15-42.

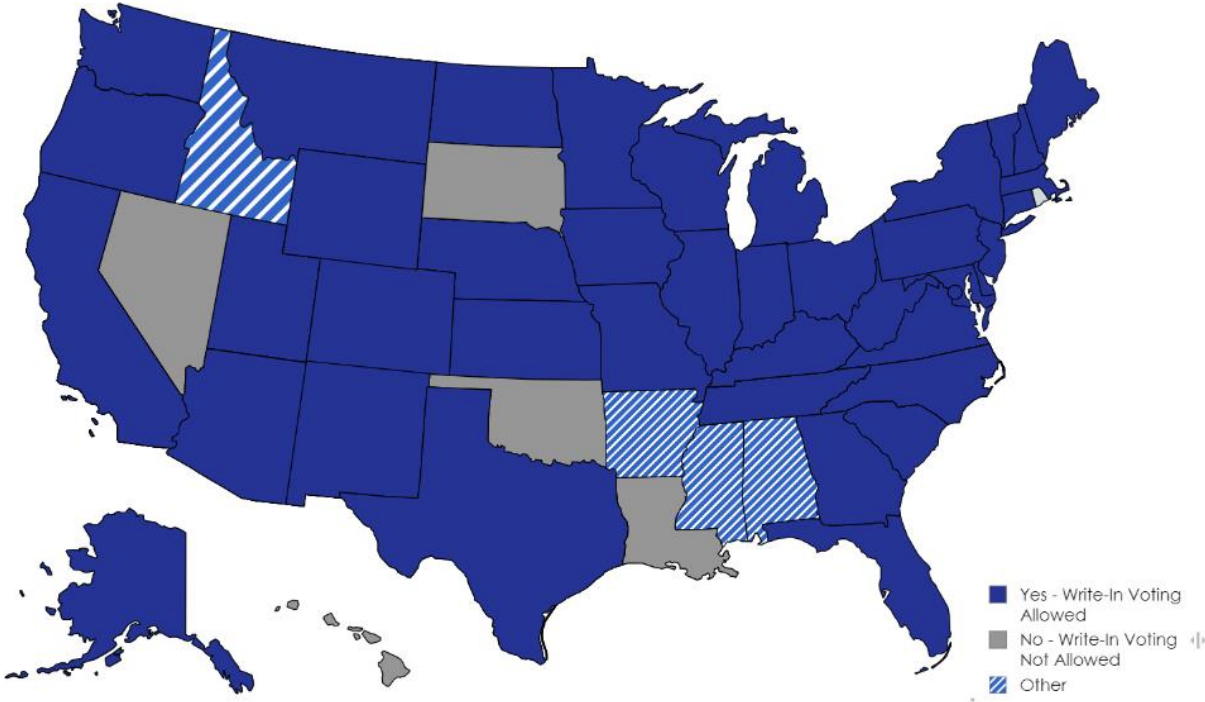
<sup>27</sup> N.M. Stat. Sec. 1-13-24(A).

<sup>28</sup> N.H. Rev. Stat. Sec. 659:64-a(VI).



Below is a map illustrating the variety of approaches to write-in voting in the fifty states, immediately followed by an appendix of state laws regarding write-in voting.

### Write-In Voting by State



Appendix – State Laws Regarding Write-In Voting<sup>29</sup>

State	Is Write In Voting Allowed?	Citation	Do Write In Candidates Need to Register?
Alabama	Yes (unless municipal election)	Ala. Code § 17-6-27	No
Alaska	Yes	Alaska Stat. § 15.25.105	Yes
Arizona	Yes	Ariz. Rev. Stat. § 16-312	Yes
Arkansas	Yes (unless municipal election)	Ark. Code § 7-5-610	No
California	Yes	Cal. Elec. Code § 15340; § 8600	Yes
Colorado	Yes	Colo. Rev. Stat. § 1-13.5-1108; § 1-13.5-305	Yes
Connecticut	Yes	Conn. Gen. Stat. § 9-265; § 9-175; § 9-373a	Yes
Delaware	Yes	Del. Code Title 15 § 3401; §3402	Yes
Florida	Yes	Fla. Stat. § 99.061	Yes
Georgia	Yes	Ga. Code § 21-2-133	Yes
Hawaii	No	Haw. Rev. Stat. § 12-1; § 12-2	N/A
Idaho	Yes (unless judicial office)	Idaho Code § 34-1407; § 34-702A	Yes
Illinois	Yes	Ill. Comp. Stat. § 17-16.1	Yes
Indiana	Yes	Ind. Code § 3-5-2-54	Yes
Iowa	Yes	Iowa Code § 49.99	No
Kansas	Yes	Kan. Stat. § 25-2903	No
Kentucky	Yes	Ky. Rev. Stat. § 117.265	Yes
Louisiana	No	N/A	N/A
Maine	Yes	Me. Rev. Stat. tit 21-A, § 338, § 722-A	Yes
Maryland	Yes	Md. Code. Elec. Law § 5-704, § 10-313	Yes
Massachusetts	Yes	Mass. Gen. Laws ch. 53, § 3, 34, 35A, 35B, 40; ch. 54 § 33E, 42, 65, 77, 116A	Yes
Michigan	Yes	Mich. Comp. Laws § 168.737a	Yes
Minnesota	Yes	Minn. R. 8230.1350	Yes
Mississippi	Yes (if prior candidate died, resigned, withdrew, or was removed)	Miss. Code § 23-15-365	No
Missouri	Yes	Mo. Rev. Stat. § 115.453.	Yes
Montana	Yes	Mont. Code § 13-10-211	Yes
Nebraska	Yes	Neb. Rev. Stat. § 32-615	Yes
Nevada	No	Nev. Rev. Stat. § 293.270	N/A

<sup>29</sup> Data included in this chart is not intended to be exhaustive and is derived from a research partnership between the U.S. EAC and the National Conference of State Legislatures. This chart is not intended to provide legal advice. For the most complete and up-to-date information, please consult with state officials. If any information is inaccurate in this document, please email [clearinghouse@eac.gov](mailto:clearinghouse@eac.gov).

State	Is Write-In Voting Allowed?	Citation	Do Write-In Candidates Need to Register?
New Hampshire	Yes	N.H. Rev. Stat. § 659:17	No
New Jersey	Yes	N.J. Stat. § 19:53A-5	No
New Mexico	Yes	N.M. Stat. § 1-8-36.1; 1-8-66	Yes
New York	Yes	N.Y. Elec. Law § 8-308	Yes
North Carolina	Yes	N.C. Gen. Stat. § 163-123	Yes
North Dakota	Yes	N.D. Cent. Code § 16.1-12-02.2	Yes
Ohio	Yes	Ohio Rev. Code § 3513.041	Yes
Oklahoma	No	Okla. Stat. tit. 26, § 7-127	N/A
Oregon	Yes	Or. Rev. Stat. § 254.548	No
Pennsylvania	Yes	25 Pa. Cons. Stat. § 3155	No
Rhode Island	Yes	R.I. Gen. Laws § 17-19-31	No
South Carolina	Yes	S.C. Code § 7-113-360	No
South Dakota	No	S.D. Codified Laws § 12-20-21.2	N/A
Tennessee	Yes	Tenn. Code § 2-5-219; § 2-7-133	Yes
Texas	Yes	Tex. Elec. Code § 146.001, § 146.023	Yes
Utah	Yes	Utah Code § 20A-9-601	Yes
Vermont	Yes	Vt. Stat. tit 17, § 2682a	No
Virginia	Yes	Va. Code § 24.2-644	Yes (for president or vice president)
Washington	Yes	Wash. Rev. Code § 29A.24.311	Yes
West Virginia	Yes	W. Va. Code § 3-6-4a	Yes
Wisconsin	Yes	Wis. Stat. § 7.50(2)(d)	Yes
Wyoming	Yes	Wyo. Stat. § 22-5-215	No

