



NEW HAMPSHIRE SECRETARY OF STATE
David M. Scanlan

January 17, 2024

Michael Bean
112 Grove Rd
Rye, NH 03870
Via e-mail: beanmi@gmail.com

Mr. Bean,

The Secretary of State's Office has received your letter of January 16, 2024.

The AccuVote ballot counting device is programmed to return to the voter (reject) any ballot that the device reads as an overvote. In the event that an absentee ballot with a vote marked on it has a fold through an oval that is read by the device as a vote for a different candidate, resulting in an apparent overvote, the device is programmed not to count that ballot. The ballot is returned, in this case to the election official inserting the absentee ballot in the device. The official is trained to place the ballot in the side pocket of the ballot counting device base to be hand counted. Therefore an absentee ballot in that circumstance will be hand counted under current statute and previously issued guidance.

The Secretary of State's office has previously sent out guidance advising towns to test 50 ballots for each party in the pre-presidential primary ballot counting device testing.

We believe that it is possible to fold an election day ballot without putting the fold through an oval. It requires precision and benefits from use of a ruler or straight edge. The guidance issued also suggests the alternative of using absentee ballots with score marks made by the ballot printer where the folds should be made. Using absentee ballots with score marks may be easier than folding unscored election day ballots.

We see no basis to direct the hand counting of absentee ballots in towns using a ballot counting device where the Clerk conducted a test and the moderator participated or has reviewed the required records and the test was successful, the device accurately counted the test ballots.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Orville B. Fitch II".

Orville B. Fitch II
General Counsel,
Assistant Secretary of State
Secretary of State's Office