

OFFICE OF THE
SECRETARY OF STATE



JOHN W. FAINTER, JR.
SECRETARY OF STATE

April 6, 1983

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Mr. W. M. Haynie
President, Board of Trustees
Hardin Independent School District
P. O. Box 330
Hardin, Texas 77561

Election Law Opinion JWF-5
Re: Whether a write-in
candidate in an independ-
ent school district
trustee election must
file a declaration of
write-in candidacy prior
to the election.

Dear Mr. Haynie:

You have asked whether in a trustee election in an independ-
ent school district, a write-in candidate must file a
declaration of write-in candidacy.

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.

V.A.T.S. Election Code, article 6.06, reads as follows:

In all elections, general, special, or
primary, . . . [i]f the name of the person
for whom the voter wishes to vote is not
printed on the ballot, the voter shall write
in the name of the candidate for whom he
wishes to vote, in the write-in column under

the appropriate office title in elections where party columns appear on the ballot, and in an appropriate space under the title of the office in other elections; provided, however, that a voter shall not be entitled to vote for any candidate whose name is not printed on the ballot in any runoff election for nominating candidates or electing officers

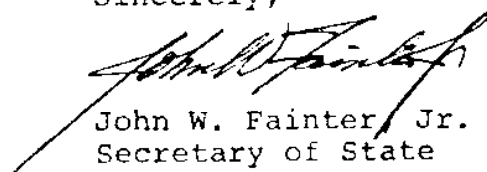
There are only two statutory limitations upon this rule. First, V.A.T.S. Election Code, article 13.09(b) states that "[w]rite-in votes shall not be permitted in primary elections for any office other than the party offices of county chairman and precinct chairman" The second restriction is found in V.A.T.S. Election Code, article 6.06b, which provides that in the general election for state and county officers, no write-in vote may be counted for a person unless the person files a declaration of write-in candidacy on or before the last working day preceding the beginning of the period for absentee voting. This declaration procedure is specifically applicable only to the general election for state and county officers. Id. at subd. 1.

Therefore, a write-in candidate in an independent school district trustee election is not required to file a declaration of write-in candidacy prior to the election, and votes cast for any write-in candidate for the office of school trustee must be counted. We note in passing that H.B. 943, currently being considered by the legislature, would change the law to require write-in candidates in a school trustee election to declare their candidacy in the same manner provided for write-in candidates in the general election for state and county officers.

SUMMARY

A write-in candidate in an independent school district trustee election need not file a declaration of write-in candidacy, and votes cast for any write-in candidate for the office of school trustee must be counted.

Sincerely,


John W. Fainter, Jr.
Secretary of State

Mr. W. M. Haynie
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Ward Allen White
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Prepared by Sharon Talley
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