

TEXT OF PROPOSED REGULATIONS

Add Sections 20810, 20811, 20812, 20813, 20814, 20815, 20816, 20817, 20818, 20819, 20820, 20821, 20822, 20823, 20830, 20831, 20832, 20833, 20840, 20841, and 20842, of Chapter 8 to Division 7 of Title 2 of the California Code of Regulations.

Chapter 8. Recounts

Article 1. General Provisions.

§ 20810. Purpose.

- (a) The purpose of this chapter is to establish standards and procedures for conducting recounts of votes cast for all elections in the State of California requested pursuant to Chapter 9 of Division 15 of the California Elections Code.
- (b) This chapter applies to the Secretary of State and all elections officials within the State of California in conducting recounts of votes cast for all elections in this state.

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 15601, Elections Code.
Reference: Sections 15600 and 15601, Elections Code.

20811. Definitions.

- (a) “Election data media device” means a card, cartridge, USB flash memory stick or other digital storage device that stores ballot information and/or voting results information in a non-volatile form.
- (b) “Governing body” includes, but is not limited to, a city council or a county board of supervisors.
- (c) “Interested party” includes, but is not limited to, the requestor and those persons identified in Elections Code section 15628.
- (d) “Observer” means any representative of a qualified political party, representative of a bona fide association of citizens, or other person who wishes to observe the recount proceedings subject to space limitations.
- (e) “Qualified political party” means only a political party qualified to participate in the last primary election.
- (f) “Relevant material” includes but is not limited to un-voted ballots, vote by mail and provisional ballot envelopes, voting system redundant vote data, ballot definition files, language translation files and central database or other electronic repository of results for the election in which the contest subject to recount occurred, election data media devices, audit logs, system logs, pre- and post-election logic and accuracy testing plans and results, polling place event logs, precinct tally results, central count tally results and consolidated results in a structured, non-proprietary format, surveillance video recordings and chain of custody logs, including logs of security seals and access to election-related storage areas.
- (fg) “Requestor” means a voter who requests a recount or any other voter who, during the conduct of a recount and for 24 hours thereafter, requests the recount of additional precincts not recounted as a result of the original request.
- ~~(gh) “System redundant vote data” means each and every electronic record of election results for ballots cast in an election on one or more voting system units that is stored in any part of the voting~~

~~system other than the jurisdiction's central electronic repository of results for that election.~~

~~(h) For purposes of these regulations, "Vote tabulating device" means any piece or combination of pieces of equipment, other than a voting machine operated by levers or other mechanical means, that compiles a total of votes cast by means of electronic data processing and ballot card sorting, ballot card scanning, or paper ballot scanning, electronic data processing or a combination of that type of equipment.~~

(i) "Voter" means any elector who is registered under the Elections Code.

(j) "Vote for One" means an election for an office in which the voter may select only one candidate.

(k) "Vote for Multiple" means an election for an office in which the voter may select two or more candidates.

~~(l) "Voter verified paper audit trail record" does not include a voter verified paper audit trail record from a direct recording electronic voting machine that was used only with a ballot definition or ballot definitions that did not include the contest being recounted.~~

~~(m) "Voting system redundant vote data" means each and every electronic record of election results for ballots cast in a contest subject to recount on one or more voting system units that is stored in any part of the voting system other than the jurisdiction's central electronic repository of results for that election. Some voting systems do not have redundant vote data on all tabulating or recording devices.~~

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 15601, Elections Code.

Reference: Sections 358, 359, 361, 15620, 15621, 15623, and 15625, Elections Code.

§ 20812. Who May Request Recount.

(a) Any voter may, pursuant to Elections Code sections 15620, 15621 or 15623, request a recount.

(b) Upon receipt of a request for recount, the elections official shall verify that the person requesting the recount is registered to vote in this state.

(c) Any time during the conduct of a recount and for 24 hours thereafter, any voter other than the original requestor may, pursuant to Elections Code sections 15620, 15621 or 15623, request the recount of any precincts not recounted as a result of the original recount request.

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 15601, Elections Code.

Reference: Sections 15620, 15621 and 15623, Elections Code.

§ 20813. Material To Be Examined; Relevant Material.

(a) Requests to examine specific categories of relevant material shall be made by the requestor in writing and shall be received by the elections official before the recounting of ballots ~~is complete commences.~~

~~(b) For purposes of this section, "relevant material" includes but is not limited to vote by mail and provisional ballot envelopes, voting system redundant vote data, election data media devices, audit logs, system logs, pre- and post-election logic and accuracy testing plans and results, polling place event logs, precinct tally results, central count tally results, consolidated results, surveillance video recordings and chain of custody logs, including logs of security seals and access to election-related storage areas.~~ The elections official shall produce any relevant material requested.

(c) The elections official may establish reasonable guidelines for the production and examination of

relevant material. The guidelines shall permit photocopying, photography and videotaping of all relevant materials except in a manner that would record un-redacted voter signatures.

(d) The elections official shall communicate any request to examine ballots or other relevant material to each interested party or to his or her representative. The interested parties and their representatives appointed pursuant to section 20816(a)(1) may be present during the examination of ballots or other relevant material.

(e) The elections official, or his or her designee, shall be present during the examination of original ballots or original relevant material, but is not required to be present during the examination of copies of relevant material if the written request specified production of copies for examination.

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 15601, Elections Code.
Reference: Sections 15629 and 15630, Elections Code.

§ 20814. Order of Recount.

(a) If no order in which precincts are to be counted is specified in the request for recount, the elections official shall determine the counting order of precincts.

(b) The requestor may request, in writing, a change to the order of precinct counting determined by the elections official or specified in the requestor's initial request for a recount. Any change in the counting order of precincts is subject to the approval of the elections official.

(c) Any additional estimated costs associated with requests to change the order of precinct counting shall be paid by the requestor prior to re-ordering the precincts.

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 15601, Elections Code.
Reference: Section 15622, Elections Code.

§ 20815. Cost of Recount.

(a) The elections official shall estimate the costs necessary to produce relevant material and the requestor shall pay an advance deposit of the estimated amount at least one day prior to the materials being produced.

(b) The requestor shall pay the advance deposit using cash, cashier's check or money order. ~~No personal checks will be accepted.~~ At the elections official's discretion, electronic payment by credit or debit card may be accepted.

(c) At least one day prior to the commencement of the recount, the elections official shall determine the estimated cost for the first day of the recount and shall advise the requestor in writing of the advance deposit required. The requestor shall, before the recount is commenced, deposit this amount with the elections official. The same procedure shall be followed for each subsequent day of the recount. Daily estimates may vary based upon experience or additional requests made during the course of the recount.

(d) The requestor shall pay the advance deposit using cash, cashier's check or money order. ~~No personal checks will be accepted.~~ At the elections official's discretion, electronic payment by credit or debit card may be accepted.

(e) All actual costs of the recount ~~resulting from~~ that would not have been incurred but for the requestor's particular recount request shall be directly recoverable from the requestor and may include,

but are not limited to, additional supervision hours, security guards hours, ~~members of the~~ elections official's staff hours, space rental, transportation of ballots and materials and administrative costs.

(f) The elections official shall issue a receipt for payment of the deposits and shall maintain a daily log of estimated costs, deposits, actual expenses and amount of refund due, if any.

(g) If the advance deposit is not paid by a particular requestor, the elections official will terminate the recount of precincts specified by that requestor.

(h) When the recount is completed or discontinued, any amount collected from a voter requesting the recount, which exceeds the actual costs, shall be refunded to that requestor.

(i) If upon completion or discontinuation of the recount actual costs exceed the prepaid estimated costs, the elections official shall charge and the requestor shall pay the additional amount.

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 15601, Elections Code.
Reference: Sections 15624 and 15625, Elections Code.

§ 20816. Location of Recount.

(a) The recount shall take place in a location to be determined by the elections official. The elections official shall choose a location that is large enough to accommodate the presence of the following:

(1) Not more than two representatives of each interested party and each qualified political party to check and review the preparation, testing and operation of the tabulating devices, and to attend any or all phases of the recount; and

(2) Not more than two representatives of any bona fide association of citizens or a media organization to check and review the preparation, testing and operation of the tabulating devices, and have the representatives in attendance at any or all phases of the recount.

(3) In the event the elections official determines that more than two recount boards are necessary, each interested party may designate one additional representative for every additional recount board appointed, solely for the purpose of viewing the recount of ballots and challenging ballots.

(b) The elections official may limit the total number of representatives employed pursuant to subdivision (a)(2) in attendance to no more than 10 by a manner in which each interested bona fide association of citizens or media organization has an equal opportunity to participate. Any representatives employed and in attendance pursuant to subdivision (a)(1) or (a)(3) shall not be subject to the limit specified in this subdivision.

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 15601, Elections Code.
Reference: Sections 5100, 15004, 15625, 15628 and 15629, Elections Code.

§ 20817. Security.

(a) The elections official shall, within six (6) months of the effective date of these regulations, ~~establish-~~ submit to the Secretary of State written security measures for recounts to ensure the integrity of the recount proceedings. The security measures shall include, but not be limited to, chain of custody controls and signature-verified documentation for all voter verified paper audit trail ~~records~~ paper copies, voted, spoiled and unused ballots, and all "relevant material" as described in section ~~20813(b)~~ 20811(f). If submission by the vendor of a security plan to the Secretary of State is a condition of approval of voting system use, written notice to the Secretary of State of designation of

that security plan to govern recounts satisfies the requirement of this subdivision. -

~~(b) The security measures must also require a minimum of two members of a special recount board to perform or directly observe critical security processes, such as sealing and locking equipment between recount sessions, verifying the integrity and authenticity of security locks and seals, and setting up voting equipment a requestor requests to examine as relevant material. Where application of tamper-evident seals directly to a system component is required to detect unauthorized access to the component between recount sessions, those seals must be serialized.~~

~~(e)~~ Upon request, all persons authorized to observe the recount pursuant to section 20816 must be permitted to observe and inspect, without physical contact, the integrity of all externally visible security seals used to secure all ballot materials, voter verified paper audit trail ~~records~~paper copies, relevant material as described in section ~~20813(b)~~20811(f), and recount documentation in a reasonable time and manner that does not interfere with the conduct of the recount.

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 15601, Elections Code.
Reference: Sections 15624 and 15625, Elections Code.

§ 20818. Staffing.

(a) Prior to the commencement of the recount, the elections official shall determine the number of special recount boards necessary to complete the recount in a timely manner. The elections official shall appoint four voters of the county to each special recount board.

(b) There shall be one supervisor for every ~~two~~four special recount boards. The supervisor's function is to enforce the rules and transport ballots and reports. The supervisor shall not resolve challenges.

(c) At the end of each day, the elections official or his or her designee shall post and announce publicly the following:

(1) the results of the recount tally of each precinct recounted that day;

(2) the certified election results tally for each precinct recounted that day;

(3) a running tally of the total recount results for all precincts recounted to date; and

(4) a running tally of the total certified election results for all precincts recounted to date. ~~compile all precinct tallies and keep a running tally.~~

(d) The elections official shall determine whether additional personnel is necessary for tasks such as producing relevant material, sorting or retrieving materials, or checking signatures.

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 15601, Elections Code.
Reference: Section 15625, Elections Code.

§ 20819. Scheduling.

The elections official shall set the daily schedule for the recount, including hours of operation, approximate breaks and lunch times, in accordance with the requirements of Elections Code section 15626. ~~A special recount board shall not stop for a break or lunch while recounting a precinct.~~ The schedule shall be posted in a conspicuous place at the office of the elections official and at the location where the recount takes place, if different.

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 15601, Elections Code.
Reference: Sections 15625 and 15626, Elections Code.

§ 20820. Spokespersons and Observers.

(a) Any person may observe the recount proceedings, subject to space limitations of the recount location selected by the elections official pursuant to section 20816.

(b) Upon request by the elections official, each interested party shall appoint one of his or her representatives to serve as a spokesperson authorized to make decisions with respect to the recount on behalf of the interested party, or the interested party may serve as his or her own spokesperson. When accompanied by an elections official or his or her designee, the spokesperson shall have access to all areas where ballots are recounted by hand or tabulated by machine.

(c) Questions other than ballot challenges shall be routed through the spokesperson, who shall then direct the question to the elections official or his or her designee. Official discussions with any interested party concerning resolution of questions shall include each interested party or his or her spokesperson.

(d) The elections official may require any requestor, interested party, representative, or observer of the recount proceedings to log in and receive an identification badge before entering the recount location. If required, identification badges shall be worn at all times and returned to the elections official at the end of the day.

(e) Requestors, interested parties, representatives, and observers may shall not interfere in any way with the conduct of the recount, touch any voting system components, ballots, tally sheets or other special recount board materials, sit at the official recount worktables, place any material on the official recount worktables, talk to members of the special recount boards or supervisors ~~workers~~ while they are processing ballots or other recount materials or assist in recount procedures.

(f) The elections official may deny entry to the recount location to any person who fails to comply with the requirements of this section.

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 15601, Elections Code.
Reference: Sections 15625, 15629 and 15630, Elections Code.

§ 20821. Media, Photography and Recording Devices.

(a) The elections official shall, within six (6) months of the effective date of these regulations, develop a written policy providing reasonable access to the recount location by the media, and the use of cameras or audio or video recording devices in the recount location in a manner that will not interfere with the recount, compromise the anonymity of any ballot or record the signature of any voter. Interested parties and observers shall be permitted the same access for use of cameras or audio or video recording devices -as members of the media.

(b) No ~~media~~ interviews shall be permitted in the recount location while the recount is being conducted.

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 15601, Elections Code.
Reference: Sections 15625 and 15629, Elections Code.

§ 20822. Results of Recount.

- (a) ~~At the end of each day~~Upon completion of the recount, the elections official shall ~~announce publicly the results of the tally of each precinct recounted that day and the cumulative recount tally.~~
- (b) ~~If after a recount has been completed as specified in Elections Code section 15632 the outcome of the election changes, the elections official shall do all of the following:~~
- (1) ~~Post~~ the results of the recount in a highly visible public location in the elections official's office.
- (2b) In a recount of an election ~~contest other than a contest~~ for a statewide office or measure, Assembly, State Senate, Presidential convention delegate or slate of electors, Congress, State Board of Equalization, Supreme Court or Courts of Appeal, transmit one complete copy of all results of the recount to the Secretary of State. The Secretary of State shall compile the results of the recount and notify the affected counties within five (5) business days of receipt of all of the results of the recount as to whether the recount has changed the outcome of the election, as provided in Elections Code section 15632.
- (c) If the outcome of an election has changed as a result of a recount, as provided in Elections Code section 15632, the elections official shall:
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- (A1) In a recount of an election for a statewide office or measure, Assembly, State Senate, presidential convention delegate or elector, Congress, State Board of Equalization, Supreme Court or Courts of Appeal, Recertify ~~revise~~ the official returns for the ~~contest being recounted~~ election with the new official count for each precinct involved in the recount and ~~including updating the canvass, the official bulletin, and the statement of vote, as needed.~~
- (B) ~~Send~~ a copy of the ~~recertification~~ revised official returns to the Secretary of State.
- (2) In a recount of an election for any office or measure not included in subdivision (c)(1), recertify the official returns for the election with the new official count for each precinct involved in the recount and send a copy of the recertification to the public official or governing body that declares the results of the election subject to the recount, in order that they may adopt the recertification and re-declare the results of the election.
- (A) (3) ~~In a contest for statewide office, Assembly, State Senate, Presidential convention delegate or elector, Congress, State Board of Equalization, Supreme Court or Courts of Appeal, transmit one complete copy of all results of the recount to the Secretary of State.~~
- (43) Refund all monies deposited for the recount by any requestor in whose favor the recount changed the outcome of the election. If a recount conducted in multiple counties changed the overall outcome of the election, all monies deposited in all affected counties by such a requestor shall be refunded. No refund shall be made if the recount did not change the overall outcome of the election.

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 15601, Elections Code.
Reference: Sections 15624, 15625, 15632 and 15633, Elections Code.

§ 20823. Challenges.

- (a) A challenged ballot shall be set aside with a notation indicating the precinct number, the method by which it was originally counted for the official canvass, e.g., direct recording electronic voting system, scanner or hand count, the challenge number assigned to the ballot, the reason for the challenge, and the identity of the person making the challenge.
- (1) ~~A ballot that can be isolated, including rejected unopened vote by mail or provisional ballots, may be challenged and added to the count if the elections official determines that the ballot was properly~~

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(21) ~~A B~~ballots that ~~were-was~~ counted in the official canvass, including ~~a~~ counted vote by mail or provisional ballots, may be challenged only on grounds of disqualifying distinguishing marks or some other grounds visible on the face of the ballot so that the ballot can be isolated and removed from the count if the elections official determines that the ballot was not properly cast.

(2) A voted ballot that was not counted in the official canvass, including a rejected unopened vote by mail or provisional ballot, may be challenged and added to the count if the elections official determines that the ballot was properly cast.

(b) Resolution of challenged ballots shall take place in a segregated area within the recount location, separate from that being used to perform the recount, as determined by the elections official, to avoid confusion and mixing of ballots.

(c) Challenges shall be resolved each day after all special recount boards complete their work, or more often if necessary, as determined by the elections official, but in any event before the conclusion of all recount proceedings. The determination of the elections official on a challenge shall be final. The elections official shall maintain a record of each challenge and the determination on each challenge.

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 15601, Elections Code.
Reference: Sections 15625 and 15631, Elections Code.

Article 2. Recount of Votes Cast On Ballot Cards or Paper Ballots and Originally ~~Fallied-Tabulated By a Scanning Device~~Automatically.

§ 20830. Recounts Using the Type of Vote Tabulating Devices Used In the Election.

(a) Prior to conducting a recount of ballot cards or paper ballots using ~~a-the type of~~ vote tabulating devices used in the election, a logic and accuracy test limited to the contest subject to recount shall be conducted on each of the vote tabulating devices to be used in the recount, ~~applying the same test method used prior to the election subject to the recount pursuant to Elections Code section 15000 using a test deck created to test logic and accuracy for the contest to be recounted.~~ The test shall be conducted publicly, subject to any limit made necessary by space limitations on the number of additional public observers ~~due to space limitations beyond those that must be accommodated under consistent with~~ section 20816. The results of the test, as well as the test deck used, shall be made available ~~to the for~~ inspection by any requestor, spokespersons, member of the media and or observers present for their inspection at the recount location between the time the test is completed and before the commencement of the recount ~~the posted time for recounting of ballots to begin.~~

(b) ~~A R~~recount ~~tabulation of voted ballots on using a-the type of~~ vote tabulating devices used in the election shall, to the maximum extent possible, be conducted using the same methods used to tabulate the ~~voted~~ ballots originally, and shall include the following:

(1) ~~Vote tabulating devices used for the recount shall be set to election mode and not test mode.~~

(2) On equipment capable of producing a paper tape or print-out, A zero-results tape or report shall be printed from each vote tabulating device, if feasible without new election coding and if supported by the device in the configuration used in the election, and verified by the requestor and spokespersons prior to any ~~recount tabulation on processing of ballots with~~ that device.

(3) If necessary ~~F~~to preserve the original vote count record, a backup of the election results shall be made and the same type of memory media that was used in the election shall be prepared to capture the recount vote results.

(4) Each voted ballot shall be fed through and scanned by processed with the designated same type of

vote tabulating devices used in the election.

(54) Ballots that cannot be read by the designated-vote tabulating devices shall be corrected or duplicated in accordance with Elections Code sections 15208, 15210 and 15211.

~~(6) All vote by mail ballots cast in a precinct subject to recount, including early voted ballots cast for that precinct, shall be tabulated for the recount on the same type of vote tabulating device that was used for the original tabulation. All ballots cast in a polling place on Election Day in a precinct subject to recount shall be tabulated on the same type of vote tabulating device, but not the same individual device, that was used for voting at the polling place.~~

(c) Once all eligible ballots cast in a polling place for a precinct have been scanned and tabulated processed by the designated a tabulating device, the device shall, if supported by the voting system, be “closed” so as to rendered incapable of accepting no further ballots for that precinct and the vote results shall be printed from that device and made available for public inspection. If supported by the voting system, the following steps shall also be taken:

(1) Recount vote results of ballots cast in a polling place for each precinct subject to recount shall be uploaded to the voting system’s central tabulation and reporting application; and

(2) The elections official shall report separately the recount vote results for each precinct subject to recount. Such reporting will include the number of ballots undervoted and overvoted in the challenged recounted contest.

(d) At the conclusion of tabulation of all precincts designated for the recount, a logic and accuracy test limited to the contest subject to recount shall be conducted on each tabulation tabulating device used in the recount, applying the same test method used using the same test deck created prior to the recount to test logic and accuracy for the contest prior to the election subject to the recount pursuant to Elections Code section 15000. This test shall be conducted publicly within the view of the requestor, spokespersons and observers. The test shall be conducted publicly, subject to any limit made necessary by space limitations on the number of additional public observers beyond those that must be accommodated under section 20816. The elections official shall make the results of the logic and accuracy test, as well as the test deck used for the test, available for inspection by the requestor, spokespersons, members of the media and observers at the recount location before the conclusion of the recount.

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 15601, Elections Code.
Reference: Sections 15633, 19220, 19360, 19370, 19380, 19381, 19382, 19383 and 19384, Elections Code.

§ 20831. Manual Recounts Generally.

(a) One of the four special recount board members shall read the ballot and call out the vote cast for the contest subject to recount on that ballot; one shall observe that the correct call was made, and two members shall each separately and independently record the votes as called out.

(b) Prior to beginning the actual manual recount, the elections official shall instruct all members of the special recount boards, requestor, interested parties, representatives and observers on the procedures to be followed for the recount and shall provide them with documentation on how to interpret and read the votes cast on the ballot, consistent with federal and state law and the State Uniform Vote Count Standards, and shall include a statement that in the event of a challenge, the determination of the elections official shall be final.

(c) Vote by mail and early-voted ballots cast in from a precinct subject to recount shall be tabulated

separately from ballots cast in a polling place on Election Day.

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 15601, Elections Code.
Reference: Sections 15101-15110, 15276, 15290 and 15625, Elections Code.

§ 20832. Manual Recounts, “Vote for One” Contests.

Manual recount tabulation on a voting system in a “Vote for One” contest is subject to the following requirements:

(a) Prior to counting the ballots, and in the clear view of the requestor, spokespersons and observers, all ballots for the precinct may be separated into stacks that do and do not contain the contest. Those that contain the contest should be sorted as follows:

(1) Ballots that were not voted for the contest (under-voted);

(2) Ballots that were over-voted for the contest; and

(3) Ballots that were voted for the contest, sorted by candidate or position.

(b) Starting with the voted ballots, one member of the special recount board shall state the candidate or position for which the vote was cast making sure the requestor, interested parties and their representatives can observe the contest subject to recount.

(c) After the vote is stated and counted, the counted ballot shall be placed on the table, with the counted ballots placed in stacks of either 10 or 25, at the discretion of the elections official.

(d) Two members of the special recount board shall record the votes stated, marking hashes in succession on their individual tally sheets. Each of these two board members shall announce when he or she has counted 10 (or 25) votes. If both members call out the same number of counted votes at the same time, the tally shall continue forward for the next 10 (or 25) ballots. If both recorders do not reach 10 (or 25) additional votes on the same ballot, then the count for the last interval of 10 (or 25) ballots shall be stricken from their tally sheets and those ballots recounted.

(e) An authorized spokesperson may request to inspect any ballot. Tallying shall be halted while the ballot is presented to the spokesperson for closer inspection. At no time may any spokesperson touch or come into physical contact with any of the ballots. Tallying will resume once the spokesperson has completed the inspection, which the spokesperson shall complete in a reasonable amount of time.

(f) Tallying shall continue in this manner, until all stacks of voted ballots have been tallied.

(g) After all voted ballots have been counted and tallied, the two special recount board members who have been recording the votes shall each independently calculate the total votes for each candidate or position on their tally sheets. When both have completed totaling, they shall each announce their totals one candidate or vote position at a time. If both announce the identical vote total for each candidate or position in the recounted contest, the recount of that precinct shall be deemed complete and the results reported to the ~~jurisdiction's chief~~ elections official. If the special recount board members announce different vote totals for any candidate or vote position in the recounted contest, the recount tallies recorded will be examined. If the difference can be explained by the special recount board or supervisor, or by the elections official or his or her designee, it shall be corrected on the tally sheet. A written report shall be made on an attachment to the tally sheet. In the event of an unexplained discrepancy, the results for that precinct shall be discarded and the recount of that precinct shall start over.

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 15601, Elections Code.

Reference: Sections 15276, 15290, 15629, 15630 and 19380, Elections Code.

§ 20833. Manual Recounts, “Vote for Multiple” Contests.

Manual recount tabulation on a voting system in a “Vote for Multiple” contest is subject to the following requirements:

(a) Prior to counting the ballots for the contest subject to recount, and in the clear view of the requestor, spokespersons and observers, all ballots for the precinct may be separated into stacks that do and do not contain the contest. Those that contain the contest should be sorted as follows:

- (1) Ballots that were not voted for the contest (under-voted);
- (2) Ballots that were over-voted for the contest;
- (3) Ballots indicating a vote for the first candidate listed on the ballot for the contest; and
- (4) Ballots that do not indicate a vote for the first candidate listed on the ballot for the contest.

(b) Starting with the voted ballots, one member of the special recount board shall state the candidate or position for which the vote was cast making sure the requestor, interested parties and their representatives can observe the contest subject to recount.

(c) After the vote is stated and counted, the counted ballot shall be placed on the table, with the counted ballots placed in stacks of 10 (or 25).

(d) Two members of the special recount board shall record the votes stated, marking hashes in succession on their individual tally sheets. Each of these two board members shall announce when he or she has counted 10 (or 25) votes. If both members call out 10 (or 25) counted votes at the same time, the tally shall continue forward for the next 10 (or 25) ballots. If both recorders do not reach 10 (or 25) additional votes on the same ballot, then the count for the last interval of 10 (or 25) ballots shall be stricken from their tally sheets and those ballots recounted.

(e) An authorized spokesperson may request to inspect any ballot. Tallying shall be halted while the ballot is presented to the spokesperson for closer inspection. At no time may any spokesperson touch or come into physical contact with any of the ballots. Tallying will resume once the spokesperson has completed the inspection, which the spokesperson shall complete in a reasonable amount of time.

(f) Once all the votes for the first candidate have been recorded, the valid voted ballots shall be resorted into two stacks:

- (1) Ballots that were voted for the second candidate in the contest; and
- (2) Ballots that do not indicate a vote for the second candidate in the contest.

The ballots voted for the second candidate shall be calculated in accordance with (b) through (e) above. Tallying shall continue in this manner, until the votes for each candidate in the contest have been recounted and tallied.

(g) After all voted ballots have been counted and tallied, the two special recount board members who have been recording the votes will each independently calculate the total votes for each candidate or position on their tally sheets. When both have completed totaling, they will each announce their totals one candidate or vote position at a time. If both announce the identical vote total for each candidate or position in the recounted contest, the recount of that precinct shall be deemed complete and the results reported to the ~~jurisdiction's chief~~ elections official. If the special recount board members announce different vote totals for any candidate or vote position in the recounted contest, the recount tallies recorded and announced will be examined. If the difference can be explained by the special recount board or supervisor, or by the elections official or his or her designee, it shall be corrected on the tally sheet. A written explanation shall be made on an attachment to the tally sheet. In the event of an unexplained discrepancy, the results for that precinct shall be discarded and the recount of that precinct

will start over.

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 15601, Elections Code.
Reference: Sections 15276, 15290, 15629, 15630 and 19380, Elections Code.

Article 3. Recount Of Votes Cast On Direct Recording Electronic Voting Systems.

§ 20840. Recounts on Direct Recording Electronic Voting Systems Using Electronic Vote Results.

- (a) Prior to conducting the actual recount of ballots, a logic and accuracy test limited to the contest subject to recount shall be conducted, ~~using the same method used prior to the election subject to the recount pursuant to Elections Code section 15000,~~ on each direct recording electronic voting system being used in the recount, using a test pattern created to test the logic and accuracy for the contest. The test shall be conducted publicly, ~~within the view of the requestor, spokespersons and observers, subject to a limit on the number of public observers due to space limitations consistent with section 20816-~~ subject to any limit made necessary by space limitations on the number of additional public observers beyond those that must be accommodated under section 20816 . ~~The results of that test, as well as the test deck used, shall be made available for their inspection by the requestor, spokespersons and observers before the commencement of the recount.~~ The elections official shall make the results of the logic and accuracy test, as well as the test pattern used for the test, available for inspection by the requestor, spokespersons and observers at the recount location before the conclusion of the recount.
- (b) If supported by the voting system, ~~E~~Electronic recount tabulation on a direct recording electronic voting system shall be based on a re-import and re-tabulation of the vote results from the electronic media originally used to capture and transfer the vote results from the direct recording electronic voting system devices into the election management system for that voting system. If re-import from electronic media is not supported by the voting system, the DRE vote results shall be manually added to the final results. Once all vote results have been imported into the election management system from each direct recording electronic voting system device used to cast and record votes in the precincts designated for recount, ~~t~~The elections official shall generate a report for each such recounted precinct detailing the aggregated direct recording electronic voting system vote results for the recounted contest.

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 15601, Elections Code.
Reference: Sections 19220, 19381, 19382 and 19383, Elections Code.

§ 20841. Automated Recounts on Direct Recording Electronic Voting Systems Using Voter Verified Paper Audit Trail ~~Records~~Paper Copies.

- (a) The voter requesting the recount of votes cast on a direct recording electronic voting system may request that it be conducted based on an automated scan and tabulation of the voted ballots directly from the voter verified paper audit trail ~~record~~paper copies. An automated scan shall not be used unless the Secretary of State has tested and approved the automated scan method as part of the certification of the voting system.
- (b) Prior to conducting the recount of voter verified paper audit trail ~~records~~paper copies from the direct recording electronic voting system, a logic and accuracy test limited to the contest subject to recount shall be conducted, using ~~the same method used prior to the election subject to the recount pursuant to Elections Code section 15000~~a test pattern and a test verified paper audit trail record deck

~~or paper roll~~, on each ~~direct recording electronic voting system automated scan and tabulation~~ device to be used in the recount. The test shall be conducted publicly, subject to any limit made necessary by space limitations on the number of additional public observers beyond those that must be accommodated under section 20816 . within the view of the requestor, spokespersons and observers. ~~The elections official shall make the results of that test, as well as the test deck used, available for their inspection at the conclusion of the recount.~~ The elections official shall make the results of the logic and accuracy test, as well as the test ~~deck pattern and test paper roll~~ used for the test, available for inspection by the requestor, spokespersons and observers at the recount location before the conclusion of the recount.

(c) Once all vote results have been scanned and captured from each ~~direct recording electronic voting systems scanning and tabulating~~ device used ~~to cast and record votes in the precincts designated for the~~ recount, the elections official shall generate a report for each ~~such~~ precinct detailing the aggregated direct recording electronic voting system vote results for the recounted contest.

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 15601, Elections Code.
Reference: Sections 19201, 19220, 19250, 19251 and 19253, Elections Code.

§ 20842. Manual Recounts of Ballots Cast on Direct Recording Electronic Voting Systems Using Voter Verified Paper Audit Trail ~~Records~~ Paper Copies.

The manual recount, using voter verified paper audit trail ~~records~~ paper copies, shall include the following:

(a) If the direct recording electronic voting system used in the election subject to recount created continuous roll ~~The~~ voter verified paper audit trail ~~records~~ paper copies, the rolls shall be re-spoiled if necessary to permit the recount to begin at the start of the ~~record~~ roll. The rolls may not be cut to separate the voter verified paper audit trail records paper copies of individual voters.

(b) One member of the special recount board shall be designated to review the voter verified paper audit trail ~~record~~ paper copy and call out the vote results for the recounted contest from that ~~record~~ paper copy. If it was printed and retained, ~~T~~his member shall begin by reviewing and verifying the zero-results tape printed prior to the opening of the polls and before any votes were captured. The zero-results tape, if it was printed and retained, shall also be reviewed and verified by the supervisor of the special recount board and by the requestor and spokespersons.

(c) The board member designated to review and call out the vote results shall then proceed to review the voter verified paper audit trail ~~records~~ paper copies in succession, calling out each ballot in turn and stating how the ballot was voted in the challenged contest. If there is no legible voter verified paper audit trail paper copy for a ballot due to a malfunction of the voter verified paper audit trail printer, the elections official shall print the ballot image for that ballot from the memory device used by the direct recording electronic voting system to record the ballot. The board member designated to review and call out the votes results shall review the printed ballot image and shall state how the ballot was voted in the challenged contest.

(d) Two members of the special recount board shall record the votes stated, marking hashes in succession on their individual tally sheets. After counting either 10 or 25 ballots (at the discretion of the elections official), the recorders shall confirm that their vote counts match exactly, the board member reviewing and calling out the vote results shall draw a distinct line on the continuous voter verified paper audit trail record between the individual voter verified paper audit trail record containing the 10th

or 25th counted vote and the individual voter verified paper audit trail record for the next voted ballot, and the tally shall continue forward for the next 10 or 25 counted votes. If both recorders do not reach 10 or 25 additional votes on the same individual voter verified paper audit trail record, then the count for the last interval of voter verified paper audit trail ~~records~~paper copies shall be stricken from their tally sheets and those voter verified paper audit trail ~~records~~paper copies recounted.

(e) The individual voter verified paper audit trail ~~records~~paper copies shall be displayed to permit the requestor, spokespersons and observers to view the contest subject to recount, either directly or indirectly, as the voter verified paper audit trail record is reviewed and called. Voter verified paper audit trail ~~records~~paper copies for ballots that were cancelled or cancelled and re-voted, shall be noted but not counted toward the vote results.

(f) A requestor or an authorized spokesperson may request to inspect any voter verified paper audit trail record. Tallying shall be halted while the voter verified paper audit trail record is presented to the requestor or spokesperson for closer inspection. At no time may any requestor, interested party, representative or observer touch or come into physical contact with any of the voter verified paper audit trail ~~records~~paper copies. Tallying shall resume once the inspection is completed, which the spokesperson shall complete in a reasonable amount of time.

(g) Tallying shall continue in this manner, breaks and meal times excepted, until the entire continuous voter verified paper audit trail record has been reviewed and tallied.

(h) After all ballots of a direct recording electronic voting system have been reviewed and tallied from its voter verified paper audit trail ~~records~~paper copies, the special recount board members who have been recording the votes shall independently calculate the total votes for each candidate or vote position on their tally sheets. When both have completed totaling, each shall announce his or her totals for that candidate or vote position. If both announce the identical vote total for each candidate or vote position in the recounted contest, the recount of those voter verified paper audit trail ~~records~~paper copies shall be deemed complete and the recount shall proceed with the continuous voter verified paper audit trail record for the next direct recording electronic voting system with voted ballots for the challenged contest.

(i) If the special recount board members announce different vote totals for the candidate or position, the recount tallies recorded and announced for that candidate or position shall be examined. If the difference can be explained by the special recount board or supervisor, or by the elections official or his or her designee, it shall be corrected on the tally sheet. A written explanation shall be made on an attachment to the tally sheet. In the event of an unexplained discrepancy, the results for that ~~precinct-~~direct recording electronic voting system shall be discarded and the recount of that candidate or position shall start over.

(j) Once all the voter verified paper audit trail ~~records~~paper copies containing ballots for ~~that a~~ precinct have been reviewed and tallied, the recount of that precinct shall be deemed complete and the results reported to the elections official.

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 15601, Elections Code.
Reference: Sections 19250 and 19382, Elections Code.