

State Election Board: Rules and Regulations of the State of Georgia

<http://rules.sos.state.ga.us/GAC/183-1-15-.03>

Recount and Audit Procedure

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Authority: O.C.G.A. §§ [21-2-31](#), [21-2-495](#).

History. Original Rule entitled "Optical Scan Recount Procedure" adopted. F. Mar. 2, 2020; eff. Mar. 22, 2020.

Amended: New title "Recount Procedure." F. May 8, 2020; eff. May 28, 2020.

Rule 183-1-15-.03 Recount Procedure

- (1) Recount by Electronic Tabulation
 - (a) Recounts of primaries and elections conducted using an optical scanning voting system shall be in accordance with this rule.
 - (b) The recount shall be conducted by tabulating all ballots utilizing ballot scanners.
 - (c) Prior to conducting a recount, the election superintendent shall test each ballot scanner to be used in the recount. A test deck shall be prepared to include at least 75 ballots marked by an electronic ballot marker and 25 absentee ballots marked by hand that were cast in the election to be recounted. The ballots shall be selected from at least 3 different precincts, if available. The selection of individual ballots from a precinct's ballot container shall be conducted in a manner that selects ballots from throughout the ballot container. The test desk shall be tabulated by the ballot scanner or scanners to be used in the recount using one or more batches. A manual hand count of the test deck shall be made and compared to the electronic tabulation of the test deck. If the two counts do not match, the discrepancy shall be researched and additional tests may be run. If the discrepancy cannot be resolved so that the manual hand count and electronic tabulation of the test deck matches, the ballot scanner shall not be used in the recount. If, after testing all available ballot scanners, there are no ballot scanners authorized to be used in the recount, the recount shall be conducted by manual hand count. Upon completion of the test, the test deck ballots shall be returned to their original ballot containers.
 - (d) The recount shall be open to the view of the public, but no person except one designated by the superintendent or the superintendent's authorized deputy shall touch any ballot or ballot

container. The superintendent may designate a viewing area by which members of the public are limited for the purpose of good order and maintaining the integrity of the recount.

- (e) The tabulation of ballots must be completed through a precise, controlled process that ensures, for each ballot scanner used in the recount, no more than one ballot container is unsealed at any given time.
- (f) A clear audit trail must be maintained at all times during the recount, including but not limited to, a log of the seal numbers on ballot containers before and after the recount.
- (g) The ballot scanner shall be programmed to flag or reject ballots that contain an overvote for the contest to be recounted. One or more recount vote review panels shall be established, consistent with O.C.G.A. § [21-2-483\(g\)](#), to manually review the overvoted ballots. The recount vote review panel shall determine by majority vote the elector's intent, as described in O.C.G.A. § [21-2-438\(c\)](#), a duplicate ballot shall be created consistent with the elector's intent for the contest to be recounted, labeled "RECOUNT DUPLICATE", and used in the recount. The original overvoted ballot shall be retained.
- (h) All ballots that required a duplicate ballot to be created in the original primary or election, as allowed by law, shall be reviewed by a recount vote review panel to determine that the votes marked in the contest to be recounted on the duplicated ballot are consistent with the elector's intent on the original ballot, as described in O.C.G.A. § [21-2-438\(c\)](#). If a majority of the recount vote review panel determine that the duplicated ballot is not consistent with the elector's intent on the original ballot, a new true duplicate ballot shall be created consistent with the elector's intent for the contest to be recounted, labeled "RECOUNT DUPLICATE", and used in the recount. The original overvoted ballot and initial duplicated ballot shall be retained.
- (i) If it appears that a ballot is so torn, bent, or otherwise defective that it cannot be processed by the ballot scanner, the recount vote review panel shall prepare a duplicate ballot for the contest to be recounted. All duplicate ballots created during the recount shall be clearly labeled by the word "RECOUNT DUPLICATE". The defective ballot shall be retained.
- (j) After all of the valid ballots to be included in the recount have been tabulated, the superintendent shall cause a printout to be made of the results and shall compare the results to the results previously obtained. If upon completing the recount, it shall appear that the original vote count for the recounted contest was incorrect, such returns and all papers being prepared by the superintendent shall be corrected accordingly.

(2) Recount by Manual Hand Count

- (a) A recount shall be conducted by manual hand count only:
 - 1. As provided under Rule 183-1-15-.03(1)(c); or
 - 2. Pursuant to a court order.
- (b) Votes shall be counted by one or more recount teams consisting of at least three persons each. The superintendent shall select the persons for each recount team.
- (c) In a recount of a partisan election, the recount team shall be composed of the election superintendent or designee thereof and one person selected by the election superintendent from a list provided by the county executive committee of each political party and body having candidates whose names appear on the ballot for such election, provided that, if there is no organized county executive committee for a political party or body, the person shall be selected from a list provided by the state executive committee of the political party or body. If, after the superintendent provides reasonable notice and a deadline to the executive committee, a county executive committee or state executive committee does not provide a sufficient number of names or does not timely delivery the list of names, the superintendent shall be permitted to select the persons to serve on the recount team on behalf of the political party or body as needed.
- (d) In a recount of a nonpartisan election, the recount team shall be composed of the election superintendent or designee thereof and two electors of the county, in the case of a county election, or the municipality, in the case of a municipal election, selected from a list provided by the chief judge of the superior court of the county in which the election is held or, in the case of a municipality which is located in more than one county, of the county in which the city hall of the municipality is located. If, after the superintendent provides reasonable notice and a deadline to the chief judge, the chief judge fails to designate a sufficient number of persons for the recount or does not timely delivery the list of names, the superintendent shall be permitted to select the persons to serve on the recount team as needed.
- (e) Ballots shall be manually counted by hand in batches of no more than 30 to ensure that the number of ballots recounted matches the number originally counted.

- (f) The recount teams shall determine the elector's intended vote on each ballot, by majority vote, in accordance with Rule [183-1-15-.02](#). In the event of a tie vote by a review team, the vote of the election superintendent or designee thereof shall control.
- (g) Recount teams shall compare the number of votes, overvotes, and undervotes to the number of ballots in the batch. If the numbers do not match, the batch shall be counted again.
- (h) After all of the valid ballots to be included in the recount have been counted, the superintendent shall compare the results of the recount to the results previously obtained. If upon completing the recount, it shall appear that the original vote count for the recounted contest was incorrect, such returns and all papers being prepared by the superintendent shall be corrected accordingly.

Rule 183-1-15-.04 Audit

(1) Preparing for the Audit

1. Following November general elections in even-numbered years, each county shall participate in a statewide risk-limiting audit with a risk limit of not greater than 10 percent as set forth in this rule prior to the certification by the Secretary of State.
2. Prior to county certification, the election superintendent of each county shall prepare a ballot manifest as instructed by the Secretary of State.
3. The contest to audit shall be selected by the Secretary of State. The Secretary of State shall set a date, time, and location after the November general election in even-numbered years to select which contest to audit. Such meeting shall be open to the public. After selecting the contest to audit, the Secretary of State shall publicly announce which contest will be audited and publish the selected contest on the Secretary of State webpage. In selecting the contest to audit, the Secretary of State shall consider the below criteria:
 - a. The closeness of the reported tabulation outcomes;
 - b. The geographical scope of the contests;
 - c. The number of ballots counted in the contests;

- d. Any cause for concern regarding the accuracy of the reported tabulation outcome of the contests;
 - e. Any other benefits that may result from auditing certain contests; or
 - f. The ability of the county to complete the audit before the state certification deadline.
4. The audit shall be open to the public, and public notice of the date, time, and location of the audit must be posted on the county election office's website, or, if the county election's office does not have a website, in another prominent location.

(2) Conducting the Audit

1. The audit shall be open to the view of the public and press, but no person except the person(s) designated by the election superintendent or the superintendent's authorized deputy shall touch any ballot or ballot container. The election superintendent may designate a viewing area from which members of the public may observe the audit for the purpose of good order and maintaining the integrity of the audit.
2. The election superintendent shall create audit teams comprised of at least two sworn designees to assist with the audit. The superintendent may designate non-employees to assist with the audit process. All persons who the superintendent designates to assist with the audit shall take and sign an oath that they will conduct the audit accurately and securely prior to assisting with the audit.
3. Chain of custody for each ballot shall be maintained at all times during the audit, including but not limited to, a log of the seal numbers on the ballot containers before and after completing the manual audit.
4. For ballots marked by electronic ballot markers, the auditors shall rely on the printed text on the ballot to determine the voter's selection. For ballots marked by hand, the auditors shall rely on the choices indicated by the voter by filling in the oval adjacent to the candidate or question.
5. The audit shall end once all selected ballots have been counted and the risk limit for the audit has been met.

6. The election superintendent shall report the results of the audit to the Secretary of State.
7. The election superintendent shall follow instructions issued by the Secretary of State on how to specifically conduct the audit, including but not limited to setting deadlines and formats for creating ballot manifests.