

CONDUCTING RECOUNTS



41st Annual Election Law Seminar for County Election Officials

Debbie Abrego and Alexa Buxkemper
Election Security Trainers



- Preparation for a Recount
- Supplies Needed for the Recount
- Recount Personnel Defined
- Bystanders Excluded
- Media
- Certificate of Appointment of a Representative (Poll Watcher) for a Recount
- Track, Train and Monitor the Recount
- Methods of Recounting
- Electronic Recounts
- Debrief with Staff
- Recount Issues and FAQs
- Resources



- The Recount Supervisor shall appoint a Recount Committee
 - Take into account the number of ballots to be counted
 - Single Member or District Race vs. Full County Race
 - Work with the general custodian to determine who may be eligible
- Determine how many members are needed on the Recount Committee to complete the recount in a “speedy” manner. [TEC 213.002(a)]
- Recount teams consist of 3 members (1 caller & 2 tally) + 1 extra person on the first team.
- The Committee Chair **MUST** be appointed from the membership of the committee (hence the 1 extra person).
 - The Recount Chair is appointed from among the membership by the Recount Supervisor. [TEC 213.002(b)]



Preparing for the Recount

- Create an inventory of all ballot boxes containing ballots for the election
 - Clearly label Early Voting and Election Day Ballot Boxes
 - If a separate Primary, clearly label Republican and Democratic Ballot Boxes
- Create a ballot box check out (by location) and a tally sheet check in (by precinct)
- You may want to print reports from the original election
 - Precinct by precinct results report with overvotes and undervotes
 - Cumulative results report with overvotes and undervotes
 - Optional - number of ballots cast by voting location (by party)



Preparing for the Recount (cont)...

- Prepare tally sheets – make plenty of copies
- Write instructions for callers and talliers about how to properly complete tally sheets
- Write procedures for Recount Committee teams and elections staff
- Create a supply list
- Designate a recount area and develop work flow diagrams with “table configurations and paper flow etc.”
- Set up recount area
- Assign job duties to elections staff



Supplies...the little things

- Tables and chairs
- Pencils/red pens
- Scissors for breaking ballot box seals
- New seals to replace old seals
- Chain of Custody Forms to document seal removal and replacement
- Labels
- Keys
- Sign in sheets
- Nametags/Badges
- Tally sheets, by ballot type and precinct
- List of certified write-in candidates, if applicable
- Results reports (see above)
- Ballot adjudication guide
- Baskets for the sorted ballots



Recount Supervisor [TEC 213.001]

- Presiding officer of local canvassing authority or his/her designee (governing body)
 - Commissioner's Court → County Judge
 - Primary election → County Chair
 - City election → Mayor
 - School/Water/Hospital/Other District → Board President
- Manages and supervises the recount
- Appoints Recount Chair and Recount Committee members
- May exercise the Recount Chair's authority when present during the counting process

Note: *The presiding officer of a canvassing authority who is a candidate in the race to be recounted is **not eligible** to serve as **Recount Supervisor**.*



- **Recount Coordinator [TEC 211.002(6)]**

- Person to whom a recount petition is submitted under TEC 212.026 or 212.082

*Note: The presiding officer of a canvassing authority who is a **candidate in the race to be recounted is not eligible to serve as Recount Coordinator.***

- **Recount Petitioner**

- A candidate may petition for a recount if: [TEC 212.022)]

- The candidate is shown by the election returns not to have been elected to the office.
- A winning candidate may petition for a recount in certain circumstances affecting offices with a statewide canvass.

- In an election on a measure: [TEC 212.024]

- The campaign treasurer of a specific purpose political committee involved in the election may petition for a recount.
- 25 or more persons acting jointly who were eligible to vote in the election on the measure may also petition for a recount.

- No ground required for electronic voting system recount. [TEC 212.0241]



- **Recount Chair [TEC 211.002(6)]**

- Manages the Recount Committee and the process of the recount
- Solely determines questions of voter intent
- Creates a precinct by precinct report of the recount
- Designates the members to serve on each team and the duties to be performed by each member.

Note: *The Recount Committee Chair has the same authority as a presiding judge at a polling place to preserve order and prevent breaches of the peace during the recount. [TEC 213.015(b), 32.075]*



- **Recount Committee [TEC 213.002, 214.045]**

- Composed of at least four members (including chair) who are appointed by the Recount Supervisor.

Note: Members of the Recount Committee must meet the requirements of precinct election judges and election day clerks.

*Note: A person who served as an **election day judge** or as a **judge of the early voting ballot board** in the election is **not eligible** to serve as a member of the **Recount Committee**. [Sec. 213.003]*

- **A person is eligible to serve on the committee if the person worked in early voting or served as a clerk on election day.**
 - Remember: The title of a person in charge of an early voting polling place is lead deputy early voting clerk, not presiding judge.



Who is allowed in the Recount Room?

- **Only persons** specifically permitted to be present by law may be inside the room where a recount is taking place or in any hallway within 30 feet of an entrance to such room.
- **County Elections Staff**
 - Assist with check-in/check-out station, runners, and other duties as needed.
- **Peace Officers**
 - Peace officers do not have to be present, but it is recommended to utilize peace officers for security purposes and to assist with preserving order in the recount room.



Other Persons Allowed in the Room

- **Candidates/Campaign Treasurers and **their** Watchers**
 - Each candidate may have **TWO** representatives (poll watchers) if there is only one counting team **OR** representatives in a number equal to the number of counting teams if there is more than one counting team.
 - 1 Team = 2 Representatives 2 Teams = 2 Representatives
3 Teams = 3 Representatives...
 - If a candidate wants a lawyer present, the lawyer counts as one representative (poll watcher)
- **Custodian of Voted Ballots or Designee**
- **Secretary of State Personnel: Inspectors, Attorneys, Director of Elections, Deputy Director of Elections, and Staff**



- Media may come to the recount.
- Please be prepared to explain their authorized activities.
- Bystanders, including media, may not be closer than 30 feet from an entrance to the room where the recount is being conducted. [TEC 213.015]
- If the building is closed for the day, a weekend or holiday, consider what security measures are necessary for any person who may access the building during the recount.
- Having law enforcement present is advisable, especially if the building is not operating during normal business hours.



Form 12-2 Certificate of Appointment of a Watcher for a Recount

Used to be called a
“Representative for a Recount”

Candidate’s Representative at a
Recount = Poll Watcher

Texas Election Code uses the
term “Representative”

12-2
Prescribed by Secretary of State
Sections 213.013, Texas Election Code
11/2021

APPOINTMENT OF A WATCHER FOR A RECOUNT (NOMBRAMIENTO DE UN OBSERVADOR PARA UN RECUENTO)

To the Recount Committee Chair:
(Al Presidente del Comité de Recuento.)

The following person has been appointed to serve as a watcher.
(La siguiente persona ha sido nombrada para servir como un observador.)

Name of Watcher (Nombre del Observador)	Candidate or other Appointing Authority (Candidato u otra Autoridad Facultada para Proceder a los Nombramientos)
Name and Date of Election (If measure election, identify the side representing) (Nombre y Fecha de las Elecciones) (Si es una elección para una medida, identifique el lado que representa)	Time and Location of Recount (Hora y Ubicación del Recuento)

Signature of Candidate or other Appointing
Authority (Firma del Candidato u otra Autoridad
Facultada para Proceder a los Nombramientos)

Printed Name and Title of Candidate or other Appointing
Authority (Nombre en Letra de Imprenta y Título del Candidato u
otra Autoridad Facultada para Proceder a los Nombramientos)

Signature of Watcher
(Firma del Observador(a))

Signature of Recount Committee Chair
(Firma del Presidente del Comité de Recuento)

Watcher accepted (aceptado)
(Observador) rejected (rechazado)

Notice: No mechanical or electronic means of recording images or sound and no wireless communication are allowed inside the room in which the recount is conducted, or in any hallway or corridor in the building in which the recount is conducted within 30 feet of the entrance to the room, while the recount is in progress unless the representative agrees to disable or deactivate the device while present at the recount.

Aviso: No se permite ningún medio mecánico o electrónico de grabación de imágenes o sonido, ni ninguna comunicación inalámbrica dentro de la sala en la que se realiza el recuento, ni en ningún pasillo o corredor del edificio en el que se realiza el recuento a menos de 30 pies de la entrada de la sala mientras se realiza el recuento, a menos que el/la representante acepte desactivar o inutilizar el dispositivo mientras esté presente en el recuento.

SEE REVERSE SIDE FOR INSTRUCTIONS
(CONSULTE EL REVERSO PARA INSTRUCCIONES)



Once a person has been appointed by the Recount Supervisor as a member of the Recount Committee, that person cannot serve as a representative (poll watcher) in the same recount and vice versa.



BEST PRACTICE

TRACK

TRAIN

MONITOR

ENSURE COMPLIANCE



Tips to assist in the **TRACK** process

- Designate a staff member to check in/check out everyone coming into the recount room (i.e., watchers, counters, candidates, etc.).
- Keep track of appointing authorities vs. number of watchers when they check in (SOS forms forthcoming).
- Issue name badges and keep a log to track to whom they were issued. Name badges **MUST** be surrendered at the end of the day.
- Make different **solid colored name badges** for the candidates, watchers, counters, and a different one for Recount Supervisor, Recount Coordinator, etc.
 - Easily identify who is whom from a distance.



PRINTED FULL NAME

WATCHER

APPOINTED BY

PRINTED FULL NAME

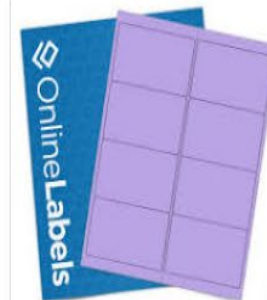
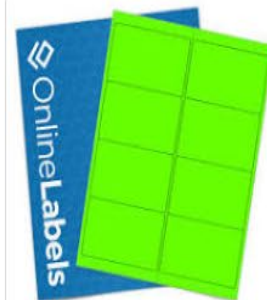
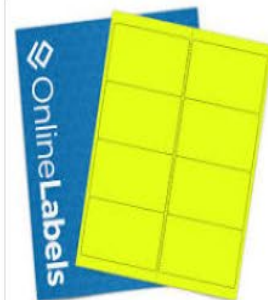
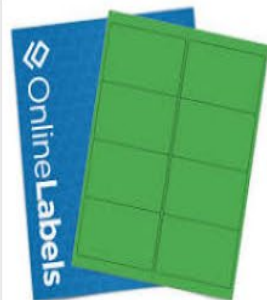
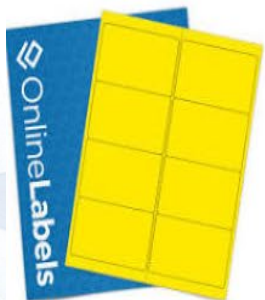
RECOUNT CHAIR

APPOINTED BY

PRINTED FULL NAME

RECOUNT SUPERVISOR

APPOINTED BY



Tips to keep in mind when you TRAIN

- Conduct a kick-off briefing/training for all participants PRIOR to the recount.
- Discuss workflow, state laws/regulations, and overall procedures for managing the recount in a timely manner.
- Policies, rules of conduct and procedures for candidates, counters, and watchers.
- Review procedures to include working hours for recount, breaks, and lunch. Lunches should be staggered by team to prevent stopping in the middle of a stack/ballot box.
- Review policies for use of devices capable of recording images or sound. No bags, purses, or wireless devices should be present at the table where ballots are being counted. Smart watches should be removed.



Tips to keep in mind when you TRAIN *continued...*

- No cell phones allowed. *Tip: Place “no cell phone” signage in recount area and at all entrance doors.*
- Review policies for storage of personal items belonging to the Recount Committee.
- Review poll watcher and candidate representative rules. [TEC 213.013]
- Do’s and Don’ts during the recount.
- No trash cans allowed in recount area.
- Administer oaths –
 - No oath is officially prescribed.
 - Oath in Section 87.006 may be used, but is not required.



Tips to keep in mind when you TRAIN *continued...*

- Review the method to count one type/batch of ballots **BEFORE** moving on to another type. (i.e., Ballot by Mail, Early Voting and Election Day)
 - Recount petitioner can choose which to count first.
- Remind everyone that there is no stopping in the middle of counting a stack/ballot box.
 - A ballot box should never be left open while a counting team goes on a break
- Only count ballots when the Recount Committee is convened (this includes reading any media on the central accumulator).
- Remind workers to seal/secure and label ballots.



Tips to help MONITOR

- Know and enforce limitation on number of representatives (poll watchers).

Note: 2 watchers/representatives for the first counting team and if there are more than 2 teams, 1 per team thereafter. A candidate's lawyer is considered to be 1 of the 2 representatives that can be appointed. Lawyers ARE NOT extra. No Exceptions!

- Watchers are entitled to sit or stand conveniently near the observed activity and near enough to an officer to verify that the ballots are processed and counted correctly. [TEC 213.013(h)]
- All counting questions in a recount should be determined by the Chair of the Recount Committee in accordance with the Texas Election Code. [TEC 213.006]
- If the Recount Chair rejects any ballot for counting, the Chair should make note of the reason for the rejection and place the rejected ballot in a separate container.

Note: The Recount Committee is not authorized to evaluate the method in which a voter was qualified for voting. No combination forms or epollbook records should be considered at a recount.



Tips to help **MONITOR** *continued...*

- Ballots being counted in a recount are only those that were previously counted.
- Reminder: Only the Recount Chair can adjudicate the overvotes or voter intent issues.
- Monitor counting teams to make sure they place one tally sheet in the ballot box and give the other one to the Recount Supervisor.
- Recount Supervisor tallies results and will verify original outcome or determine if totals need to be recanvassed. This decision is based on the outcome of the recount.
- Monitor staff assigned to seal/secure and label ballots.



Manually Recounting Ballots...have a plan set

- Create a system to assign ballots for counting
- **Recommended:** Only work with **one type at a time** until finished
- Sort ballots before counting
- Stage all batches in one place
- Batches are counted in teams of 3
- Recount teams receive a batch from the Recount Chair
- If a Recount Committee team cannot determine voter intent, the Recount Chair will make a ruling – Sole discretion of Recount Chair
- Store ballots in labeled containers (with one of the tally sheets) with new seals and fill out new chain of custody logs as needed
- Record manage recount documents



Sort and Determine the Recount Method

- Review different methods sorting and recounting voted ballots
 - Ballots must be counted separately by precinct [TEC 213.011]
 - Sort ballots from each ballot box by precinct
- Ballot Counting Methods
 - Method 1 – Hashmark
 - Sort voted ballots into precinct stacks
 - Count by precinct
 - Caller/Tallier method from the code
 - Each precinct requires 2 tally sheets – one for the Recount Coordinator and one for the ballot box

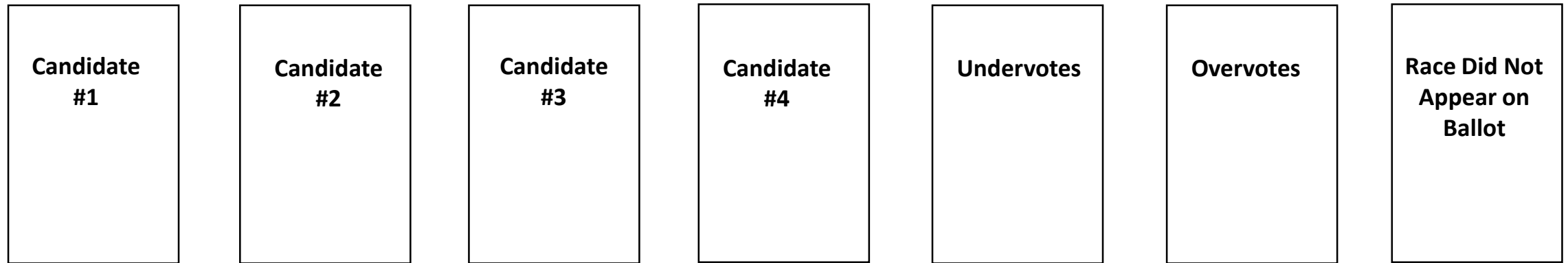


Sort and Determine the Recount Method

Method 2 – Sort and Stack

Sort voted ballots into precinct stacks

Before counting precinct stack, sort by candidates, overvotes and undervotes



Each member of the counting team counts the number of ballots in each stack.

If all agree, two members complete the tally sheets and they are filed accordingly.



Overvotes, Undervotes, Remakes and Rejections

- Ballots that were determined to be overvotes must be re-examined by the Recount Chair to re-adjudicate voter intent.
- Ballots duplicated/remade must be reviewed for accuracy.
 - The original ballot must be examined and compared to the duplicated (remade) ballot to ensure it was done properly.
 - If this was done electronically, the originals must be compared to the duplicates.
- Rejected ballots by mail may not be reviewed for a recount.
 - Remember: The carrier envelope can't be opened if the ballot is rejected.



Electronic Recount...have a plan set for this too

- Must be on the same or similar equipment unless otherwise requested by the person requesting the recount
- Must perform 2nd L&A test before recounting
- All members of the Recount Committee in an electronic recount shall be present during the testing of the program and equipment
- For ballots that have been duplicated, compare the duplicated ballot to the original before scanning to make sure it is correct; if it is incorrect, duplicate the ballot again and use the remake to rescan
- Prepare two copies of the returns



Debrief with Staff

- Talk with your staff about lessons learned and changes that can be made for future recounts.
- Prepare Recount Guidelines that would assist you in future recounts.
- Always refer to the Recount Resources posted on the Secretary of State's website.



Recount Issues and FAQs

- **How does a candidate withdraw from a recount?**
 - A candidate fills out the Request to Withdraw a Recount Petition Form. **(Coming Soon!)**
- **If more than one recount will be conducted in succession, what are the ballot sorting rules that govern successive recounts?**
 - If two recounts will be conducted in succession, the candidate and watchers in the second recount are not entitled to observe the sorting of the ballots for the first recount.
- **What if a page from a ballot by mail with the race to be recounted is missing?**
 - If there is a missing page from a ballot by mail, the races on that page were never counted.
 - If the race being recounted is on the missing page, this does not result in an undervote.
- **Does a county of 100,000 or more have to live-stream a recount?**
 - No. But if the recount is to be conducted prior to the canvass, please call our office for guidance about live-streaming requirements for voted ballots prior to the canvass.



Recount Issues and FAQs

- **What if a person entitled to appoint watchers wants to challenge ballots in the election? [TEC 213.013(i)]**
 - The Recount Committee Chair shall permit the person to photocopy under the chair's supervision any ballot, including any supporting materials, challenged by the person or person's watcher. **The person must pay a reasonable charge for making the copies** and, if no photocopying equipment is available, may supply that equipment at the person's expense. **The person shall provide a copy on request to another person entitled to appoint watchers to serve at the recount.**
 - SOS suggests that the person challenging ballots consider the scope of the challenge and that copies must be provided expediently and in a format that the other person wishes.
 - Electronic Copies
 - Printed Copies



Resources

- **Recount Outline**

The SOS website will have new guidance with updates to Recount Outline

- **New Recount Forms**

Petition Requesting a Recount – Will change on September 1, 2023

- New law changed deadline for requesting a recount

Assignment of Recount Teams – Form Coming Soon

Request to Withdraw a Recount Petition – Form Coming Soon



Questions?

Elections@sos.texas.gov

