



Texas Secretary of State
ELECTIONS DIVISION



Preparing for and Conducting a Recount



Recount Basics

- A recount may only be used to recount the votes in a particular race (office) or measure.
- A recount does **NOT** have the same scope as an election contest.
- Authority conducting an election cannot conduct a recount on its own recommendation.
- Entering a ballot box without receiving a request for a recount or outside of the provisions of the Election Code can lead to criminal penalties.



Recount Misconceptions

- A recount **DOES NOT** authorize a recount in other races or measures
- A recount **DOES NOT** delay the duty of an authority to canvass the election
- A recount **DOES NOT** allow for the requalification of voters
- A recount **DOES NOT** authorize more than one recount for the race or measure at issue.



True or False

A recount does allow for the requalification of voters.



True or False

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Recount Personnel

- **Recount Coordinator (211.002)**

- The petition for a recount is filed with the recount coordinator.
 - This is the presiding officer of the final canvassing authority.
 - Usually, the final canvassing authority is the local canvassing authority as well.
- Just as with the recount supervisor, a presiding officer of a final canvassing authority who is candidate in the race to be recounted is ineligible to serve as recount coordinator.



Recount Personnel

- **Recount Supervisor (213.001)**

- Recount supervisor manages and supervises the recount in precincts within the jurisdiction of the local canvassing authority.
- Recount supervisor is the presiding officer of the local canvassing authority or their designee.
 - **Commissioner's Court → County Judge**
 - Primary Election → County Chair
 - City Election → Mayor
 - School/Water/Hospital/Other district → President of the board
- Presiding officer of a canvassing authority who is a candidate in the race to be recounted is ineligible to serve as recount supervisor.



Ineligible Presiding Officer

- Following authority shall serve as substitute coordinator or supervisor if the presiding officer is ineligible or unable to serve:
 - County clerk, if a commissioners court is the canvassing authority.
 - For a city, the city secretary;
 - For a political subdivision other than a county or city, the secretary of the governing body or the person performing the duties of secretary under the Election Code. [Sec. 211.004(a)].



Recount Petitioner

- A candidate may petition for a recount if: (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: (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.



Question

Generally, who is the recount supervisor?

- A) Elections Administrator
- B) Presiding officer of Canvassing Authority
- C) An individual appointed by the candidate, as long as they meet the eligibility requirements
- D) Candidate



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Requirements of a Petition Requesting a Recount

A recount request **MUST** contain the following elements: (212.001)

- The request must be in **writing**;
- The request must **identify the office or measure** for which a recount is requested;
- The request must **state the grounds on which the recount is requested**;
- The request must **identify the election precincts** in which a recount is requested;
- If it is a recount of an electronic voting system, the request must identify if a **manual or electronic recount** is requested;
- The request **must contain the name, address, and telephone number of the petitioner** (or an agent);
- The request **must also contain the name, address, e-mail address (if any) and telephone number of an opposing candidate or campaign treasurer**;
- The request **must be signed** by the petitioner or his/her agent;
- The request **must also include the required deposit**.



Grounds for a Recount

- There is no required ground for a recount of an election where electronic voting systems were used.
- In other elections, the difference in votes between the petitioning candidate and the candidate who was elected, nominated or entitled to a place on a runoff ballot must be less than 10% of the number of votes received by the candidate who was elected, nominated or entitled to a place on a runoff ballot.
- The number of votes received by all candidates is less than 1000.
- An election judge swears that he or she counted paper ballots incorrectly.
 - This must be certified by the Secretary of State's office



Petition Recipients

- The petition for a recount must be submitted to the recount coordinator. (212.026)
 - This will be the presiding officer of the final canvassing authority **unless** that person is ineligible to serve as recount coordinator. Then, the petition would be submitted to the substitute coordinator.
- If the petition is submitted to the presiding officer of the final canvassing authority and that individual is not the recount coordinator, the presiding officer must deliver the petition to the recount coordinator.



Scope of the Recount

- A recount will include all election precincts from which an office is elected except in the event of counting errors.
- All votes cast in those election precincts are subject to recounting.



Question

What is not a valid reason for a recount to be requested?

- A) An electronic voting system was used
- B) The number of votes received by all candidates was less than 1000
- C) An Election Judge swears that they miscounted the ballots
- D) The candidate's poll watchers have evidence of election irregularities



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The Recount Deposit

- The amount of the deposit for a recount is based, in part, on **the number of election day polling places OR precincts to be recounted**, whichever results in a smaller amount.
 - **Precincts = Election Day Precincts = Polling Places.**
- \$60 for each precinct or polling place in which hand counted paper ballots were used
- \$100 for each precinct or polling place in which an electronic voting system was used.
- All of early voting is one precinct
- Deposit funds may be used to:
 - Compensate recount committee members;
 - Cover charges for use of automatic tabulating equipment;
 - Cover the service charge of \$15 for the recount supervisor and the \$50 service charge to the recount coordinator (in a statewide recount) to reimburse the fund used to cover office expenses such as telephone, postage, etc.



Question

An election is being conducted with electronic voting systems. A county has 10 polling locations and 5 precincts. A candidate files a recount petition. What should the deposit be?

- A) 1,000 dollars
- B) 500 dollars
- C) 1,100 dollars
- D) 600 dollars



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The Recount Deposit

- The deposit must be paid by cash, cashier's check or money order made payable to the recount coordinator. **NO PERSONAL CHECKS!**
- A change in the outcome of the election entitles the petitioner to a refund of the entire deposit.
 - **This means the winner of the election changes, not just vote totals.**
- If more than one petition is submitted with different counting methods, a manual count shall be chosen over an electronic count. The petitioner selecting the "losing" method of recount is entitled to a refund of the deposit less any expenses incurred prior to the selection of the recount method.
- If a deposit is insufficient to cover the costs of the recount, the petitioner is responsible for covering any additional costs.



Deadline for Filing a Petition

- **Initial recount** (i.e. a recount in an office where election by plurality is required or an election where only two candidates are running), the deadline to file a petition for a recount must be submitted by 5:00 p.m. of the third business day after canvass. (212.028)
- **Expedited recount** (i.e. a recount in an office where election by majority is required and more than two candidates are running), the deadline to file a petition for a recount is 2:00 p.m. of the second day after the date of the canvass. (212.083)



Review of Petition

- The recount coordinator must review a petition for a recount within 48 hours of its receipt and promptly notify the petitioner of any **defect**. (212.029)
- If there is a **defect** in the petition, the petitioner has until the deadline for filing a petition or 5:00 p.m. of the second day after notice of the defect is received to **correct the defect**, whichever is later. (212.030)
- If the defect is not corrected after notification, the recount coordinator must reject the amended petition and promptly notify the petitioner of the remaining defects. A petition may not be amended more than once.
- Correction of an improper deposit amount is considered an amendment to a recount petition.



Approval of Petition

- If the petition is approved, the recount coordinator must notify the recount supervisor (if different) and the **recount supervisor** must order the recount. (212.031)
- Recount coordinator is responsible for notifying the petitioner and each opposing candidate
 - In an election on a measure, the petitioner and opposing campaign treasurer or a person eligible to vote in the election representing an opposing side of the petitioner if there is no political action committee. (212.032)



Time and Place of the Recount

- Recount supervisor must order the recount to be held **on the later of the 7th day** after the approval of the recount petition **or the day after all ballots have been delivered to the general custodian**. This includes making arrangements for the recount including the time and place.
- Recount supervisor must give personal notice to the petitioner and all opposing parties **at least 18 hours** prior to the start of the recount.
 - Notice must include the time, place, and number of counting teams involved in the recount.
- A phone call does suffice to give personal notice, but we recommend following up with something in writing. Written notice may be given with an email.
- Notice may be waived if all parties entitled to notice agree and the recount can begin earlier.



The Recount Committee

- Composed of at least four members (including a chair) who are appointed by the recount supervisor.(213.002)
- If the recount coordinator is a different person than the recount supervisor, the recount coordinator may appoint one member of the committee.
- **Members of the recount committee must meet the requirements of election day clerks except that if a person served as an early voting ballot board judge or election day judge, that person is ineligible to serve on the recount committee. (213.003)**
- Committee members are entitled to an hourly rate of pay set by the recount supervisor, not to exceed the maximum hourly rate for election judges (213.004)
- In a recount that does not involve automatic tabulating equipment, the recount committee serves as one or more counting teams composed of three members each.



Who May Be Present at Recount

Only persons specifically permitted to be present by law may be present in the room where a recount is taking place or in any hallway within 30 feet of an entrance to such room. This includes:

- The recount chair and committee members (213.002)
- The candidates/campaign treasurers and their watchers; (213.013)
 - Candidates/campaign treasurers may have 2 watchers or, if there is more than one counting team, watchers equal to the number of counting teams. (No specific eligibility requirements for watchers at recounts)
 - A watcher must, upon request, be permitted to photocopy a disputed ballot, and the candidate may be charged a reasonable fee for such copy.
 - No one permitted to be present at a recount can possess a device capable of recording sound or images unless the person agrees to deactivate the device.
- The **custodian of the voted ballots**; (213.001)
- The recount supervisor; and
- Any state inspectors.



True or False

To be eligible to be a poll watcher in a recount, a person must be a qualified voter of the territory covered by the election.



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Other Procedural Issues

Erroneously Placed Records:

- If it is determined that election records were erroneously placed in a ballot box that is to be opened during a recount, it is the opinion of the Secretary of State Elections Division that such records may be retrieved during the recount.
- Retrieval should be in the presence of the recount chair and the custodian of the records should make a note of the retrieval.
- All counting questions in a recount should be determined by the chair of the recount committee in accordance with the Texas Election Code.
- If there is a rejection of any ballot during a recount, the chair should make note of the reason for the rejection and place the rejected ballot in a separate container.

However, keep in mind that the recount committee is not authorized to evaluate the method in which a voter was qualified for voting.



After the Recount

- Following the recount, the recount committee chair shall:
 - Create a **precinct by precinct report** of the committee's count, and (213.012)
 - Deliver one copy to the recount supervisor and one copy to the custodian of election records. (213.054)
- Upon receiving the committee chair's report, the recount supervisor shall: (213.055)
 - Create and sign his/her own report using the chair's report and the original election returns for any precincts not covered in the recount. This will serve as the official statement of the vote count in the local canvassing authority's jurisdiction.
 - The recount supervisor shall deliver...
 - one copy of the report to the recount coordinator (if different), and
 - one copy to the custodian of election records.
- After receiving the recount supervisor's report, the recount coordinator will notify the petitioner and any opposing candidates/campaign treasurers or voters entitled to notice. (213.032)



After the Recount

- If, as a result of the recount, the outcome of an election changes or the vote totals in an election change, the canvassing authority of the election **must** recanvass the election for that office or measure as soon as practicable after the recount. (213.033)
- The new canvass serves as the official canvass for purposes of that election.



Automatic Recounts (Ch. 216)

The Election Code requires an automatic recount to be held if:

- Two or more candidates tie for the number of votes required to be elected in an election decided by plurality.
 - The automatic recount must be held before a second election is called. However, the candidates can opt to resolve the tie by casting lots.
- If more than two candidates tie for the highest number of votes or two or more candidates tie for the second highest number of votes (in the case of determining who will participate in a runoff) in an election by majority. The automatic recount must be held before the candidates opt to resolve the tie by casting lots or ordering a second election.
- If there is a tie in a runoff election, an automatic recount is held. Following the automatic recount, the candidates cast lots to determine the winner. A third election is not held.



Automatic Recounts (Ch. 216)

- In an automatic recount, the presiding officer of the canvassing authority “petitions for” the automatic recount in the same manner a petitioner would in an initial or expedited recount.
- All candidates in the race to be recounted are notified of the automatic recount.
- Votes are recounted in an automatic recount in the same manner that they were counted initially.
- The cost of an automatic recount is paid by the political subdivision served by the presiding officer of the canvassing authority.



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Practical Considerations When Conducting Recounts



Develop a Plan

Plans should include:

- Timeline for executing all required processes on time as required by law
 - Review of filed Recount Petition must take place no later than 48 hours after filing
- Plan for Recount Supervisor/Coordinator to appoint members of the Recount Committee
- Checklist of forms and supplies necessary to conduct the recount
- Security and chain of custody procedures for recount personnel, watchers and ballots
- Determining a location to conduct the recount
- Develop a layout for the recount area
- Communication plans for the persons entitled to notice of a recount and Recount Committee members
- Policies for personal wireless/recording devices, such as phones and smart watches



Develop a Plan

- Create written instructions for the Recount Committee to follow so that all members will know their duties and responsibilities
- Track assessable costs that are incurred during the recount
- Procedures for the Recount Coordinator to prepare and deliver a cost statement to the petitioner
- Policies for preparing copies of challenged ballots and costs for obtaining those copies
- Contingency plans if the scheduled recount cannot take place because of inclement weather, disasters, or other unforeseeable circumstances



Develop a Plan for Poll Watchers

Management Plan for Poll Watchers (Recount Committee Chair)

- Read the rules for poll watchers at a recount because they differ from the rules for watchers in the polling place
- Create a process for accepting certificates of appointment
 - Know how many watchers are allowed based on the number of counting teams
 - Check watchers in and out
 - We suggest taking the credentials from watchers at the end of the day
 - If a watcher wishes to leave for a period of time, we suggest taking the credential so that others may watch if any are waiting



Develop a Plan for Poll Watchers

- What if the recount takes place on more than one day?
 - Poll Watchers are not required to present new certificates of appointment on the subsequent days of a recount once they have been accepted for service
 - But...Watchers do have to check in every day
 - The Recount Committee Chair can develop a system for checking watchers in and out each new day of the recount
 - Watchers arriving before the recount begins
 - Watchers who arrive throughout the day



Determine the Scope of the Recount

- How many precincts/locations are involved in the recount?
- Does the race or measure to be recounted involve all ballots cast in the county/political subdivision or is it a district race?
 - How many ballots are part of the recount and how many are not?
 - The ballots that are not in the election:
 - Affect the time it takes to sort the ballots for early voting
 - Affect the time it takes to sort ballot by mail
 - Affect the sort for an election that was conducted using the countywide polling place program
 - Will the ballots be sorted manually or electronically?
- Remember, ballots must be sorted and counted by precinct



Determine the Scope of the Recount

- How many counting teams are needed to accomplish a “speedy” recount?
- The Recount Supervisor determines how many counting teams are necessary to sort and count the ballots
 - Determining the number of committee members is an art
- More counting teams that finish sooner is better than fewer counting teams with too many ballots to sort and count
 - The sorting and counting process is very tedious and requires attention to detail
 - Keep members of the Recount Committee fresh by providing regular breaks



Preparing Ballot Boxes and Reports

- Create an inventory of all ballot boxes containing ballots for the election
 - Clearly label Early Voting and Election Day Ballot Boxes
 - Label Ballots by Mail, Provisional Ballots and Limited Ballots
- 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



Preparing Supplies

- Tables and Chairs
- Scissors
- Keys to the ballot boxes
- Seals and Chain of Custody Forms
- Name Badges
- Pens for Tally Sheets
- List of Certified Write-In Candidates, if applicable
- Voter Intent Adjudication Guide
- Baskets for sorting ballots



Communication Plan

- Inform all participants of procedures and policies associated with the recount
- Review cellphone and wireless device prohibitions
- Designate a storage area for personal items such as purses and lunch boxes
- Designate an area for drinks and coffee
- Review poll watcher rules. [TEC 213.013]
- Remove trash cans in recount area
- Administer oaths –
 - No oath is officially prescribed.
 - Oath in Section 87.006 may be used, but is not required



Conduct of the Recount

- The sorting and counting of ballots can only take place when the Recount Committee is fully convened and the Recount Supervisor/Coordinator or Recount Chair is present
- It is recommended to count one type of ballots at a time
 - Early Voting, Election Day, Ballots by Mail
 - The petitioner typically chooses which type of ballots to count first
- Counting teams should finish sorting and counting a ballot box before they leave on break or for the day
 - Ballot boxes should not be left open during breaks or left half-counted at the end of the day
- The room where the recount is being conducted should be securely locked at the end of each day and no one should access it when the Recount Committee is not convened



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Common Questions Regarding Recounts



Question #1

Can members of the Recount Committee be asked to donate their pay or provide their counting services “in kind” to lessen the costs of the recount for the petitioner?

Answer – No. Members of the Recount Committee are entitled to compensation at a rate not to exceed the maximum hourly rate for election judges in the election. If members would like to donate their pay to a candidate, they must do so after they have been compensated. Further, committee members may not be turned away if they are not willing to donate their pay.



Question #2

Can a person who was appointed by the Recount Supervisor as a member of the Recount Committee serve as a watcher during the same recount?

Answer – No. The roles of watcher and member of the Recount Committee are not interchangeable.



Question #3

Can a candidate or the candidate's watcher make a blanket challenge to all ballots that are a part of the recount?

Answer – Yes. There is nothing expressly stated in the Texas Election Code that prohibits a blanket challenge to all ballots in a recount.



Question #4

Is the General Custodian of Election Records required to provide copying equipment so that challenged ballots may be copied?

Answer – No. The General Custodian of Election Records is not required to make copying equipment available in order to copy the challenged ballots.

The candidate may supply the copying equipment at the candidate's expense.



Question #5

Can the petitioner be asked to provide extra deposit money if the Recount Supervisor/Coordinator believes that the deposit has been exhausted while the recount is underway?

Answer – No. If the amount of costs assessed against a person (i.e. petitioner) exceeds the amount of the person's deposit, the person is liable to the authority responsible for paying the expenses of the election for the amount of the excess. [215.004(c)]

If a person (i.e. petitioner) is assessed costs in an amount that exceeds the amount of the person's deposit, the Recount Coordinator shall take appropriate action to obtain payment of the amount owed. If an amount owed is unpaid on the 90th day after the date payment is demanded, the Recount Coordinator shall refer the matter to the appropriate authority for legal action to collect the amount owed. [215.010 (a)(b)]



Question #6

Can the Recount Committee Chair role be split between two people?

Answer – No. Only one person is vested with the authority of the Recount Committee Chair. If a counting question of voter intent arises, the authority to make that decision rests with one person. It is similar to the role of a Presiding Judge at the polling place. That authority of the Recount Committee Chair cannot be split between two people.



Question #7

Can the Recount Committee convene online in order to meet the legal deadline for convening?

Answer – No. The deadline to convene the Recount Committee may not be accomplished by convening online.



Question #8

Is a county with a population of 100,000 or more required to live-stream the recount?

Answer - 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.



Resources

- Recount Outline - <https://www.sos.texas.gov/elections/laws/recounts.shtml>
- Recount Forms
 - [Petition Requesting a Recount 14-1](#)
 - [Appointment of Representative for a Recount 14-2](#)
- Handbook for Election Judges and Clerks – Voter Intent Guide
<https://www.sos.state.tx.us/elections/forms/judges-clerks-handbook.pdf>



Available Support



WEBINARS



TRAINING



RESOURCES

elections@sos.texas.gov

800-252-VOTE • 512-463-5650

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