

CHAPTER 15

CONDUCTING A RECOUNT

Introduction

Election officials understand that the voting process does not end on election night. All jurisdictions must complete a canvass of votes,¹ including determining the validity of provisional ballots.² Some jurisdictions are required by law or otherwise choose to conduct an audit of the election process. In most cases, election results can be certified after completing an audit.

A recount is “a retabulation of the votes cast in an election.”³ An election official uses a recount to corroborate the certified election results. A close contest is part of an election. Especially in local contests, with lower voter turnout, it is not uncommon for a handful of votes to determine the outcome of the election. A recount provides an opportunity for an election official to ensure that all the ballots cast are counted accurately and that the correct candidate or ballot issue wins.

The Help America Vote Act (HAVA) of 2002 requires that voting systems “produce a permanent paper record with a manual audit capacity ... [which] shall be available as an official record for any recount conducted with respect to any election.”⁴ Each State, however, has specific laws for conducting recounts,⁵ but a recount generally

is initiated either automatically or by an individual or group of individuals with standing. Some States require an automatic recount when the margin of victory reflected by the canvass of votes falls within a predetermined percentage, such as 0.5 or 1 percent of the vote. A candidate or group of voters may also initiate a recount, as allowed by State law. These types of recounts usually require the initiator to pay the cost of the recount if the outcome is unchanged at the end of the process.

IMPORTANT REMINDER ★ ★ ★

Jurisdictions are reminded to implement these voluntary practices only after reviewing State and local laws and regulations. Local election officials should contact their State election officials with questions about the legality of a specific policy or procedure in their State.

Policies and Procedures

As with every aspect of election administration, an election official begins planning long before Election Day. His or her prepared elections office has comprehensive internal policies and procedures for conducting a recount so no confusion arises about the tasks to be completed in the aftermath of a close election.

Many States have well-defined recount manuals for local jurisdictions to use. For example, Minnesota has a detailed statewide process for recounts, and its statewide policies and procedures were tested following the 2008 election during an extended recount period.⁶ If starting from the beginning, an election official might include several aspects of the recount process in a recount policies and procedures manual. The election official will likely consider

¹ See Election Management Guidelines, chapter 13, “Canvassing and Certifying an Election,” available at the U.S. Election Assistance Commission (EAC) Web site at www.eac.gov.

² See Election Management Guidelines, chapter 16, “Provisional Ballots,” available at www.eac.gov.

³ U.S. Election Assistance Commission, 2005 Voluntary Voting System Guidelines, Volume 1, Version 1.0, A-16, available at the EAC Web site at www.eac.gov.

⁴ See 42 U.S.C. § 15481(a)(2).

⁵ The EAC will provide additional information about recounts in the forthcoming vote count and recount study report, which will be available at the EAC Web site at www.eac.gov.

⁶ The Minnesota 2008 Recount Manual was available on the Minnesota Secretary of State’s Web site long before the 2008 Presidential Election.

timelines, staff, training, supplies and materials, locations, and cost.

Timelines

Although no Federal requirements exist for the completion of a recount, States need to be aware of statutory deadlines regarding Presidential elections. Congress created the safe-harbor deadline for resolving all election disputes—including recounts—over Presidential votes before the meeting of the Electoral College. If the State has not resolved its recount by that point, it risks having its Electoral College votes decided by Congress.⁷

For non-Presidential contests, many States have statutory requirements about the timeframe in which to conduct a recount. It is essential that any internal office timelines fit into that window.

Each jurisdiction should already have a timeline of events for each election cycle. This comprehensive timeline includes candidacy filing deadlines, voter registration deadlines, early voting dates, absentee voting dates, and canvassing dates and certification dates. When considering the after-Election Day part of the timeline, an election official will include enough time to conduct a recount after the certification of votes. Most States have laws governing when a recount can begin and end.

tip

Develop internal office timelines as a checklist. To refine the process, update the checklist after every recount.

Staff

The method of recount will affect the type and quantity of staff an election official will need to conduct a recount. Recounts of paper ballots, for example, can sometimes be recounted by retabulating through electronic scanners. If the jurisdiction must conduct a hand recount, however, more staff will be necessary. If the jurisdiction requires some sort of determination about voter intent, the staff conducting the recount will also need some specialized training to ensure uniformity of decisions during the recount.

An elections office staff usually manages the recount, often with the help of a recount board. First, an election official determines the roles and responsibilities, as well as the availability, of the various full-time elections office staff and local government employees who help with the election process. An election official compiles contact information for local government information technology, legal staff, and vendor support because he or she may need them to provide advice during the recount. In addition, because the security of the ballots is important during the recount, an election official might contract for private security staff or with the local police or sheriff's department.

Some jurisdictions may prefer to conduct the recount with only full-time elections office staff. Many other States require bipartisan recount boards. The recounts policies and procedures manual should include a staffing plan that includes detailed job descriptions. Although jobs will not need to be assigned to specific staff members until a recount is initiated, an election official understands and identifies his or her staff's capabilities to perform the different recount functions. Although jurisdictions may use different terminology, an election official may likely need to fill jobs equivalent to many of the ones in the following list:

- ★ *Recount Coordinator* supervises the recount area.
- ★ *Ballot Sorting Coordinator* distributes all ballots and/or electronic memory cards with votes to be recounted.
 - *Poll Ballot Sorting Teams* bundle and prepare all the ballots cast on paper or electronically at polling places, including provisional ballots, for recounting.
 - *Absentee Ballot and Early Voting Sorting Teams* bundle and prepare all absentee ballots cast in person on paper or electronically and by mail.
- ★ *Recount Boards*, which usually are bipartisan, conduct the actual counting.
- ★ *Team Leaders* monitor the recount boards.
- ★ *Runners* bring ballots for recounting to the recount boards.
- ★ *Data Entry Personnel* collate the tally sheets from the recount boards and input data for final totals.
- ★ *Observer Coordinator* oversees members of the public who view the recount process.

⁷ For more information about the safe-harbor deadline and the Electoral College, visit the EAC Web site at www.eac.gov.

- ★ Security personnel enforce the jurisdiction’s established recount rules to maintain the orderly conduct of a recount.

The total number of individuals needed for conducting a recount depends on a few factors, including the number of ballots, the timeframe, the method of recount, and the budget. If an election official is hiring staff from outside the elections office, he or she might recruit a few alternates for the various positions in the event of cancellations during the recount process.

Training

A recount procedure is not always a normal part of the pre-election training process. Thus, an election official probably needs to conduct a training session for all recount board staff in the short time available between Election Day and the beginning of the recount. The training session, which will likely be different from normal poll worker training, should be comprehensive regarding the policies and procedures for conducting a recount and should also include the administrative side of the process.

An election official can start the training session by explaining the rigid requirements for recount board staff. The election official should discuss the importance of the oath of office that each staffer must take, if required by law, and then stress the importance of security procedures. For example, just as at a polling place, several items may be prohibited (by law in some jurisdictions) from a recount site to ensure the integrity of the process.

An election official should also consider making sure that recount board staff knows about the administrative aspects of their jobs, such as how to complete their timesheets and when to expect to be paid for their services. The election official makes clear to all recount board staff members when they may take breaks during the workdays. In some jurisdictions, staff members conducting a recount are not permitted to leave the room at any other time without authorization from the recount coordinator. By limiting the amount of entering and exiting of the recount room during the recount, and by having all participants take breaks at the same time, the recount coordinator can ensure that the recount room remains secure throughout the process.

Several States require some percentage of ballots to be re-tallied as part of a mandatory audit of the election. Because those States require the audits for every election and because the processes and procedures are substantially similar to conducting a recount, those States provide some training before Election Day that is applicable to conducting a recount.

Supplies and Templates

An election official should have access to certain supplies and materials in the event of a recount. Depending on the size of the recount, the election official may need to adjust quantities of supplies, but an official can count on the need for the basic ordering of supplies such as tables, chairs, storage boxes, envelopes, paper, and pens. For example, an election official may need to set up partitions in the counting room to separate some of the teams or he or she may need to provide parking permits for the recount board members and any additional staff.

An election official can also prepare templates for potential recounts long before Election Day. Because the timeframe in which to conduct a recount is relatively small, the election official can be prepared to add detail to press release templates and legal notices that may be required to be sent to the candidates.⁸ In addition, the official can ensure that the various tally sheets—by batch, by precinct, by ballot type (absentee, early voting, Election Day, provisional)—are prepared for easy printing before a recount.

Locations

Many jurisdictions can conduct a recount from within the elections office. State laws or regulations, however, may require an election official to make certain accommodations to allow for transparency of the recount process. In some States, an election official is required to record the proceedings of the recount process. As part of a comprehensive plan for transparency, an election official should be prepared to devote a section of the recount room to observers, the public, and the media.

⁸ See the New Hampshire Election Procedure Manual available at the New Hampshire Secretary of State’s office Web site at <http://www.sos.nh.gov>.

tip

Install a viewing window in the recount area so that the public has an opportunity to observe the proceedings without interfering with the recount process.

An election official and his or her recount coordinators should consider the security of the recount room and all materials throughout the recount process and have security staff on site throughout the recount process.

Cost

Cost is often a concern for an election official conducting a recount. It is difficult for the election official to estimate the exact cost of conducting a potential recount before Election Day, because he or she needs to know the scope and method of the recount before determining those costs. The following costs are some that an official might consider for all recounts:

- ★ Full-time staff salaries and benefits and overtime hours.
- ★ Part-time staff salaries.
- ★ Location rental (if the jurisdiction does not have room in the elections office).
- ★ Tables and chairs rental (if necessary).
- ★ Legal expenses.
- ★ Vendor support.
- ★ Security.
- ★ Additional printing, storage boxes, and other supplies used in the jurisdiction for the recount.

An election official should understand his or her jurisdiction's policies and procedures for requesting funds. The election official may need to submit a request to the local budget department for initial funding for the recount, pending a reimbursement from the candidates or other parties, if provided by law. In other jurisdictions, an election official must notify recount-requesters about the need to post a bond before commencing the recount. In the event of an automatic recount, the law should outline how the process will be funded.

Materials for the Public

The recount policies and procedures manual that the election official prepares is mainly for the actual administration of a recount. The candidates, media, and public, however may also use certain portions of the manual during a recount. The election

official might develop a brochure describing the recount process in plain language for the benefit of individuals who are less familiar with the process.

The election official can tailor the materials for the public to each election. A few overall items, however, will be of particular help to the public as it observes the recount in progress. The following paragraphs present some examples of information to include in a recount brochure.

The election official should make the public aware of two types of recounts (though terminology will vary by jurisdiction). The timeline, scope, and liability of costs of the recount, in some jurisdictions, depend on the type of recount.

1. *Automatic recounts* are provided by law when an election outcome is within a certain percentage or number of votes. The jurisdiction conducting the recount is generally required to pay all costs associated with conducting the recount.
2. *Candidate- and voter-initiated recounts* must be requested within a certain time period after the vote canvass, and the requestor may be required to post a bond for the estimated costs of conducting the recount. The requester is sometimes reimbursed if the recount changes the outcome of the contest.

In the materials, the election official can address the public's need for the 'who, what, and when' as well. The timeframe and scope of a recount vary widely by State⁹ and for the official or group of officials responsible for the recounts, which can be especially confusing if the recount covers multiple jurisdictions. Several questions may need to be clearly answered. How will members be appointed to the recount teams? Will they be composed of internal elections office staff or bipartisan recount boards? After clarifying the outline of the recount, though, the election official can address the actual counting policies and procedures.

In the recount brochure, the election official might consider including information on the process during the recount. It could include details about how the recount will be conducted and whether the candidate has a choice concerning the manner in which the recount will be conducted (for example,

⁹ The EAC will provide more State-specific information in a forthcoming recount and challenges study report, which will be available at the EAC Web site at www.eac.gov.

by hand, by reloading cartridges, by rescanning optical ballots). For political party representatives, advocates, and the public, the election official will include information about attending and observing the recount. While preparing the materials for the public, the election official should be aware of any specific rules or State laws requiring written notice of the dates, times, and location of a recount.

An election official might consider preparing the brochure as a practical tool for those individuals or groups that intend to initiate a recount. It will include the deadlines for requesting a recount and where to acquire the form needed to file for a recount. Some recount requests must be filed with the State elections office and others with the local elections office. When a recount spans multiple jurisdictions, it is sometimes necessary to file a unique recount request form in each jurisdiction.

At the end of the brochure, an election official can include a “Frequently Asked Questions” page, with questions such as the following:

- ★ Are recounts mandatory?
- ★ Who can call for a recount?
- ★ Will the recount establish a definite winner?
- ★ How long does the recount last?
- ★ How much does a recount cost?
- ★ Who pays for a recount?
- ★ Who can handle the ballots and/or electronic memory cards?
- ★ Who can transport the ballots and/or electronic memory cards?
- ★ How are the ballots and/or electronic memory cards secured?
- ★ Can the public view a recount?
- ★ Under what conditions can the results of a recount be challenged?

As a routine procedure, an election official should include the recount policies and procedures manual and the recount brochure in all media and candidate packets. He or she should also consider posting both documents on the jurisdiction’s Web site in an easy-to-use, accessible format.

Conducting the Recount

An election official will likely have a short window in which to complete a recount. After a recount is formally requested or automatically initiated, the election official can distribute the recount policies and procedures manual to all parties involved so that they all understand the process. If possible, he

or she might consider including inserts about the contests to be recounted and the number of ballots/precincts/counties included in the recount.

tip

If possible, the elections office can create a daily e-mail update that is available to anyone who signs up during the recount process.

Transparency is key to a successful recount. On the first day of the recount, the election official and recount coordinator may conduct an informational briefing and orientation session, which provides an excellent opportunity to review the policies and procedures manual that they will use to conduct the recount. They can also use this time to discuss the rules for observers and to explain when the public can expect periodic updates.

During the briefing, the election official often explains the security of the recount site; he or she should consider giving this task special importance if the recount is being conducted away from the elections office. In this discussion, the election official could include a review of when breaks will be allowed and which materials are prohibited from the recount room. The election official can conclude the briefing with a quick tour of the recount room, which allows everyone to walk through and ask final questions about the process.

After the briefing is complete, it is time to start the recount. The election official may require all elections office staff and/or temporary employees to sign in and wear a nametag. After the recount teams sign in, the election official can direct recount team members to an area where they can store their personal effects (coats, purses, etc.). State and local law will determine if items such as cell phones, electronic devices, writing utensils, food, or beverages will be allowed in the recount area. An election official can then remind the recount team to refrain from extended discussions with any observers who may be in the room. As observers arrive, the election official (or designated personnel) might direct them to the observer coordinator, who will ask them to adhere to observers’ rules of conduct and behavior.”¹⁰

¹⁰ See Election Management Guidelines, chapter 13, “Canvassing and Certifying an Election,” available at the EAC Web site at www.eac.gov.

tip

If the jurisdiction is operating in an extremely short timeframe, the election official could implement a staggered work schedule so that counting can be conducted for longer periods of time in the same location.

Example: hand-recounting ballots

The following paragraphs describe how a recount might be conducted when hand-recounting paper ballots. It serves only as a possible example; an election official will follow the laws and regulations of his or her jurisdiction when conducting a recount.

During the recount, two- or three-person teams receive ballots, preferably in bundles of 20. For each ballot, one team member reads aloud the name of the candidate receiving the vote. The other team member records the vote on a tally sheet.¹¹ The third member, if there is one, then verifies both of the other team members' work. When the bundle of ballots is recounted, the totals from the tally sheet are recorded on a batch sheet and attached to the bundle of voted ballots. To ensure accuracy, an election official can require team members to switch roles and count each bundle of ballots twice before attaching the batch sheet to the ballots.

tip

If time, budget, and staffing resources allow, consider limiting each recount member to no more than 6 working hours per day to ensure accuracy.

Example: electronically recounting ballots

Although the above example relates to the hand-recounting of paper ballots, many recounts are conducted electronically by rescanning optical scan ballots through a ballot counter, reloading cartridges on digital recording electronic (DRE) voting machines, or some blend of these methods. When reviewing the ballots electronically, it is possible that new logic and accuracy testing may need to be performed on the recount machines to ensure their integrity for use in the recount.

An election official should be mindful of the tedious and monotonous nature of the recount

¹¹ See page 154 for a sample tally sheet.

team's work, regardless of the recount method that the team uses. Because the workers may not be regular elections office employees, the election official might consider reminding the recount coordinator to review and monitor the temporary employees' working hours and to allow for a lunch break and other frequently scheduled breaks.

The workflow for counting should be based on the criteria for balancing election returns. For example, if recount team members are recounting ballots cast at polling places, they will recount the ballots to balance to the precinct optical scanner or DRE memory cards at the end-of-day tally report. If the recount teams are recounting the paper trail of DREs, they will focus on each machine's paper trail to balance to each machine's end-of-day tally report. These balancing criteria enable an election official to construct the recount totals in the same way the votes were collected and counted on Election Day. After the teams recount each precinct, they aggregate the total with all other precinct totals to determine the total for the recounted contest at each polling place. Depending on the contest being recounted, the teams will continue to aggregate the results until they have reanalyzed all ballots cast in polling places for the contest.

The recount teams use the same processes previously described to recount absentee, early voting, and provisional ballots. After the teams recount all ballots, they add together the tally sheets for the polling place, absentee ballots, early voting ballots, and provisional ballots. The results from the totaled tally sheets become the recounted totals for the disputed contest.

tip

The election official can conduct periodic meetings with key staff members to review the progress of the recount and modify staff levels or workflows to expedite the process.

An election official is aware of possible disruptions to the workflow by legal challenges posed by candidates, parties, or other organizations. Although the election official hopes for a smooth recount, he or she should be prepared to provide security of the ballots throughout any legal challenges surrounding the conduct of a recount.

As the recount nears completion, the election official might consider contacting the candidates, media, and other interested parties to notify them of the date, time, and location for the issuance of the recount announcement.

Finalizing the Recount

An election official should consider collecting and organizing all recount documentation—tally sheets, batch sheets, and ballots—to present to the recount board. Election officials understand that even the results of the recount can be challenged in court; therefore, they should have detailed documentation of each decision made and action taken during the recount process.

After the election is certified, the election official should repackage and seal the documentation for archival storage, just as he or she would do with election materials in a normal election. The official can then itemize these documents by type and location in preparation for future requests for public records and/or potential lawsuits. Pursuant to Federal law, all election materials must be stored for 22 months after a Federal election.¹²

After the election official has reported the results, elections office staff might consider preparing a cost analysis of the recount. If the jurisdiction will pay for the cost of the recount, the election official will distribute this information to the jurisdiction's budget department. Alternatively, the election official may need to prepare an invoice to send to the party, candidate, or voter responsible for the cost of the recount.

An election official may write a summary of the recount to serve as a guide for improving the policies and procedures during future recounts. This summary could include the number of recount team members, ballots recounted, and hours dedicated to recounting the ballots. The summary could also include the final outcome of the recount. If a specific aspect of the process did not work, the election official could assess the reasons for the failure and then suggest changes to the recount policies and procedures manual.

In addition, because the elections office staff and temporary recount board members have just completed conducting a recount, the election official could ask for their opinions and suggestions. Those hands-on team members may have good suggestions for modifying policies and procedures for future recounts.

¹² See 42 U.S.C. §1974.

State of Iowa Manual Recount Tally Sheet

County: _____ Election Name and Date: _____ Precinct: _____

Recount of Votes Cast for: Office: _____

OR Public Measure: _____

Instructions:

Use one tally sheet for each candidate or yes/no votes for a public measure. Make a hash mark for each vote cast. Use one box for each set of ten hash marks.

Candidate's Name: _____

OR Votes Cast for Public Measure: Yes **OR** No

10	20	30	40	50	60	70	80	90	100	
										100
										200
										300
										400
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										2000

Total Votes Cast: _____

Print Name of Tally Keeper: _____

Signature of Tally Keeper: _____ Date: _____