



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

BOARD MEETING

Wednesday, December 18, 2019
Virginia State Capitol
Senate Room 3
Richmond, VA
1:00 P.M.

SBE Board Working Papers



**STATE BOARD OF ELECTIONS
AGENDA**

DATE: Wednesday, December 18, 2019

***LOCATION: Virginia State Capitol
Senate Room 3***

Richmond, VA 23219

TIME: 1:00 PM

I. CALL TO ORDER

Robert Brink, Chairman

II. APPROVAL OF MINUTES

Jamilah LeCruise, Secretary

A. October 29, 2019

B. November 18, 2019

III. COMMISSIONER'S REPORT

Jessica Bowman

Deputy Commissioner

IV. OLD BUSINESS

A. Recount Suite

Samantha Buckley

Policy Analyst

V. NEW BUSINESS

A. Delegation Policy

Arielle A. Schneider

Policy Analyst

B. Presidential Primary Plans

Dave Nichols

Director of Elections Services

C. Drawing for Presidential Primary Ballot Order

Dave Nichols

Director of Elections Services

D. Risk Limiting Audit

James Heo

Confidential Policy Advisor

E. Advisory Review Workgroup – Appointment

Robert Brink, Chairman

NOTE: During the discussion of each topic there will be an opportunity for public comment. Anyone wishing to discuss an issue not on the agenda will be allowed to comment at the end of the new business section.

All materials provided to the Board are available for public inspection under the Virginia Freedom of Information Act upon request.

VI. PUBLIC COMMENT

VII. ADJOURNMENT

NOTE: During the discussion of each topic there will be an opportunity for public comment. Anyone wishing to discuss an issue not on the agenda will be allowed to comment at the end of the new business section.

All materials provided to the Board are available for public inspection under the Virginia Freedom of Information Act upon request.



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Approval of Minutes

BOARD WORKING PAPERS
State Board of Elections

1 The State Board of Elections (“the Board”) meeting was held on Tuesday, October 29,
2 2019, in the Virginia State Capitol, Senate Room 3, in Richmond, Virginia. In attendance:
3 Robert Brink, Chairman, John O’Bannon, Vice Chairman, and Jamilah LeCruise, Secretary,
4 represented the State Board of Elections (“the Board”). Christopher E. “Chris” Piper,
5 Commissioner, and Jessica Bowman, Deputy Commissioner, represented the Department of
6 Elections (“ELECT”). Carol L. Lewis and Heather Hays Lockerman represented the Office of
7 the Attorney General (“OAG”). Chairman Brink called the meeting to order at 1:00 P.M.

8 The first order of business was for the Board to approve minutes for the September 17,
9 2019 meeting, presented by Secretary LeCruise. The Vice Chair *moved that the Board approve*
10 *the minutes from the September 17, 2019 meeting.* Secretary LeCruise seconded the motion, and
11 the motion passed unanimously.

12 The next order of business was the Commissioner’s Report, presented by Commissioner
13 Piper. The Commissioner informed the Board that the number of absentee ballots cast by this
14 point prior to an election increased by 20,000 as compared to the November 2015 general
15 election. Commissioner Piper introduced new employees of ELECT including Audrey Walker,
16 Administrative Supervisor; Tanya Pruet, Senior Registrar Liaison; Michael Dixon, E-Learning
17 Specialist; Mike Gilbert and EB Davis, List Maintenance Data Analysts; Melanie Gilmer,
18 Procurement Officer; Ronald Jackson, System Support Analyst, and Matthew Fritz, Geospatial
19 Data Analyst. Chairman Brink then introduced Carol Lewis, Assistant Attorney General.

20 The next order of business was the 2019 Delegations of Authority, presented by Dave
21 Nichols, Director of Elections Services. *This report is in the Working Papers for the October 29,*
22 *2019 meeting.* Secretary LeCruise moved *that the Board approve the amended 2019 Delegations*

23 *of Authority, including forms, from the State Board of Elections to the Department of Elections,*
24 *pursuant to the Virginia Administrative Process Act, and further moved that all prior*
25 *Delegations of Authority be rescinded.* Vice Chair O'Bannon seconded the motion, and the
26 motion passed unanimously. Commissioner Piper suggested deferring item C on the agenda, the
27 Recounts Suite, until the next Board meeting, to which Chairman Brink agreed.

28 The next order of business was the Stand by Your Ad - Consideration of Anonymous
29 Complaints, presented by Arielle A. Schneider, Policy Analyst. Ms. Schneider informed the
30 Board that the memo in the Board materials provided information on Stand by Your Ad
31 ("SBYA") anonymous complaints and a breakdown of the number of complaints brought to the
32 Board over the past three years. *This report is in the Working Papers for the October 29, 2019*
33 *meeting.* She informed the Board that for purposes of this analysis, SBYA complaints were
34 divided into three different categories (complaints received anonymously, complaints received
35 via FormSite where the complainant requested their information be kept private, and complaints
36 submitted by named persons). Ms. Schneider stated that the memo shows a percentage-based
37 breakdown of how many complaints result in the Board assessing a penalty and how many are
38 dismissed for not containing a violation, not reporting an advertisement that expressly advocates
39 for the election or defeat of a candidate, or regarding yard signs published or purchased prior to
40 2015.

41 Ms. Schneider stated that ELECT re-wrote the SBYA-complaint operating procedures to
42 accept anonymous complaints in response to a directive from the previous State Board of
43 Elections. In concert with these changes, ELECT initially provided complainants the option of
44 indicating that their information should be kept private, but as government records, complainant

45 contact information would not be redacted if requested through the Freedom of Information Act.
46 Accordingly, ELECT removed this option from its FormSite application in May 2019, shortly
47 after introducing the Anonymous complaint form, to avoid confusion between anonymous and
48 non-anonymous complaints. Chairman O'Bannon asked Ms. Schneider what the statute says
49 regarding anonymous complaints. Ms. Schneider referred the Board to and read the Code of
50 Virginia § 24.2-955.3(D), which states "The State Board, in a public hearing, shall determine
51 whether to find a violation of this chapter and to assess a civil penalty." Commissioner Piper
52 noted that the General Assembly wants the Board to decide every complaint that is received in a
53 public hearing.

54 Vice Chair O'Bannon asked whether the respondent is notified when someone sends a
55 complaint anonymously. Ms. Schneider stated that a respondent is notified in advance of the
56 meeting at which the Board would consider the complaint. She added that any person, or
57 respondent can request information on the source of the complaint, and any relevant records
58 would be provided unredacted. However, if a complaint is truly anonymous, ELECT would only
59 have the evidence of a violation provided, but those records would not identify the complainant.
60 Secretary LeCruise commented that anonymous complaints and other unnamed evidence is
61 rarely permitted in other contexts including within the court system. Vice Chair O'Bannon
62 *moved that ELECT provide a proposal to remove anonymous complaints from the SBYA process.*
63 Chairman Brink seconded the motion, and the motion passed unanimously.

64 The next order of business was the Certification of a Pilot for Essex County, presented by
65 Commissioner Piper. *This report is in the Working Papers for the October 29, 2019 meeting.*
66 Vice Chair O'Bannon moved *that the Board approve Essex County to pilot the election software*

67 “Verity 2.3” for experimental use in the November 2019 General Election. Secretary LeCruise
68 seconded the motion, and the motion passed unanimously.

69 The next order of business was the Candidate Filings for Special Elections, presented by
70 Samantha Buckley, Policy Analyst. *This report is in the Working Papers for the October 29,*
71 *2019 meeting.* Secretary LeCruise moved that the Board approve the Department’s proposal for
72 *regulatory action and put forward IVAC-20-50-50 for public comment.* Vice Chair O’Bannon
73 seconded the motion, and the motion passed unanimously. Vice Chair O’Bannon moved *that the*
74 *Board adopt Policy 2019-001 regarding Candidate Filings for Special Elections.* Secretary
75 LeCruise seconded the motion, and the motion passed unanimously.

76 The next order of business was the Advisory Review Workgroup Resolution presented by
77 Chairman Brink. *This report is in the Working Papers for the October 29, 2019 meeting.*
78 Chairman Brink opened the floor to public comment. Robin Lind, former Secretary of the GREB
79 Workgroup, Clara Belle Wheeler, former member of the State Board of Elections, David Bailey
80 on behalf of the Voter Registrars Association of Virginia, Katie Boyle on behalf of the Virginia
81 Association of Counties and Mitchell Smiley, with the Virginia Municipal League all addressed
82 the Board. Chairman Brink informed the Board that the amended Resolution adds language that
83 recognizes the former Workgroup’s previous contributions to the election process and the
84 Commonwealth, and authorizes the new Workgroup to advise the Board on community issues or
85 concerns, facilitate continuity in operations and expand the number of citizen members. Vice
86 Chair O’Bannon moved *that the Board adopt the amendment in the nature of a substitute.*
87 Secretary LeCruise seconded the motion, and the motion passed unanimously. Secretary

88 LeCruise moved *that the Board adopt the Resolution as amended*. Vice Chair O'Bannon
89 seconded the motion, and the motion passed unanimously.

90 Chairman Brink opened the floor to Public Comment. Robin Lind thanked the Board for
91 adding the amendments to the Resolution.

92 Chairman Brink then moved to adjourn the meeting. Vice Chair O'Bannon seconded the
93 motion, and the motion passed unanimously. The meeting was adjourned at approximately 2:07
94 PM.

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97 Chairman

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99 Vice Chair

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101 Secretary

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The State Board of Elections (“the Board”) meeting was held Monday, November 18, 2019, in the West Reading Room of the Patrick Henry Building in Richmond, Virginia. In attendance: Robert Brink, Chairman, John O’Bannon, Vice Chairman, and Jamilah LeCruise, Secretary, represented the State Board of Elections (“the Board”). Christopher E. “Chris” Piper, Commissioner, and Jessica Bowman, Deputy Commissioner, represented the Department of Elections (“ELECT”). Carol L. Lewis represented the Office of the Attorney General (“OAG”). Chairman Brink called the meeting to order at 1:04 P.M.

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The first order of business was the Commissioner’s Report, presented by Commissioner Piper. Commissioner Piper introduced new employee Karen Hoyt-Stewart, Voting Technology Program Manager. The Commissioner informed the Board that in January 2020 ELECT will be providing a Post-Election Report with a detailed analysis of the November 2019 election which included over 450 candidates, nearly 1,000 ballot styles, and over 450 split precincts. The Commissioner recognized the ELECT staff and all local elections officials throughout the Commonwealth for all of their hard work on the November 5th General Election. Commissioner Piper informed the Board that ELECT would be providing the Risk Limiting Audit report at the December Board meeting.

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The Commissioner informed the Board that there would not be a Republican Presidential Primary, but there would be a March 2020 Presidential Primary Election for a Democratic candidate, a May 2020 General Election that encompasses over 100 cities and towns, and a June 2020 Statewide Primary. Commissioner Piper informed the Board that on December 5th, ELECT

22 will be hosting a Silent Auction for the Leukemia and Lymphoma Society, for more information
23 reach out to Rise Miller.

24 The next order of business was the General Election Certification, presented by Matt
25 Abell, Elections Administrator. Mr. Abell informed the Board that there were no ties, and all
26 results are final. *This report is in the Working Papers for the November 18, 2019 meeting.* Vice
27 Chair O'Bannon moved that the Board certify the results as presented by signing abstracts and
28 the certificates of election. Secretary LeCruise seconded the motion, and the motion passed
29 unanimously.

30 The next order of business was the Early Voting Report ("Report"), presented by Danny
31 Davenport, Policy Analyst. *The Early Voting Report is in the Working Papers for the November*
32 *18, 2019 meeting.* Mr. Davenport thanked everyone who helped with the report. Chairman Brink
33 opened the floor to public comment. Carol Noggle, League of Woman Voters of Virginia, stated
34 that the League supports the expansion and cannot wait to see the content of the report. Katie
35 Boyle, Virginia Association of Counties, expressed appreciation for the flexible approach to the
36 establishment of voting centers and allow localities to set up better locations for what makes the
37 most sense for that particular location. Ms. Boyle stated that the smaller localities lack sufficient
38 parking so will be seeking larger building spaces. She explained to the Board that State
39 assistance with implementation will be very critical for some of the smaller jurisdictions.

40 Jessica Ackerman, Virginia Municipal League expressed appreciation for the Report
41 acknowledging the potential cost associated with the expansion of early voting. Kate Hanley,
42 Secretary of the Fairfax County Elections Board, stated that she appreciates that the Report
43 allowed the smaller localities to participate. Allison Robbins, President of the Virginia Registrar

44 Association, looked forward to continue discussions and appreciated being a part of the Report.
45 Vice Chair O'Bannon stated that he will be dissenting to Item #8 on page 13 of the Report.
46 Secretary LeCruise *moved the State Board of Elections approve the report as presented and*
47 *direct the Department of Elections to submit the report to the Governor, General Assembly, and*
48 *the House and Senate Committees on Privileges and Elections on behalf of the Board.* Vice
49 Chair O'Bannon seconded the motion with the dissent of Item #8, and the motion passed
50 unanimously.

51 The next order of business was Stand by Your Ad ("SBYA"), presented by Arielle A.
52 Schneider, Policy Analyst. The first complaint was against Arika Phillips for CCPS School
53 Board. Ms. Schneider presented the Board with one yard sign with no disclosure. She explained
54 this would be a first time violation for the candidate. Vice Chair O'Bannon *moved subject to the*
55 *Board's authority under the Code of Virginia §24.2-955.3, to find Arika Phillips for CCPS*
56 *School Board in violation of §24.2-956 print media requirements with regard to one print media*
57 *advertisement and assess a \$100 penalty for one first-time violation.* Secretary LeCruise
58 seconded the motion, and the motion passed unanimously.

59 The next complaint was against Charon Coffee Price. Ms. Schneider presented the Board
60 with a photo of an undisclosed yard sign. She explained that the complaint was sent
61 anonymously, and this would be a first time violation for the candidate. Ms. Price addressed the
62 Board and explained that the complaint was dated August 2nd, but she did not receive her signs
63 until August 5th. She informed the Board that she is a first time candidate and was unaware of the
64 disclosure needing to be on the yard sign. Ms. Price apologized to the Board and presented the
65 Board with the updated yard signs showing the disclosure. She informed the Board that she had a

66 list of the location of all her signs, and five of them were stolen. Vice Chair O'Bannon moved
67 *subject to the Board's authority under the Code of Virginia §24.2-955.3, to find Charon Coffee*
68 *Price in violation of §24.2-956 print media requirements with regard to one print media*
69 *advertisement and assess a \$50 penalty for a first-time violation.* Secretary LeCruise seconded
70 the motion, and the motion passed unanimously.

71 The next complaint was against Darby McGeorge. Ms. Schneider presented the Board
72 with two undisclosed print media signs. Mr. McGeorge addressed the Board. He apologized and
73 explained that he is a first time write-in candidate and was unaware of the disclosure
74 requirement. Due to the apology Secretary LeCruise moved *subject to the Board's authority*
75 *under the Code of Virginia §24.2-955.3, to find Darby McGeorge in violation of §24.2-956 print*
76 *media requirements with regard to two print media advertisements and assess a \$100 penalty for*
77 *two first-time violations.* Vice Chair O'Bannon seconded the motion, and the motion passed
78 unanimously.

79 The next complaint was against Darryl V. Parker. Ms. Schneider presented the Board
80 with one undisclosed pamphlet. She informed the Board that ELECT had not yet received a
81 response from the candidate. Vice Chair O'Bannon moved *subject to the Board's authority*
82 *under the Code of Virginia §24.2-955.3, to find Darryl V. Parker in violation of §24.2-956 print*
83 *media requirements with regard to one print media advertisement and assess a \$100 penalty for*
84 *a first-time violation.* Secretary LeCruise seconded the motion, and the motion passed
85 unanimously.

86 The next complaint was against Friends of Andrew Cullip. Ms. Schneider presented the
87 Board with two signs. She explained that Mr. Cullip provided a response informing the Board

88 that the advertisements were created by a neighbor. Chairman Brink moved *subject to the*
89 *Board's authority under the Code of Virginia §24.2-955.3, to dismiss the complaint against*
90 *Friends of Andrew Cullip.*

91 The next complaint was against Friends of Chris Peace. Ms. Schneider presented the
92 Board with one undisclosed sign. She informed the Board that Mr. Peace provided a response
93 stating that someone or some campaign committees unaffiliated with his campaign or team
94 reused his original sign. Chairman Brink moved *subject to the Board's authority under the Code*
95 *of Virginia §24.2-955.3, to dismiss the complaint against Friends of Chris Peace.*

96 The next complaint was against Friends of David Hardin. Ms. Schneider presented the
97 Board with one undisclosed print media website reported on October 25th, within the 14 days
98 prior to the election. Mr. Hardin addressed the Board and explained that he was unaware that the
99 website did not have a discloser. He informed the Board that the webpage developer did not
100 request any funds due to having issues with the website.

101 Ms. Schneider asked Mr. Hardin whether Google prohibited his page from searches or
102 shut down his page. Mr. Hardin stated that it was prohibited in searches, but if you typed the
103 website into the browser directly it would load. Ms. Schneider asked Mr. Hardin if he received
104 any notification from the web developer stating that the draft website was online. Mr. Hardin
105 stated that he did not receive any notifications from the developer. Due to the apology Vice
106 Chair O'Bannon moved *subject to the Board's authority under the Code of Virginia §24.2-955.3,*
107 *to find Friends of David Hardin in violation of §24.2-956 print media requirements with regard*
108 *to one print media advertisement and assess a \$100 penalty for a first-time violation doubled due*

109 *to proximity to the election.* Chairman Brink seconded the motion, and the motion passed
110 unanimously.

111 The next complaint was against Friends of Joe Dombroski. Ms. Schneider presented the
112 Board with one double-sided undisclosed print media sign and recommended a penalty of \$100.
113 Mr. Dombroski addressed the Board. Mr. Dombroski apologized and stated that he was unaware
114 that a disclosure needed to be on the sign. He also informed the Board that he placed disclaimers
115 on one side of the yard sign. Due to the apology and remedial action Secretary LeCruise moved
116 *subject to the Board's authority under the Code of Virginia §24.2-955.3, to dismiss the*
117 *complaint against Friends of Joe Dombroski.* Vice Chair O'Bannon seconded the motion, and
118 the motion passed unanimously.

119 The next complaint was against Friends of Paul Petrauskas. Ms. Schneider presented the
120 Board with ten undisclosed yard signs. She informed the Board that ELECT has not received a
121 response from the candidate. Vice Chair O'Bannon moved *subject to the Board's authority*
122 *under the Code of Virginia §24.2-955.3, to find Friends of Paul Petrauskas in violation of §24.2-*
123 *956 print media requirements with regard to ten print media advertisements and assess a \$1000*
124 *penalty for ten first-time violations.* Secretary LeCruise seconded the motion, and the motion
125 passed unanimously.

126 The next complaint was against Friends of Scott Mayausky. Ms. Schneider presented the
127 Board with three yard signs that are different on each side. She explained that one side is white
128 and the other side is auburn. Ms. Schneider informed the Board that the auburn side has the
129 disclaimer at the bottom of the sign. Vice Chair O'Bannon *subject to the Board's authority under*

130 *the Code of Virginia §24.2-955.3, to dismiss the complaint against Friends of Scott Mayausky.*

131 Secretary LeCruise seconded the motion, and the motion passed unanimously.

132 The next complaint was against Friends of Tim McLaughlin. Ms. Schneider presented the
133 Board with two hand cards. She stated that both hand cards have insufficiently conspicuous
134 disclosures and recommended a penalty of \$200. A representative from the McLaughlin
135 campaign addressed the Board. He informed the Board that this was his first time being a media
136 consultant for a campaign. The representative apologized to the Board, stating that he placed a
137 low resolution disclosure on the high resolution handcard which when printed was unclear.
138 Chairman Brink asked if he received a hard copy proof of the handcard. The representative
139 explained that he received an electronic proof, due to the company being in another state. The
140 representative approached the Board and provided a handout. After reviewing what appeared to
141 be a zoomed in image of one of the advertisements (handcard with red background). Secretary
142 LeCruise moved *subject to the Board's authority under the Code of Virginia §24.2-955.3, to find*
143 *Friends of Tim McLaughlin in violation of §24.2-956 print media requirements with regard to*
144 *one print media advertisement and assess a \$50 penalty for a first-time violation.* Chairman
145 Brink seconded the motion, and the motion passed unanimously.

146 The next complaint was against Friends of Virginia. Ms. Schneider presented the Board
147 with four undisclosed yard signs. She stated that this is the second time this campaign committee
148 has been brought to the Board during this election cycle, that the Board's Schedule of Penalties
149 required a penalty of "\$250 for any second violation", and recommended the Board assess a
150 \$2000 penalty for the four advertisements. Ms. Schneider informed the Board that due to the
151 proximity of the election dates October 24th, October 25th, and two on October 26th, each penalty

152 would be doubled per the Board’s Schedule of Penalties, which states that “If the advertisement
153 is disseminated or on display in the 14 days prior to or on the Election Day for which the
154 advertisement pertains, the above penalties will be doubled and the maximum penalty would be
155 \$2,500.” Ms. Smith addressed the Board and apologized. She explained that the signs presented
156 were the original signs from the first campaign run. Ms. Smith stated that there were signs that
157 were missing or stolen that had not been found. She informed the Board that the signs presented
158 today were located in Charlotte and Pittsylvania County, Virginia. Ms. Smith stated that she
159 believes the signs were held until the proximity of the elections, knowing the penalty would be
160 doubled.

161 Secretary LeCruise confirmed with Ms. Smith that during the previous SBYA hearing
162 she had a list of the locations for all of the yard signs except the ones that went missing.
163 Chairman Brink confirmed with Ms. Smith that since the SBYA hearing she had additional signs
164 printed with the disclaimer. Vice Chair O’Bannon asked Ms. Schneider if the documentation
165 received shows the yard signs were in proximity to the election. Ms. Schneider informed the
166 Board that the photos were timestamped on the dates specified. Vice Chair O’Bannon moved
167 *subject to the Board’s authority under the Code of Virginia §24.2-955.3, to find Friends of*
168 *Virginia in violation of §24.2-956 print media requirements with regard to four print media*
169 *advertisements and assess a \$2000 penalty, for four second-time violations doubled due to the*
170 *proximity of the election. Motion failed due to no second. Chairman Brink moved subject to the*
171 *Board’s authority under the Code of Virginia §24.2-955.3, to dismiss the complaint against*
172 *Friends of Virginia. Secretary LeCruise seconded the motion, voted in favor of the motion and*
173 *the motion passed 2-1, Vice Chair O’Bannon having voted no.*

174 The next complaint was against Friends of Will Gardner. Ms. Schneider presented the
175 Board with six undisclosed signs. She informed the Board that Mr. Gardner provided a response
176 apologizing and explaining remedial action. Due to the apology Secretary LeCruise moved
177 *subject to the Board’s authority under the Code of Virginia §24.2-955.3, to find Friends of Will*
178 *Gardner in violation of §24.2-956 print media requirements with regard to six print media*
179 *advertisements and assess a \$300 penalty, for six first-time violations reduced due to the apology*
180 *and remedial action.* Vice Chair O’Bannon seconded the motion, and the motion passed
181 unanimously.

182 The next complaint was against Gerald Mitchell for Sheriff. Ms. Schneider presented the
183 Board with one unauthorized webpage reported on October 25th, within the 14 days prior to the
184 election. Mr. Mitchell addressed the Board stating that he is a first-time candidate and apologized
185 for the error. He informed the Board that the person that created his webpage had never created a
186 campaign page, which is why it states “Copyright” instead of “Paid For”. Secretary LeCruise
187 asked Mr. Mitchell if he paid for the website. Mr. Mitchell stated that he did pay for the website.
188 Due to the apology Secretary LeCruise moved *subject to the Board’s authority under the Code of*
189 *Virginia §24.2-955.3, to find Gerald Mitchell for Sheriff in violation of §24.2-956 print media*
190 *requirements with regard to one print media advertisement and assess a \$100 penalty for a first-*
191 *time violation with an apology doubled due to the proximity to the election.* Chairman Brink
192 seconded the motion, and the motion passed unanimously.

193 The next complaint was against Gilbert A. Smith. Ms. Schneider presented the Board
194 with one undisclosed pamphlet. Mr. Smith addressed the Board and apologized for the error. Due
195 to the apology Secretary LeCruise moved *subject to the Board’s authority under the Code of*

196 *Virginia §24.2-955.3, to find Gilbert A. Smith in violation of §24.2-956 print media requirements*
197 *with regard to one print media advertisement and assess a \$50 penalty for one first-time*
198 *violation. Vice Chair O’Bannon seconded the motion, and the motion passed unanimously.*

199 The next complaint was against John Edward Hall. Ms. Schneider presented the Board
200 with one undisclosed yard sign reported on October 24th, within the 14 days prior to the election.
201 She informed the Board that ELECT has not received a response from the candidate. Vice Chair
202 O’Bannon moved *subject to the Board’s authority under the Code of Virginia §24.2-955.3, to*
203 *find John Edward Hall in violation of §24.2-956 print media requirements with regard to one*
204 *print media advertisement and assess a \$200 penalty for one first-time violation doubled due to*
205 *the proximity to the election. Secretary LeCruise seconded the motion, and the motion passed*
206 *unanimously.*

207 The next complaint was against Kiser for Delegate. Ms. Schneider presented the Board
208 with one undisclosed hand card. She informed the Board that ELECT has not received a response
209 from the candidate. Secretary LeCruise moved *subject to the Board’s authority under the Code*
210 *of Virginia §24.2-955.3, to find Kiser for Delegate in violation of §24.2-956 print media*
211 *requirements with regard to one print media advertisement and assess a \$100 penalty for a first-*
212 *time violation. Vice Chair O’Bannon seconded the motion, and the motion passed unanimously.*

213 The next complaint was against Lyndsey Dotterer. Ms. Schneider presented the Board
214 with one undisclosed door hanger. She informed the Board that ELECT has not received a
215 response from the candidate. Vice Chair O’Bannon moved *subject to the Board’s authority*
216 *under the Code of Virginia §24.2-955.3, to find Lyndsey Dotterer in violation of §24.2-956 print*
217 *media requirements with regard to one print media advertisement and assess a \$100 penalty for*

218 *a first-time violation.* Secretary LeCruise seconded the motion, and the motion passed
219 unanimously.

220 The next complaint was against Michael J. Hallahan, II – Candidate for Supervisor. Ms.
221 Schneider presented the Board with one insufficiently conspicuous undisclosed door hanger. She
222 informed the Board that Mr. Hallahan provided a response. Curtis Marshall addressed the Board
223 on behalf of Mr. Hallahan. Mr. Marshall explained to the Board that the complaint was viewed in
224 June, so he had no opportunity to remedy the error. He stated that Mr. Hallahan apologized for
225 the error as he was unaware of the font size. Due to the apology Vice Chair O’Bannon moved
226 *subject to the Board’s authority under the Code of Virginia §24.2-955.3, to find Michael J.*
227 *Hallahan, II – Candidate for Supervisor, in violation of §24.2-956 print media requirements with*
228 *regard to one print media advertisement and assess a \$50 penalty for a first-time violation with*
229 *an apology.* Secretary LeCruise seconded the motion, and the motion passed unanimously.

230 The next complaint was against Missy for Senate. Ms. Schneider presented the Board
231 with one undisclosed bumper sticker. She informed the Board that ELECT has not received a
232 response from the candidate. Vice Chair O’Bannon moved *subject to the Board’s authority*
233 *under the Code of Virginia §24.2-955.3, to find Missy for Senate in violation of §24.2-956 print*
234 *media requirements with regard to one print media advertisement and assess a \$100 penalty for*
235 *a first-time violation.* Secretary LeCruise seconded the motion, and the motion passed
236 unanimously.

237 The next complaint was against Ralph Parham for Treasurer. Ms. Schneider presented the
238 Board with one undisclosed insert. She informed the Board that Mr. Parham and his printing
239 company provided a response apologizing for the error. Due to the apology Vice Chair

240 O'Bannon moved *subject to the Board's authority under the Code of Virginia §24.2-955.3, to*
241 *find Ralph Parham for Treasurer in violation of §24.2-956 print media requirements with regard*
242 *to one print media advertisement and assess a \$50 penalty for a first-time violation with an*
243 *apology or remedial action.* Secretary LeCruise seconded the motion, and the motion passed
244 unanimously.

245 The next complaint was against Reginald A. Williams, Sr. Ms. Schneider presented the
246 Board with one undisclosed sign. Secretary LeCruise moved *subject to the Board's authority*
247 *under the Code of Virginia §24.2-955.3, to find Reginald A. Williams, Sr. in violation of §24.2-*
248 *956 print media requirements with regard to one print media advertisement and assess a \$100*
249 *penalty for a first-time violation.* Vice Chair O'Bannon seconded the motion, and the motion
250 passed unanimously.

251 The next complaint was against Samantha Bohannon, Candidate. Ms. Schneider
252 presented the Board with 10 undisclosed signs. She informed the Board that ELECT has not
253 received a response from the candidate. Vice Chair O'Bannon moved *subject to the Board's*
254 *authority under the Code of Virginia §24.2-955.3, to find Samantha Bohannon, Candidate in*
255 *violation of §24.2-956 print media requirements with regard to ten print media advertisements*
256 *and assess a \$1000 penalty for ten first-time violations.* Secretary LeCruise seconded the motion,
257 and the motion passed unanimously.

258 The next complaint was against Shick for Gainesboro District School Board. Ms.
259 Schneider presented the Board with one undisclosed t-shirt and two undisclosed signs. She
260 informed the Board that ELECT has not received a response from the candidate. Vice Chair
261 O'Bannon moved *subject to the Board's authority under the Code of Virginia §24.2-955.3, to*

262 *find Shick for Gainesboro District School Board in violation of §24.2-956 print media*
263 *requirements with regard to three print media advertisements and assess a \$300 penalty for*
264 *three first-time violations.* Secretary LeCruise seconded the motion, and the motion passed
265 unanimously.

266 The next complaint was against Sue Kass for School Board. Ms. Schneider presented the
267 Board with one undisclosed sign and one undisclosed insufficiently conspicuous card. She
268 informed the Board that the card did have the disclosure. Ms. Schneider stated that Ms. Kass
269 provided a response apologizing for the error and showing remedial action. Vice Chair
270 O'Bannon moved *subject to the Board's authority under the Code of Virginia §24.2-955.3, to*
271 *find Sue Kass for School Board in violation of §24.2-956 print media requirements with regard*
272 *to two print media advertisements and assess a \$100 penalty for two first-time violations with an*
273 *apology and remediation.* Secretary LeCruise seconded the motion, and the motion passed
274 unanimously.

275 The next complaint was against Whitbeck for Chairman. Ms. Schneider presented to the
276 Board three undisclosed newspaper advertisements. She informed the Board that ELECT has not
277 received a response from the candidate. Secretary LeCruise moved *subject to the Board's*
278 *authority under the Code of Virginia §24.2-955.3, to find Whitbeck for Chairman in violation of*
279 *§24.2-956 print media requirements with regard to three print media advertisements and assess*
280 *a \$300 penalty for three first-time violations.* Vice Chair O'Bannon seconded the motion, and the
281 motion passed unanimously.

282 The next complaint was against Winchester – Frederick Democratic Committee. Ms.
283 Schneider presented the Board with one undisclosed newspaper advertisement. She informed the

284 Board that the newspaper was distributed on October 23rd which is within the 14 days prior to the
285 election. Ms. Schneider presented the Board with a response from the Winchester Star
286 apologizing for their error. Due to the apology Vice Chair O'Bannon moved *subject to the*
287 *Board's authority under the Code of Virginia §24.2-955.3, to find the Winchester-Frederick*
288 *Democratic Committee in violation of §24.2-956 print media requirements with regard to one*
289 *print media advertisement and assess a \$100 penalty for a first-time violation doubled due to the*
290 *proximity to the election.* Secretary LeCruise seconded the motion, and the motion passed
291 unanimously.

292 The next order of business was the HB2178 Minimum Security Standards, presented by
293 Daniel Persico, Chief Information Officer and Karen Tinucci. *This report is in the Working*
294 *Papers for the November 18, 2019 meeting.* Vice Chair O'Bannon recognized the group that
295 worked on this project and thanked the group for allowing him to be a part of it. Commissioner
296 Piper stated that this project highlights Virginia's efforts to ensure the integrity of the elections
297 and combat issues that arose in 2016.

298 Chairman Brink opened the floor to the public. Katie Boyle on behalf of the Virginia
299 Association of Counties, Jessica Ackerman on behalf of the Virginia Municipal League, and
300 Jason Corwin, Mecklenburg County General Registrar, all addressed the Board. Vice Chair
301 O'Bannon moved *that the Board adopt the proposed HB2178 minimum security standards*
302 *related to information systems identified as sensitive to election related activities.* Secretary
303 LeCruise seconded the motion, and the motion passed unanimously.

304 Secretary LeCruise moved *to adjourn the Board.* Vice Chair O'Bannon seconded the
305 motion, and the motion passed unanimously. The meeting adjourned at approximately 3:35 P.M.

State Board of Elections
FINAL Meeting Minutes
Monday, November 18, 2019

306

307

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309 Chairman

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312 Vice Chair

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315 Secretary



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Commissioner's Report

BOARD WORKING PAPERS
Jessica Bowman
Deputy Commissioner



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Recount Suite

BOARD WORKING PAPERS
Samantha Buckley
Policy Analyst



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Memorandum

To: Chairman Brink, Vice Chair O'Bannon, and Secretary LeCruise
From: Samantha Buckley, Policy Analyst
Date: December 18, 2019
Re: Amendment to Virginia Recount Procedures

Suggested motion for a Board member to make:

Move that the Board adopt the proposed amendments to the Recount Suite effective January 1, 2020.

Applicable Code Sections: Va. Code § 24.2-800 et. seq.

Attachments:

Your Board materials include the following:

- Memo for the Recount Suite
- Current Recount Suite
 - o Recount Precinct Results form
 - o Recount: Step by Step Instructions
 - o Manual Tally sheet
- Proposed amendments to Recount Suite
 - o Recount Precinct Results form
 - o Recount: Step by Step Instructions
 - o Hand Count Tally Sheet

Background:

Pursuant to Va. Code § 24.2-802(A), the State Board of Elections is required to “promulgate standards for (i) the proper handling and security of voting and counting machines, ballots, and other materials required for a recount, (ii) accurate determination of votes based upon objective evidence and taking into account the counting machine and form of ballots approved for use in the Commonwealth, and (iii) any other matters that will promote a timely and accurate resolution of the recount.”

A recount is a secondary tabulation of votes cast for a particular office between two candidates: (1) the candidate certified the winner by the appropriate authority and (2) the candidate that lost within a specific margin to the winner (*see* Va. Code § 24.2-800).

In conducting a recount the voting machine, which will scan all valid ballots, must be programmed to reject or return ballots that have (1) write-ins, (2) undervotes, (3) overvotes, and (4) ballots that cannot be read by the machine (*see* Va. Code § 24.2-802). Returned ballots are hand counted, along with “paper” ballots, by recount officials (*see* Va. Code § 24.2-802). Recount officials may challenge ballots when they question the validity of the ballot or cannot determine the voter’s intent as presented on the ballot (*see* Va. Code § 24.2-802). The recount court will make the adjudication of the ballot’s validity and voter intent. Additionally, the recount court is required to certify the final results of the recount.

A recount involves multiple entities and moving parts to ensure legal compliance; as such, the State Board is charged with establishing the standards for uniform and proper execution of all recounts across the Commonwealth. The current Recount Suite, adopted 2015 by the State Board, contains multiple documents for the execution of a recount. These standards and the recount procedure are documented in:

- The **Virginia Step by Step Instructions** which are the complete instructions for conducting a recount; and
- The **Recount Results Precinct form** which is used to capture data from the recount.

Proposed amendments:

In reviewing and revising the current Recount documents, ELECT enlisted the assistance of several general registrars. General registrars were given the opportunity to provide feedback and insight into the recount procedure during the development stage of the Recount Suite.

The overall approach in amending the suite was to produce documents that were simplified for all entities involved with the recount procedure.

To simplify the recount documents, ELECT:

- **Updated language.** Recount election officials are chosen from a list of election officials present on election day; thus, recount officials already have knowledge of current election day language. The update uses language used in the polling place.
- **Clarified instructions.** The current instructions were detailed to the point of being confusing. Instructions do not consider that recount officials have background knowledge of items used and procedures conducted on election day.

The update takes into consideration that recount officials have a background in election day procedure and are familiar with different tasks that must be completed on election day which simplifies the instructions.

- **Clarified separation in responsibilities.** The current instructions provide a complete overview of the recount procedure; however, responsibilities of each entity involved in the recount become unclear.

The update clearly labels which entity is completing what task while providing a complete overview of the recount procedure. Further, the Step by Step Instructions may be separated by each entity to permit whomever is completing the task to find their responsibilities without reviewing the entire recount procedure.

- **Updated voting systems.** Adopted in 2015, the current standards discuss DREs. DREs were decertified by the SBE in the summer of 2017; however, the recount standards and related forms were never updated to reflect this major change in the Commonwealth.

The proposed update was developed for scanning machines which are the only voting systems permitted in the Commonwealth. This amendment significantly simplifies the recount forms because there is no need to account for multiple voting systems.

- **Intuitive design.** The current Recount Results Precinct form is not intuitive. A recount official, who will be familiar with various aspects of election day and the voting system, would require the Step by Step instructions to complete the Recount Results Precinct form.

The proposed update provides for the Recount Results Precinct form to be intuitive and direct the official without an abundance of supplemental instruction outside of the form.

- **Additional flexibility.** The current standards make no consideration for instances when the recount court requires the locality to provide vote count totals for all candidates in the recount rather than just two candidates.

For instance, when the recount court makes the requirement for all vote totals of candidates in the election, the updated recount precinct form provides flexibility to the general registrar to amend the form.

- **Simplified hand count procedure.** As previously stated, current standards make no consideration for situation in which the recount court requires the locality to provide vote count totals for all candidates in the recount rather than just two candidates.

The updated procedure instructs recount officials to group ballots by 10 and tally the votes rather than separating, stacking, and counting ballots. The hand count tally sheet permits officials to track ballots to improve accuracy of the recount total.

Before:

A note inside the field/data box provides instructions or crosschecks:

- "Carry to C1(i)" means to copy that figure to line C1, Column (i) (Line numbers begin with the same letters as sections, so line C1 is in section C.)
- "Should = C1(ii)" is a crosscheck letting the official know that the numbers should be the same. (If not, the official should recheck data entry and math before going any further).
- "Line A2 Total" tells the source of the number for that box -- copy it from there.
- A column titled "calculation or source" identifies the math or source used to fill in the next column.
- And "=B4+B5" and "=B2-B3" are instructions to arrive at the calculated number.

Part B - 2 - Certification of DRE Machine Results for Precinct		Calculation or Source	VM-1 or Consolidation Tape*	VM-2	VM-3	VM-4	VM-5	VM-6	Candidate Totals	
B3	Candidate Name ()	Machine Tape							Should = C4(ii)	B3
B4	Candidate Name ()	Machine Tape							Should = C4(iii)	B4
B5	Total votes for both candidates on DRE(s)	= B3 + B4	⌘	⌘	⌘	⌘	⌘	⌘	Should = C4(iv)	B5
B6	DRE ballots undervoted or voted for other candidates (this office)	= B2 - B5	⌘	⌘	⌘	⌘	⌘	⌘	Carry to C8(ii)	B6

Figure 1. The current instructions were confusing, partially due to the Recount Results Precinct form which required election officials calculate totals and carry totals across the entire form.

* If **consolidation tape** available, list total number of voters and results for recount candidates from consolidation tape under **VM-1 above** and **list all serial numbers for DREs included in the consolidation tape below**. If any DRE is **not** included in the consolidation tape, list the serial number and results for each such machine under VM-2, etc. Use additional copies of page if needed.

Figure 2. Current instructions are out of date with current voting systems and terminology. DREs were decertified in the Summer of 2017 and are no longer permitted for use in the Commonwealth. All elections are required to use ballot scanner machines.

After:

PART 1: Complete this information at the start of the precinct recount

Instructions – Recount Officials (Hand count ballots)

Print two (2) zero tapes from the voting machine.

1. **Check** that all totals on the zero tapes read 0000
2. **Check** the public counter total reads 0000
3. **Complete** PART 1 on the recount precinct results report.
4. **Staple** a zero tape to the first page of each Recount Precinct Results form

Figure 3. Clear labeling of each part to be completed by the recount official. These labels are also reflected in the instructions for recount officials. Additionally, language was changed to reflect current terminology used in the polling place.

What to do before you start the recount for this precinct:

- **Print two (2) copies of the zero tape from each machine**

PART 1: Complete this information at the start of the precinct recount

PART 2: Total results for scanned ballots
Candidate Name 1

PART 3: Total results for hand counted ballots
Candidate Name 1

Figure 4. The proposed amendments to the Recount Precinct Results form are meant to guide a recount official through the recount procedure.

PART 2: Total vote count for scanned ballots	
Candidate Name 1	
Candidate Name 2	
Total vote count for candidates not party to the recount	
Total (add each row)	2A

The general registrar may amend PART 2 and PART 3 of the recount precinct results form to reflect the requirements of the recount order. The form will be available in Microsoft Word to permit easy amendment to the form.

PART 3: Total vote count for hand counted ballots	
Candidate Name 1	
Candidate Name 2	
Total vote count for candidates not party to the recount	

This is also reflected in the instructions to the general registrar and the electoral board members.

- Review and amend the **Recounts documents** (if needed).

Your recount court may require you to account for vote totals for more than two candidates. If so, amend the **votes cast for candidates not party to the recount** on the recount forms to include any other candidate names party to the recount.

Your recount court determines how many recount officials will assist with the recount. You may be given multiple teams for each precinct or only one team. As such, **review and amend** your instructions for handing off returned ballots from the scanning team to the hand counting team (see page 9 of the instructions).

Figure 5. Page 7 of the Step by Step Instructions provide that the general registrar updates the Recount Precinct Results form to reflect the recount order regarding vote totals. Page 11 of the instructions are highlighted as the same color to indicate where the general registrar should make the change.

ELECT Staff Recommendation:

ELECT staff recommends the State Board adopt the proposed amendments to the current Recount procedure and documents, effective January 1, 2020.



Virginia Election Recounts Step-by-Step Instructions



Includes:

- Overview of Recounts and Contests
- Preparations for the Recount
- Precinct Instructions for Recount Coordinators and Officials-All Voting Systems
- Suggested Steps for the Court's Review and Compilation of Recount Results
- After the Recount



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A Message to General Registrars and Electoral Board Members

*Please carefully review this document as soon as you know that a recount is possible in one of your elections. Also provide a copy to your local Clerk of Court. These instructions accompany the **RECOUNT PRECINCT RESULTS For All Voting Systems** (form SBE-802-PR)*

If you have any questions about this information, please do not hesitate to contact a Department of Elections policy analyst.

Overview -- Election Recounts and Contests

Recounts

A recount is a simple redetermination (retabulation) of all of the votes cast on Election Day. Recount officials only count the ballots that were previously cast. A voter's eligibility to vote or any alleged irregularities cannot be called into question during a recount (only in a contest, see below).

In Virginia, there are no automatic recounts. Only an apparent losing candidate can ask for a recount, and only if the difference between the apparent winning candidate and that apparent losing candidate is not more than one percent (1%) of the total votes cast for those two candidates.

As of 2009, a losing candidate may request a recount if the difference is not more than five percent (5%) of the total votes cast for those two candidates if one of those candidates was a write-in candidate for that office. (§ 24.2-800, Code of Virginia)

The apparent losing candidate cannot request a recount until after the election is certified. (§ 24.2-801) The Department of Elections certifies primary and election results for all federal offices (Presidential Electors, U.S. Senate, and U.S. Congress), state offices (Governor, Lt. Governor, and Attorney General and General Assembly seats) and any offices shared by two or more localities.

An apparent losing candidate requesting a recount of a primary or general election for statewide office files the petition requesting a recount with the Circuit Court of the City of Richmond. A candidate requesting a recount for any other office files the recount petition with the Circuit Court where the candidate being challenged resides.

Local electoral boards certify all other election results for local offices. Each electoral board meets in the days following the election to canvass and certify these results. To request a recount, an apparent losing candidate for a local election must file a petition for a recount with the Circuit Court where the challenged candidate resides within ten days after the electoral board certifies the election results. Any local candidate seeking a recount should



check with their local general registrar or electoral board to determine the actual date of certification for these local offices.

The Chief Judge of the Circuit Court where the recount petition was filed and two other judges appointed by the Chief Justice of Supreme Court of Virginia make up the recount court. The recount court, outlines all procedures and the manner in which the recount will be conducted for each type of voting equipment used (pursuant to § 24.2-802 of the Code of Virginia).

The recount court appoints recount officials from among the officers of election who served in the locality during the election. These recount officials are appointed to represent the respective parties to the recount. In setting the procedures for the recount, the court will also decide if the actual recounting of votes cast will take place in the various localities or in a central location. After all of the votes cast are recounted, the court will certify the candidate with the most votes as the winner.

The counties and cities involved in a recount are responsible for paying their own costs for the recount if the margin between the two candidates who are parties to the recount is one-half percent or less, or if the candidate requesting the recount is declared the winner by the recount court. Otherwise, the candidate who requested the recount must pay the costs for conducting the recount. Any candidate requesting a recount who may be assessed with costs shall post a bond with surety with the court in the amount of \$10 per precinct in the area subject to the recount. (More information about recount costs is available in § 24.2-802(E) and (F) of the Code of Virginia).

Because of the federal deadline for the seating of the state's presidential electors, Virginia law provides an accelerated schedule for any recount of such election (see § 24.2-801.1). The presidential candidate represents the vice presidential candidate and the candidates for electors (§ 24.2-800). The deadline for filing of notice of intent to contest is 5:00 PM on the second calendar day following certification of the election by the Department of Elections. The recount "shall be held promptly" and must be concluded at least six days before the time fixed for the convening of the electors. If a *contest* of an election for Virginia's presidential electors is also filed, they would proceed simultaneously (§ 24.2-805).

Contests

An unsuccessful candidate in the election may file a notice of intent to contest the election. The notice must state the grounds for the contest, which must include one of the following:

- (i) objections to the eligibility of the contestee based on specific allegations, OR
- (ii) objections to the conduct or results of the election accompanied by specific allegations which, if proven true, would have a probable impact on the outcome of the election, OR
- (iii) both.

Contests of elections for most offices in Virginia may be filed only within 30 days of the election or 10 days of the date of the primary or a special election held on a date other than that of a general election. A contest may also be filed after a recount under Va. Code § 24.2-814 within 10 days after the recount court's order declaring a winner under Va. Code § 24.2-802(D).

If a recount has been held for an election to the House of Delegates, State Senate, Governor, Lieutenant Governor, or Attorney General, the apparent losing candidate for that



office who also loses the recount has until 3 days after the conclusion of the recount (or 30 days after Election Day, whichever date is later) to file notice of intent to contest. A candidate who was originally declared the winner and loses as a result of a recount may file notice of intent to contest the election within 10 days following the conclusion of the recount.

In elections for a Member of the U.S. Senate or U.S House of Representatives, [Article I, section 5](#) of the U.S. Constitution provides that "Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members." [Article IV, section 7 of the Virginia Constitution](#) has a nearly identical provision. [Virginia Code § 24.2-803](#) requires that contests for elections of General Assembly members must be filed with the respective clerks for decision by the affected body.

To contest an election for the House of Representatives, a notice of intent to contest the election must be filed with the Clerk within 30 days after the result of the election has been certified by the Department of Elections, or if there is a recount, within 30 days after the recount court certifies the election result. ([2 USC Chapter 12, particularly Sections 384 and 392](#))

The contestant "would have to formally petition the U.S. Senate for a probe into the election, and the Rules Committee has broad authority to investigate election cases, including conducting its own recount. The Rules panel, however, would have to vote to begin the inquiry, and historically, those probes have taken months if not years to complete. Any findings — such as whether an election was legitimate — would be forwarded to the full Senate with a recommendation on what, if any, action to take, which the Senate could then decide whether to take up."¹ A deadline for filing such a contest is not stated in federal law.²

As with recounts of elections for presidential electors, Virginia law provides an accelerated schedule for any contests of such presidential elections as well. The presidential candidate represents the vice presidential candidate and the candidates for electors (§ [24.2-807](#)). The deadline for filing of the notice of intent to contest is 5:00 PM on the second calendar day following certification of the election by the Department of Elections. The contest "shall not wait upon the results of any recount" and must be concluded at least 6 days before the time fixed for the convening of the electors (§ [24.2-805](#)). Any recount or contest for an election for presidential electors would proceed simultaneously.

<i>Office</i>	<i>Notice of intent to contest is filed with</i>
Election of Presidential Electors	Circuit Court, City of Richmond
Primary for U.S. Senate or Statewide Office	Circuit Court, City of Richmond
Presidential Primary	No contest provisions in Code of Virginia

¹ [David M. Drucker & Emily Pierce, "Democrats May Join Minnesota Fray," Roll Call, 12/8/08](#)

² In the event of a U.S. Senate recount in Virginia, Department of Elections would ask the Parliamentarian of the Senate (through the state's other Senator(s)) if the rules at that time specify a deadline for filing a contest after the conclusion of a recount.



Election for Governor, Lt. Governor or Attorney General	Clerk of the House of Delegates
Election for House of Delegates	Clerk of the House of Delegates
Election for State Senate	Clerk of the State Senate
Primary for U.S. House of Representatives, House of Delegates or State Senate	Circuit Court where challenged candidate resides
Primary or Election for any county, city, town or district office	Circuit Court where challenged candidate resides

Persons Involved in the Recount

Electoral Boards – Give court and parties a list of all Officers of Election who served in the last election, with their party affiliations, etc. One electoral board member representing each party will be selected by the Recount Court to serve as one of the pair of **Recount Coordinators** for the locality.

Recount Officials – Each candidate or petitioner and governing body/chief executive officer (in the case of a referendum) involved in the recount may select an equal number of officers of election to serve as recount officials. Recount officials have the duty of counting the ballots, or redetermining the vote (if DREs). Recount officials will work in groups or pairs with the parties to the recount being equally represented.

Registrars – Permit parties to make copies of statements of results, machine tapes, printed return sheets, pollbooks (whether paper or in electronic format), and abstract of votes (original and corrected) for the election at issue, etc.

Recount Court – Upon receipt of the petition for recount, the Chief Judge of the court in which it was filed must alert the Chief Justice of the Virginia Supreme Court, who will thereafter appoint two judges to serve on the Recount Court. These three judges will constitute the Recount Court. The Recount Court will determine the procedures to be followed during the recount, what information will be accessible to the parties, and for which candidate, if any, a challenged ballot should be counted.

Clerks of Court – Secure election materials and certify security to recount court; be present and administer oaths on the day of the recount; deliver election materials to State Police after the recount for delivery to the Court.

Clerk of Recount Court – In addition to duties of all clerks (above), summons Recount Officials and is present at all hearings of the Recount Court.

Candidates – May be present. They are responsible for selecting which officers of election will serve as the recount officials representing their interest, based on the number established by the Recount Court. They may also send one authorized representative per team of recount officials to observe the process.



Preparations for the Recount

Department of Elections, General Registrar(s), and Electoral Board Members

The Department of Elections' Standards for Recounts in Virginia Elections (and accompanying Ballot Examples) provides details and guidance to help carry out Virginia's recount laws (§§ 24.2-800 - 24.2-802). The Code of Virginia directs:

A. The Department of Elections shall promulgate standards for (i) the proper handling and security of voting and counting devices, ballots, and other materials required for a recount, (ii) accurate determination of votes based upon objective evidence and taking into account the counting device and form of ballots approved for use in the Commonwealth, and (iii) any other matters that will promote a timely and accurate resolution of the recount. The chief judge of the circuit court or the full recount court may, consistent with Department of Elections standards, resolve disputes over the application of the standards and direct all other appropriate measures to ensure the proper conduct of the recount.

The recount procedures to be followed throughout the election district shall be as uniform as practicable, taking into account the types of ballots and voting devices in use in the election district. (§ 24.2-802)

As soon as it appears that a recount in a local, district, or state election may be possible, the General Registrar and Electoral Board Members from the impacted locality(ies) must begin making preparations.

Electoral Boards should first create a list of names of officers of election who served in the precincts subject to the recount. The political parties involved in the recount need this list to appoint *recount officials* from this group of officers of election. The number of recount officials necessary will be determined by the Recount Court.

General registrars should also begin assembling all appropriate forms for conducting the recount and ensure that these forms are delivered to the Recount Coordinators.

Duties of Clerk(s) of Court

Section § 24.2-802 of the Code of Virginia directs the Clerks of Court in a jurisdiction where there may be a recount to secure the ballots and election materials until the recount. This should be done under normal circumstances, but it is added into the recount laws for emphasis. Also, the Clerk is required to certify to the chief judge in the recount, as directed, that the proper security measures have been taken.

In preparation for the recount, the clerks of the circuit courts shall (a) secure all printed ballots and other election materials in sealed boxes; (b) place all of the sealed boxes in a vault or room not open to the public or to anyone other than the clerk and his staff; (c) cause such vault or room to be securely locked except when access is necessary for the clerk and his staff; and (d) certify that these security measures have been taken in whatever form is deemed appropriate by the chief judge. (§ 24.2-802(A))



Duties of the Chief Judge of the Recount Court

The Chief Judge must hold a preliminary hearing within 7 calendar days of the petition for recount unless the recount is requested for a presidential election, in which case it must be held within 5 calendar days. The Chief Judge will rule on motions and establish rules of procedure during the preliminary hearing, but such decisions are subject to review by the full Recount Court. The security measures adopted to secure materials after Election Day, and those going forward must be examined and established by the Chief Judge. The Chief Judge may also allow parties to examine election materials. The Chief Judge may also set the locations for the recount and may order the delivery of election materials to a central location, but such action is subject to review by the full Recount Court.

Duties of the Recount Court

Once established, the Recount Court will hold a hearing. All motions and rules of procedure shall be finalized at this hearing. The parties (or their counsel) shall meet and confer and submit a proposed "Recount Procedural Order" and eventual "Final Order" for consideration by the three-judge Recount Court. If the parties do not agree, they will file competing legal memoranda and proposed orders. The Recount Court will also allow parties to the recount to select an equal number of officers of election to be Recount Officials. The date for submissions will be included in the Preliminary Order by the Recount Court.

The three-judge Recount Court shall supervise the recount and redetermination of the vote, with assistance from the Department of Elections and the local electoral boards.

Terminology

Throughout this document the terms "machine-readable ballot," "paper ballot," and "printed ballot" are used to describe physical ballots. The usage of terms is consistent with the definitions provided in Va Code § 24.2-101:

"*Machine-readable ballot*" means a tangible ballot that is marked by a voter or by a system or device operated by a voter and then fed into and scanned by a counting machine capable of reading ballots and tabulating results;

"*Paper ballot*" means a tangible ballot that is marked by a voter and then manually counted; and

"*Printed ballot*" means a tangible ballot that is printed on paper and includes both machine-readable ballots and paper ballots.

A ballot's designation is based on **how it was counted on election day**. A machine-readable ballot that is manually counted during the recount should not be tallied as a *paper ballot* upon the recount paperwork.

The terms "ballot scanner machine," "ballot scanner," and "scanner" are used interchangeably throughout this document and within the recount forms.



"Part One" - Recount Day in the City or County

Check in and Logistics

The offices or other facilities for the recount will be provided or arranged by the Clerks of Court and shall be of sufficient size for the purposes of the recount and shall allow for direct and proximate observation of the recount officials by the recount observers.

All participants at the recount, whether as officials or observers, should check in with the Clerk of Court, and a record should be kept of all attendees.

Precinct Instructions for Recount Coordinators & Officials - All Voting Systems

Use appropriate instructions for any combination of

- ✓ MACHINE-READABLE BALLOTS AND BALLOT SCANNER MACHINES
- ✓ DIRECT RECORDING ELECTRONIC (DRE) MACHINE PRINTOUTS
- ✓ PAPER BALLOTS

Each Recount Team will complete one precinct at a time, under the supervision of Recount Coordinators.

Materials

A copy of each of these instructions (SBE-802-SBS, this entire document) should have been provided previously to each Recount Coordinator and to the Clerk of Court.

The Recount Coordinators should have already provided a copy of the following to each Recount Official during training for the recount:

- The full section of this document titled "Part One" - Recount Day in the City or County" which includes the Precinct Instructions
- A sample copy of SBE-802-PR - Recount Precinct Results for All Voting Systems
- A copy of the Ballot Examples for Hand Counting Printed Ballots for Virginia Elections or Recounts

The following materials prepared for the recount must be provided for each precinct:

- **SBE-802-PR - Recount Precinct Results for All Voting Systems** (1 set per precinct. If no DRE was used in the precinct, the two pages with Parts B-1 through B-3 should not be provided to the Recount Officials. The other four pages will be used for all precincts.)
- **SBE-802-CB - Challenged Ballot Forms** (4 per page; multiple copies may be needed)
- **Challenged Ballots envelope** (have one per precinct on hand)
- **SBE-802-MA - Precinct Manual Tally Sheet** (an optional form that can be used when hand counting printed ballots) (4 or more copies per precinct recommended, to keep paper and machine-readable ballot counts separate, and so each officer can



- prepare tally while other officer counts ballots)
- **The memory card, cartridge, or other data storage medium (one per precinct)** that has been prepared especially for the recount if machine-readable ballots are to be rerun through a tabulator during the recount.
 - It is recommended that the prepared cards, cartridges, or media be placed in the custody of the Clerk, to be released to the Recount Coordinators one precinct at a time with the other materials below.

The following materials will be released by the Clerk of Court to a Recount Coordinator upon request, one precinct at a time. The Coordinator will deliver them to the Recount Team that will recount that precinct.

- **Envelope #2** containing the
 - **POLLBOOKS and POLLBOOK COUNT Forms (all divisions)** (if paper pollbooks were used),
 - one copy of the **Statement of Results with machine tapes attached** (General Registrar will have the second copy, available for public inspection, after the canvass),
 - **Write-Ins Certification** (if cast on printed ballots or voting systems that do not include the names written-in and votes cast for each), and
 - **Incident Report**
- **Box/Envelope #3** containing the **COUNTED BALLOTS** (Envelope 3 may be combined with Envelope 5 so as to also contain outside poll envelopes).

And the following envelopes if used in the election:

- **Envelope #7B** containing the voting equipment keys for scanners and DRE dial/touchscreen voting systems
- **Envelope #7/7C** containing the voting equipment keys and memory cartridges for AVC Advantage DRE equipment and the data storage units and seals for scanners and DRE dial/touch screen equipment;

If Machine-readable ballots are to be rerun through a tabulator during the recount

- **The memory card, cartridge, or other data storage medium** that will be used for the precinct, and has been prepared specifically for the recount.
 - It is programmed to count, as required by law, only the votes cast for the office or issue in question in the recount and to set aside all ballots containing write-in votes, overvotes, and undervotes for that office or issue for hand counting.
 - (If the card, cartridge, or medium could not be reprogrammed as required by the recount law, all machine-readable ballots for the precinct will be hand counted by the recount team.)
- One memory card, cartridge, or other data storage medium for each precinct will be used to recount the ballots cast at the polling places in the district (including absentee ballots if counted at the precincts).
- If a Central Absentee Precinct (CAP) was used, one **memory card, cartridge, or other data storage medium** will be used to count the machine-readable ballots of absentee voters whose ballots were originally handled by the tabulator for the CAP.
- NOTE: The **memory card, cartridge, or other data storage medium** used in the precinct (or Central Absentee Precinct) on Election Day to count machine-readable ballots will remain sealed and in the custody of the Clerk. It should not be needed during the recount.



- (Counted provisional votes, even if voted on machine-readable ballots, were originally hand counted by the electoral board and will be treated in the recount as paper ballots. Provisional Ballots will be counted as a separate precinct, which is the same manner in which they were originally counted after Election Day).

General Instructions

The Recount Officials will be divided into teams consisting of equal representatives for each party. Teams will be tasked with recounting printed ballots or redetermining votes cast on DREs. At least one team will insert ballots into electronic counting devices programmed to count only those votes cast for parties to the recount or for or against the question in a referendum recount.

There are only two Recount Coordinators appointed per locality. One Coordinator may need to supervise multiple teams. Coordinators may offer advice to the Recount Officials.

The Recount Officials may either enter the required data on the Recount Precinct Results form or may read each total aloud to the Recount Coordinator who will enter it and read it back for verification by the Recount Officials. (Recount Officials must sign the first page, certifying the precinct results for each precinct that they recount.)

Only the Recount Officials may handle ballots. Recount Coordinators will deliver sealed election materials from the Clerk of Court, and return the resealed materials, one precinct at a time.

Each party to the recount (candidate) is allowed one observer per recount team. The observer may stand behind or sit to the outside of the Recount Officials as they work and may only watch and take notes. Observers must be close enough to see and hear what is happening. No observer may handle ballots, election materials, or recount materials. If an Observer has a question, it should be directed to the supervising Recount Coordinator -- not the Recount Officials -- without disturbing the proceedings.

Members of the news media and the general public may also be in the room, but are not allowed to handle any official materials or disturb the proceedings in any way.

Some suggested table layouts --

1. Observer Official Official Observer
 [-----Table-----]
 [-----]
 [-----]
 [-----]

2. Observer Official Official Observer
 [-----Table-----]
 [-----]
 [-----]



3. Official
Observer [----Table-----] Official
Observer [-----]

For each precinct, the Recount Coordinators will ensure as the work progresses that the following data is entered on each form page as required work begins (if not previously entered):

1. The name of the county or city
2. The name/number of the precinct in which the election was conducted
3. The date of the election
4. The name of the office and the names of the two candidates involved in the recount (in the same order that they appeared on the ballot in the election)³

The Recount Coordinators will provide the necessary materials to the Recount Officials, one precinct at a time.

Instructions for the SBE-802-PR – Recount Precinct Results

- A highlighted line indicates a number is to be filled in during this sequence of steps.
- A highlighted box with a hand and pencil means that this is a calculation.
✍

A note inside the field/data box provides instructions or crosschecks:

- "Carry to C1(i)" means to copy that figure to line C1, Column (i) (Line numbers begin with the same letters as sections, so line C1 is in section C.)
- "Should = C1(ii)" is a crosscheck letting the official know that the numbers should be the same. (If not, the official should recheck data entry and math before going any further).
- "Line A2 Total" tells the source of the number for that box -- copy it from there.
- A column titled "calculation or source" identifies the math or source used to fill in the next column.
- And "=B4+B5" and "=B2-B3" are instructions to arrive at the calculated number.

Part B - 2 – Certification of DRE Machine Results for Precinct		Calculation or Source	VM-1 or Consolidation Tape*	VM-2	VM-3	VM-4	VM-5	VM-6	Candidate Totals	
B3	Candidate Name ()	Machine Tape							Should = C4(ii)	B3
B4	Candidate Name ()	Machine Tape							Should = C4(iii)	B4
B5	Total votes for both candidates on DRE(s)	= B3 + B4	✍	✍	✍	✍	✍	✍	Should = C4(iv)	B5
B6	DRE ballots undervoted or voted for other candidates (this office)	= B2 - B5	✍	✍	✍	✍	✍	✍	Carry to C8(iii)	B6

³ If the recount is for a referendum, insert title of the question involved in the recount and its two separate responses, instead of the office and candidate names.



A. Preparing for and Evaluating Machine-readable Ballots

i. If Machine-readable ballots are to be rerun, prepare the ballot scanner machine.

1. Insert the **MEMORY CARD, CARTRIDGE, OR OTHER DATA STORAGE MEDIUM** for the precinct to be counted.
3. Turn the machine **ON**.
4. Produce a **ZERO** printout.
5. Verify that all totals on the **ZERO** printout, including the ballots cast, and the total on the Public Counter on the front of the machine read **0000**.
6. Record the **Serial Number** from this scanner in the **Recount Precinct Results, Part A, line A1** under "**Scanner 1.**"
7. Read the number from the **Public Counter** aloud and enter it in the **Recount Precinct Results, Part A, line A3 ("Before Recount")** under "**Scanner 1.**"
8. If two scanners are used, repeat steps 1-7, filling in under "**Scanner 2**" for steps 6 and 7.
9. Feed ballots.

ii. Insert Machine-readable ballots for precinct into ballot scanner machines

1. Open **Box/Envelope #3** containing **COUNTED BALLOTS** for the precinct being counted.
2. As they are removed from the box/envelope, **set aside the paper ballots for separate hand counting** (face down); "Paper ballots" in a precinct that also uses ballot scanner machines may include:
 - traditional paper ballots
 - official reproductions of paper ballots or machine-readable ballots
 - ballots sent to military or overseas voters by email or fax and printed by the voters (if absentee ballots are counted in the precinct -- or if precinct being recounted is the CAP)
 - Federal Write-In Absentee Ballots (FWABs) from military or overseas voters (if absentee ballots are counted in the precinct -- or if precinct being recounted is the CAP). See 11.2.2010 Emergency Declaration of Secretary of Department of Elections.

All paper ballots were originally counted by hand, and must be recounted by hand, separately from the machine-readable ballots.

3. Feed all **Machine-readable** ballots into the scanner without examination of any ballot.



- If the scanner indicates that for the office being recounted the ballot was **overvoted or undervoted**, or the ballot contains a **write-in** vote for that office, it must be **separated out to be counted by hand**. The scanner should have been programmed to reject these ballots so that they can separately hand counted. If so, simply set that ballot aside (face down) for hand counting.

If the machine is instead programmed to accept the **write-in** ballots, but automatically divert them into a separate "write-in" bin, do not include these ballots in the number provided on **Line A5** for "*Number of Manually Counted Machine-readable Ballots.*" These ballots will be accounted for on paperwork in the total number of ballots scanned. The ballots **must still be hand-counted** the same as overvoted and undervoted ballots **after separation**, but should not be accounted for twice on the paperwork.

Part A - 2 – Certification of Precinct Manual Count		Calculation or Source	Total	
A5	Number of <i>Manually Counted</i> Machine-readable Ballots ²	Count	Carry to C2(i)	A5

If any **Machine-readable ballot** is so **damaged** that the counting device will not accept it, it must also be set aside for hand counting.

- Both Recount Officials must verify that the **Box/Envelope #3** container is empty, that all **Machine-readable ballots** have been inserted in the scanner, and that all **paper ballots** have been **set aside** for separate hand counting.
- Repeat steps 1 - 5 above for any additional **Box/Envelope #3** containers of **COUNTED BALLOTS** for that precinct.

iii. Obtain results determined by the electronic counting device

- When all Machine-readable ballots for the precinct have been inserted in the scanner, read the number from the **Public Counter** aloud and enter it in the **Recount Precinct Results, Part A, line A2** ("After Recount"). Subtract **line A3** from **line A2**, and enter it on the form in **line A4** (public counter difference).

If two scanners are used, enter values for both "**Scanner 1**" and "**Scanner 2**." Then **add** the values for "**Scanner 1**" and "**Scanner 2**" on **line A2**, and enter the total on **line A2**, under "**Total (Scanner 1 + Scanner 2)**." **Repeat for lines A3 and A4.**

Part A - 1 – Certification of Precinct Ballot Scanner Machine Counter		Calculation or Source	Scanner 1	Scanner 2 ¹	Total (Scanner 1 + Scanner 2)	
A1	Ballot Scanner Machine Serial Number (used to recount this precinct, if applicable)	From Machine				A1
A2	Number on This Scanner's Public Counter – After Recount (if applicable)	Public Counter				A2
A3	Number on This Scanner's Public Counter – Before Recount (if applicable)	Public Counter				A3
A4	Public Counter Difference (Must Equal the Number of Ballots Read By the Scanner During Recount [From Tape])	= A2 – A3			Carry to C1(i)	A4

- Run one printout to obtain the recount results for the precinct:



- a) Produce the **FINAL RESULTS** tape.
- b) Remove the **MACHINE-READABLE ballots** from the ballot compartments, return them to the **COUNTED BALLOTS** container(s), and seal it (them).
- c) Remove the printout with **ZERO** report and the **FINAL RESULTS** intact.

3. Record the data from the ballot scanner machine tape on the Recount Precinct Results form:

- a) Enter the **total Machine-readable ballots read in Part C, line C1, column (i). This number must match** the public counter difference previously entered in **Part A, line A4**. If the numbers do not match, first recheck the counter numbers and number of ballots entered on the form, and the math. If they still do not match, ask for the advice of the Recount Coordinator.
- b) Read aloud the name of the first candidate involved in the recount and the number of votes cast for first candidate and enter the total in **line C1, column (ii)**, double-checking that each number is copied to the column for the appropriate candidate.
- c) Read aloud the name of the second candidate involved in the recount and the number of votes cast for the second candidate and enter the total in **line C1, column (iii)**, double-checking that each number is copied to the column for the appropriate candidate.
- d) Add together the number of machine-readable ballots counted by the scanner for **both** candidates and enter the total in **line C1, column (iv)**.

Part C - Certification of Official Ballots				
VOTES CAST FOR CANDIDATES IN RECOUNT IMPORTANT: - Lines C1-C5 include only recount parties [listed to the right under (ii) and (iii)] - Lines C6-C9 include all other ballots	(i)	(ii)	(iii)	(iv)
	Total Number Voting	Candidate Name	Candidate Name	Total Cast for Candidates (ii) + (iii)
		()	()	
C1 Total Ballots Read by Ballot Scanner Machine in Recount (From tape; when finished attach tape to back of page with Part A.)	A4 Total = _____			

- e) Enter the precinct code on the **BALLOT SCANNER MACHINE RECOUNT TAPE** and **staple it** to the back (behind the top right) of the **RECOUNT - PRECINCT RESULTS page containing Part A**. (See instructions at the top of that page.)

iv. Hand count Machine-readable ballots previously set aside

Any Machine-readable ballots set aside from the steps above must be counted by hand.

A second team of Recount Officials may be used to count the ballots by hand.



- Count **all** set aside **Machine-readable** ballots (preferably with the office being recounted face down) without examining how they were cast. When both officials agree on the total count, enter the total on the **Recount Precinct Results** in **Part A, line A5**. Enter the same total in **Part C, line C2, column (i)**.

(Remember that write-in ballots should not be included in this number if the scanner accepted the ballots and diverted them to a separate write-in bin).

(Remember that paper ballots must be counted separately. If any are found among the set aside Machine-readable ballots, put them with the other paper ballots.)

A5	Number of <i>Manually</i> Counted Machine-readable Ballots ²	Count	Carry to C2(i)	A5
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- Examine each of the **Machine-readable ballots** to be counted and separate them into the following stacks (refer to the ballot examples in the "Hand Counting Printed Ballots for Virginia Elections or Recounts" if there is any question about how to count a mark).

During the sort, an official should lay each ballot face up on the table in the following stacks so that both officials and all observers can clearly see each ballot as it is sorted.

- (1) and (2) One stack each for ballots clearly voted for either candidate involved in the recount
- (3) Ballots either not voted for the office (undervoted) or not voted for candidates in the recount
- (4) Ballots clearly voided by the voter for the office per [§ 24.2-663](#) (overvoted or title of office erased)
- (5) Ballots challenged by either Recount Official (or the Officials cannot initially determine or agree how to count it)

After the first sort, re-examine the ballots in stacks 1-4 to make sure that each ballot is in the appropriate stack.

SBE-802-MA Precinct Manual Recount Tally Sheet is an optional form that may help Recount Officials when there are many ballots to hand count. If using it, complete the appropriate blanks/boxes at the top of the form and the candidates' names if not already completed. It covers each of the separate categories represented by the "stacks" and those counted/recorded in the procedures below. The final counts must still be recorded on the Recount Precinct Results form, as directed below.

The basic procedure for manually counting each stack (separately, when directed to do so below) is:

- a. One Recount Official should count the ballots while the other closely observes.



- b. Count the ballots by laying each ballot with the office being recounted face up on the table so that both officials and all observers can clearly see each ballot as it is counted.
 - c. Then the other official should count the same ballots while being closely observed by the first.
 - d. The official observing may use Department of Elections' Manual Recount Tally Sheet.
 - e. If the two officials do not arrive at the same number, repeat.
3. Re-examine all **Machine-readable ballots** in the "challenge" stack. Refer to the Ballot Examples. If the two Recount Officials agree on how to count the ballot, place the ballot in the appropriate other stack (1-4 above).

If both Recount Officials cannot agree, or they cannot determine how or whether to count a ballot, at least one of them must officially "challenge" the ballot.

- a. For each challenged ballot, complete the form entitled **STATEMENT OF RECOUNT OFFICIAL - CHALLENGED BALLOT (SBE-802CB)**, setting forth the reason(s) for the challenge. The officer challenging must sign the form and attach it to the ballot. This ballot will go to the Recount Court for a decision.
 - b. When all the ballots remaining in the "challenge" stack have been officially challenged, count the **Machine-readable ballots** being challenged and, when both officials agree on the number, enter total in **Part C, line C9, column (i)** of the **Recount Precinct Results** form.
 - c. Place the signed challenged ballot statements and attached ballots in the **Challenged Ballots envelope** for the precinct, and enter the name/number of the precinct. DO NOT enter the number of challenged ballots on the envelope at this time. DO NOT SEAL IT at this time. Set the envelope containing **CHALLENGED BALLOTS** aside.
4. Count all **Machine-readable ballots** overvoted or voided and, when both officials agree on the count, enter total in **line C7, column (i)** of the Recount Precinct Results form. Return voided ballots to **Box/Envelope #3**.
5. Count all **Machine-readable ballots** not voted (undervoted) or not voted for candidates involved in the recount and, when both officials agree on the count, enter total in **line C8, column (i)**. Return these ballots to **Box/Envelope #3**.

C7	Overvoted Ballots (plus ballots otherwise <u>voided by Voter</u>) § 24.2-663	Machine-readable	Paper		C7(i) + C7(ii) =	C7
C8	Ballots Undervoted or Voted for Other Candidates	Machine-readable	Paper	DRE	C8(i) + C8(ii) + C8(iii) =	C8
C9	Challenged Ballots (enclosed in attached envelope)	Machine-readable	Paper		C9(i) + C9(ii) =	C9

6. Now count the **Machine-readable ballots** voted for each of the two candidates in the recount (stacks 1 & 2). Count one candidate's ballots at a time.



When both officials agree on the count, enter each count on **Line C3, in either Column (ii) or (iii), as appropriate** of the **Recount Precinct Results** form, double-checking that each count is listed under the appropriate candidate.

7. Add together the number of **Machine-readable ballots** voted for **both** candidates and enter the total in **line C2, column (iv)**.

Part C - Certification of Official Ballots					
VOTES CAST FOR CANDIDATES IN RECOUNT IMPORTANT: - Lines C1-C5 include only recount parties [listed to the right under (ii) and (iii)] - Lines C6-C9 include all other ballots		(i) Total Number Voting	(ii) Candidate Name _____ _____ ()	(iii) Candidate Name _____ _____ ()	(iv) Total Cast for Candidates (ii) + (iii)
C2	Total Machine-readable Ballots <i>Manually</i> Counted in Recount	A5 Total =			

B. Count the paper ballots

Take the paper ballots that were set aside as they were removed from **Box/Envelope #3** and **count the paper ballots** as follows.

If a second team of Recount Officials was used to count the Machine-readable ballots by hand, this second team should also count the paper ballots.

1. Count **all paper ballots** that have the office being recounted listed without examining how or whether the voter voted for the office. When both officials agree on the total number, enter the total in **Part C, line C3, column (i)** of the **Recount Precinct Results** form.

		(i) Total Number Voting
C3	Total Paper Ballots Counted in Recount	A6 Total =

Enter the same number in **Part A, line A6**.

A6	Number of Paper Ballots Counted in Recount ² (DOES NOT INCLUDE MANUALLY COUNTED MACHINE-READABLE BALLOTS)	Count	Carry to C3(i) ³	A6
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2. If the number entered in **Part A, line A6** is not the same as the numbers entered in **A7 and A8**, recount officials should explain the reasons for the difference -- as best they know or can determine -- on the reverse side of the page containing Part A. (For example, if the difference is due to X number of federal only ballots and the recount is for a state or local office.)

(Recent recount court orders have required all the pollbooks and ballots for the precinct to be referred to the court if the number of paper ballots actually cast is not the same as the number of paper ballots indicated on the pollbook. The



Recount Coordinator should be immediately informed if the numbers are not the same, and will know if the court order in the current recount contains instructions regarding this matter.)

3. If the total number of **paper ballots** in **Part A, line A6** does not exceed the total number voting by paper ballot in **Part A, line A7**, enter ZERO (0) in **Part C, line C6, column (iv) (paper ballots drawn)**;
4. If the total number of **paper ballots** in **Part A, line A6** exceeds the total number voting on paper ballots in **Part A, line A7** and no error is found, first consult with your Recount Coordinator. Recent recount orders have directed that the materials be sent to the Recount Court in this situation, not drawn down. The Recount Coordinator will know if the court order in the current recount contains instructions regarding this matter. If the court order is silent on this situation, the following procedures must be followed (§ 24.2-662):
 - a. Return all **paper ballots** to a container.
 - b. Have one of the Recount Officials, blindfolded, draw out the number of **paper ballots** necessary to reduce the total number to the number reported voting on paper ballots.
 - c. Mark the drawn **paper ballots** "**DRAWN AND NOT COUNTED**", and return them to **Box/Envelope #3**. Enter number drawn in **Part C, line C6, column (iv)**.
5. **To count the paper ballots, follow the same procedures described above in Section A under "iv. Hand count Machine-readable ballots previously set aside" with the differences below.** (The only difference for most of the "stacks" -- other than challenged ballots -- is where the information for the paper ballots is recorded on the Recount Precinct Results form.)
 - a. Place the **signed, challenged ballot statements** and **attached paper ballots** in the **Challenged Ballots envelope** for the precinct, and enter the name/number of the precinct if not previously entered. Enter the total number of challenged ballots (machine-readable and paper) on the envelope and complete any other information required. **SEAL** the Challenged Ballots envelope. Set the envelope containing **CHALLENGED BALLOTS** aside.

Enter the number of **challenged paper ballots** in Part C of the Recount Precinct Results form in **line C9, column (ii) (paper)**.
 - b. Enter total number of **paper ballots overvoted or voided** in **line C7, column (ii)** of the Recount Precinct Results form. Return voided paper ballots to **Box/Envelope #3**.
 - c. Enter the total number of **paper ballots not voted or not voted for candidates involved in the recount** in **line C8, column (ii)**. Return these paper ballots to **Box/Envelope #3**.



	(i)	(ii)	(iii)	(iv)	
C6	Paper Ballots Drawn (during recount) (§ 24.2-802)				C6
C7	Machine-readable	Paper		C7(i) + C7(ii) =	C7
C8	Machine-readable	Paper	DRE	C8(i) + C8(ii) + C8(iii) =	C8
C9	Machine-readable	Paper		C9(i) + C9(ii) =	C9
C10	TOTAL [Add C5 through C9 in column (iv) **Should equal C5 column (i)**			Carry to D5 and D10	C10

d. Now count the **paper** ballots voted for each of the two candidates in the recount (stacks 1 & 2). Count one candidate's ballots at a time.

When both officials agree on the count enter each count on **Line C3, in either Column (ii) or (iii), as appropriate** of the **Recount Precinct Results** form, double-checking that each count is listed under the appropriate candidate.

e. Add together the number of **Paper ballots** voted for **both** candidates and enter the total in **line C3, column (iv)**.

Part C - Certification of Official Ballots					
VOTES CAST FOR CANDIDATES IN RECOUNT		(i)	(ii)	(iii)	(iv)
IMPORTANT: - Lines C1-C5 include only recount parties (listed to the right under (ii) and (iii)) - Lines C6-C9 include all other ballots		Total Number Voting	Candidate Name	Candidate Name	Total Cast for Candidates (ii) + (iii)
C3	Total Paper Ballots Counted in Recount	A6 Total =	()	()	

C. One precinct at a time, Open Envelope #2; Record DRE Results

Open the **Envelope #2** and remove the *Statement of Results* with the attached **DRE** machine results printouts (tapes). Fold the *Statement of Results* back so only the *Consolidated* printout is visible. (If there is no *Consolidated* printout, or it does not include all DRE machines used in the precinct, see 1-e below.)

Both Recount Officials should examine the *Consolidated* printout for the precinct (also letting the observers see it clearly, but not handle it) and:

1. From that printout, enter the following information on the **SBE-802-PR -- Recount Precinct Results for All Voting Systems** form.
 - a. In **Part B-1, DRE Voting Machines**, enter the number of votes recorded as voting on all machines (from Consolidation printout) under **VM-1 (voting machine 1), line B2;**



- b. In **Part B-2, Certification of DRE Machine Results for Precinct**, enter the votes cast for each of the two candidates in the recount under **VM-1 (voting machine 1), lines B3 and B4**;
- c. Enter the **serial number** of each machine from which results were added by the *Consolidation* machine in the blanks provided at the bottom of the page below Part B-2. ↓

* If **consolidation tape** available, list total number of voters and results for recount candidates from consolidation tape under **VM-1 above** and **list all serial numbers for DREs included in the consolidation tape below**. If any DRE is not included in the consolidation tape, list the serial number and results for each such machine under VM-2, etc. Use additional copies of page if needed.

If the Recount Officials have any doubt that the *Consolidated* printout includes the results from every DRE used in the precinct in the election, they should check the machine serial numbers on the *Consolidated* printout against the serial numbers listed on the back of **Envelope # 7/7C**. If any DRE used in the election is not listed on the *Consolidated* printout, follow steps under "e" below.

- d. If the *Consolidated* printout is not clear, contact the Recount Coordinator and, if so advised by the Recount Coordinator, reprint the *Consolidated* printout if possible.
- e. If there is no Consolidated printout or it is not clear, and it cannot be reprinted, or it does not include the results for every machine in the precinct -- proceed as follows:

If the *Consolidated* printout does not include the results from every DRE used in the precinct in the election:

- ✓ Enter the *Consolidated* printout results under VM-1, lines B2, B3 and B4 (number of voters, and votes cast for the two candidates);
- ✓ Enter the serial numbers of every machine with results included in the *Consolidated* printout at the bottom of the page below Part B-2 in the blanks provided.
- ✓ For each machine not included in the *Consolidated* printout, from the individual DRE machine tapes, enter the machine serial number, number of voters who voted on this DRE and votes for each candidate in the recount on the appropriate lines under columns VM-2, VM-3, etc., until the results for all machines not listed on the *Consolidated* printout have been recorded. If an additional page is needed, continue to another copy of the *Recount Precinct Results* page containing Parts B-1 and B-2, manually crossing out and renumbering the machine number headings on the second page (VM-1 becomes VM-7 on page 2, etc.).

If there is no *Consolidated* printout and it cannot be reprinted, list the results from each DRE machine from the individual printouts under columns V-1, etc. (rows B1 through B4) as described above.

- ✓ Double check the machine serial numbers listed on the *Recount Precinct Results* (Parts B-1 and B-2) against the serial numbers listed



on the back of the 7/7C envelope to make sure that all of the machines have been listed.

- If an individual or *Consolidated* machine tape is not clear or not available and the Recount Coordinator advises that it must be rerun from the machine, complete the questions in **Part B-3**. Then, only examine the seals of the machines from which tapes are being rerun, comparing them to the information recorded on election night on the back of **Envelope # 7/7C**. ↓

Part B - 3 -- If DRE Tape(s) Must Be Rerun

Complete this part if any DRE tape from the precinct was missing or not clear, and the recount officers were directed to rerun the tape(s). Compare the seal on the each machine opened to the to the final seal number listed for that machine on the key envelope.

I. Do the seal and key envelope numbers for the reopened machine(s) agree? YES NO

If **NO**, mark the serial number of the machine on which a discrepancy was found with a check (✓) in Part B-1 on previous page and complete A through E below. Attach the precinct Statement of Results from the election (including all pages and attached tapes).

A. Machine#: _____
 B. _____ C. _____ D. _____ E. _____
 Number on Protective Counter Number on Public Counter # on key envelope # on machine seal

II. Seal(s) intact? YES NO

If **NO**, mark that machine number with an asterisk (*) in Part B-1 on previous page. Enter, on the reverse side of this page, a description of the machine condition and complete lines F through H below. Attach the precinct Statement of Results from the election (including all pages and attached tapes).

F. Machine#: _____ G. _____ H. _____
 Number on Protective Counter Number on Public Counter

- Calculate the total votes cast for the two candidates in the recount, under each **VM** column, in **line B5 (B3 + B4)**. Then calculate the Total Voters on DREs in **line B2** (adding across), the DRE totals for each respective candidate in **lines B3 and B4** (adding across), and the total votes cast on DREs for both candidates in **line B5** (adding across).

✓ Double-check: the total votes on all DRE machines for the two candidates in the recount, calculated in the last column of line **B5** by adding across that line, must equal the totals for the two candidates adding down the last column of totals from rows **B3** and **B4**.

Now calculate the number of voters who undervoted this office or voted for another candidate by **subtracting B5 from B2 in each column** and put the result in the field **B6**. Add across that line and enter the total in the last column.

- From **Part B-1**, carry the total number of voters from the **last (total) column of line B2** over to **Part C, line C4, column (i), (Total DRE Machine Count/Total Number Voting)**.
- From **Part B-2**, carry the candidate totals from the **last (total) column in lines B3 and B4** over to **Part C, line C4, columns (ii) and (iii)**, double-checking that each number is copied to the column for the appropriate candidate.



- i. The candidates should have already been listed in both forms in the same order -- B3 should be the same candidate in Part C, column (ii), and B4 the same as column (iii) -- but check that they are actually properly placed. If not, correct the references to Lines B3 and B4 in line C4 and initial the change (both officers). Do not change or move the candidate names already listed on the pages.
6. Add the candidate totals entered **line C4, columns (ii) and (iii)** for the two candidates and enter the total in **line C4, column (iv)**. Check that this total is the same number entered in the **total column of line B5**.

Part C - Certification of Official Ballots				
VOTES CAST FOR CANDIDATES IN RECOUNT	(i)	(ii)	(iii)	(iv)
IMPORTANT: - Lines C1-C5 include only recount parties [listed to the right under (ii) and (iii)] - Lines C6-C9 include all other ballots	Total Number Voting	Candidate Name	Candidate Name	Total Cast for Candidates (ii) + (iii)
		()	()	
C4 Total DRE Machine Count <small>[If no DREs used, mark each "0".]</small>	B2 Total =	SHOULD = LINE B3 TOTAL	SHOULD = LINE B4 TOTAL	SHOULD = LINE B5 TOTAL
				C4

7. From **Part B-1**, carry over the total number of voters who undervoted this office, or voted for another candidate (**last column of line B6**) and enter the number in **Part C, line C8** (ballots undervoted...), **column (ii) (DRE)**.

C8	Ballots Undervoted or Voted for Other Candidates	Machine-readable	Paper	DRE	C8(i) + C8(ii) + C8(iii) =	C8
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8. Set the Statement of Results with its attachments aside for now. Return any machine printouts not attached to the SOR to **Envelope #2**.

D. Paper Pollbooks: Verify pollbook count and number of paper ballots cast

If paper pollbooks were used, remove the **pollbook(s)** and the **Pollbook Count** forms from **Envelope #2** and examine them one at a time:

1. In **Part D-1 (Paper Pollbook Count and Reconciliation)** enter the division section (example "A-L") on the first line under the first "Division" column. Then enter the number of voters in the pollbook for the first pollbook division [this figure is shown on the bottom of the reverse side of the **Pollbook Count** form].

If a second team of recount officials will be used to hand count the paper and machine-readable ballots, that second team should perform steps 2 and 8 for each division of the pollbook.

2. Determine number of voters voting on **paper ballots** by examining each page of the first pollbook division, and enter the total number of paper ballots in the first **Part D-1 (Paper Pollbooks) line D1-PB** under the first pollbook division. (If a second team of recount officials is being used, the number should be provided to first team to enter on the form, and the entry verified by the second team.)



Paper ballot voters are those marked in the pollbook with a "P."

Outside Polls voters (marked with "OP") may have voted by paper ballot or on a portable DRE. If it is not clear from the pollbooks whether the OP voters voted on paper or machine, check the **Statement of Results** which will indicate each time a machine was removed from the precinct.

If the locality used a CAP to count absentee ballots, do not include the voters marked "AB" in the precinct counts unless they are also marked with a **pollbook count (PBC) number**.

When recounting the results for the CAP, refer to the final absentee ballot list (which serves in lieu of the pollbook) to determine the number of voters voting on DRE and by printed ballot.

Part D - 1 – Paper Pollbook Count (PBC) and Reconciliation		Division	Division	Calculation or Number	Total Pollbook Count	
D1	Enter last PBC Number for each division from PBC Count Sheet			Total of Division Counts		D1
D1-PB	Enter number of Paper Ballots cast (from Pollbooks by division)			Total of Division Counts		D1-PB

- RETURN the pollbook and pollbook count sheet to **Envelope #2**. Do not reseal Envelope #2 at this time.
- If more than one paper pollbook division was used in the precinct, repeat Steps 1, 2 and 3 for each such pollbook division.
- When all pollbook divisions have been entered, **add across Line D1** (Paper Pollbooks) to total the division counts and enter the total in the last column, Total Pollbook Count.
- Add across line D1-PB** to total the paper ballot counts from the pollbook divisions and carry this number over to **Part A, line A7**.
- From **Part A** of the **Statement of Results** (previously set aside), the number of paper ballot voters in the precinct is indicated in **line A9** (A18 if absentee ballots were counted in the precinct). Enter this number in **Part A, line A8** of the **Recount Precinct Results**.



A7	Number of Paper Ballot Voters as indicated on all paper pollbooks for the precinct, or on Electronic Pollbook (EPB)	Pollbooks	<input type="text"/>	³
A8	Number of Paper Ballot Voters as indicated by line A9 of SOR (A18 if absentee ballots were counted in the precinct)	SOR line A9	<input type="text"/>	³

8. *If A7 and A8 are not the same number*, ask for the advice of the Recount Coordinator. If the reason for the difference is known or can be determined by to the Recount Officials, it should be explained on the reverse of the Recount Precinct Results page containing Part A.

The Recount Coordinator may direct that the SOR and Incident Report be examined to determine possible variations in the number of paper ballots indicated on the pollbook and the SOR, and that the pollbook count sheets be examined if the pollbook officer noted paper or OP ballots.

Any other information contained in **Envelope #2** may be examined by the Recount Officials at the direction of the Recount Coordinator to determine the reason for the difference.

The Recount Coordinator may also direct that the pollbooks be re-examined to redetermine the number of paper ballots cast. If the re-examination yields a different number for any division, the correction should be entered in **line D1-PB** under the appropriate division. When the re-examination is complete, as determined by the Recount Coordinator, the line D1-PB total must be recalculated if any division entry changed, and the figure carried over to **line A7**. The changes must be explained by the Recount Officials on the reverse of both changed pages.

9. From **Part C1 of the Statement of Results** enter the number of canceled DRE ballots in the Recount Precinct Results, **Part D-1 (Paper Pollbooks), line D2** and the number of voided machine-readable and paper ballots in **line D3**. **Add D2 and D3**, and enter the total in **line D4**.
10. **Subtract line D4** (total canceled and voided ballots) **from D1** (total of division counts), and enter the figure in **line D5**.

Part D - 1 – Paper Pollbook Count (PBC) and Reconciliation		Division	Division	Division	Division	Calculation or Number	Total Pollbook Count	
		_____ - _____	_____ - _____	_____ - _____	_____ - _____			
D1	Enter last PBC Number for each division from PBC Count Sheet					Total of Division Counts	<input type="text"/>	D1
D1-PB	Enter number of Paper Ballots cast (from Pollbooks by division)					Total of Division Counts	<input type="text"/>	D1-PB
D2	Number of cancelled DRE Ballots – (DRE ballots that were CANCELLED because the voter left the booth without casting his/her ballot. Copy from precinct SOR.)					<input type="text"/>	<input type="text"/>	D2
D3	Number of voided Machine-readable and Paper Ballots - (Ballots that were VOIDED because the voter left the booth without casting his/her ballot. <u>DO NOT</u> include ballots spoiled by voter and replaced. Copy number from precinct SOR.)					<input type="text"/>	<input type="text"/>	D3
D4	Total Number of Cancelled DRE and VOIDED Machine-readable and Paper Ballots					= D2 + D3	<input type="text"/>	D4
D5	Pollbook Count Reconciliation - Subtract Total number of CANCELLED DRE and VOIDED Machine-readable and Paper ballots from Total Pollbook Count. **D5 should not be more than C10**					C10 = = D1 – D4	<input type="text"/>	D5

11. The Recount Officials must verify the totals entered.



12. Return all pollbooks, pollbook count sheets, the Statement of Results and any other materials removed from **Envelope #2** to that envelope. RESEAL **Envelope #2**, with both Recount Officers signing the seal. Set Envelope #2 aside.

E. Electronic Pollbooks: Verify pollbook count and number of paper ballots cast

If electronic pollbooks were used, leave the first part D-1 (for paper pollbooks) blank, and use **Part D-2 - Electronic Pollbook Count and Reconciliation**.

1. If a printer was used with the EPB, remove the open/close poll report from the **Envelope #2** and enter the total voters Checked-In COUNT from the report in D-2 (EPB), line D6 (total voters Checked-in Count).

If the report includes the number of voters checked in as voting paper ballots, enter that number in **Part A, line A7**.

2. If there is no EPB open/close poll report, it will be necessary to obtain the information from the EPB data thumbdrive sealed on election night in **Envelope #2**. The General Registrar, EPB manager, Equipment Technician or other person designated by the Recount Coordinators will have already loaded the precinct manager software onto a laptop and set it up in the recount room with an attached printer. (Person performing this function should also be sworn at the beginning of the recount.) One member of the Recount Team, a Recount Coordinator, and the observer from the side not being represented by that Recount Coordinator will take the precinct thumbdrive to the designated person who can bring up the data from the precinct and print the appropriate reports. The other team member and observer will remain with the precinct materials while this is done.

If the number of paper ballot voters was not recorded by the Officers in the EPB data, or cannot be retrieved, **line A7 of Part A** must be left blank. On the back of that page of the Precinct Recount Results, the Recount Officials must explain -- to the best of their ability-- why the data is unavailable.

3. From **Part C1 of the Statement of Results** (previously set aside) enter the number of canceled DRE ballots in **Part D-2 (Electronic Pollbooks), line D7** and the number of voided machine-readable and paper ballots in **line D8**. **Add D7 and D8**, and enter the total in **line D9**.
4. **Subtract line D9** (total cancelled and voided ballots) **from D6** (Total EPB pollbook count), and enter the figure in **line D10**.
5. The Recount Officials must verify the totals entered.
6. RETURN the EPB open/close report (if applicable) and thumbdrive to **Envelope #2**, along with the Statement of Results and any other materials removed from **Envelope #2**. If a printout/report was produced from the thumbdrive during the recount, that printout/report should also be sealed inside **Envelope #2** (in the



event of a later contest). RESEAL **Envelope #2**, with both Recount Officers signing the seal. Set Envelope #2 aside.

F. Finish the paperwork

1. Return all ballots except the challenged ballots to **Box/Envelope #3** (if not previously done). If manual tally sheets were used, put them in **Box/Envelope #3**, on top of the ballots (in case there is a contest following the recount). Then RESEAL it.
 - a. In **Part C** of the Recount Precinct Results, **find the totals for lines C1 through C4 in each vertical column (i - iv)** and enter the column totals in the corresponding column on **line C5**.

Part C - Certification of Official Ballots					
VOTES CAST FOR CANDIDATES IN RECOUNT IMPORTANT: - Lines C1-C5 include only recount parties [listed to the right under (i) and (iii)] - Lines C6-C9 include all other ballots	(i)	(ii)	(iii)	(iv)	
	Total Number Voting	Candidate Name	Candidate Name	Total Cast for Candidates (ii) + (iii)	
C1 Total Ballots Read by Ballot Scanner Machine in Recount (From tape; when finished attach tape to back of page with Part A.)	A4 Total = ↓	↓	↓	↓	C1
C2 Total Machine-readable Ballots <i>Manually</i> Counted in Recount	A5 Total = ↓	↓	↓	↓	C2
C3 Total Paper Ballots Counted in Recount	A6 Total = ↓	↓	↓	↓	C3
C4 Total DRE Machine Count (If no DREs used, mark each "0")	B2 Total = ↓	SHOULD = LINE B3 TOTAL ↓	SHOULD = LINE B4 TOTAL ↓	SHOULD = LINE B5 TOTAL ↓	C4
C5 Total Votes (Add C1 through C4 in each column)	⚡	⚡	⚡	⚡	C5

- b. In **Part C**, add together the number of machine-readable, paper and DRE ballots (**columns (i), (ii), and (iii)**) in each category listed on lines **C7 through C9**. Enter the respective totals in **Column (iv)** on the same line.
- c. In **Part C**, Enter the **total of column (iv)**, lines **C5 through C9** on **Line C10**.
- d. Is the number in **line C5, column (i)** the same as the number in **line C10, column (iv)**? If not, recheck math and recheck numbers entered. Ask Recount Coordinator for guidance.

	(i)	(ii)	(iii)	(iv)	
C5 Total Votes (Add C1 through C4 in each column)	⚡	⚡	⚡	⚡	C5
C6	Paper Ballots Drawn (during recount) (§ 24.2-802)			↓	C6
C7 <i>Manually</i> Counted Ballots Voided by Voter (Includes Overvoted; § 24.2-663) [For C7 - C9, list separately by ballot voting system]	Machine-readable →	Paper →		C7(i) + C7(ii) = ↓	C7
C8 Ballots Undervoted or Voted for Other Candidates	Machine-readable →	Paper →	DRE →	C8(i) + C8(ii) + C8(iii) = ↓	C8
C9 Challenged Ballots (enclosed in attached envelope)	Machine-readable →	Paper →		C9(i) + C9(ii) = ↓	C9
C10	TOTAL [Add C5 through C9 in column (iv) **Should equal C5 column (i)**			Carry to D5 and D10	C10



- e. Also enter the number on **line C10, column (iv)** in the proper box in Part D-1 line D5 or Part D-2 line D10 (depending on whether paper pollbooks or an electronic pollbook was used).

Paper Pollbook:

D5	Pollbook Count Reconciliation - Subtract Total number of CANCELLED DRE and VOIDED Machine-readable and Paper ballots from Total Pollbook Count. **D5 should not be more than C10**	C10 =	= D1 - D4	D5
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Electronic Pollbook:

D10	Pollbook Count Reconciliation - Subtract the number of CANCELLED DRE and VOIDED Machine-readable and Paper ballots from Total Pollbook Count. **D5 should not be more than C10**	C10 =	= D6 - D9	D10
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- If machine-readable ballots for this precinct were rerun through a counter during the recount, **make sure that the BALLOT SCANNER MACHINE TAPE for the ballots rerun during the RECOUNT is stapled to the back** (behind the top right -- see instructions on page) **of the Recount Precinct Results page with Part A.** Make sure that the precinct code is written on the tape.
- Make sure that the pages of the Recount Precinct Results are complete (including all information at the top of the pages if not previously filled in) and put them in order by "Part" letter. Number the pages if this has not been previously done, or if an additional page had to be added (for example, for more individual DRE tapes than the columns available).
- Each Recount Official must verify the totals entered and **sign and date the form** in the **CERTIFICATION (Part E – page 1)**. (If a second team of Recount Officials was used to hand count the ballots, those officials must also sign the form.)

PART E - "DO NOT SIGN UNTIL ALL OTHER MATERIALS ARE COMPLETE"	
CERTIFICATION — We hereby swear/affirm, under felony penalty for making willfully false material statements or entries, that all of the information entered heron is true and correct.	
<small>WARNING: INTENTIONALLY MAKING A MATERIALLY FALSE STATEMENT ON THIS FORM CONSTITUTES THE CRIME OF ELECTION FRAUD, WHICH IS PUNISHABLE UNDER VIRGINIA LAW AS A FELONY. VIOLATORS MAY BE SENTENCED TO UP TO 10 YEARS IN PRISON, OR UP TO 12 MONTHS IN JAIL AND/OR FINED UP TO \$2,500. (Va. Code § 24.2-1016)</small>	
<p>1. _____ Recount Official's Signature - Team 1</p> <p>_____ Printed Name</p>	<p>3. _____ Recount Official's Signature - Team 2 (if applicable)</p> <p>_____ Printed Name</p>
<p>2. _____ Recount Official's Signature - Team 1</p> <p>_____ Printed Name</p>	<p>4. _____ Recount Official's Signature - Team 2 (if applicable)</p> <p>_____ Printed Name</p>

- Staple the set of Recount Precinct Results pages together in the top left corner. If there were any challenged ballots in this precinct, staple the set of Results pages to the top left corner of the completed, sealed **Challenged Ballots envelope** (making sure not to staple through any ballots).**

If there were NOT any challenged ballots in this precinct, DO NOT staple the Recount Precinct Results to the empty **Challenged Ballots envelope**. Keep the envelope until needed for a precinct that has one or more challenged ballots. (The instructions preprinted on your Challenged Ballot envelope may say to complete and seal the envelope, and staple the precinct results to it even if there were no challenged ballots in the precinct. These instructions revise those instructions.)



6. Let the Recount Coordinator know that you have completed the precinct. The Coordinator should review the completeness of the Recount Precinct Results at that time, ensuring that all entries appear to be legible (to the Coordinator), and the pages are sequentially numbered and complete.

The Recount Officials will now give the Recount Coordinator:

(1) The completed Recount Precinct Results set

- with attached ballot scanner machine tape if machine-readable ballots were rerun during the recount
- attached to Challenged Ballots envelope ONLY if there was a challenged ballot

(2) All of the election materials received from the precinct, properly resealed in their envelope/box (with any Manual Tally Sheets that were used placed/sealed inside Box/Envelope #3 on top of the ballots)

(3) The resealed memory card/cartridge used to rerun the machine-readable ballots (if applicable).

7. The Recount Coordinator will then give the Clerk of Circuit Court the **completed Recount Precinct Results set** with the attached tape (if applicable) and attached **Challenged Ballots envelope** (if used), and **all other election materials for the precinct** and receive the packages for the next precinct.

G. Repeat for next precinct

Repeat the above steps until all assigned precincts have been completed.



Finishing the Locality's Results; Sealing and Delivery of Material

The following steps are recommended by the Department of Elections for security, accuracy and uniformity, subject to the direction and authority of the Recount Court.

The Recount Coordinator receiving materials from the recount officials should make sure that the materials are complete.

- ✓ If machine-readable ballots were rerun through a scanner for the precinct:
 - is the **recount ballot scanner machine tape** stapled to the back of the Recount Precinct Results page containing **Part B**?
 - If any **Challenged Ballots** are listed in **Part C, line C9** of the Recount Precinct Results form:
 - Is the **Challenged Ballot Envelope** attached to the Recount Precinct Results set, and has the envelope been sealed, signed, and completed?
 - Is the **total number of challenged ballots listed on the envelope the same** as the **total listed on line C9, column (iv)**?
- ✓ Do the entries on the Recount Precinct Results form set appear to be legible (to the Clerk), and are the pages sequentially numbered and complete?

The Clerk of Court for the locality will check in the materials received from the Recount Coordinator for the completed precinct. While the Recount Coordinator is present, the Clerk will make sure that the materials appear to be complete.

- ✓ Did all the election and recount envelopes/materials checked out by the Recount Coordinator for the precinct come back?
- ✓ Have all sealed materials opened during the recount been properly resealed?

Any questions should be addressed at that time to the Recount Coordinator and, if either the Clerk of Court or Recount Coordinator believes it necessary:

- The Clerk of Court will not accept the materials in question from the Recount Coordinator at that time (checking in only those not in question), and
- The Recount Coordinator will return to the Recount Team that prepared the materials, with the materials in question, to resolve any issues.

Once the precinct's recount materials are all accepted by the Clerk, if the locality's recount results are to be conveyed to another location after completion of all precincts, the Recount Coordinator for the locality, in the view of the Clerk of Court, will **enter the total number of votes for each of the two candidates in the recount and the number of challenged ballots referred to the Court in the first line for the precinct** on the **Locality Summary** form. **Enter ZERO "0" if there were no challenged ballots. Leave the second line for the precinct blank** ("challenged ballots counted by the Court").

Note: In the past this has been entirely done at the Recount Court level. In the revised process for a "two day" or "two part" recount, the Recount Coordinator will complete the first line for the precinct. The results will be checked by the Recount Court and tabulated after all challenges have been decided.

The Clerk of Court will place the recount materials to be conveyed to the Court for the locality as a whole in precinct number order, to be placed in the Locality Results Envelope when completed.



The Clerk of Court will then give the Recount Coordinator the materials for the next precinct (checking them out as given).

The Clerk of Court will replace the sealed materials for the election that will remain in the locality in a secure place with the other completed materials.

The Recount Court may be in session in the same room while the recount is underway, and may choose to review the precinct results and any challenged ballots (or just the challenged ballots) as each precinct is completed. If the Clerk of Court is instructed to convey these immediately to the Recount Court, it is recommended that the Clerk note on the materials check in/out record what was given to the Court, when it was received, and who received it.

If the Recount Court decides to review precinct results and challenged ballots as the precincts complete them, the Court or its designee would enter the total number of votes for each of the two candidates in the recount and the number of challenged ballots referred to the Court in the first line for the precinct on the Locality Summary form, entering ZERO "0" in the last column if there were no challenged ballots. The court would record its decision(s) on the challenged ballots on the second line for the precinct ("challenged ballots counted by the Court") on the Locality Summary form.

If the Recount Court decides to review only the challenged ballots as the precincts are completed, the Clerk would give that envelope to them with the attached precinct results. After reviewing the challenged ballots (without reviewing the Results), the Court would note its decision on the outside of the envelope by candidate (for example "Smith - 2, Jones - 1, not counted - 1), reseal the envelope and return it to the Clerk for the locality to put with the other completed recount precinct results.

Repeat the above steps until all assigned precincts have been completed.



"Part Two" - Court Review and Compilation of Results -- Suggested Steps

Check in and Logistics

Make sure you have the following documents and materials:

- ✓ *Locality Summary of Recount Results (SBE-802-LS)*
(one form has been prepared for each locality)
- ✓ *Court Certification of Recount Form (SBE-802-CC)*
(lists results by locality)
- ✓ Locality Results envelope/box for each locality
- ✓ Stickers to reseal the envelopes
- ✓ Notepads
- ✓ Pens

Officials and Authorized Representatives

Floor Teams:

- One Department of Elections Staff Member,
- One representative of the accounting firm,
- One representative of each campaign.

Duties: Open locality results envelope/box received from **runner** one locality at a time. Handle challenged ballots. Report challenged ballots. Determine precinct results from the materials submitted by the locality. Complete *Recount Certification – County or City Results by Precinct (SBE 802-LS)* form for the locality being examined.

Floor Attorneys:

- Attorneys for each campaign

Duties: Available to Floor Teams to answer questions and resolve issues.

Appeals Team:

- Lead attorneys for both candidates,
- Department of Elections senior staff,
- Member of the Clerk's staff (at Clerk's option).

Duties: Resolves any issues raised by **Floor Teams**. Issues are resolved if the two party attorneys are in agreement, and the Department of Elections senior staff member bears witness to the agreement. Any issues not resolved by the Appeals Team will go to the **Recount Court** for a decision. Examine challenged ballots that could not be resolved by the **Floor Team** and refer to **Recount Court** for its decision (with recommendation if one is reached). Examine materials (pollbooks, ballots, etc.) referred to the **Recount Court** when number of paper ballots in a precinct does not equal the number of paper ballot voters on the pollbooks, or there are other problems.

Summary Team:

- One Department of Elections Staff member,
- One representative of the accounting firm,
- One representative from each campaign.

Duties: Examine *Recount Certification – County or City Results by Precinct (SBE 802-LS)* for each locality as received from the **runner**. Total columns and enter totals on *Summary*



form for the locality. If any challenged ballots that could not be resolved by the **Floor Teams** are later counted by the Court, add them to the *Summary* form under the locality (not on the *Results by Precinct* form) and recalculate totals.

Runner:

- One Department of Elections Staff member

Duties: Take the materials from the **Clerk**, one locality at a time to the **Floor Teams**, pick them up when the **Floor Team** is finished, return the materials to the **Clerk**, and deliver the tabulation sheets to the **Summary Team**.

Clerk

Duties: Clerk or Deputy Clerk should maintain control of the recount room, including press and general public, hand out locality documents and receive them back when completed, and transport any challenged ballots unresolved by the **Floor Team** or **Appeals Team** to the three judges of the **Recount Court** for their decision.

Floor Team Step-by-Step

Guidelines

- ONLY **ELECT STAFF** may handle ballots or other materials.
- Ensure all members of **Floor Team** and any observers are able to see the materials clearly.
- If, at any time, the packet is missing information or does not comply with the requirements set forth below, notify the **Appeals Team** (ELECT Executive/Policy Staff or Campaign Attorneys).

Review and Compilation of Results

Local Results envelopes/boxes received from localities should be alphabetized by locality to make sure that they are present and clearly marked. If a county and city have the same name they should be marked to show the county or city designation before the recount begins.

1) **Floor Team** Receives Locality Materials from the Runner

- a. Check to ensure the **Clerk** or Deputy Clerk of the Locality's Circuit Court **has signed** in the space provided in the lower right hand corner of the package.
- b. Check for SBE-802 LS form: "Recount Certification County or City Results by Precinct" (tabulation sheet).
 - i. If there is **no 802 LS form, the accountant will have to create** a form from a blank 802 LS.
- c. Count the number of SBE-802 PR forms "Recount Precinct Results for All Voting Systems".
 - i. Number of forms should equal number of precincts listed on tabulation sheet (SBE-802 LS + 2 for CAP and provisional ballots, if locality has a CAP).
 - ii. Also confirm precincts with spreadsheet of precincts provided.



- 2) **Open Recount Precinct Results** to Part C (SBE-802 PR).
 - a. Confirm **Line C5, column (ii) and (iii) of SBE-802 PR** correspond with precinct totals entered on Recount Certification (SBE-802 LS) for each candidate.
 - b. Confirm number of challenged ballots entered on **Line C9 of SBE-802 PR** correspond with number of challenged ballots entered on SBE-802 LS.
- 3) If any information does not match, please notify a member of the Appeals Team.

Dealing with Challenged Ballots

- 4) **Open** the package.
 - a. Remove one envelope at a time.
 - b. Ensure there is an 802-CB attached to a Challenged Ballot (CB) Envelope.
 - c. Ensure the 802-CB is signed by the Recount Officials for that precinct.
 - d. Identify precinct and locate the precinct on the Recount Certification – County or City Results by Precinct form.
- 5) **Examine** the CB Envelope
 - a. **If zero indicated on front of envelope**, hold envelope to the light and ensure envelope it is empty.
 - i. **Accountant** shall enter ZERO on the 802-LS
 - b. **If a number is indicated on front of envelope**, open the envelope and verify the number of ballots included equals the number indicated on the form.
 - i. **Accountant** should enter the number of ballots challenged on 802-LS
 1. Ensure each challenged ballot has an 802-CB attached to it.
 - ii. Allow each party to examine, but not handle, the challenged ballot one at a time. (if there is any question, refer to the [Department of Elections Ballot Examples](#))
 1. If the two **Party Representatives agree** on which candidate the ballot should be counted for, then mark on the back of the 802-CB the name of the candidate the candidate for which the ballot shall be counted for.
 2. If the two **Party Representatives do NOT agree**, then request the **Appeals Team** over to review the ballot.
 - a. If **parties agree**, then follow procedure above for counting the ballot.



- b. If **parties do NOT agree**, then provide the ballot to the Runner who will take it to the Clerk for review by the Court.
- c. **If no number is entered on front of envelope**, open to verify if the envelope is empty.
 - i. Review 802-PR to find the number of ballots challenged.
 - ii. Accountant should enter the number found on 802-LS.
 - iii. If a challenged ballot is present, allow each party to examine, but not handle, the challenged ballot one at a time. (if there is any question, refer to the [Department of Elections Ballot Examples](#))
 1. If the two **party representatives agree** on which candidate the ballot should be counted for, then mark on the back of the 802-CB the name of the candidate the candidate for which the ballot shall be counted for.
 2. If the two **party representatives do NOT agree**, then request the **Appeals Team** over to review the ballot.
 - a. If **parties agree**, then follow procedure above for counting the ballot.
 - b. If **parties do NOT agree**, then provide the ballot to the Runner who will take it to the Clerk for review by the Court

6) **Finalize** the Locality Results

- a. Once all ballots have been determined, the accountant will complete the 802-LS.
 - i. ELECT staff and the party reps should confirm the 802-LS is entered correctly and initial under the totals.
- b. Call a **Runner** to take the **802-LS** to one of the **Summary Teams**.
- c. Call a **Runner** to take the **locality materials** back to the **Clerk**.

Final Certification of Results: Re-seal material

After the **Floor Team** has completed the 802-LS *Recount Certification – County or City Results by Precinct*, the materials are transported to the **Summary Team**.

- 1) The **Summary Team** checks the math and completeness of the *Locality Summary of Recount Results (SBE-802-LS)*.
- 2) The **Summary Team** transfers the vote totals for each candidate in each locality from the *Locality Summary of Recount Results (SBE-802-LS)* to the *Court Certification of Recount (SBE-802-CC)* form.
- 3) The **Summary Team** transfers any information regarding challenged ballots (SBE-802-CB) received from the **Appeals Team** or the **Recount Court** on the *Court Certification of Recount (SBE-802-CC)* form.
- 4) The accountant on the **Summary Team** verifies the accuracy of the *Court Certification of Recount (SBE-802-CC)* form.
- 5) The *Court Certification of Recount (SBE-802-CC)* form is submitted to the **Recount Court** for their certification.



After the Recount

Issuance of Certificate of Election

The person having the highest number of votes shall be deemed to have been elected to such office and shall receive a certificate of election. The Attorney General's office has determined that the certificate of election should be issued by the local electoral board even though an election is being recounted. There are no provisions of §24.2-802 that would delay the local electoral board's issuance of the certificate of election as required by §24.2-676.

If the Court's certification of the recount declares the losing candidate the winner, a new certificate of election must be issued, making the original certificate null and void.

Update Results on Department of Elections Website

Localities involved in a recount may need to change their election results. §24.2-671 requires there to be a record of all changes to vote totals made after Election Day. Therefore, all localities must enter a "Reason for Change" in VERIS before they can change their vote totals. These changes will be reflected on the Department of Elections website. The Department of Elections generally does not publish local results since they are not the certifying agent. However, since most local elections are held on an Election Day in which the Department of Elections is the certifying agent, local office results are included. The website will be updated accordingly.

Return and Final Retention of Material

All of the recount material received from each city or county comprising the district being recounted should be resealed and signed by the Recount Court's designated officers tabulating the results, and preferably also by representatives for the parties to the recount if present, and then securely stored by the Clerk of Court for the Circuit Court in which the recount was held. These materials should remain secured and sealed until the time for the candidate losing the recount to initiate a contest has expired. See [Contests](#) near the beginning of this document and § 24.2-814 allowing 10 days from recount court order declaring winner to file contest.

If the recount was for a primary or election for a General Assembly seat, statewide office or federal office, the Department of Elections will check with the appropriate office to determine if a contest has been filed by the deadline, and then notify the Clerk. If no contest is pending, the records for the Clerk's own locality should then be treated as prescribed by law for other records from that same election date that are in the custody of the Clerk.

Materials sent from any other localities in the district to be recounted should be returned to the Clerks for those localities, again to be treated in the same manner as other records from that election date that are in the custody of the Clerk. The other Clerks may want to pick up the records, or the sending Clerk may have them delivered personally or by a method



that includes tracking of delivery. If the materials are picked up or delivered personally, both Clerks should keep a record documenting the transaction.

In the case of a primary or election for a county, city or town office, or local district office, any contest would be filed with the Circuit Court where the challenged candidate resides. Unless the recount was for a shared local office, the Clerk of the Court that conducted the recount will receive any contest filed, or should check with the Clerk where the winning candidate resides to determine if a contest has been filed by the deadline.



★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

RECOUNT
PRECINCT
REPORT

Precinct || Office || District:
Election Date:
Recount Date:

County/City of: _____

Election Date: _____

Precinct: _____

Election Type: _____

Date of Recount: _____

Office: _____

District: _____

PART E - **DO NOT SIGN UNTIL ALL OTHER MATERIALS ARE COMPLETE**

CERTIFICATION — We hereby swear/affirm, under felony penalty for making willfully false material statements or entries, that all of the information entered heron is true and correct.

WARNING: INTENTIONALLY MAKING A MATERIALLY FALSE STATEMENT ON THIS FORM CONSTITUTES THE CRIME OF ELECTION FRAUD, WHICH IS PUNISHABLE UNDER VIRGINIA LAW AS A FELONY. VIOLATORS MAY BE SENTENCED TO UP TO 10 YEARS IN PRISON, OR UP TO 12 MONTHS IN JAIL AND/OR FINED UP TO \$2,500. (Va. Code § 24.2-1016)

1. _____
Recount Official's Signature - Team 1

3. _____
Recount Official's Signature - Team 2 (if applicable)

Printed Name

Printed Name

2. _____
Recount Official's Signature - Team 1

4. _____
Recount Official's Signature - Team 2 (if applicable)

Printed Name

Printed Name

All Recount Officials who participated in recounting the votes in this precinct must sign the certification.



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DEPARTMENT of ELECTIONS

RECOUNT
PRECINCT
REPORT

Precinct || Office || District:
Election Date:
Recount Date:

ATTACH BALLOT SCANNER MACHINE TAPE FOR RECOUNT OF THIS PRECINCT TO BACK OF THIS PAGE (STAPLE TOP RIGHT ▲ ▲)
AFTER COMPLETING ENTRY OF SCANNER MACHINE RESULTS IN PARTS B AND C.

Part A - 1 – Certification of Precinct Ballot Scanner Machine Counter		Calculation or Source	Scanner 1	Scanner 2 ¹	Total (Scanner 1 + Scanner 2)	
A1	Ballot Scanner Machine Serial Number (used to recount this precinct, if applicable)	From Machine				A1
A2	Number on This Scanner's Public Counter – After Recount (if applicable)	Public Counter				A2
A3	Number on This Scanner's Public Counter – Before Recount (if applicable)	Public Counter				A3
A4	Public Counter Difference (Must Equal the Number of Ballots Read By the Scanner During Recount [From Tape])	= A2 – A3			Carry to C1(i)	A4
Part A - 2 – Certification of Precinct Manual Count			Calculation or Source	Total		
A5	Number of <i>Manually</i> Counted Machine-readable Ballots ²		Count	Carry to C2(i)	A5	
A6	Number of Paper Ballots Counted in Recount (DOES <u>NOT</u> INCLUDE MANUALLY COUNTED MACHINE-READABLE BALLOTS)		Count	Carry to C3(i) ³	A6	
A7	Number of Paper Ballot Voters as indicated on all paper pollbooks for the precinct, or on Electronic Pollbook (EPB)		Pollbooks	³	A7	
A8	Number of Paper Ballot Voters as indicated by line A9 of SOR (A18 if absentee ballots were counted in the precinct)		SOR line A9	³	A8	
A9	Total Machine-readable and Paper Ballots Manually Counted in Recount		= A5 + A6		A9	

¹ If only one scanner is being used, enter "0" in each of the second column cells.

² This includes all manually counted machine-readable ballots, including ballots examined from Box/Envelope #3 (Counted Ballots) but voided by voter (including overvoted), undervoted, voted for other candidates, drawn or challenged by a recount official (also see Part C).

³ If A7 and A8 are different, or A6 is not the same as *both* A7 and A8, recount officers should explain the reasons for the difference -- as best they know or can determine -- on the reverse side of this page.



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DEPARTMENT of ELECTIONS

RECOUNT
PRECINCT
REPORT

Precinct || Office || District:
Election Date:
Recount Date:

Part B - 1 – DRE Voting Machines (Serial # and Number of Voters)		Calculation or Source	VM-1 or Consolidation Tape ⁴	VM-2	VM-3	VM-4	VM-5	VM-6			
B1	Machine Serial Number	Machine Tag or Tape								Total Voters	B1
B2	Total Number of Voters Who Voted on This DRE	Public Counter or Tape								Carry to C4(i)	B2
Part B - 2 – Certification of DRE Machine Results for Precinct		Calculation or Source	VM-1 or Consolidation Tape ⁴	VM-2	VM-3	VM-4	VM-5	VM-6		Candidate Totals	
B3	Candidate Name _____ ()	Machine Tape								Should = C4(ii)	B3
B4	Candidate Name _____ ()	Machine Tape								Should = C4(iii)	B4
B5	Total votes for both candidates on DRE(s)	= B3 + B4	<i>✍</i>	<i>✍</i>	<i>✍</i>	<i>✍</i>	<i>✍</i>	<i>✍</i>	<i>✍</i>	Should = C4(iv)	B5
B6	DRE ballots undervoted or voted for other candidates (this office)	= B2 - B5	<i>✍</i>	<i>✍</i>	<i>✍</i>	<i>✍</i>	<i>✍</i>	<i>✍</i>	<i>✍</i>	Carry to C8(iii)	B6

⁴ If **consolidation tape** available, list total number of voters and results for recount candidates from consolidation tape under **VM-1 above** and **list all serial numbers for DREs included in the consolidation tape below**. If any DRE is not included in the consolidation tape, list the serial number and results for each such machine under VM-2, etc. Use additional copies of page if needed.



Part B - 3 – If DRE Tape(s) Must Be Rerun

Complete this part if any DRE tape from the precinct was missing or not clear, and the recount officers were directed to rerun the tape(s). Compare the seal on each machine opened to the final seal number listed for that machine on the key envelope.

I. Do the seal and key envelope numbers for the reopened machine(s) agree? YES NO

If **NO**, mark the serial number of the machine on which a discrepancy was found with a check (✓) in Part B-1 on previous page and complete A through E below. Attach the precinct Statement of Results from the election (including all pages and attached tapes).

A. Machine#: _____

B. _____
Number on Protective Counter

C. _____
Number on Public Counter

D. _____
seal # on key envelope

E. _____
seal # on machine

II. Seal(s) intact? YES NO

If **NO**, mark that machine number with an asterisk (*) in Part B-1 on previous page. Enter, on the reverse side of this page, a description of the machine condition and complete lines F through H below. Attach the precinct Statement of Results from the election (including all pages and attached tapes).

F. Machine#: _____

G. _____
Number on Protective Counter

H. _____
Number on Public Counter



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DEPARTMENT of ELECTIONS

**RECOUNT
PRECINCT
REPORT**

Precinct || Office || District:
Election Date:
Recount Date:

Part C - Certification of Official Ballots						
VOTES CAST FOR CANDIDATES IN RECOUNT		<u>(i)</u>	<u>(ii)</u>	<u>(iii)</u>	<u>(iv)</u>	
IMPORTANT: - Lines C1-C5 include only recount parties [listed to the right under (ii) and (iii)] - Lines C6-C9 include all other ballots		Total Number Voting	Candidate Name _____ _____ _____	Candidate Name _____ _____ _____	Total Cast for Candidates (ii) + (iii)	
C1	Total Ballots Read by Ballot Scanner Machine in Recount (From tape; when finished attach tape to back of page with Part A.)	A4 Total =			✍	C1
C2	Total Machine-readable Ballots <i>Manually</i> Counted in Recount	A5 Total =			✍	C2
C3	Total Paper Ballots Counted in Recount	A6 Total =			✍	C3
C4	Total DRE Machine Count [If no DREs used, mark each "0".]	B2 Total =	SHOULD = LINE B3 TOTAL	SHOULD = LINE B4 TOTAL	SHOULD = LINE B5 TOTAL ✍	C4
C5	Total Votes (Add C1 through C4 in each column)	✍	✍	✍	✍	C5
C6		Paper Ballots Drawn (during recount) (§ 24.2-802)				C6
C7	Overvoted Ballots (plus ballots otherwise <u>voided by Voter</u>) § 24.2-663	Machine-readable	Paper		C7(i) + C7(ii)= ✍	C7
C8	Ballots Undervoted or Voted for Other Candidates	Machine-readable	Paper	DRE	C8(i) + C8(ii) + C8(iii) = ✍	C8
C9	Challenged Ballots (enclosed in attached envelope)	Machine-readable	Paper		C9(i) + C9(ii) = ✍	C9
C10		TOTAL [Add C5 through C9 in column (iv)] **Should equal C5 column (i)**			Carry to D5 and D10 ✍	C10



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DEPARTMENT of ELECTIONS

**RECOUNT
PRECINCT
REPORT**

Precinct || Office || District:

Election Date:

Recount Date:

Part D - 1 – Paper Pollbook Count (PBC) and Reconciliation		Division ____ - ____	Division ____ - ____	Division ____ - ____	Division ____ - ____	Calculation or Number	Total Pollbook Count	
D1	Enter last PBC Number for each division from PBC Count Sheet					Total of Division Counts		D1
D1-PB	Enter number of Paper Ballots cast (from Pollbooks by division)					Total of Division Counts		D1-PB
D2	Number of cancelled DRE Ballots – (DRE ballots that were CANCELLED because the voter left the booth without casting his/her ballot. Copy from precinct SOR.)							D2
D3	Number of voided Machine-readable and Paper Ballots - (Ballots that were VOIDED because the voter left the booth without casting his/her ballot. <u>DO NOT</u> include ballots spoiled by voter and replaced. Copy number from precinct SOR.)							D3
D4	Total Number of Cancelled DRE and VOIDED Machine-readable and Paper Ballots					= D2 + D3		D4
D5	Pollbook Count Reconciliation - Subtract Total number of CANCELLED DRE and VOIDED Machine-readable and Paper ballots from Total Pollbook Count. **D5 should not be more than C10**				C10 =	= D1 – D4		D5
Part D - 2 – Electronic Pollbook (EPB) Count and Reconciliation						Calculation or Number	Total Pollbook Count	
D6	Enter the total voters Checked-In Count from the EPB							D6
D7	Number of cancelled DRE Ballots - (DRE Ballots that were CANCELLED because the voter left the booth without casting his/her ballot. Copy number from Part C1 of precinct SOR.)							D7
D8	Number of voided Machine-readable and Paper Ballots - (Ballots that were VOIDED because the voter left the booth without casting his/her ballot. <u>DO NOT</u> include ballots spoiled by voter and replaced. Copy number from precinct SOR.)							D8
D9	Total Number of cancelled DRE and voided Machine-readable and Paper Ballots					= D7 + D8		D9
D10	Pollbook Count Reconciliation - Subtract the number of CANCELLED DRE and VOIDED Machine-readable and Paper ballots from Total Pollbook Count. **D5 should not be more than C10**				C10 =	= D6 – D9		D10



Precinct Manual Tally Sheet

Start a new tally sheet for each precinct; use additional sheets if necessary. Use separate sheets for paper ballots and for manually counted optical scan. Make a hash mark for each vote cast for the candidate in the grid, like this: /. Mark the 5th vote like this: ///. Use one box for each set of five marks. Combine all tallies in appropriate rows/boxes in **Part C** of *Recount Precinct Results*.

Election Date: _____ **Office:** _____ **Precinct #/Name:** _____

Type of Ballots (check only one): Paper Manually Counted Optical Scan

CANDIDATE NAME	5	10	15	20	25	30	35	40	45	50	
											50
											100
											150
											200
											250
											300
											350
Total votes on this sheet for this candidate:											400
											450
											500
Candidate Name	5	10	15	20	25	30	35	40	45	50	
											50
											100
											150
											200
											250
											300
											350
Total votes on this sheet for this candidate:											400
											450
											500
Other	5	10	15	20	25	Total					
Manually Counted Ballots Voided by Voter (includes Overvoted)											
Manually Counted Ballots Undervoted or Voted for Other Candidates											
Challenged Ballots (complete/sign challenge form, attach ballot & enclose in CB envelope)											



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Recounts

Step by Step Instructions

Adopted

Contents

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Instructions – General Registrar/ Electoral Board members

The requirement to execute a recount can occur very rapidly. The Department suggests that if you think a recount is likely to occur, you should begin making preparations for a recount prior to the issuance of the recount writ.

What are the responsibilities of the General Registrar and Electoral Board for a recount?

There are multiple actions that must be completed prior to the recount and during the recount. The general registrar and electoral board members will likely share responsibilities; however, ultimately Virginia Code of Elections places responsibility of the completion of these actions on the local electoral board. Responsibilities of the general registrar and the electoral board members may shift depending on the court order. Ensure the following is completed prior to the recount.

- Provide to the Clerk of the Court a signed ELECT-659 (Request to Inspect Sealed Materials) from the Department of Elections.

You may also want to request to open **Envelope 6** (unused ballots) or have your ballot printer print a number of ballots for the test deck for the L & A testing.

- Provide to the candidates and the recount court a list of election officials, and the party they represent, that served on election day.

Each candidate and governing body/chief executive officer (in the case of a referendum) involved in the recount may select an equal number of officers of election to serve as recount officials (*see* Va. Code § 24.2-802).

- Have a data storage medium for the voting machines of each precinct.

Central Absentee Precinct (CAP) will be counted as a separate precinct.

Valid provisional votes cast for Election Day will be counted as a separate precinct.

- Program your voting machine(s) and data storage device(s).

You must have your voting machine(s)/ data storage medium(s) programed to count the votes cast for the candidates or issue ordered in the recount.

You must have your voting machine(s)/ data storage medium(s) programed to return overvotes, undervotes, and write-ins (Va. Code § 24.2-802), these ballots must be hand counted.

- Conduct an L&A prior to the recount.

Your Recount Court may stipulate in the recount order when your L&A must be conducted and how many ballots will be used.

- Review and amend the **Recounts documents** (if needed).

Your recount court may require you to account for vote totals for more than two candidates. If so, amend the **votes cast for candidates not party to the recount** on the recount forms to include any other candidate names party to the recount.

Your recount court determines how many recount officials will assist with the recount. You may be given multiple teams for each precinct or only one team. As such, **review and amend** your instructions for handing off returned ballots from the scanning team to the hand counting team (see page 9 of the instructions).

- Prepare materials for recount official training.

Ensure the recount officials and coordinators understand how to fill out the **Recount Precinct Results Report** and the **hand count tally sheet** as directed by the Department of Elections and the recount court.

Ensure the recount officials and coordinators understand how to conduct the hand count procedure.

- Prepare set up/ materials for the recount.

Prepare office supplies and required recount documents for your recount teams and coordinators in a “recount kit” for easy access. Set up the recount location as most efficient for your teams.

What documents are accessible for a recount?

“The petitioner and his counsel and each other party and their counsel under supervision of the electoral board and its agents shall also have access to pollbooks and other materials used in the election for examination purposes, provided that individual ballots cast in the election shall not be examined at the preliminary hearing.” (see Va. Code Sec. 24.2-802).

Prior to the appropriate court holding a hearing, the following election related materials are available to the public:

- Statement of results are available at the general registrar’s office (Va. Code Sec. 24.2-668(B))

- Machine tapes are available with the appropriate Clerk of Court (Va. Code Sec. 24.2-658)
- Printed return sheets are available with the appropriate Clerk of Court (Va. Code Sec. 24.2-658)
- Abstract of votes are accessible with the electoral board (Va. Code Sec. 24.2-675)

Can candidates/ media/ general public observe the recount?

Yes, a recount is a public event. Each party to the recount (candidate) is permitted one observer per recount team. The observer may stand behind or sit to the outside of the Recount officials as they work and may only watch and take notes. Observers must be close enough to see and hear what is happening. No observer may handle ballots, election materials, or recount materials.

If an Observer has a question, it must be directed to the supervising Recount Coordinator -- not the Recount officials -- without disturbing the proceedings.

Members of the news media and the general public may also be in the room, but are not allowed to handle any official materials or disturb the proceedings in any way.

Closing the Recount

Issuance of a new Certificate of Election

The person having the highest number of votes after the recount will be determined to have been elected to the office and will receive a certificate of election. The Attorney General's office determined that the certificate of election should be issued by the local electoral board even though an election is being recounted.

If the Recount Court's certification of the recount declares the petitioning candidate the winner, a new certificate of election must be issued, making the original certificate null and void.

Update Results

Localities involved in a recount may need to change their election results. Per Virginia Code § 24.2-671, amendments to official abstracts must be provided to the Department of Elections. Official amendments to abstracts should be certified and mailed to ELECT. Further, the locality must change election results in VERIS. To do so, the locality must enter a "Reason for Change" in VERIS before they can change their vote totals.

Return and Final Retention of Material

All of the recount material received from each city or county comprising the district being recounted should be resealed and signed by the recount officials and then securely stored by the Clerk of Court for the Circuit Court in which the recount was held. These materials should remain secured and sealed until the time for the candidate losing the recount to initiate a contest has expired.

If the recount was for a primary or election for a General Assembly seat, statewide office or federal office, the Department of Elections will check with the appropriate office to determine if a contest has been filed by the deadline, and then notify the Clerk. If no contest is pending, the records for the Clerk's own locality should then be treated as prescribed by law for other records from that same election date that are in the custody of the Clerk.

Materials sent from any other localities in the district to be recounted should be returned to the Clerks for those localities, again to be treated in the same manner as other records from that election date that are in the custody of the Clerk. The other Clerks may want to pick up the records, or the sending Clerk may have them delivered personally or by a method that includes tracking of delivery. If the materials are picked up or delivered personally, both Clerks should keep a record documenting the transaction.

In the case of a primary or election for a county, city or town office, or local district office, any contest would be filed with the Circuit Court where the challenged candidate resides. Unless the recount was for a shared local office, the Clerk of the Court that conducted the recount will receive any contest filed, or should check with the Clerk where the winning candidate resides to determine if a contest has been filed by the deadline.

Instructions – Recount Coordinators

What are my responsibilities as a recount coordinator?

- You will supervise recount teams' work progress.

A locality is only able to have two (2) recount coordinators; thus, one coordinator will need to supervise multiple recount teams.

- Assist the recount teams.

Provide information on the recount procedure to recount teams.

Enter data on the recount precinct results form for the recount teams, if needed.

Pick up from the Clerk and deliver to recount teams sealed ballots, precinct by precinct.

Ensure recount teams have all necessary materials.

Check that ballot bins are empty as requested by recount officials.

- Speak with the general public, candidate, and their representatives, and media regarding basic recount information.

Recount teams cannot speak to the general public, candidate, or their representatives, or media.

- Ensure the recount proceedings are not disturbed.

- **A recount coordinator cannot touch any ballots.**

Only recount teams may touch the ballots. This requirement is due to ballot security and chain of custody.

Instructions – Recount Officials (scanning ballots)

Check that you have these materials.

- Two (2) copies of Recount Precinct Results form
- Data storage device for the ballot scanning machine
- Container(s)/ Envelope(s) #3
- Returned ballot bin/ place to set aside ballots that could not be scanned

Print two (2) zero tapes from the voting machine.

1. **Check** that all totals on the zero tapes read 0000
2. **Check** the public counter total reads 0000
3. **Complete** PART 1 on the recount precinct results report.
4. **Staple** a zero tape to the first page of each Recount Precinct Results form

Scan all ballots through the machine.

1. **Open** container/envelope #3 and take out the counted ballots for the precinct.

If you have multiple containers, open one container at a time.

2. **Feed** the counted ballots into the scanner

If the machine returns a ballot or a ballot will not scan, **put the ballot aside in the returned ballots bin.**

3. **Repeat** Step 1 and 2 with all containers /Envelopes #3 for the precinct until all ballots have been scanned or set aside for hand counting.
4. **Ask** the recount coordinator to check that all container /Envelope #3 are empty.

Print two (2) results tapes from the voting machine.

1. **Complete** PART 2 of the Recount Precinct Results form with the results tapes.
2. **Staple** one (1) results tape to page 3 of each Recount Precinct Results form
3. **Remove** the ballots that successfully scanned from the ballot scanner compartment.
4. **Return** successfully scanned ballots to container/ envelope #3s.
5. **Ask** the recount coordinator to check that the ballot scanner compartment is empty.

Instructions – Recount Officials (scanning ballots)

If you do not have returned ballots set aside.

1. **Jump** to page 13 of these instructions to the section titled: **Complete the Recount Precinct Results form.**

If you have returned ballots set aside.

1. **Remove** the returned ballots from the bin.
2. **Place** returned ballots in the designated area as directed by the recount coordinator.
3. **Ask** the recount coordinator to check that the returned ballot bin is empty.
4. **Go to** the instructions of the section titled: **Instructions – Recount Officials (hand counting ballots).**

Instructions – Recount Officials (hand counting ballots)

Check that you have these materials.

- Returned ballots for the precinct
- 2 copies of the Recount Precinct Results Form for the precinct
- The Department of Elections' *Ballot Examples*
- Challenged Ballot Form
- Challenged Ballots envelope
- 2 copies of the Hand counting tally sheet
- Envelope #2

Review these definitions.

Definitions you must know:
Undervote: means the voter did not vote the total number of candidates they could have for a seat. For instance, the voter could have voted for six candidates but the voter only cast a vote for three candidates.
Overvote means the voter made more choices than they were entitled to
Write-in vote: Voter wrote the name of an individual that is not printed on the ballot.

Group the returned ballots.

1. **Separate** and group the ballots into groups of 10.
2. **Secure** each group and label with a group number, starting with Group 1.

Review ballots one at a time.

1. **Starting** with Group 1, take the first ballot from the group.
2. **Place** the ballot with the office of the recount face up.
3. **Review** the ballot for a vote, undervote, or overvote.

Record the vote of the ballot.

1. **Tally** a vote, undervote, or overvote presented on the ballot on the **Hand counted ballots tally sheet**.

You and your teammate must agree on the vote(s) presented on the ballot.

Instructions – Recount Officials (hand counting ballots)

If you and your teammate do not agree on how the vote was cast, **challenge the ballot and set the ballot aside**. Tally the ballot as “challenged” on the Hand counted ballots tally sheet.

Return the ballot.

1. **Turn** the counted ballot face down. You will stack all returned ballots for this group like this.

Repeat this process until all ballots in the group have been counted.

1. **Total** the numbers for this group of ballots on the hand counted ballots tally sheet.
2. **Check** your numbers with your teammate.

If you and your teammate do not have the same numbers, **count again**.

3. **Secure** together the hand counted ballots tally sheet, the group of hand counted ballots, and the label.
4. **Set** the documents aside.

Repeat this process until all ballot groups have been counted and tallied.

If you have ballots that were set aside to be challenged.

1. **Continue** to the next section titled: **Challenge the ballot**.

If you do not have ballots that were set aside to be challenged.

1. **Jump** to page 13 of these instructions to the section titled: **Complete the Recount Precinct Results form**.

Instructions – Recount Officials (hand counting ballots)

Challenge the ballot

1. **Fill** out the Statement of recount official – challenge ballot
2. **Attach** the Statement of recount official – challenge ballot slip to the ballot
3. **Place** the ballot and attached Statement of recount official – challenge ballot slip into the Challenged Ballots envelope
 - Leave the envelope unsealed
 - Leave the envelope blank
4. **Repeat** steps 2 and 3 until there are no more ballots.
5. **Fill** in the total number of challenged ballots for the precinct in PART 4 of the Recount Precinct Results form.

Instructions – Recount Officials (hand counting ballots)

Complete the Recount Precinct Results form

1. **Complete** PART 4 of the Recount Precinct Results form.
2. **Complete** PART 5 of the Recount Precinct Results form.

Use the SOR in envelope #2 to for your number of votes cast on election day.

If you did not check “Yes” in PART 5, explain why your numbers do not match.
Speak with your recount coordinator for assistance.

Place SOR back in envelope #2 and reseal when you are done.

3. **Complete** PART 6 of the Recount Precinct Results form.
4. **Complete** PART 7 of the Recount Precinct Results form.

Collect all groups of hand counted ballots (if applicable).

1. **Remove** the hand counted tally sheet(s) and labels from the grouped ballots.
2. **Secure** together all hand counted tally sheet(s) and labels from the grouped ballots.
3. **Place** all hand counted tally sheet(s) and labels from the grouped ballots in envelope #2
4. **Place** all ballots that were not challenged into envelope/ container #3.
5. **Check** that all challenged ballots are in the Challenged Ballots envelope.

Seal all envelopes/ containers.

1. **Give** all recount materials to your recount coordinator.
 - Sealed envelope #2
 - Sealed container/ envelope #3
 - Sealed challenged ballots envelope
 - Completed Recount Precinct Results form for the precinct
 - Secured hand counted tally sheet(s) and labels from the grouped ballots

Instructions – Clerk of the Court

Briefly, what is the process for a recount in Virginia?

A recount is a secondary tabulation of votes cast for a particular office between two candidates: (1) the candidate certified the winner by the appropriate authority and (2) the candidate that lost within a specific margin (1%) to the winner (Va. Code § 24.2-800).

In conducting a recount, the voting machine, which will scan all valid ballots, must be programmed to reject or return ballots that have (1) write-ins, (2) undervotes, (3) overvotes, or (4) ballots that cannot be read (*see* Va. Code § 24.2-802). These ballots that were returned will be hand counted, along with “paper” ballots, by recount officials (*see* Va. Code § 24.2-802). Recount officials may challenge ballots when they question the validity of the ballot or cannot agree to the voter’s intent as presented on the ballots. The recount court will make the adjudication of the ballot’s validity and voter intent. Additionally, the recount court will certify the final results of the recount.

What are my responsibilities during a recount?

For a recount, you are responsible for ensuring the security of the ballots and other necessary election materials.

- Certify that security measures have been taken in whatever form is deemed appropriate by the chief judge of the recount court (Va. Code § 24.2-802(A)).
- Be present and administer oaths to recount officials on the day of the recount.
- Release sealed ballots as requested to the **recount coordinator**.

Ensure to sign out the sealed materials before giving them to the recount coordinator.

- Accept completed recount materials and sealed ballots from the **recount coordinator** per precinct.

Before accepting materials, ensure that all materials are being returned that were released and that they are sealed.

- Convey sealed recount materials to the Recount Court for the entire locality in precinct number order.
- Secure sealed election materials after the recount as required by Va. Code § 24.2-669.

Instructions – Recount Court

Briefly, what is the process for a recount in Virginia?

A recount is a secondary tabulation of votes cast for a particular office between two candidates: (1) the candidate certified the winner by the appropriate authority and (2) the candidate that lost within a specific margin (1%) to the winner (Va. Code § 24.2-800).

In conducting a recount, the voting machine, which will scan all valid ballots, must be programmed to reject or return ballots that have (1) write-ins, (2) undervotes, (3) overvotes, or (4) ballots that cannot be read (*see* Va. Code § 24.2-802). Returned ballots will be hand counted, along with “paper” ballots, by recount officials (*see* Va. Code § 24.2-802). Recount officials may challenge ballots when they question the validity of the ballot or cannot agree to the voter’s intent presented on the ballot. Your court will adjudicate the validity of the ballot and the voter’s intent. Additionally, your court will certify the results of the recount.

What are the legal requirements of the chief judge/ recount court?

Review Va. Code § 24.2-802 for a full outline of your and the recount court’s legal requirements.

- The Chief Judge must call a preliminary hearing within seven (7) calendar days of a petition filed for a recount of an election (five [5] days for a presidential election) (*see* 24.2-802(B)).
- Determine logistics and security of the recount and relevant election materials (*see* Va. Code § 24.2-802(B)).

The Chief Judge must review all security measures for all ballots and voting machines taken prior to the recount and “ensure proper security to conduct the recount.”

Determine the time/ location for recount, delivery and transportation of election material and voting machines.

Determine the procedures for the recount.

Determine the number of recount officials required to conduct the recount within a “reasonable period.” (*see* Va. Code § 24.2-802(C)). Parties to the recount are entitled to choose the officials.

- Supervise the recount (*see* Va. Code § 24.2-802(C)).
- Determine the validity and voter intent of a ballot challenged by recount officials (Va. Code § 24.2-802(B)).

Instructions – Recount Court

- Certify the results of the recount (*see* Va. Code § 24.2-802(D)(3)).

Why were ballots challenged?

Your court received a challenged ballot because the recount officials during the hand counting phase of the recount procedure could not agree on the validity of the ballot or the voter's intent as presented on the ballot. Per Va. Code § 24.2-802, a written statement from a recount official challenging the ballot is "sufficient to require" the submission of the ballot to the Court.

The challenged ballot should be attached to another paper which provides information on the specific ballot regarding:

- the precinct number,
- precinct name,
- office seat up for election, and
- reason for the challenge.

Is there any guidance on determining the validity of a ballot?

Generally, the validity of a ballot is based on the ability to ascertain the voter's intent as presented on the ballot. At the beginning of the recount, the recount officials were provided with State Board of Election's guidance titled, "*Ballot Examples: Handcounting Printed Ballots for Virginia Elections and Recounts,*" which exemplifies how a ballot may be marked and how voter intent may be interpreted by the viewer.

The recount court will ultimately determine the voter's intent as presented on the ballot. Determination of the validity (and vote) of the challenged ballot is under the authority of your court.

Should the court adjudicate challenged ballots as they become available within the precinct or adjudicate challenged ballots within a precinct all at once?

The Department of Elections recommends the recount court view all challenged ballots of a precinct at once for purposes of ballot security and handling.

How are political parties and/or candidates involved in the Recount procedure?

Political parties, candidates, and/or their representatives are not directly involved with the recount procedure. These entities may observe the process but have no explicit legal standing to make a determination of voter intent on a ballot (legally reserved for the recount officials or your court) or even challenge the validity of a ballot (legally reserved for the recount officials).

For the public, media, candidates, and their representation

Recount background information

A recount is a secondary count of all votes cast for an office during an election. A recount may occur for any race of any office.

Pursuant to Va. Code § 24.2-802(B), “The determination of the votes in a recount shall be based on votes cast in the election and shall not take into account (a) any absentee ballots or provisional ballots sought to be cast but ruled invalid and not cast in the election, (b) ballots cast only for administrative or test purposes and voided by the officers of election, or (c) ballots spoiled by a voter and replaced with a new ballot.”

Additionally, a recount is not an opportunity to validate or invalidate the eligibility of a voter. Pursuant to Va. Code § 24.2-802, “the eligibility of any voter to have voted shall not be an issue in a recount.” For instance, if a provisional voter was determined to be valid by the local electoral board and the vote counted for the election, the provisional voter remains valid and their ballot will be processed as all other ballots during a recount.

Briefly, what is the process for a recount in Virginia?

A recount is a secondary tabulation of votes cast for a particular office between two candidates: (1) the candidate certified the winner by the appropriate authority and (2) the candidate that lost within a specific margin (1%) to the winner (Va. Code § 24.2-800).

In conducting a recount the voting machine, which will scan all valid ballots, must be programmed to reject or return ballots that have (1) write-ins, (2) undervotes, (3) overvotes, or (4) ballots that cannot be read (*see* Va. Code § 24.2-802). These returned ballots will be hand counted, along with other ballots required to hand counted, by recount officials (*see* Va. Code § 24.2-802). Recount officials may challenge ballots when they question the validity of the ballot or cannot agree to the voter’s intent presented on the ballots. The recount court will make the determination on the challenged ballot. Additionally, the recount court will certify the final results of the recount.

How does a recount happen?

In Virginia, there is no automatic recount; rather, a recount will only occur under certain circumstances and when certain actions are conducted.

First, the election results must be certified. Certification of election results can happen at different times depending on the office being certified.

The local electoral board must have results certified for local offices within one week following the election (*see* Va. Code § 24.2-671).

The State Board of Elections (SBE) certifies primary and general election results for all federal offices, states offices, and any offices shared by two or more localities. For primary nominations, the SBE must meet to certify results no more than fourteen days after the election (*see* Va. Code § 24.2-534). For November general elections, the SBE must meet to certify the results on the third Monday in November (*see* Va. Code § 24.2-679).

Second, the losing candidate must have been defeated within one percent (1%) of the winning candidate. Votes cast for other candidates cannot be included within this total (*see* Va. Code § 24.2-800).

When the losing or winning candidate is a write-in, the difference between the winning and losing candidates cannot be more than five percent (5%) of the total votes cast for those two candidates (*see* Va. Code § 24.2-800).

Third, the losing candidate must petition the appropriate court to request a recount.

For local offices, the petition must be filed in the circuit court of the county or city in which the candidate being challenged resides. Here, the losing candidate has 10 days from day the results were certified to file a petition with the appropriate court (*see* Va. Code § 24.2-801).

For statewide offices, the petition must be filed in the Circuit Court of the City of Richmond. Here, the losing candidate has 10 days from day the results were certified to file a petition with the appropriate court (*see* Va. Code § 24.2-801).

For presidential electors, the petition must be filed in the Circuit Court of the City of Richmond. Here, the losing candidate must file the petition no later than 5:00 PM of the second calendar day after the day the SBE certifies the election results (*see* Va. Code § 24.2-801.1). Presidential candidates who anticipate the possibility of asking for a recount are encouraged to notify the State Board by letter or email as soon as possible after election day.

A recount for presidential electors must be “held promptly” and completed in accordance of the provisions of 3 U.S.C. § 5, at least six days before the time fixed for the meeting of the electors.

The petition to the appropriate court must contain:

- The certified results of the election and
- A request to the appropriate court to have the ballots in the election recounted.

What happens after a recount petition is correctly filed?

A recount court (hereafter the “Court”) will be established (*see* Va. Code § 24.2-801.1). The Court will consist of three judges: the Chief Judge of the Circuit Court of where the recount petition was filed and two (2) judges appointed by the Chief Justice of the Supreme Court of Virginia. The Court will preside over the entirety of the recount process.

The winner of the seat on election day will be served a copy of the petition.

The Court must hold a preliminary hearing within seven (7) calendar days of a petition filed for a recount of any election other than an election for presidential electors. The Court must hold a preliminary hearing within five (5) calendar days of a petition filed for a recount of an election for presidential electors.

What happens at the preliminary hearing?

At the preliminary hearing, (1) motions may be disposed of and (2) the rules of the procedure for the recount may be “fixed” or determined. The parties to the recount will be entitled access to the pollbooks and other election materials used in the election for “examination purposes” under the supervision of the electoral board; thus, the general registrar should be present and the locality’s legal representation must be present during the hearing. However, **individual ballots cannot be examined** here (*see* Va. Code § 24.2-802(B)).

The Chief Judge and the recount court will also determine other details; including but not limited to, transportation and delivery of election materials and voting machines and testing. The court will also determine the number of recount officials and confirm the officials suggested by the parties to the recount, confirm recount coordinators, and security measures for the recount (*see* Va. Code § 24.2-802).

How are ballots counted?

First, ballots will be scanned by recount officials. Prior to the recount, the locality was required to program the voting machines to return or set aside ballots with (1) overvotes, (2) undervotes, or (3) write-ins.

Second, these returned ballots will be hand counted. The recount team will also hand count any ballot that was hand counted on election day.

Third, if the recount team cannot agree, the ballot will be challenged and handed to the Court for adjudication. The Court will adjudicate the validity of the ballot and the voter’s intent. Additionally, the Court will certify the results of the recount.

What happens after the Court adjudicates the challenged ballots?

The Court will certify the total results, including any votes adjudicated for those party to the recount. The winner of the recount will be issued a certificate of election from the local electoral board. Further, any updates to vote numbers will be shown on the Department of Elections’ website.

Staple Recount
Zero Tapes Here

Place in
Envelope 2

Recount Precinct Results

Locality:	Click here to enter text.
District:	Click here to enter text.
Precinct:	Click here to enter text.
Election Date:	Click here to enter text.
Recount Date:	Click here to enter text.
Seat/ Contest:	Click here to enter text.

What to do before you start the recount for this precinct:

- **Print** two (2) copies of the zero tape from each machine
- **Have** all precinct recount officials sign each zero tape
- **Staple** one (1) zero tape on the left side of this page
- **Staple** one (1) zero tape on the first page of your second copy of the Recount Precinct Results

PART 1: Complete this information at the start of the precinct recount

Check this box if ballot envelope(s)/ bin(s) is #3 sealed:

Check this box when the public counter is set to ZERO

Scanning machine serial # :

Scanning machine seal #:

What is the protective counter?

PART 2: Total vote count for scanned ballots

Candidate Name 1

Candidate Name 2

Total vote count for candidates not party to the recount

Total (add each row)

2A

PART 3: Total vote count for hand counted ballots	
Candidate Name 1	
Candidate Name 2	
Total vote count for candidates not party to the recount	
Undervotes	
Overvotes	
Totals (add each row)	3A

PART 4: What was the total ballot count for the recount?	
How many ballots were scanned?	See 2A
How many ballots were hand counted?	See 3A
How many ballots were challenged?	
Total (add each row)	4A

PART 5: Ballot count reconciliation	
How many total ballots were cast in this precinct for this race? (Check the SOR/ election day tapes)	
Does this number equal 4A? <input type="checkbox"/> Yes <input type="checkbox"/> No	

Explain if you marked "No" in PART 5:

Staple Recount
Results Tapes
Here

What to do when you complete the recount for this precinct:

- **Print** two (2) copies of the results tapes
- **Have** all precinct recount officials sign the results tapes
- **Check** that one (1) results tapes is stapled on the left side of this page
- **Check** one (1) results tapes is stapled on the last page of your second copy of the Recount Precinct Results
- **Complete** part 6 and part 7 of this form below

PART 6: Complete this information when you complete the recount for this precinct

Check this box that the envelope(s)/ bin(s) #3 is resealed:

Scanning machine seal #:

Scanning machine serial # :

What is the public counter?

What is the protective counter?

PART 7: Collect Signatures of Precinct Recount Officials

For all Recount Officials that completed this precinct, read the following statement and sign below.

We hereby certify that all information entered here is true and correct.

1.	Sign: X _____ Print: _____
2.	Sign: X _____ Print: _____
3.	Sign: X _____ Print: _____
4.	Sign: X _____ Print: _____

Part 3. Hand counted ballots tally sheet

Only use this form if you are required to hand count ballots.

Locality:	Click here to enter text.
District:	Click here to enter text.
Precinct:	Click here to enter text.

Election Date:	Click here to enter text.
Recount Date:	Click here to enter text.
Seat/ Contest:	Click here to enter text.

Returned Ballots. Group 1							
Ballot No.	Overvote	Challenged	Undervote	Vote cast for a candidate not party to the recount	Candidate 1	Candidate 2	Total
1.							
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							
Total							(=)

Returned Ballots. Group 2							
Ballot No.	Overvote	Challenged	Undervote	Vote cast for a candidate not party to the recount	Candidate 1	Candidate 2	Total
11.							
12.							
13.							
14.							
15.							
16.							
17.							
18.							
19.							
20.							
Total							(=)

Returned Ballots. Group 3

Ballot No.	Overvote	Challenged	Undervote	Vote cast for a candidate not party to the recount	Candidate 1	Candidate 2	Total
21.							
22.							
23.							
24.							
25.							
26.							
27.							
28.							
29.							
30.							
Total							(=)



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Delegation Policy

BOARD WORKING PAPERS

Arielle A. Schneider

Policy Analyst



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STATE BOARD *of* ELECTIONS

Memorandum

To: Robert Brink, Chairman; John O'Bannon, Vice Chair; Jamilah LeCruise, Secretary
From: Arielle A. Schneider, Policy Analyst
Date: December 18, 2019
Re: SBE Policy 2019-003: Delegations of Authority

Suggested Motion

I move that the Board adopt SBE Policy 2019-003.

Background

Pursuant to the Code of Virginia §2.2-604, the State Board of Elections has delegated the responsibility and authority to complete specific duties and tasks to the Virginia Department of Elections. This policy will support the Board in its efforts to ensure uniformity in the administration of elections throughout the Commonwealth.

PROPOSED
State Board of Elections Policy 2019-003

A meeting of the Virginia State Board of Elections was held on December 18, 2019 whereby a policy was proposed and approved by the Board:

Delegations of Authority

WHEREAS, the Code of Virginia §2.2-604 provides that the State Board can delegate tasks and duties to the Virginia Department of Elections; now therefore let it be

RESOLVED, by the State Board of Elections under its authority to issue rules and regulations to promote the proper administration of election laws and obtain uniformity in the administration of elections pursuant to §24.2-103, that:

Except where otherwise provided by law, prior to taking action on a matter relating to the exercise of an authority lawfully delegated to the Virginia Department of Elections, the Board shall pass a motion to formally remove that delegated authority from the Delegations of Authority as amended October 29, 2019.



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Presidential Primary Plans

BOARD WORKING PAPERS
Dave Nichols
Director of Elections Services



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STATE BOARD *of* ELECTIONS

Memorandum

To: Chairman Brink, Vice Chair O'Bannon, and Secretary LeCruise
From: Dave Nichols, Election Services Manager
Date: December 18, 2019
Re: Presidential Primary Plans

Suggested Motion:

"In accordance with § 24.2-545 of the Code of Virginia, I move that the Board approve the plans for selecting delegates to the national convention of the Democratic Party of Virginia and Republican Party of Virginia."

Applicable Code Sections:

Va. Code § 24.2-545

Attachments:

Your Board materials include:

- Letter from Susan Swecker, Chairwoman of the Democratic Party of Virginia (DPV)
- Letter from Jack Wilson, Chairman of the Republican Party of Virginia (RPV)

Background:

Pursuant to Va. Code § 24.2-545, each political party is required to determine the method of selecting its delegates to the respective national convention to choose the parties' nominees for President and Vice-President of the United States. If the party chooses a primary, each registered voter in the Commonwealth is given an opportunity to participate in the primary, subject to rules set by the party and approved by the Board.

For March 3, 2020, only the Democratic Party of Virginia has selected a primary as their method of selecting delegates to the national convention. Further, the letter from Chairwoman Swecker does not indicate that the party plans to set any additional rules other than those set in the Code of Virginia for participating in the primary.

The Republican Party of Virginia has chosen to select its delegates to the national convention through district conventions and a State Convention.

Staff Recommendation:

Staff recommends the Board approve the plans of both the DPV and RPV for selecting delegates to their respective national conventions.



7/1/2019

Attn: State Board of Elections

The Democratic Party of Virginia hereby formally requests a State Run Presidential Preference Primary to be held on March 3rd, 2020 in accordance with §24.2-545(A).

Please let us know if you have any questions.

A handwritten signature in black ink that reads "Susan R. Swecker". The signature is fluid and cursive.

Susan Swecker
Chairwoman, Democratic Party of Virginia



Republican Party of Virginia
www.rpv.org

November 15, 2019

Hon. Robert H. Brink, Chairman
Hon. John O'Bannon, Vice-Chair
Jamilah D. LeCruie, Secretary
State Board of Elections
1100 Bank St Fl 1
Richmond VA 23219

VIA E-mail david.nichols@elections.virginia.gov

Dear Members of the State Board of Elections:

I write to notify you of the determination by the duly constitute authorities of the Republican Party of Virginia's to select and bind its delegates to the 2020 Republican National Convention through district conventions and a State Convention.

Please accept this as the required notice under § 24.2-545 of the Code of Virginia.

Sincerely,

Jack Wilson,
Chairman



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Drawing for Presidential Primary Ballot Order

BOARD WORKING PAPERS
Dave Nichols
Director of Elections Services



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Memorandum

To: Chairman Brink, Vice Chair O'Bannon, and Secretary LeCruise
From: Dave Nichols, Election Services Manager
Date: December 18, 2019
Re: Ballot Order Draw for March 3, 2020 Democratic Presidential Primary

Suggested Motion:

"I move that the Board certify the ballot order as drawn."

Applicable Code Sections:

Va. Code § 24.2-545C which reads:

The names of all candidates in the presidential primary of each political party shall appear on the ballot in an order determined by lot by the State Board.

Attachments:

Your Board materials include:

- Certification from Susan Swecker, Chairwoman of the Democratic Party of Virginia (DPV) of list of candidates who have satisfied the requirements to have their names placed on the primary ballot

Background:

Persons seeking access to the 2020 Presidential Primary Ballot submitted petitions to the Virginia Department of Elections as required by the filing schedule set by this Board on June 24, 2019. Petitions were transmitted to the DPV as required by § 24.2-545B.

On December __, 2019, the Democratic Party of Virginia certified that the following candidates qualified to appear on the 2020 Democratic Presidential Primary Ballot.

- [enter bulleted list of candidate names]

Each of the above names has been written on a strip of paper and will now be placed into the film canisters, and the canisters into the bowl. If the Board so moves, the order in which they are drawn from the bowl will be the order the candidates names will appear on the 2020 Democratic Primary ballot.

Staff Recommendation:

Staff recommends the Board draw the names randomly and certify that drawing as the order for names to appear on the 2020 Democratic Primary ballot.



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Risk Limiting Audit

BOARD WORKING PAPERS

James Heo

Confidential Policy Advisor



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Advisory Review Workgroup

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Chairman Brink