



DEBRA BOWEN | SECRETARY OF STATE
STATE OF CALIFORNIA | ELECTIONS

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March 17, 2011

County Clerk/Registrar of Voters (CC/ROV) Memorandum # 11019

TO: All County Clerks/Registrars of Voters

FROM:


Jana M. Lean
Chief, Elections Division

RE: Special Elections: General Election Ballot

As you are aware, many aspects of the new Top Two Candidates Open Primary Act are unclear or do not operate in complete harmony with one another or with previously enacted sections of the California Elections Code (EC). This office provided some guidance on January 26, 2011, in CC/ROV #11005, and it has come to our attention that additional guidance is needed to assist with the first special general election to fill a vacancy under the Top Two Candidates Open Primary Act to be held on May 3, 2011, to fill the vacancy in Assembly District 4.

EC section 13212 provides: "Under the designation of each office shall be printed as many blank spaces, defined by light lines or rules at least three-eighths of an inch apart but no more than one-half inch apart, as there are candidates to be nominated or elected to the office."

EC section 13207(a), which was amended by the statutory measure adopted by the Legislature to implement the Top Two Candidates Open Primary Act provides, in part: "(a) There shall be printed on the ballot in parallel columns all of the following:

- (1) The respective offices.
- (2) The names of candidates with sufficient blank spaces to allow the voters to write in names not printed on the ballot..."

EC section 8606, which also was amended by the statutory measure adopted by the Legislature to implement the Top Two Candidates Open Primary Act, states that "A person whose name has been written on the ballot as a write-in candidate at the general election for a voter-nominated office shall not be counted."

Given these sections, we advise that consistent with EC sections 13207(a) and 13212, ballots must contain a blank space below the names of the qualified candidates. However, consistent with EC section 8606, any name that is written on the ballot as a write-in candidate at the general election for a voter-nominated office shall not be counted.

If you have any questions, please feel free to contact our office at (916) 657-2166.