



Legislative Update: Post-Election Hand Count Audits and Recounts

37th Annual
Election Law Seminar
for Cities, Schools, and
Other Political Subdivisions

December 1-3, 2025



Texas Secretary of State
ELECTIONS DIVISION



Post-Election Hand Count Audit



Partial Manual Count is now the Post-Election Hand Count Audit

SB 827 passed both houses and signed by the Governor

Effective Sept. 1, 2025, the Partial Manual Count is now known as the Post-Election Hand Count Audit



Post-Election Hand Count Audit Requirement

All counties and local political subdivisions that tabulate voting system ballots electronically are required to conduct the Post-Election Hand Count Audit



Other Political Subdivisions Contracting with County

In elections conducted jointly with your political subdivisions, a separate Post-Election Hand Count Audit for the political subdivision elections will NOT be required if the political subdivision shares a joint ballot with the county

In this instance, the Post-Election Hand Count Audit for the county will serve as the political subdivision's required Post-Election Hand Count Audit.

Local political subdivisions should check with their county elections office to determine whether the local entity or the county will be conducting the Post-Election Hand Count Audit

Political subdivisions in counties participating in the Countywide Polling Place Program will have to select three (3) polling locations to conduct their Post-Election Hand Count Audit



Conducting the Post-Election Hand Count Audit

The Post-Election Hand Count Audit must be conducted after every election using paper ballots counted with an electronic voting system. **This includes marked paper ballots and paper ballots generated by a ballot marking device.**

It includes all ballots that were counted with a precinct or central scanner and reported as part of your unofficial results on election night. It also includes:

- Early voting in person and by mail ballots that were counted with a precinct scanner or central scanner.
- Ballots cast on a paperless DRE are exempt from the Post-Election Hand Count Audit.



Initial Steps of the Post-Election Hand Count Audit for CSOs

The general custodian shall conduct a Post-Election Hand Count Audit for all the races in the following:

- Three (3) Election Day polling locations and three (3) Early Voting locations or one (1) percent of the Election Day polling locations and one (1) percent of the Early Voting locations, whichever is greater, will be selected
- No more than three (3) offices or measures shall be designated for the count



Selection of Polling Locations / Precincts - Random

The general custodian may select additional polling locations for early voting and election day and additional precincts for ballots by mail through a random selection process

- The general custodian should follow the guidelines used to randomly select polling locations and precincts for the initial Post-Election Hand Count Audit
- These guidelines are discussed in more detail in the [Post-Election Hand Count Audit Guide](#)



Selection of Polling Locations / Precincts - Turnout

The general custodian may select additional polling locations for early voting and election day, or additional precincts for ballots by mail with the highest voter turnout.

For voting by mail, the general custodian may focus on precincts with the largest number of accepted ballots by mail.



Selection of Polling Locations / Precincts - Discrepancy

If reconciliation documentation indicates that a discrepancy exists between the number of votes cast at a polling location (or in a ballot by mail precinct) and the number of ballots counted, the general custodian is authorized to add the precincts or polling locations to the Post-Election Hand Count Audit.

- The general custodian must document the reason or reasons for selecting the additional polling locations or precincts for the Post-Election Hand Count Audit.



Early Voting Ballot Board Role In the Post-Election Hand Count Audit

General custodian shall designate members of the early voting ballot board to perform the Post-Election Hand Count Audit

If one or more members of the early voting ballot board are unable to serve, the general custodian may appoint other individuals



Who Can Attend the Post-Election Hand Count Audit?

Each person entitled to appoint watchers in the election may attend

Each person may have a watcher present

- Each watcher must deliver a certificate of appointment to the presiding judge “at the time” the watcher reports for service
- Each watcher must satisfy the same requirements to be a watcher in Chapter 33 of the Texas Election Code



Video Surveillance of Post-Election Hand Count Audit

Counties with populations of 100,000+ must implement a video surveillance system of all areas containing voted ballots until the canvass of precinct election returns

In counties with the video surveillance requirement and counties that have voluntarily implemented video surveillance, this will mean that the Post-Election Hand Count Audit will be conducted under video surveillance if the Post-Election Hand Count Audit is conducted prior to the canvass



Starting the Post-Election Hand Count Audit

Entities will receive a separate email prior to Election Day from SOS with information specific to the Post-Election Hand Count Audit.

Once notified, the general custodian of election records will post notice of the date, hour, and place of the count.



Starting the Post-Election Hand Count Audit

The general custodian must begin the Post-Election Hand Count Audit **within 72 hours** after the polls close on Election Day.

The Post-Election Hand Count Audit shall be completed no later than the **21st day after Election Day**.

Results of the Post-Election Hand Count Audit **must be posted** on the county's website in the same location where election returns and results are posted.



Opening the Ballot Box

You are not required to petition a district judge for permission to retrieve the ballots when conducting the Post-Election Hand Count Audit, since this is a procedure that is required by law.

- When you have designated to begin the Post-Election Hand Count Audit, you should arrange access to the ballots for the selected precincts.
- Before conducting the Post-Election Hand Count Audit, the general custodian of records should coordinate with the custodian of keys to receive the keys to the ballot boxes, or to be present for the opening of the ballot boxes (Sec. 66.058)
- Following the Post-Election Hand Count Audit, all election material shall be re-secured and returned to the appropriate authority. (Sec. 66.058 and 127.201).



Counting the Ballots

Counties and local political subdivisions should consider preparing written procedures that explain how to conduct the Post-Election Hand Count Audit step-by-step in their respective political subdivision.

Each counting team should pull and tally their ballot box, use preprinted tally sheets, and ensure accuracy before submission.

It is recommended that teams of 2-3 people retrieve the ballots that are part of the Post-Election Hand Count Audit and hand count those ballots.

At all times relevant to the count, the general custodian of election records must take every precaution necessary ***to protect the confidentiality and security of the ballots cast by the voters.***



Counting the Ballots

Each counting team must consist of at least two people (Sec. 65.001).

Three original tally sheets are required (Sec. 65.004). These tally lists should be completely filled out and include the following information:

- Names and offices of candidates and/or propositions;
- Date;
- Precinct number or polling location;
- Name of presiding judge;
- Signature of the person keeping the tally list.

No marks should be made on any ballot by any person during the counting process. In the event a ballot is not counted, a separate log containing the ballot number and reason(s) for not counting the ballot should be maintained (Sec. 65.010(c)).



Counting the Ballots

If the ballots were not previously pre-sorted by the Early Voting Ballot Board or the staff of the general custodian of election records, then the counting officers should open the ballot box containing voted ballots as soon as it is received.

The officer designated as the caller should remove the ballots from the ballot box (Sec. 65.005).

The caller must read and distinctly announce, to the officers keeping the tally lists (the talliers) each name of a candidate or proposition for which there is a vote (Sec. 65.005).

When counting ballots, remember to count only those races and ballot measures which are a part of the Post-Election Hand Count Audit.



Valid vs. Invalid Ballots

The failure of a voter to mark his or her ballot in strict conformity with the Election Code does not invalidate the ballot (Sec. 65.009(a)).

The failure of a voter to vote a full ballot does not invalidate the ballot (Sec. 65.009(b)).

Marking the ballot by marking through the names of candidates for whom or the statements beside the proposition for which the voter does not desire to vote does not invalidate the ballot.



Valid vs. Invalid Ballots

The intent of the voter in marking a ballot may be determined by:

- A distinguishing mark adjacent to the name of a candidate or political party or a voting choice associated with a proposition;
- An oval, box, or similar marking clearly drawn around the name of a candidate or political party or a voting choice associated with a proposition;
- A line drawn through:
 - The names of all candidates in a manner that indicates a preference for the candidates not marked if the names of the candidates not marked do not exceed the number of persons that may be elected to that office;
 - The name of each political party except one in a manner that clearly indicates a preference for the political party not marked;
 - A voting choice associated with a proposition in a manner that clearly indicates a preference for the other voting choice associated with the proposition; or
- Any other evidence that clearly indicates the intent of the voter in choosing a candidate or political party or deciding on a proposition (Sec. 65.009).



Valid vs. Invalid Ballots

A ballot is not counted in the Post-Election Hand Count Audit if:

- The intent of the voter cannot be determined for any races or propositions on the ballot (Sec. 65.009).
- Two or more marked ballots are folded together in a manner indicating that they were folded together (Sec. 65.010(a)(2)).
- The ballot is not numbered and the presiding judge determines that the ballot was not provided at the polling place (Sec. 65.010(a)(1)).
- The ballot was never deposited in the ballot box (Sec. 65.010(a)(4)).



Replacing Counting Team Members

A member of the counting team should not be replaced after vote tallying has begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made (Sec. 65.006(a)).

If a counting officer is replaced on a counting team after the tallying is begun, the officer to be replaced should certify the accuracy of the list the officer has kept, as of the time of replacement, by signing the list at that time (Sec. 65.006(b)).



Conducting the Post-Election Hand Count Audit for Countywide Polling Place Counties

For counties that are participating in the Countywide Polling Place Program, for the Election Day count, they will complete the Post-Election Hand Count Audit by polling place.

Early voting ballots are now required to be counted by polling place in countywide counties. The selected polling places must be counted for early voting ballots cast in-person.



Conducting the Post-Election Hand Count Audit for Countywide Polling Place Counties

At the convening of the Post-Election Hand Count Audit, the general custodian of election records shall identify the applicable ballot boxes containing voted ballots subject to the Post-Election Hand Count Audit

For the selected polling places, the general custodian of election records with at least one individual of the counting team shall inspect the ballot boxes to verify that all locks and seals are intact



Counties Using Direct Recording Electronic Voting Systems

When entering information into the results, place zeroes “0” in the columns for election and early voting in person.

Still required to conduct a Post-Election Hand Count Audit for mail ballots.

Note: After Sept. 1, 2026, DREs that do not have a paper record will no longer be permitted for use in Texas elections unless the device is used only for curbside voting. (Sec. 129.003)



Resolving Discrepancies

If there are discrepancies between the hand count and the voting system reports, the general custodian of election records, in consultation with the Early Voting Ballot Board, must attempt to determine what caused the discrepancy.

When investigating a discrepancy, start with the hand counted ballots.

- Verify that the number of ballots in each batch of ballots matches the expected totals from the voting system count, and that no ballots were missed when retrieving ballots from their ballot boxes and that no ballot boxes were overlooked.
- Check that each stack of ballots is from the correct precinct or polling place, and sorted into the correct stacks for that precinct or polling place.
- Recount the pulled ballots to double check that the hand count is accurate.
- If any changes are being made to tally sheets, be sure to document what the change is and why it took place.



Resolving Discrepancies

After the hand count has been reviewed, the general custodian of election records should ensure that the most current version of the results report is being used.

- Checking the cast vote records can also tell you how an individual ballot was counted by the voting system, but it may be a challenge to track down.

In entities with hand-marked ballots inserted into precinct scanners or central scanners, there may be some ballots interpreted by the voting system as an overvote or an undervote, but when viewed manually the voter's intent is clear.

If the discrepancy cannot be resolved, the general custodian of election records should document the discrepancy and any efforts to resolve it.



Completing the Post-Election Hand Count Audit

The Post-Election Hand Count Audit must be completed no later than the 21st day after election day.

No later than the third day after the date the Post-Election Hand Count Audit is completed, the general custodian of election records shall deliver a written report of the results to the Secretary of State's Office.

Results of the Post-Election Hand Count Audit must also be posted on the county's website in the same location where election returns and results are posted.



Completing the Post-Election Hand Count Audit

If you are a local entity conducting your own election, and therefore performing your own Post-Election Hand Count Audit, you are still required to submit the results to the Secretary of State and to the county to post on the county's website.

It is recommended that the local entity also post a link from its website to the county's website where the results are posted.



Public Information

Records of the Post-Election Hand Count Audit are publicly available, and must be retained for the standard 22-month period. When storing records, keep related Post-Election Hand Count Audit paperwork together in well-labeled boxes, separated from other election records.



Texas Secretary of State

ELECTIONS DIVISION

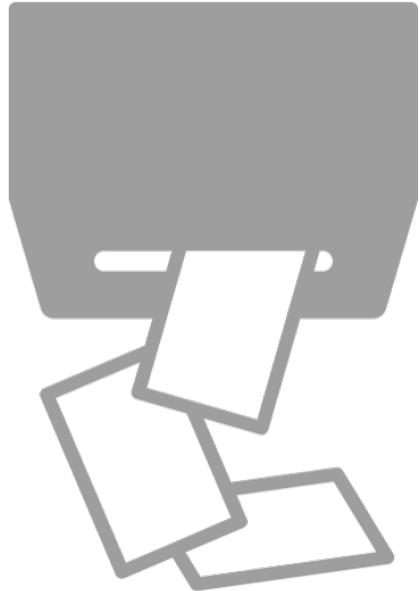


Recounts



Recount Basics

- A recount may only be used to recount the votes in a particular race (office) or measure.
- Authority conducting an election cannot conduct a recount on its own recommendation.
- A recount does **NOT** have the same scope as an election contest.
- 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.
- A recount is **NOT THE SAME** as a Post-Election Hand Count Audit





Recount Coordinator

- 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 Supervisor

- Manages and supervises the recount in precincts within the jurisdiction of the local canvassing authority
- The presiding officer of the local canvassing authority or its 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.





A Petition for a Recount **MUST** contain the following elements:

- Be in **writing**
- **Identify the office or measure** for which a recount is requested
- **State the grounds on which the recount is requested**
- **Identify the election precincts** in which a recount is requested
- If it is a recount of an election where an electronic voting system was used, the request must identify if a **manual or electronic recount** is requested

- **Contain the name, address, and telephone number of the petitioner** (or an agent)
- **Contain the name, address, e-mail address (if any) and telephone number of an opposing candidate or campaign treasurer**
- **Be signed** by the petitioner or agent of the petitioner
- **Include the required deposit**



Deadline for Filing a Petition

Initial Recount

This is a recount in an office where election by **plurality** is required or an election where only two candidates are running.

The petition must be submitted by 5 p.m. of the third business day after canvass. (Sec. 212.028)

Expedited Recount

This is a recount in an office where election by **majority** is required and more than two candidates are running.

The petition must be submitted by 2 p.m. of the second day after the date of the canvass. (Sec. 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**. (Sec. 212.029)
- If there is a **defect** in the petition, the petitioner has until the deadline for filing a petition or 5 p.m. of the second day after notice of the defect is received to **correct the defect**, whichever is later. (Sec. 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 recount petition may only be amended 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. (Sec. 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. (Sec. 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, such as 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 (one of whom will become the chair) who are appointed by the Recount Supervisor. (Sec. 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. (Sec. 213.003)**
- 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.
- 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 (Sec. 213.004)



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 Coordinator, Recount Committee Chair and Recount Committee Members (Sec. 213.002)
- The candidates/campaign treasurers and watchers; (Sec. 213.013)
 - Candidates/campaign treasurers may appoint 2 watchers or, if there are more than two counting teams, watchers equal to the number of counting teams. (No specific eligibility requirements for watchers at recounts)
- The **custodian of the voted ballots**; (Sec. 213.001)
- The Recount Supervisor; and
- Any state inspectors.



Prohibited Devices

No one permitted to be present at a recount can possess a device capable of recording sound or images unless the person agrees to disable or deactivate the device.



After the Recount

- If 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. (Sec. 213.033)
- The new canvass serves as the official canvass for purposes of that election.



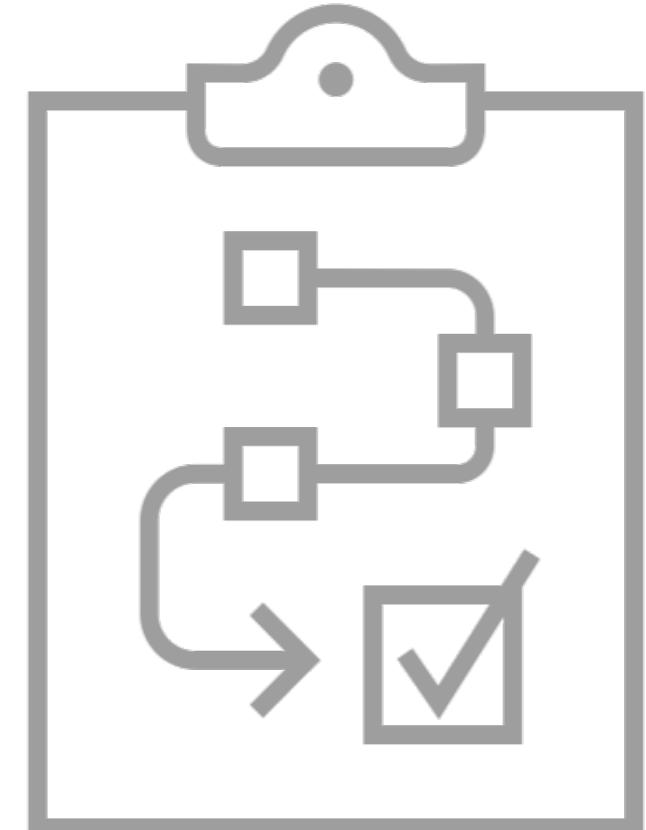


Practical Considerations When Conducting Recounts



Develop a Plan

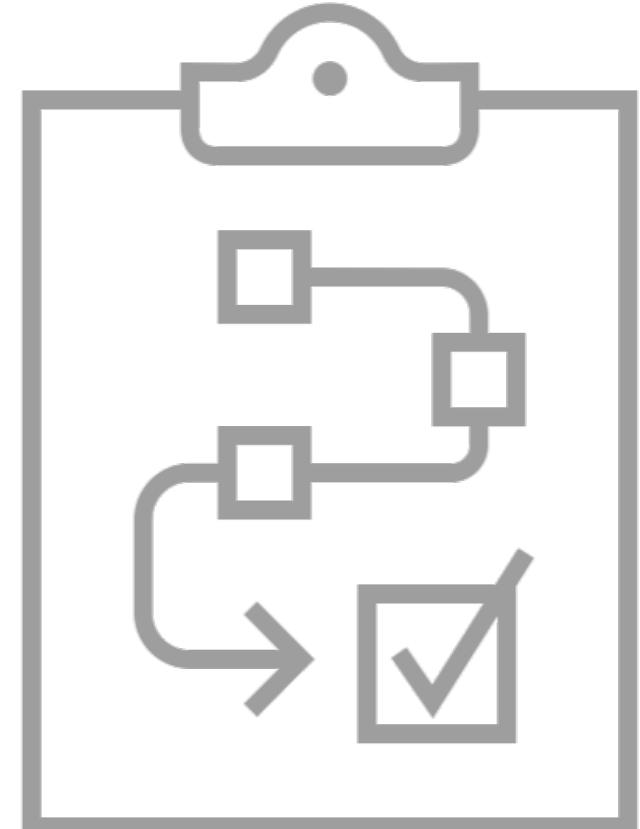
- Timeline for executing all required processes on time as required by law
- Review of filed Recount Petition must take place no later than 48 hours after filing
- Plan for Recount Supervisor/Coordinator to appoint members of the Recount Committee
- Checklist of forms and supplies necessary to conduct the recount
- Security and chain of custody procedures for recount personnel, watchers and ballots





Develop a Plan

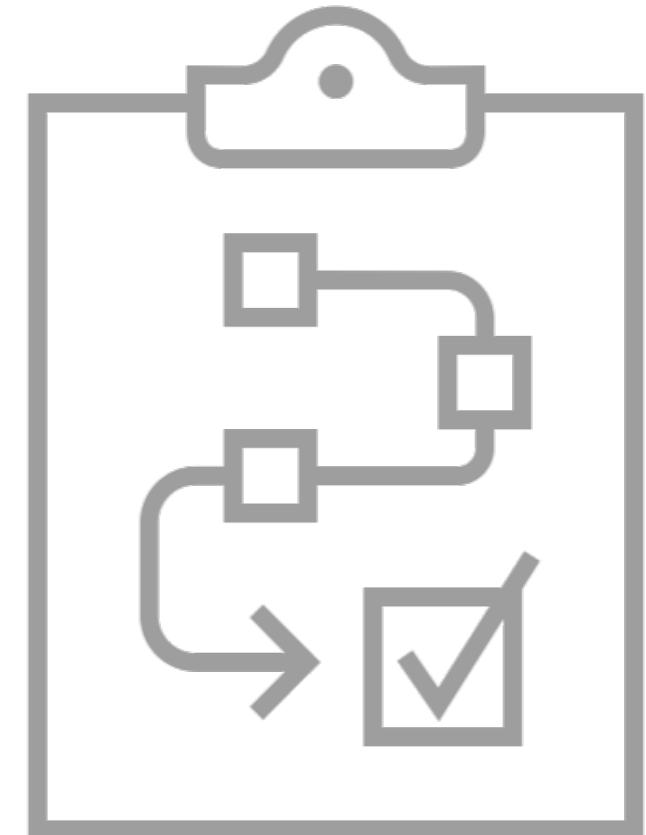
- Procure a secure location to conduct the recount
- Develop a layout for the recount area
- Communication plans for the persons entitled to notice of a recount and Recount Committee members
- Policies for personal wireless/recording devices, such as phones and smart watches





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





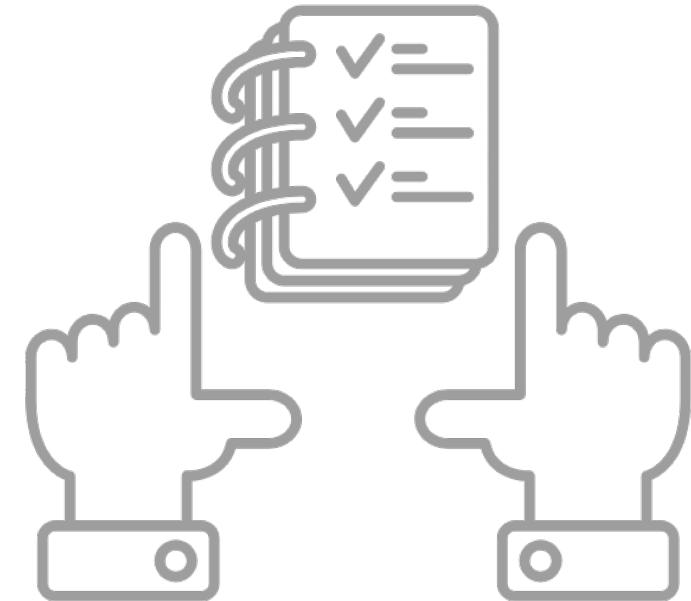
Determine the Scope of the Recount

- 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 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

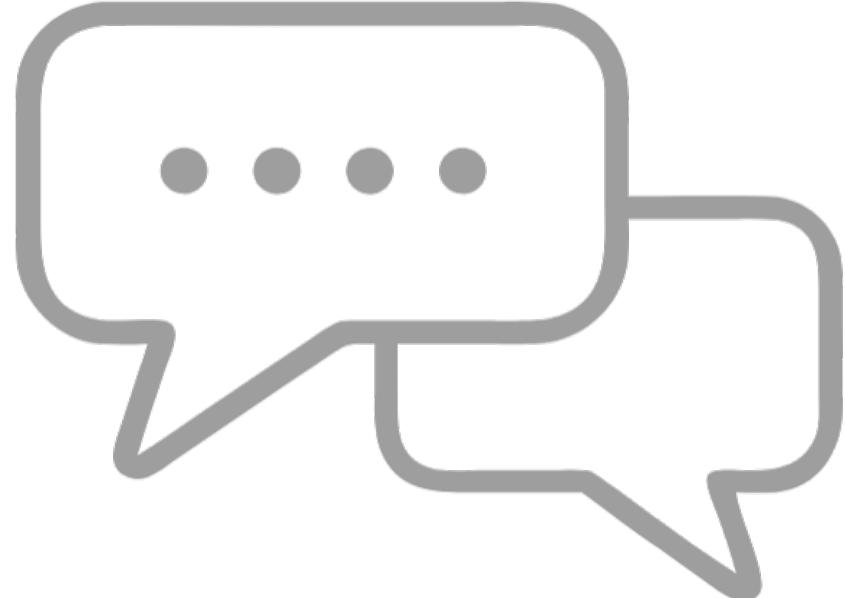
- Tables and Chairs
- Scissors
- Keys to the ballot boxes
- Seals and Chain of Custody Forms
- Name Badges
- Pens for Tally Sheets
- List of Certified Write-In Candidates, if applicable
- Voter Intent Adjudication Guide
- Baskets for sorting ballots





Communications 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. (Sec. 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 convened and the Recount Supervisor/Coordinator/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, counting ballots, and secure the ballot boxes before going on breaks or leaving for the day

No ballot box should be left partially counted at the end of the day

The room in which the recount is being taken should be locked and secure when left unattended and with limited access



Managing Poll Watchers

- The rules for poll watchers at a recount are different than the rules for watchers at 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





Managing 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



Common Questions Regarding Recounts



Question #1

Can a person who was appointed 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 #2

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 to copy the challenged ballots.

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



Question #3

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



Answer

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



Resources

- **Recount Outline**

sos.texas.gov/elections/laws/recounts.shtml

- **Judges and Clerks Handbook**

(rules for counting paper ballots)

sos.state.tx.us/elections/forms/judges-clerks-handbook.pdf

The screenshot shows the official website of the Texas Secretary of State. The header features the Texas state seal and the title 'Texas Secretary of State Jane Nelson'. The top navigation bar includes links for 'Media', 'Site Map', 'Help', 'Contact', 'Website Survey', and 'En Español'. Below the header, there are several menu items: 'About SOS', 'Elections & Voting' (which is currently selected and highlighted in blue), 'Business Services', 'Notary & Apostilles', 'Rules & Meetings', 'International Relations', and 'Forms & Other Services'. The main content area features a large image of the Texas State Capitol building. To the right, a welcome message from Secretary Jane Nelson is displayed, along with a photo of her. The sidebar on the left contains a list of links related to elections, including 'Conducting Elections' (which is circled in red), 'Voter Registration', 'Candidate Filings', 'Officials and Officeholders', 'Election Results', 'Audit Program', 'Training and Educational Resources', 'Election Funds Management', 'Forms, Resources and Legal Library', 'Voting Systems', 'Frequently Asked Questions (FAQS)', and 'Contact Us'. At the bottom of the sidebar, there is a link to 'Conducting Topics' and a URL: <https://www.sos.state.tx.us/elections/conducting/index.htm>.



Recount Forms – Coming Soon

- 14-1 Petition Requesting a Recount – *Updated*
- 14-2 Certificate of Appointment of a Watcher for a Recount
- Certificate of Appointment of a Recount Committee - *New*
- Certificate of Appointment of a Recount Committee Chair - *New*
- Tally Sheet for a Recount – Hash Count - *New*
- Tally Sheet for a Recount – Slash Count - *New*
- Recount Returns Sheet - *New*
- Request to Withdraw a Recount Petition - *New*





Available Support



WEBINARS



TRAINING



RESOURCES

elections@sos.texas.gov

800-252-VOTE • 512-463-5650

sos.texas.gov