

XXVIII. RECOUNTS

RECOUNTS - RULES OF PROCEDURE

Single Seat Office
RSA 660

1. The Secretary of state will operate with two-person recount teams.
2. For each two-person team, each candidate may have one observer.
3. The Secretary of State will inform each candidate how many two-person teams will be conducting his/her particular recount.
 - a. If a candidate cannot be present at the recount, the candidate shall designate in writing to the secretary of state the name of an individual who will attend the recount and who will be authorized to make decisions on the candidate's behalf.
 - b. The candidate or designee shall be responsible for identifying, organizing, instructing, and supervising the candidate's observers.
 - c. The Secretary of State will conduct the recount as scheduled. The recount will not be delayed by the absence of a candidate or of a candidate's observers.
 - d. The Secretary of State is not responsible for verifying the identity, candidate affiliation, or training of observers. It is the sole responsibility of the candidate or his/her designee to ensure that the candidate has an observer at each counting team.
4. Each candidate, directly or through his or her observers, will control the pace of the recount and bear responsibility for the accuracy of the recount.
 - a. The procedures set forth below allow the candidate or his/her observers to slow or stop the process at any point should doubt arise about how a ballot is being counted or the accuracy of the counting.
 - b. However, only one opportunity will exist to challenge the count of each ballot and only one opportunity will exist to challenge the accuracy of each step of the counting process.
 - c. When a candidate or his/her observer fails to make a challenge when that one opportunity arises, the candidate waives his or her privilege to contest the manner in which a ballot is counted or the accuracy of that step in the counting process.
5. Observers shall not have any writing instrument in their hands at any time while observing or while sitting at the recount table.
6. Observers and counting team members may request a reasonable break at any time.
7. Observers shall not touch any ballot.
8. Observers shall not have any food or drink at the recount table.

9. NO SMOKING in the building.
10. NO CELL PHONES may be used in the recount area.
11. Only counting team members, observers, and the Secretary of State and his staff may talk in any room where counting is being conducted. Much of the recount process requires that counters and observers maintain concentration and keep their focus on the ballot before them. Conversations between bystanders must be taken into the hallway or into a room where counting is not in progress.
12. The counting team will sort the ballots into a stack for each candidate, a stack for blanks, and a stack for write-in votes.
13. A counting team member shall position a stack for each candidate in front of the observer representing the candidate's opponent. A counting team member shall afford the observer an opportunity to view each ballot as it is sorted into a stack.
 - a. Each member of the counting team may be simultaneously presenting ballots to be sorted to different stacks.
 - b. Observers must immediately inform the counting team if the pace of sorting is not permitting the observer sufficient time to fully assess each ballot.
14. The moment when a ballot is presented for viewing by the observer is the one and only opportunity for the observer to challenge how the counting team intends to count the ballot.
15. If an observer challenges how a ballot is being counted, the counting team may agree that the ballot was inadvertently being sorted into the wrong stack and if the counting team and all observers agree, the ballot may be added to the correct stack.
16. If the counting team and any observer disagree on how to count a ballot, the ballot will be set aside into a separate stack. The Secretary of State will rule on and count the ballots in the protest stack.
17. After the sorting process is complete, one counting team member shall count the ballots from each stack into groups of 25 ballots.
 - a. The second counting team member shall recount each stack to verify that there are 25 ballots in each group.
 - b. Observers shall be afforded an opportunity to observe the counting in a manner that permits the observer to verify that the count is accurate. The moment when the second counting team member declares that a group contains exactly 25 ballots is the last moment when an observer can protest the accuracy of the count of that group.
18. The counting team shall count the number of stacks of 25 and any remaining ballots and enter the total number of ballots containing votes for each candidate on a tally sheet.
 - a. The counting team shall count in a manner that allows the observer to verify the accuracy of the count.

- b. The counting team shall show each observer the completed tally sheet before the team takes the sheet taken to the Assistant Secretary of State who will add the results of each counting team on a master tally sheet. Observers are encouraged to document the tally sheet result for their candidate and to verify that the team count is accurately entered on the master tally sheet.
19. When all teams counting ballots from the same polling place have completed their counts, the Secretary of State will rule on all challenged ballots from that polling place.
- a. Each candidate or designee shall serve as the observers of the Secretary of State's ruling on challenged ballots.
 - b. The candidate or designee may protest the ruling of the Secretary of State on any ballot. A statement of fact documenting the Secretary of State's ruling and the identity of the protesting candidate/party shall be attached to each candidate. The statement of fact sheet shall be marked with a sequential number.
 - c. A tally sheet shall be completed documenting the number of votes for each candidate based on the Secretary of State's rulings on protested ballots.
 - d. Protested ballots shall be separately preserved for appeal.
20. The candidate who requested the recount may cancel the recount at any time during the procedure. If a candidate cancels a recount, the Secretary of State shall publicly announce that the recount has been canceled and the recount shall cease at once. The official results for the election shall be those results announced immediately after the election. Even if the partial recount resulted in different vote totals for some polling places, the official results will remain unchanged.
21. Once a town or ward is to be recounted, the assigned team(s) shall complete the recount of that town or ward before starting to count a different town or ward.
22. The Secretary of State shall maintain a tally sheet showing the election day results and the recount results.
23. The Secretary of State will announce the official winner based on the results of any completed recount.
24. At the end of the recount, if the contestant wishes to appeal the ruling of the Secretary of State on particular ballots, provided the ruling by the Secretary was properly protested, the candidate may appeal to the Ballot Law Commission as provided in RSA 665:8. The appeal must be filed with the Secretary of State within three calendar days of the declaration of the results of the recount.

By Order of

William M. Gardner
Secretary of State