



# Municipality of Anchorage

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## Office of the Municipal Clerk

TO: Tina Cole, Election Observer

FROM: Barbara A. Jones, Municipal Clerk *BAJ*

DATE: April 16, 2022

SUBJECT: Response to Observer Complaint Regarding Loussac Library Pens filed April 5, 2022

Thank you for your complaint filed on April 5, 2022, regarding the pens used at the Loussac Library Vote Center. We appreciate the concerns that you raised and appreciate the opportunity to inform people about voting and ballot design. Your complaint alleges the following:

- “The Assembly Chambers in the Loussac Library had felt tip pens (medium) in all the booths for people to use to fill in their ballots. As per voting instructions it say[s] to use blue or black ink. There is no mention of a felt tip pen.” (Cole complaint)

The MOA Elections Team has provided the following responses to your complaint:

- The instructions do specify that voters should use blue or black pen when marking the ballot.
  - Voters are instructed to use blue or black pen because blue and black in the ovals on the ballots are picked up by the scanning machines, and when tabulated, count the votes in the ovals.
  - The instruction to use blue or black pen is to dissuade voters from using red (or purple) pen because red (and purple) do not show up on the ballot scans, or from using pencil, which can smear.
    - Red intentionally does not show up on the ballot scans for the following reason: The ovals for voters to mark their vote are red. The red ovals do not show up on the ballot scans to make sure that only the voter’s marks show up on the scans.
    - There are procedures in place in the event a voter does use red pen, both in the ballot opening area, where workers review the opened ballots for marks in red and set those ballots aside for additional processing. In addition, in the adjudication area, if a ballot is “blank,” the adjudication team pulls the original ballot and although some ballots are blank, if the ballot is marked with a red pen, the votes are adjudicated as the voter designated.
    - Pencil marks on the ballot card stock occasionally smear and may be faint. If the marks on the scanned image of the ballot are unclear, appear smeared, or even erased, the adjudication team follows its procedure to pull the original ballot make sure the votes, even if they are smeared, are adjudicated as the voter indicated.
- Any type of blue or black pen are acceptable for voting a ballot. If a voter colors in the ovals using a ball point pen, a gel tip pen, or a sharpie, those votes will be appropriately counted.
- Unbeknownst to the MOA Election Team at the Election Center, another observer at the Loussac Library Vote Center spoke to the Loussac Library Vote Center Chair on Election Day after one or the other of these complaints was filed and “tested” the pen in the voting

booths at the vote center on a piece of destroyed “spoiled” ballot stock. (Please see attached pdf of the “test”.)

- The “test” of the pen in the voting booths on the ballot stock demonstrated that the pens at the Loussac Library do not smear.
- The back page of the “test” also shows that the pen in the voting booths does not “bleed” through the ballot stock and compromise votes on other races or measures. In fact, the ballots are specifically designed so that no vote on one side of the ballot card is directly opposite the vote on the other side of the ballot card.

The Municipal code has specific rules for the Anchorage Vote Centers (AVCs) regarding providing the ballot to the voter, the voter marking the ballot, and the voter returning the voted ballot. AMC 28.50.120B. The code specifies that “

When a voter has qualified to vote, the election official shall give the voter an official ballot, a secrecy sleeve, and a return envelope. The voter shall use a booth or other designated private place to mark the ballot. After the voter has marked the ballot, the voter shall place the ballot into the provided secrecy sleeve and then into a return envelope, and deliver the return envelope to the ballot box or other secure container....”

The Municipal code also specifies that when mailing ballot packages, instructions shall be included in the ballot package. AMC 2.40.020D. However, neither the code section regarding mailed ballot packages nor the section regarding vote center, specifies the type of pen for marking the ballot. The Municipality uses the State of Alaska Division of Elections voting booths and signs; if we can change the signs to clarify that any type of blue or black pen is acceptable, we will.

Thank you again for bringing this complaint to our attention and providing us the opportunity to explain the reasons for the voter instructions to use blue or black pen. This response was developed in consultation with the Deputy Clerk – Elections and the Observer Liaisons.

C: Jamie Heinz, Deputy Municipal Clerk – Elections  
Dee Ennis, Observer Liaison  
Ralph Duerre, Observer Liaison  
Observer Contacts for other campaigns



Municipality of Anchorage  
April 5, 2022 Regular Municipal Election  
Complaint Form

OBSERVER INFORMATION	<u>4-5-2022</u> Date
	<u>Tina Cole</u> Printed Name Of Observer
	<u>Kathy HENSLEE</u> Name Of Candidate Or Organization/Group Representing

COMPLAINT	SPECIFIC INFORMATION REGARDING COMPLAINT, INCLUDING ELECTION OFFICIAL NAME, IF APPLICABLE:  <u>THE ASSEMBLY CHAMBERS IN THE LOUISIANA LIBRARY HAD FELT TIP PENS (MEDIUM) IN ALL THE BOOTHS FOR PEOPLE TO USE TO FILL IN THEIR BALLOTS. AS PER VOTING INSTRUCTIONS, IT SAY TO USE BLUE OR BLACK INK. THERE IS NO MENTION OF A FELT TIP PEN.</u>
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SIGNATURES	<u>Tina Cole</u> Signature of Observer	<u>4-5-22</u> Date Submitted
	<u>Margaret A Robinson</u> Signature of Municipal Clerk or Designee	<u>4/5/22</u> Date Received