

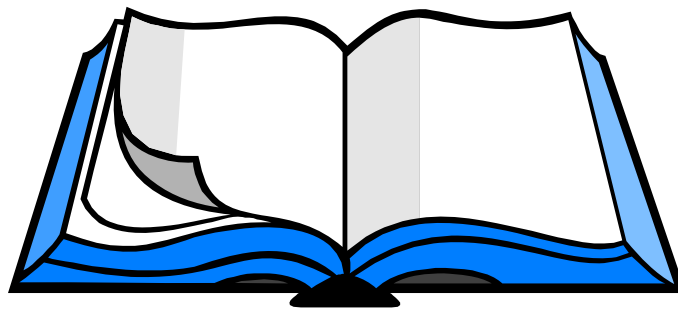


King County
Elections

Elections Procedure (DW)

<p>Title King County Canvassing Board Administrative Rules</p>	<p>Document No. and Revision AD2-005 A</p>
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KING COUNTY CANVASSING BOARD ADMINISTRATIVE RULES



Elections Procedure
AD2-005A



King County
Elections

KING COUNTY CANVASSING BOARD FOR ELECTIONS

919 SW GRADY WAY, RENTON, WA 98057
MS: ELE-ES-0100

TABLE OF CONTENTS

1.	GENERAL INFORMATION	1-1
1.1	<i>The Canvassing Board - Authorization and Purpose.</i>	<i>1-1</i>
1.2	<i>Purpose of the Rules.</i>	<i>1-1</i>
1.3	<i>Definitions.....</i>	<i>1-1</i>
2.	THE CANVASSING BOARD.....	2-1
2.1	<i>Designation of Board Members.....</i>	<i>2-1</i>
2.2	<i>Exclusions and Limitations on Membership Participation.....</i>	<i>2-1</i>
2.3	<i>Duration of Designation.....</i>	<i>2-1</i>
2.4	<i>Delegation of Authority.....</i>	<i>2-1</i>
3.	MEETINGS.....	3-1
3.1	<i>Times for Meetings.....</i>	<i>3-1</i>
3.2	<i>Place for Meetings.....</i>	<i>3-1</i>
3.3	<i>Public Meetings.....</i>	<i>3-1</i>
3.4	<i>Quorum.....</i>	<i>3-2</i>
3.5	<i>Decisions of the Board.....</i>	<i>3-2</i>
4.	CANVASSING PROCEDURES.....	4-1
4.1	<i>Application.....</i>	<i>4-1</i>
4.2	<i>Programming Tests.....</i>	<i>4-1</i>
4.3	<i>General Security of the Ballots.....</i>	<i>4-1</i>
4.4	<i>Preparing Ballots for Tallying.....</i>	<i>4-1</i>
4.5	<i>Manual Inspection of Ballots.....</i>	<i>4-2</i>
4.6	<i>Duplication.....</i>	<i>4-3</i>
4.7	<i>Board Assessment and Determination.....</i>	<i>4-4</i>
4.8	<i>Processing Irregular Ballots for Board Review.....</i>	<i>4-5</i>
4.9	<i>Initial Reports.....</i>	<i>4-5</i>
4.10	<i>Canvassing the Returns.....</i>	<i>4-6</i>
4.11	<i>Preliminary Abstract.....</i>	<i>4-6</i>
4.12	<i>Reports and Abstracts.....</i>	<i>4-6</i>
4.13	<i>Official County Canvass Report and Certification.....</i>	<i>4-7</i>
5.	VOTER REGISTRATION CHALLENGES.....	5-1
5.1	<i>Duty of Canvassing Board Generally.....</i>	<i>5-1</i>
5.2	<i>Procedures for Challengers.....</i>	<i>5-1</i>
5.3	<i>Procedures for Challenged Voters.....</i>	<i>5-2</i>
5.4	<i>Procedures for Precinct Election Officials.....</i>	<i>5-2</i>
5.5	<i>Director's Procedures.....</i>	<i>5-2</i>
5.6	<i>Time of Hearing.....</i>	<i>5-3</i>
5.7	<i>Presumption.....</i>	<i>5-3</i>
5.8	<i>Processing a Challenged Ballot at the Polls.....</i>	<i>5-3</i>
5.9	<i>Procedure at the Board Hearing.....</i>	<i>5-3</i>
5.10	<i>Decision.....</i>	<i>5-3</i>
5.11	<i>Remedies.....</i>	<i>5-4</i>

6.	PROVISIONAL BALLOTS	6-1
6.1	<i>Provisional Ballots.</i>	<i>6-1</i>
6.2	<i>Processing Provisional Ballots at the Elections Office.</i>	<i>6-1</i>
7.	ABSENTEE BALLOTS	7-1
7.1	<i>General Provisions.</i>	<i>7-1</i>
7.2	<i>Review of Returned Ballot Envelopes.</i>	<i>7-1</i>
7.3	<i>Time of Voting.</i>	<i>7-2</i>
7.4	<i>Voters Unable to Sign Ballot.</i>	<i>7-2</i>
7.5	<i>Special Absentee Ballots.</i>	<i>7-3</i>
7.6	<i>Challenges.</i>	<i>7-3</i>
7.7	<i>Facsimile Transmission of Ballots.</i>	<i>7-3</i>
7.8	<i>Two Ballots Enclosed Within One Return Envelope.</i>	<i>7-3</i>
7.9	<i>Ballots Not Counted-Recording.</i>	<i>7-3</i>
8.	TIES	8-1
8.1	<i>Partisan Primary.</i>	<i>8-1</i>
8.2	<i>Non-partisan or Judicial Primary.</i>	<i>8-1</i>
8.3	<i>Elections.</i>	<i>8-1</i>
8.4	<i>The Method for Resolving Ties by Lot.</i>	<i>8-1</i>
8.5	<i>Recount.</i>	<i>8-1</i>
9.	RECOUNTS	9-1
9.1	<i>Definition.</i>	<i>9-1</i>
9.2	<i>Criteria for Mandatory Recount.</i>	<i>9-1</i>
9.3	<i>Requested Recount.</i>	<i>9-1</i>
9.4	<i>General Procedures for All Recounts.</i>	<i>9-2</i>
9.5	<i>Special Procedures for Requested Recounts.</i>	<i>9-3</i>
9.6	<i>Posting Results of the Recount.</i>	<i>9-3</i>
9.7	<i>Repeated Recounts.</i>	<i>9-3</i>
9.8	<i>Final Cost of Recount.</i>	<i>9-3</i>
10.	MANUAL COUNTING OF BALLOTS	10-1
10.1	<i>General.</i>	<i>10-1</i>
10.2	<i>Counting Ballots.</i>	<i>10-1</i>
10.3	<i>Recording the Count.</i>	<i>10-2</i>
10.4	<i>Completion.</i>	<i>10-2</i>

ADMINISTRATIVE RULES ADOPTION..... 1

APPENDIX

A. VOTER INTENT – Statewide Standards on What is a Vote.....	1
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1. GENERAL INFORMATION

1.1 The Canvassing Board - Authorization and Purpose.

- a. The King County Canvassing Board (hereafter the Board) is established under the authority of Chapter 29A.60 RCW.
- b. The purpose of the Board is to process absentee ballots; determine the validity of provisional ballots; determine tie votes by lot; resolve discrepancies in results; schedule and conduct recount elections; resolve all questions related to the legality of a ballot or any part thereof; canvass the votes in order to certify special, primary and general election results; and perform any other duty required by law or regulation.

1.2 Purpose of the Rules.

- a. These rules serve as the administrative rules implementing the various statutes contained in Title 29A RCW and Administrative Code contained in Title 434 WAC governing the conduct of the Board and the canvassing of elections as required by law (RCW 29A.60.140).
- b. *Provisions of these policies and procedures that are not specifically set forth in statutory or administrative authority are based on past practices and decisions of the Board and are identified by italics. They serve as guidelines to promote consistency; however, each factual question before the Board will be reviewed on a case-by-case basis according to state law and rule. In the event of any inconsistency between these rules and either state law and/or state administrative rule, state law and/or state administrative rules shall control.*

1.3 Definitions

- a. Canvassing means the process of examining ballots or groups of ballots, subtotals, and cumulative totals in order to determine the official returns of and prepare the certification for a primary or election, and includes the tabulation of any votes for the primary or election that were not tabulated on the day of the primary or election. (WAC 434-262-010(1))
- b. County Auditor means, for purposes of these rules, the Director of the Records Elections and Licensing Services Division (the Director) as that county officer having the overall responsibility to maintain voter registration and conduct state and local elections. (RCW 29A.04.025, K. C. Charter 860, K.C.C. 2.16.035A)
- c. Chair, Metropolitan King County Council means the chair of the county legislative authority as provided in the King County Charter, Sections 210 and 220.
- d. *Unofficial Cumulative Election Report Summaries means those periodic reports prepared for the Board after the closing of the polls on a primary or Election Day, with copies for public dissemination, which will reflect the cumulative totals of votes tabulated up to the time the report is prepared for all races (offices and measures) on the ballot without regard to precincts or legislative districts.*

Consistent with state law and rule and as determined by the Director and law, these reports will be prepared at intervals throughout the primary or election evening until the results of ballots voted at the polls have been received at the election center and tallied. Additional unofficial cumulative reports will be prepared throughout the canvassing period to reflect any changes or additions as a result of mail/absentee ballots received, resolution of provisional ballots, or determinations of the Board.

- e. Director's Abstract of Votes is the report prepared by the Director which lists the number of registered voters, votes cast, all vote totals by precinct, or by combination of precincts if applicable, absentee ballot totals, legislative and congressional district subtotals, if any, and county-wide totals. The auditor's abstract of votes also includes the reconciliation report required by RCW 29A.60.235(1). (See Chapter Four for additional details regarding the preparation of the Abstract of Votes.) (WAC 434-262-010 (3))
- f. Count means the enumeration of ballots cast in a given primary or election or crediting a voter with having voted. (Example: The total count for the election was 200 votes. Although the voter did not indicate a choice on his ballot for the particular measure, the ballot was counted.)
- g. Tabulation means the enumeration of votes cast for a candidate or for a position on a measure in a given election that provides a determination of the elector's choice. (Example: Of the 200 ballots counted, 125 were tabulated for Candidate "A" who, having accrued a majority vote, was declared the winner.)
- h. Tally means the process of both counting and tabulating the vote. (Example: After the ballots are received from the various precincts, they will be tallied, or processed, through the vote tallying system.)
- i. Mail ballot is a collective term referring to any ballot not voted at the polling place and includes absentee ballots and ballots sent to "vote-by-mail" precincts.

2. THE CANVASSING BOARD

2.1 Designation of Board Members.

The Board shall consist of three members, designated in writing and filed with the Director of Elections no later than the day before the convening meeting of the Board for the primary or election for which duties are to be undertaken by the Board member. The members shall be designated as follows:

- a. The Director shall designate one member who may be the Director, or the Superintendent;
- b. The Prosecuting Attorney shall designate one member who shall be the Prosecutor or a deputy prosecuting attorney; and
- c. The Chair, Metropolitan King County Council may designate another member of the county legislative body or an employee of the legislative body who reports directly to the chair. An "employee of the legislative body" means an individual who serves in any of the following positions: Chief of staff; legal counsel; clerk of the council; policy staff director; and any successor positions to these positions should these original positions be changed. (RCW 29A.60.140 (1)), (WAC 434-262-015 [03-21-2008]).

2.2 Exclusions and Limitations on Membership Participation.

- a. The members designated to the Board may not include individuals who are candidates for an office to be voted upon at the primary or election to be canvassed unless no other individual qualifies under Section 2.1 above. (RCW 29A.60.150)
- b. If the primary or election is one at which a member of the Board or the officer designating a member of the Board is a candidate for an office, decisions regarding the determination of a voter's intent with respect to a vote cast for that specific office shall be made by the other two members of the Board not designated by that officer. If the two disagree, the vote shall not be counted unless the number of those votes could affect the result of the primary or election, in which case the Secretary of State or a designee shall make the decision on those votes. This does not restrict participation in decisions as to the acceptance or rejection of entire ballots, unless the office in question is the only one for which the voter cast a vote. (RCW 29A.60.150)

2.3 Duration of Designation.

The principals, in designating themselves or another as provided in Section 2.1, must, prior to the convening meeting of the Board for a primary or election to be canvassed, do so for that primary or election; or for all subsequent county elections until the designation is revoked. (WAC 434-262-015)

2.4 Delegation of Authority.

The Board may delegate in writing, at a public meeting, the performance of any task assigned by law to the Board, except that the delegation shall not include the responsibility of certifying the returns of a primary or election, determining the validity of challenged ballots, or determining the validity of provisional ballots referred to the Board by the Director or Elections Superintendent. (RCW 29A.60.140 (2)), (WAC 434-262-015)

3. MEETINGS

3.1 Times for Meetings.

- a. The Director, not later than eight days prior to a primary and any election, special or general, will convene the Board. The Board will remain in session until final certification of the election results with intervening regular meetings as follows:
 - 1) Initial meeting: *Not later than the eighth day prior to the election, or sooner if so scheduled. Establish delegation authority to Elections staff, review procedures as necessary and direct carrying out the processing of absentee and mailed ballots.*
 - 2) Intervening Election Meetings: *Scheduled as needed following the election. Activities include: review the Election Day operations, the status of the canvass and the Preliminary Abstract of Votes (unofficial precinct detail), resolve ballots forwarded to the Board including absentee and mail ballots where voter intent is an issue, and any provisional ballots involving questionable eligibility of the voter. Schedule any required special hearings for voter registration challenges per RCW 29A.08.820 and RCW 29A.08.840*
 - 3) Certification Meeting: *The fifteenth day following a primary or special election or the twenty-first day following a general election. The Board shall complete the canvass and certify the results; review the corrective action taken regarding any errors or discrepancies noted at the previous meeting, if any, and if satisfied, signs the certificate. If no errors and discrepancies were noted, the certificate will be routed for signature. (RCW 29A.60.190 and WAC 434-262-070.)*
- b. The Director will notify the other Board members and designees of the meeting schedules in writing at least one week prior to the Board convening for a given primary or election.
- c. Should an emergency situation arise concerning the disposition of an election or the canvassing of the votes, the Director may call an emergency meeting of the Board to address that situation. The notification shall be as provided in RCW 42.30.080.

3.2 Place for Meetings.

The Board shall meet in the Media Room at King County Elections facilities unless otherwise specified.

3.3 Public Meetings.

Board meetings are open to the public and subject to the requirements of the Open Public Meeting Act, Chapter 42.30 RCW. (RCW 29A.60.140 (5)) and (WAC 434-262-025)

The Director will publish a public notice at least forty-eight hours prior to each meeting or prior to the first meeting if all meetings are included in the single notice. (RCW 42.30.080) This requirement will not apply to special meetings.

3.4 Quorum.

All members of the Board or their designated representatives are expected to be present for Board meetings. However, two-thirds of the members shall constitute a quorum.

3.5 Decisions of the Board.

A majority vote of the members or designated representatives shall be required to carry out the business of the Board. If only two members are present and are unable to agree on a determination, the issue will be held over until the third member is present.

4. CANVASSING PROCEDURES

4.1 Application.

King County uses an optical scan system of recording votes and a stand-alone computer system to tally the recorded votes and to produce a printed report of the tally. This computerized tabulation system has been authorized pursuant to RCW 29A.12.050 and complies with the rules for electronic voting systems contained in Chapter 434-335 WAC. The guidelines provided herein comply with state statutes and shall be followed in conjunction with the procedures contained in the WAC. The canvass shall essentially consist of auditing the computerized tabulations against poll books and printed tapes from the polling place tallying devices, or the return mail ballot envelopes containing the voter's data, comparing the number of ballots cast and counted, and documenting the resolution (if one is found) of any discrepancies.

4.2 Programming Tests.

Prior to using the computerized vote tallying system for any primary or general election, programming tests shall be satisfactorily conducted and certified as required by law. (RCW 29A.12.130) The same procedures shall be followed for special elections except that the Secretary of State designee is not required to be present. (WAC 434-335-280 through 330)

4.3 General Security of the Ballots.

At no time after a ballot has been voted and either deposited in the ballot box or mailed to the Elections Office in a sealed envelope shall a ballot be permitted to be in an unlocked and unsealed condition unless in the presence of at least two authorized election staff, precinct election officials or observers, unless the political parties are unable to provide observers, or in the presence of the Canvassing Board itself. (RCW 29A.60.110) (WAC 434-261-045)

4.4 Preparing Ballots for Tallying.

- a. Polling Place Ballots. Ballots cast at the polling places shall be tabulated by the voting device set in the head of the ballot box as the voter inserts the ballot. The recorded results shall remain locked and sealed until the polls are closed. After the polls are closed, the tabulation results shall be printed out on a tape, one copy of which shall be posted in the polling place, and a second kept with the voting device and returned to the Elections Center along with the memory card for use in canvassing the results. (RCW 29A.60.060)

Voted ballots shall be sealed in transfer containers and along with but separate from any untabulated ballots, the vote tallying device, and the other materials, returned to the Elections facilities. The ballots themselves shall remain sealed unless it is necessary to review them in the course of canvassing. (WAC 434-261-045)

- b. *Mailed Ballots.* Ballots returned by mail shall be delivered to the Absentee work unit. They shall be considered sealed while in the return and security envelopes, and shall be kept in secure storage when not being processed. After validation and crediting, election staff, as designated by the Board, shall open and prepare the ballots for tallying. This process shall not begin until the Canvassing Board has been convened and the direction to initiate processing has been given.
- c. Starting on Election Day, Elections staff shall be directed to tabulate all ballots not previously tallied that have been properly marked according to ballot instructions or as otherwise required by statute.

4.5 Manual Inspection of Ballots.

- a. A manual inspection is required of all mailed-in ballots and any ballots returned from the polling places that have not been read by the optical scan reader device in the polling place. A manual inspection means that all voting positions on both sides of the ballot will be examined to determine whether or not the ballot is readable by the vote tallying system. (WAC 434-261-070)
- b. Upon the opening of the security envelope, the ballots shall be inspected for damage, write-in votes, incorrect or incomplete marks, and questions of voter's intent. (WAC 434-261-070)
- c. If the manual inspection process detects any ballots that are determined to be unreadable in whole or in part, or that contain marks that differ from those in the voting instructions contained on or with the ballot, such that they might not be correctly tabulated by the vote tallying system the ballot shall be duplicated pursuant to the provisions of RCW 29A.60.125 and Section 4.6 of these rules or the ballot shall be forwarded to the Canvassing Board for resolution.
 - 1) *Ballots with more than half of one or more ovals filled in for any single response position shall be tabulated on the optical scan tabulating equipment. This rule does not apply to ballots that the voter has corrected pursuant to the instruction on the ballot as outlined in WAC 434-261-075 by crossing out the incorrect vote and voting the correct choice. Properly corrected ballots should be duplicated pursuant to section 4.6, a, 1 of these rules.*
 - 2) *Ballots with less than half of one or more ovals filled in for any single response position shall be forwarded to the Board for determination. This rule does not apply to ballots where the voter has marked the ballot with a discernable and consistent pattern such that the voter intent can be clearly discerned and yet the marks are incorrect as to prevent the ballot from being correctly tabulated by the tabulating equipment. (WAC 434-261-086). Ballots with a discernable and consistent pattern should be duplicated pursuant to section 4.6, a, 5 of these rules.*
- d. Rejection of Ballots. Entire ballots shall be rejected if:
 - 1) Two or more ballots are found folded together (WAC 434-262-031(1));
 - 2) The ballot is marked so as to identify the voter (RCW 29A.60.040);
 - 3) A voter has voted more than one ballot (WAC 434-262-031(1));

- 4) The voter is not qualified to vote in this election (WAC 434-262-031); or
 - 5) A mail ballot is not signed by the voter whose signature is on file with the Elections Office or is unsigned. (RCW 29A.40.110(3)) (WAC 434-250-120).
- e. Partial Rejection of Ballot. Those parts of a ballot are invalid and no votes may be tabulated for those issues or offices where:
- 1) More votes are cast for an office or issue than are permitted by law (RCW 29A.60.040);
 - 2) Write-in votes that do not meet the criteria provided in RCW 29A.60.021 (RCW 29A.60.040);
 - 3) The issue or office is not marked with sufficient definitiveness to determine the voter's choice or intention; (RCW 29A.60.040) or
 - 4) The voter has voted for candidates or issues for which he or she is not entitled to vote. (WAC 434-262-.031)

4.6 Duplication

The following rules are to be used in conjunction with WAC 434-261-080 and the statewide standards set forth by the Office of the Secretary of State:

- a. The King County Canvassing Board delegates to authorized election section staff the authority to duplicate ballots in the following situations:
 - 1) The voter has corrected the ballot pursuant to the instruction on the ballot by crossing out the incorrect vote and voting the correct choice. (WAC 434-261-075 (1)(c))
 - 2) The voter has written in the name of a candidate for an office where that same candidate's name is listed on the ballot regardless of whether the voter completed the oval or not. (WAC 434-261-075 (1)(i))
 - 3) The voter has rendered his or her ballot such that it cannot be counted correctly by the tabulating equipment and the intent of the voter is not in question because the ballot is otherwise correctly marked.
 - (a) Examples of this situation include but are not limited to a torn ballot, a ballot with errant writing or scribbles in the timing marks, a ballot that was marked with ink that bled through, a ballot that a voter attempted to correct with whiteout, a ballot with adhesive tape applied to it.
 - (b) This situation does not include ballots where the ovals are not properly filled in by the voter (See Subsections 4,5 and 6 below)
 - 4) The voter has marked the ballot correctly but with a red pen or other marking device that is unreadable by the tabulating equipment.
 - 5) The voter has uniformly marked the ballot with a discernable and consistent pattern such that the voter intent can be clearly discerned and yet the marks are incorrect as to prevent the ballot from being correctly tabulated by the tabulating equipment. (WAC 434-261-086 (1)(b))

- (a) Examples of this situation include but are not limited to a voter circling the name of his or her selected candidates or marking the target area ovals with checkmarks or x's.
- 6) The voter has attempted to correct his or her ballot in a way other than as instructed but has provided clear written instructions directing how the vote should be counted. (WAC 434-261-075 (1)(e))
- b. Duplication Instructions (RCW 29A.60.125; WAC 434-261-100)
 - 1) Each ballot to be duplicated must be assigned a unique control number with such number being listed on the face of the ballot. A log shall be kept of the duplicated ballots containing at least the following information:
 - (a) The ballot's unique control number.
 - (b) The initials of at least two people who participated in the duplication of the ballot.
 - (c) The total number of ballots duplicated.

4.7 Board Assessment and Determination.

- a. In the event the following situations arise, all ballots concerned will be delivered to the Board for review along with a signed concise record of the facts in question or in dispute, and, as to each ballot, a determination shall be made as to whether it shall be counted, partially counted or rejected. (RCW 29A.60.050)
 - 1) Any ballot where there is a question as to the identification of the precinct from which the ballot originated.
 - 2) Any ballot wherein marks upon the ballot raise a question of voter intent. (WAC 434-261-086 (1)(s))
 - 3) Any ballot where the eligibility of the voter to cast the ballot has not been resolved. (*See Chapter 6 - Provisional Ballots*)
 - 4) Challenged ballots. (RCW 29A.08.810) (*See Chapter 5 of this manual*).
 - 5) Any ballot for which there is a question of its validity or the validity of the votes cast thereon that cannot be resolved by election staff pursuant to the Board's delegation.
- b. *EXAMPLES OF SPECIAL CASE BALLOTS (Ballots to be delivered to the Board for review and determination):*
 - 1) *A ballot with the wrong ballot code issued to the voter; or*
 - 2) *A ballot other than the regularly issued ballot, such as a ballot issued when the supply of regular ballots is exhausted; or*
 - 3) *A ballot or ballots that have not remained in the custody of the judges or appropriate observers; or*
 - 4) *Ballots that have not been properly sealed in the ballot pouch, transfer container or election center storeroom when not in the custody of precinct election officials or under the observance of designated party observers. (WAC 434-261-045 and 434-261-007)*
- c. Special case ballots shall be reviewed by the Board for determination. The Board shall determine that any ballot will be valid if it is otherwise valid under state law and rule and if:

- 1) The votes are for offices or measures for which the voter is eligible.
- 2) The candidate or measure response for which the voter is voting can be clearly determined.
- 3) When the voter has appeared to have corrected his or her ballot in a manner other than as instructed but the voter has provided written instructions on how the vote is to be counted.
- 4) When on write-in ballots, an abbreviation is used to designate the political party, office or position and the voter's intent can be determined to the Board's satisfaction. (RCW 29A.60.021) (WAC 434-262-160)

4.8 Processing Irregular Ballots for Board Review.

- a. *Group of Ballots. Ballots sent to the canvassing board for review and disposition will be grouped as best as possible according to similarities in circumstance or issue.*
- b. *Code Numbers and Logs. Each person responsible for preparing ballots for review by the Board shall maintain a log of all such ballots identified by sequential code number, precinct identification or ballot code, date submitted to the Board and summary of the Board's determination after review. These logs will be used to validate updates to election tabulations based on the ballot determinations of the Board.*
- c. *Board Review. The Elections Superintendent, or designee, shall present ballots prepared for the Board to review. The determination of the Board shall be a matter of record and shall be entered upon the envelope, accompanied documentation or container holding the ballots for review and shall be initialed by the Board members. The Elections Superintendent shall be responsible for ensuring that all reviewed ballots are processed as determined by the Board. If the Board determines that the ballot must be duplicated before being tabulated, the usual rules for duplicating a ballot shall be followed.*
- d. *Board Determination. The Board shall make the determination of ballots either in groups of similar ballots or ballots marked in a similar way or make the determination of a single ballot. For example, the Board may determine that a group of ballots was post marked on time and valid for continued processing and that another group of ballots was postmarked too late and are to be rejected. Further, the Board may make the determination that a group of ballots all marked for candidates in a similar way are votes for the respective candidates and shall be duplicated for tabulation.*

4.9 Initial Reports

As soon as possible after the results of all polling place ballots have been received, the Director shall produce an unofficial tabulated report of how the votes were tallied for each candidate for office and how each measure carried on the ballot for that election. The report shall include the initial tabulation of all polling place, absentee and mail ballots received and verified by close of the polls. It shall be referred to as the "unofficial cumulative election report." The Director may, as a convenience to interested parties, produce interim unofficial cumulative reports reflecting partial returns between the time of the closing of the polls and the Preliminary Abstract. A schedule of such reports will be provided in advance.

4.10 Canvassing the Returns.

- a. The canvassing of the returns shall, among other things, consist of comparing the accounting of ballots in the poll books with the count of polling place ballots prepared by the vote tallying system.
- b. The results printed by the vote tallying device from each polling place on election night prior to the transmission of results to the Elections Center shall be compared against the tally of the ballots produced by the central vote accumulating computer.
- c. Mail ballots received prior to certification and postmarked no later than Election Day shall be canvassed by comparing the number of ballots received against the tally of mail ballots produced by the central vote accumulating computer, plus those ballots that were not tallied. The canvass report will identify the numbers and reasons for not counting these ballots.

4.11 Preliminary Abstract.

Within forty-eight hours of the closing of the polls, the Director shall produce a Preliminary Abstract of the votes which shall consist of a tabulation of the election returns to date for all offices and measures on the ballot by precinct. Designated delegates of the Board shall compare this report with the poll and signature books for each precinct. Any discrepancy between the books and Preliminary Abstract shall be brought before the board for resolution. Provisional ballots will not have been included in the Preliminary Abstract at this point. (WAC 434-262-020)

4.12 Reports and Abstracts.

- a. Reconciliation Report. Pursuant to the requirements of RCW 29A.60.235(1) and WAC 434-262-030, the Director shall have prepared a reconciliation report at the time the election is certified. This report shall contain the following numbers: registered voters; ballots counted; provisional ballots issued; provisional ballots counted; provisional ballots rejected; absentee ballots issued; absentee ballots counted; absentee ballots rejected; federal write-in ballots counted; out-of-state, overseas, and service ballots issued; out-of-state, overseas, and service ballots counted; and out-of-state, overseas, and service ballots rejected.
- b. Director's Abstract of Votes. Prior to certification of the election the Director shall have prepared an Abstract of Votes. This abstract shall contain all the ballots cast in the election with subtotal reports for each legislative district.
- c. Final Election Reconciliation Report. Pursuant to the requirements of RCW 29A.60.235(2), the Director shall have prepared a final reconciliation report within thirty days of certification of the election. This shall contain the following numbers: registered voters; total voters credited with voting; poll voters credited with voting; provisional voters credited with voting; absentee voters credited with voting; federal write-in voters credited with voting; out-of-state, overseas, and service voters credited with voting; and voters credited with voting even though their ballots were postmarked after Election Day and were not counted.

- d. Staff Reports. The Superintendent or a designee shall see that the following detailed reports are presented to the Board prior to the certification of the election: polling place reconciliation report; provisional ballot report; mail ballot report; mail ballot batch accountability report; mail ballot rejection report; and the provisional ballot rejection report. These reports shall detail the disposition of each type or groups of ballots identified in each specific report. (RCW 29A.60.235)
- e. Errors or Discrepancies. If the Board discovers errors or discrepancies in any report or abstract submitted to the Board, these errors and discrepancies shall be investigated. The Board shall take whatever corrective steps a majority of the Board members deems necessary. Authorized corrective action includes changing or modifying a report. (RCW 29A.60.210) (WAC 434-262-050)
- f. Corrective Action Documentation. If the Board takes corrective action involving any report or abstract, a written narrative of the cause of errors or discrepancies discovered and the corrective action taken shall be prepared. Each member of the Board shall initial any alterations or modifications to the Director's Abstract of Votes and each shall also sign a written narrative. (WAC 434-262-060)

4.13 Official County Canvass Report and Certification.

- a. Upon verifying the Director's Abstract of Votes and documenting any corrective action taken, the Board members shall sign a certification that the abstract is a full, true and correct representation of the votes cast for the listed issues and offices.
- b. In addition, the official county seal shall be attached.
- c. The certification, the Director's Abstract of Votes, and any written narrative of errors or discrepancies, shall constitute the official county canvass report.
- d. If the election encompassed jurisdictions not wholly contained within King County, a copy of the certified report shall be forwarded to the Secretary of State or the appropriate auditor of the county in which the rest of the jurisdiction is located.
- e. The vote totals contained in the official county canvass report shall constitute the official election returns and shall not be altered or amended except following a recount or upon

5. VOTER REGISTRATION CHALLENGES

5.1 Duty of Canvassing Board Generally.

The Board is statutorily charged with the duty to hear and determine voter registration challenges filed with the Elections Office .It is the Board’s duty to determine whether or not the vote cast by the challenged voter is valid. [The Records, Elections and Licensing Services Division Director shall hear Challenges filed forty-five (45) days or more prior to an election.] RCW 29A.08.820.

5.2 Procedures for Challengers.

- a. Qualifications of Challengers. A challenger must be a registered voter. (RCW 29A.08.810)
- b. Time for Challenge.
 - 1) Challenges within Forty-Five (45) Days of Election Day. A challenger must file a challenge with the Director ten days before any primary, special or general election or within the voter being added to the registration database. The Director shall have registration challenge forms available. (RCW 29A.08.820) (WAC 434-324-115)
 - 2) Challenges at Poll on Election Day. Only a poll site inspector or judge may challenge a voter's registration at the polls based upon the belief or knowledge of that officer that the voter is unqualified. The officer's challenge shall not be based on unsupported allegations or those by anonymous third parties. (RCW 29A.08.810)
- c. All Challengers Must:
 - 1) File a signed affidavit subject to penalties of perjury that, to the challenger's personal knowledge and belief, the voter does not maintain a legal voting residence at the address shown on his voter registration record or is otherwise ineligible to vote. (RCW 29A.08.810)
 - 2) If the challenge is based on residence, furnish the address at which the challenged voter actually resides or provide evidence as required by RCW 29A.08.810(1)(c)(ii) of due diligence to verify that the challenged voter does not reside at the address provided. (RCW 29A.08.810)
 - 3) File the challenge and affidavit with the Director.
 - 4) Either appear in person to present the relevant facts and arguments before the Board or submit an affidavit stating the facts and arguments in support of the challenge. (RCW 29A.08.840)

5.3 Procedures for Challenged Voters.

- a. Challenged voters may:
 - 1) Vote a ballot which shall be placed in a sealed envelope separate from other voted ballots and transmitted to the Board at the close of the polls (RCW 29A.08.820), or
 - 2) Properly transfer or re-register until the day before the primary, special or general election. (RCW 29A.08.840)
- b. If the challenged voter votes a challenged ballot, the challenged voter may:
 - 1) Appear at the Board hearing in person to present the relevant facts and arguments; or
 - 2) File an affidavit with the Board presenting any facts or arguments to support the validity of the registration. (RCW 29A.08.840)

5.4 Procedures for Precinct Election Officials.

Precinct election officials who have filed a challenge shall:

- a. Process a challenged ballot as described in Section 5.3a above if the challenged voter wishes to vote.
- b. Appear in person before the Board or file an affidavit with the Board presenting any facts or arguments supporting the challenge. (RCW 29A.08.840)

5.5 Director's Procedures.

The Director shall:

- a. Within seventy-two hours of receiving the challenge, publish on the Elections website, the entire content of the challenge filed. (RCW) 29A.08.035
- b. Notify the challenged voter, and precinct election officials in the challenged voter's precinct if voting at the polls, that a challenge has been filed;
- c. Provide the name of the challenger to the challenged voter and the precinct election officials;
- d. Instruct both the precinct election officials and the challenged voter that a challenged ballot will be provided if this has not already been accomplished, or
- e. Check the voter registration files and, if a mail or absentee ballot has been issued to the challenged voter, flag the file so that the ballot may be intercepted at the time that it is processed for signature verification. It will then be processed as a challenged ballot as described later in Section 5.8 of this Chapter;
- f. Inform the challenged voter that his or her registration status and the disposition of the challenged ballot will be decided by the Board;
- g. On behalf of the Board, notify the challenger and challenged voter and, if applicable, the challenging precinct election official and third party by certified mail of the time and location at which the Board will meet to rule on challenged ballots. (RCW 29A.08.840)

5.6 Time of Hearing.

The Board hearing shall occur no later than the time for certifying the particular primary, special or general election. The decision of the Board shall be made within the same time limit. (RCW 29A.08.840)

5.7 Presumption.

Registration creates a presumption that a voter has the right to vote as registrations are presumed valid until proven otherwise. (RCW 29A.08.810)
A challenged person shall be permitted to vote a challenged ballot. (RCW 29A.08.820)

5.8 Processing a Challenged Ballot at the Polls.

The challenged person shall be permitted to vote a ballot which shall be placed in a sealed envelope marked "challenged ballot" and maintained separate from other voted ballots. If the ballot has been challenged by a precinct election official, included with the ballot shall be the affidavit signed by the precinct election official, stating the reasons the voter is being challenged. (RCW 29A.08.820)

The sealed ballots of challenged voters shall be transmitted at the close of the polls to the Elections Office in the large envelope marked "Irregular Voted Ballots." The Board's delegates shall give all challenged ballots to the Elections Superintendent who shall prepare the appropriate notifications for the Director and shall advise the Board of the number and status of the challenged ballots.

5.9 Procedure at the Board Hearing.

- a. Oath. All witnesses shall be placed under oath.
- b. Number of Witnesses. The number of witnesses shall not be limited unless the testimony becomes repetitive or goes beyond the time limits for presenting testimony.
- c. Length of Hearing. The challenger and challenged voter shall be provided adequate time to present evidence.
- d. Questioning of Witnesses. Members of the Board shall be free to examine any witness at any time in the proceeding.
- e. Burden and Standards of Proof. The burden is always on the challenger to prove by clear and convincing evidence that the challenged voter's registration is improper. (RCW 29A.08.840)
- f. Recording. The Board hearing shall be transcribed by court reporter.

5.10 Decision.

The decision of the Board shall be issued prior to the certification of the election at issue. The Canvassing Board's decision shall be final and subject only to judicial review. (RCW 29A.08.840)

5.11 Remedies.

The effect of a Board decision that a challenged registration is valid shall be to count the ballot and to give the registration full effect. Registrations determined to be invalid shall be canceled immediately and the voted ballot shall not be counted. (RCW 29A.08.840)

6. PROVISIONAL BALLOTS

6.1 Provisional Ballots.

Provisional ballots are those ballots issued when either the voter's name does not appear in the poll book at the polling place where the voter presents him or herself, or the poll book indicates that the voter has been issued an absentee ballot which the voter claims that he or she did not use. (RCW 29A.04.008 (5))

6.2 Processing Provisional Ballots at the Elections Office.

The Director shall process provisional ballots delivered to the Elections Office in the following manner:

- a. Question of Valid Registration:
 - 1) Ascertain from the voter registration files whether the voter is in fact registered. If the voter is carried as "inactive," restore to active status.
 - a. If "yes" the ballot shall be counted, provided the proper ballot has been voted. (See sub-paragraph (c) below.)
 - b. If "no" the cancellation files shall be checked to see if the voter was previously canceled. If yes, the time and reason for the cancellation shall be noted. If the Director determines that the cancellation was correct and valid, or that there exists no record of a prior registration in this county, the ballot shall not be counted.
 - c. If the Director determines that the cancellation was in error, the voter's registration shall be immediately reinstated and the ballot counted. (RCW 29A.08.625)
 - 2) If proof of registration was presented at the polling place, the ballot shall be handled as provided in Section 6.2a above, except that a presumption of registration shall be made unless documentation of a valid cancellation is on file.
- b. Question of Proper Ballot. *When it has been shown that the voter has a valid registration but voted at other than his or her assigned polling place, ballot styles of both ballots will be compared and the common offices and/or measures noted.*
 - 1) *If the styles are identical and all offices and measures are the same, the ballot shall be counted.*
 - 2) *If the ballot styles are different, a duplicate ballot shall be prepared with only the common offices and/or measures marked. The duplicate ballot shall be duplicated according to the provisions of Section 4.6 of these rules.*
 - 3) *If there are no common offices or measures, the ballot shall not be counted but the voter shall be credited with having voted.*

- c. Absentee Voter Voting at the Polls. When the records show that the voter was issued an absentee ballot but then voted a provisional ballot at the polls, the provisional ballot shall be counted after waiting as long as administratively possible if the absentee ballot has not been returned. The voter shall be credited with voting immediately so that if a voted absentee ballot is received later, it will be rejected as a second ballot. (WAC 434-253-047(b))
- d. Unresolved Ballots. Ballots where the status of the voter's registration has not been satisfactorily resolved, or there is a question regarding the commonality of offices and/or measures on ballots voted on a ballot system different from that used at the voter's regular polling place, or if a voter has voted more than one ballot shall be resolved by the Board.

The procedures for enveloping, annotating, and transferring provisional ballots shall be as provided the King County Election Operations Policy and Procedures Manual.

7. ABSENTEE BALLOTS

7.1 General Provisions.

- a. Absentee Ballot Status. Absentee ballots shall be handled, processed and tabulated in a manner as to provide essentially the same security and integrity afforded ballots cast at the polls. Therefore, except as provided in this chapter or otherwise required by law, policies and procedures governing poll ballots shall also apply to absentee ballots.
- b. Processing of Absentee Ballots. The initial processing of absentee ballots, which includes signature and postmark verification and crediting of the vote shall be performed by delegates of the Canvassing Board and assigned staff and shall commence as soon as possible.
- c. Opening of Absentee Ballots. Ballots shall not be removed from the outer envelopes until after verification and validation are completed and in any event not until after the Board has been convened. The opening of the inner security envelope and the extraction of the absentee ballot should take place in the presence of political party observers if they are available, after which the ballots will be locked and sealed until they are tabulated. (RCW 29A.40.110). (See also Chapter 4.)
- d. Setting of Vote Tallying Devices- Rejected Ballots. The vote tallying devices used to tally mail ballots shall be set to reject all over-voted and blank ballots. All rejected ballots shall be out stacked for additional manual inspection. The re-inspection shall be conducted in the same manner as the initial inspection (see Section 4.7) with special attention being given to stray marks, erasures, and other conditions that may have caused the vote tallying devices to misread and reject the ballot.
- e. Elections by Mail. The policies and procedures governing absentee ballots shall apply to mail ballots except as delineated in law or rule.

7.2 Review of Returned Ballot Envelopes.

- a. Examination. Delegates shall examine the postmark and signature on each absentee ballot return envelope containing a ballot.
 - 1) Postmark shall be examined in accordance with 7.3 and applicable state laws to determine timeliness.
 - 2) Signatures must be on the appropriate place on the envelope following the affidavit of absentee ballot applicant. (WAC 434-250-120)
- b. Comparison of Signatures. The delegates of the Board shall then verify that the voter's signature is the same as that on the original application or registration card or exact facsimile thereof of that voter. (RCW 29A.40.110 (3)) A signature is considered a match if at least three traits of the two signatures are the same. The following characteristics must be utilized to evaluate the signatures to determine if there are three traits in common:

- 1) Agreement in style and general appearance, including basic construction, skill, alignment, fluency, and a general uniformity and consistency between the signatures;
- 2) Agreement in the proportions of individual letters, height to width, and heights of the upper to lower case letters;
- 3) Irregular spacing, slants, or sizes of letter that are duplicated in both signatures;
- 4) After considering the general traits, agreement of the most distinctive, unusual traits of the signatures.

Any returned ballot where Board's delegates have a question regarding whether the voter's signature is the same as the original the signature shall be referred to the Board. In comparing signatures, the Board may take into account the date of the original signature, the current age of the voter, or any other circumstances that might account for differences between the two signatures. (WAC 434-250-120 and 434-379-020)

7.3 Time of Voting.

- a. Deadline. All properly voted absentee ballots received on or before the day in which a primary, special or general election is certified to be held shall be included in the canvass. All other returned ballots shall be handled as follows:
- b. Ballot Received After Election Day: Determination of Date of Mailing.
 - 1) Out of State, Overseas, and/or Service Voters
 - (a) Voter Attestation. The date of mailing shall be the date indicated by the voter on the return envelope. (RCW 29A.40.110)
 - (b) Postmarks. If the voter signs the return envelope but fails to date it, the date on the postmark shall control. If the envelope is neither dated nor postmarked, the ballot shall not be counted.
 - 2) All Other Voters.
 - (a) Postmarks. The date of mailing shall be the postmark, if present and legible. (RCW 29A.40.110)
 - (b) Illegible Postmarks. If the postmark is missing or illegible, the date on the return envelope to which the voter attests shall determine the date of mailing. (RCW 29A.40.110)
- c. Ballots Postmarked After Election Day. All absentee ballots showing a postmark subsequent to the date of a primary, special or general election, or a date indicated by the voter subsequent to the date of the primary, special or general election as provided above, shall not be counted. The voter will be credited with having voted, but the ballot shall not be counted in the determination of any validation requirements. (RCW 29A.40.110)

7.4 Voters Unable to Sign Ballot.

In cases where the voter is unable to sign his or her name, the ballot will be considered valid and the votes tabulated if the voter places a mark upon the return envelope in or near the signature block, which is then witnessed by and attested to by the signatures of two other persons. (WAC 434-250-120)

7.5 Special Absentee Ballots.

- a. General Duties. Special absentee ballots, as authorized by RCW 29A.40.050, shall be canvassed in the same manner as regular absentee ballots. (RCW 29A.40.050(3))
- b. Special and Regular Absentee Ballots Both Voted. If a regular absentee ballot and a special ballot are both properly voted and returned by the same voter, the special absentee ballot shall be void. (RCW 29A.40.050(4))

7.6 Challenges.

The qualifications of any absentee voter may be challenged at the time the signature on the return envelope is verified and the Board processes the ballot. The Board has the authority to determine the legality of any challenged absentee ballot. (RCW 29A.40.140) (See Chapter 5 - Voter Registration Challenges).

7.7 Facsimile Transmission of Ballots.

Ballots that are transmitted by electronic facsimile telecommunications devices are considered "mailed ballots" and shall be processed in a manner similar to absentee ballots except as follows:

- a. Transmittal by FAX to Voter and Returned by Mail. Process the same as a damaged ballot and the votes duplicated to a blank ballot that can be read by the vote tallying device.
- b. Voted Ballot Transmitted to Elections by FAX. In order to be counted, the following must be met:
 - 1) The originally signed ballot must be received prior to the certification of the election.
 - 2) The ballot must be accompanied by a Waiver of the Right of Secrecy. (WAC 434-208-060(4))

7.8 Two Ballots Enclosed Within One Return Envelope.

If both ballots are voted identically, count one ballot for the person signing the return envelope and do not count the other. If the ballots are not voted identically, neither ballot counts. However, credit shall be given to the person signing the return envelope as having voted at that election. If two persons have signed the affidavit on the envelope and there are two ballots within the security envelope(s), both ballots shall be counted. (WAC 434-262-031)

7.9 Ballots Not Counted-Recording.

A record by category shall be maintained by the Mail Ballot Supervisor (Board delegate) of all mail ballots not counted as a result of the guidelines or determinations exercised in this Chapter. The report shall be included as part of the official Canvass Report to the Board. Ballots not counted shall be retained and presented, all or in part, to the Board upon its request.

8. TIES

8.1 Partisan Primary.

If two or more candidates from the same party are tied for the same office at a partisan primary, the Canvassing Board shall determine the winner by lot. (RCW 29A.60.221)

8.2 Non-partisan or Judicial Primary.

If two or more candidates in a nonpartisan or judicial primary receive the second greatest and identical number of votes for an office and are thus tied, the Board shall determine the tie by lot. (RCW 29A.60.221)

8.3 Elections.

Tie votes in elections shall be publicly decided by lot in the manner authorized by RCW 29A.60.221.

8.4 The Method for Resolving Ties by Lot

The method for resolving ties by lot shall be by the tossing of a coin or by another method approved by the Board. The Board shall designate which candidate will be indicated by each side of the coin prior to the toss.

8.5 Recount.

If a tie results from the original tabulation of the ballots, the Board may direct a recount as provided in Chapter 9 before taking action to resolve the tie.

9. RECOUNTS

9.1 Definition.

“Recount” means the process of re-tabulating ballots and producing amended election returns based on that re-tabulation, even if the vote totals have not been changed.

9.2 Criteria for Mandatory Recount.

- a. If official election results indicate that the difference in the number of votes cast for the candidate apparently nominated or elected to any office and the number of votes cast for the closest apparently defeated opponent is less than 2,000 votes and also less than one half of one percent of the total number of votes cast for both candidates, or if the results indicate a tie between candidates, the Canvassing Board on its own motion shall conduct a recount of all votes cast for that position at no cost to any candidate. (RCW 29A.64.021) (*See Chapter 10 regarding criteria for manual (hand-count) of ballots*)
- b. If such a difference occurs for a position or office that appears on the ballot in more than one county, the direction to conduct the recount shall be given by the Secretary of State. (RCW 29A.64.021(1)(b))
- c. For statewide measures meeting the criteria for a recount, the Board shall conduct a recount as directed by the Secretary of State. (RCW 29A.64.090)

9.3 Requested Recount.

- a. Eligibility to Request a Recount. An officer of a political party, or any person for whom votes were cast in a primary who was not declared nominated or any person for whom votes were cast at an election, may file a written application for a recount of the votes cast for all candidates for that office. A group of five or more registered voters may file a written application for a recount of votes cast upon any local ballot measure. (RCW 29A.64.011)

A group of registered voters should also designate one of their membership as chairperson and shall indicate the voting residence of each member of the group. (RCW 29A.60.011)
- b. Time for Filing Recount Application. The person filing an application for recount must do so in writing within three business days of the date the Board or Secretary of State has declared the election official. (RCW 29A.64.011)
- c. Contents of Application for Recount. An application for a recount shall state the office, issue or question for which a recount is requested and whether the request is for all or only a portion of the votes cast. (RCW 29A.64.030) The application must also indicate if it is desired that the recount be conducted manually (hand-count) or by vote tallying system. (RCW 29A.64.011)
- d. Deposit. The person filing a recount application shall deposit with the Board a sum, either in cash or by certified check, equal to:
 - 1) For a recount by vote tallying system: \$0.15 for each ballot.

- 2) For a manual recount: \$0.25 for each ballot (RCW 29A.64.030)

9.4 General Procedures for All Recounts.

- a. Time for Recount. The Board shall determine the date, time and place at which the recount will be conducted. (RCW 29A.64.030)
- b. Notice of Recount. The Director shall send notice of the time and place of the recount proceeding by mail to the applicant(s) and if the recount involves an office, any person for whom votes were cast for that office. The notice shall be mailed not less than two days before the date of the recount. In addition, personal notification may be provided by either telephone, fax, e-mail, or other electronic means of mailing. Each transmission shall request a response which verifies that the person has received the message. At least two attempts will be made in this manner during the two-day period. The notice shall also inform the addressees that they may witness the recount proceedings and be accompanied by a lawyer. (RCW 29A.64.030)
- c. Observers. Interested persons may attend and observe a recount proceeding by the Board subject to physical limitations of the Elections Office. In cases of insufficient space for all interested persons to view the recount proceeding, priority should be given to the applicant and candidates potentially affected by the recount and their counsel and then to any observers formally designated by the applicant or candidate. The Board may limit the number of persons observing any aspect of the process whenever it is necessary to preserve order and to safeguard the integrity of the process. (RCW 29A.64.030)
- d. Guidelines: *Witnesses attending the recount shall be provided guidelines for conduct during the recount process.*
- e. Role of Witnesses. Witnesses shall be permitted to observe the ballots and the process of tabulating the votes. However, witnesses shall not be permitted to touch the ballots or interfere with the recount process. (RCW 29A.64.041)
- f. Recounting Votes. The sealed containers shall be opened and the ballots recounted in the presence of the Board or its delegates and all witnesses. The methods of recount shall be by the same method as the original tally unless:
 - 1) The total number of ballots to be counted is 200 or less, in which case the recount shall be by hand, or
 - 2) The difference in the number of votes cast for the candidates is less than 150 votes and less than one-fourth of one percent (0.025%) of the total number votes cast for both candidates, in which case, the recount shall be by hand (RCW 29A.64.021(b)), or
 - 3) The Board specifically directs a different method be used, or
 - 4) If the recount is requested, the requester indicates a different method. (RCW 29A.64.011) Ballots shall be handled only by members of the Board, their duly authorized representatives or by elections staff personnel. (RCW 29A.64.041)
- g. Challenges. Challenges of ballots and/or voters shall not be allowed prior to or during a recount. The prior decision of the Board either including or excluding a particular ballot during the canvassing process is not in question during the recount. (RCW 29A.08.810; the statutes governing the contesting of election results are provided in Chapter 29A.68 RCW.)

9.5 Special Procedures for Requested Recounts.

- a. Written Request to Stop. The applicant or applicants may file a written request to stop the recount with the Board at any time before the ballots from all of the relevant precincts have been recounted. (RCW 29A.64.041)
- b. Partial Recount. In those cases where a partial recount has been conducted and the results of the recount, as reflected in the amended declaration of results of the election, changes the results of the original election certified by the Board, the Board shall order a complete recount of all the ballots cast for the office or issue for the jurisdiction in question. (RCW 29A.64.050)

9.6 Posting Results of the Recount.

- a. *Immediately upon completion of the recount or at the time specified by the secretary of state, the Director will provide the affected candidates and/or the requester, and at the Director's discretion, any other interested parties, with the results of the recount. If the results of the recount differ from the results recorded in the official County Canvass Report, the Director shall advise those present that an amended Abstract of Votes shall be prepared and certified.*
- b. Amended Abstracts. Upon the completion of the canvass of the recount of the ballots, the Director shall prepare for the Board's certification an amended abstract showing the revised cumulative summary of the recounted ballots, if any, as well as the votes cast in each precinct in which the office or proposition was submitted to the voters. Copies of the certified amended abstract must be distributed to the same persons or agencies as the original certified Abstract of Votes. (See, Section 4.11 of these rules.) (RCW 29A.64.061)

9.7 Repeated Recounts.

After the original count, canvass, and certification of the results, the votes cast in any precinct may be recounted and the results certified no more than twice (RCW 29a.64.070).

9.8 Final Cost of Recount.

The Board shall determine the actual expenses incurred for conducting a recount. The cost shall be deducted from the amount deposited by the applicant and the balance returned to the applicant. If the costs exceed the deposit, the applicant shall be billed for and pay the difference. However, if the recount changes the result of the nomination or election for which it was ordered the applicant shall receive back the entire deposit. (RCW 29A.64.081)

10. MANUAL COUNTING OF BALLOTS

10.1 General.

The usual method of counting ballots for the canvassing of elections under the purview of the Board shall be by computerized vote tallying equipment as provided for in Chapter 29A.12 RCW and in Chapter 4 of these rules.

However, situations may occur from time to time that will require or call for a manual counting of these ballots. These situations include:

- a. Whenever the difference in the number of votes cast in a statewide election is less than one thousand votes and less than one-fourth of one percent (0.025%) of the total number of votes cast for both candidates or whenever the difference in the number of votes cast for the candidates in any other election is less than 150 votes and less than one-fourth of one percent (0.025%) of the total number votes cast for both candidates, in which case, the recount shall be by hand (RCW 29A.64.021(b)), or
- b. When the computerized vote tallying system becomes inoperative, or the tabulation program is shown to be defective, or
- c. During a recount of the ballots where fewer than 200 ballots are involved, or when specified by the party requesting a recount or when required by law, or (See Chapter 9.)
- d. When a ballot type is used which cannot be processed by the vote tallying equipment, or
- e. When so directed by the Board.

10.2 Counting Ballots.

- a. Counting will be performed by a team or teams of two members each plus a single recorder.
- b. The ballots will be distributed by precinct among teams, if more than one team.
- c. The ballots of each precinct will be divided approximately evenly between the team members who shall verify that all ballots the team has been given are from the same precinct.
- d. The ballots of each precinct will be divided approximately evenly between the team members who shall separate the ballots by positions. i.e., one pile for each position designated for the race or measure being considered; separate piles shall also be made for "no counts", or under votes (i.e., none of the designated positions are marked), and if any occur, a separate pile for overvotes (i.e., where more than one position per office or measure is made unless a choice of more than one is allowed). The team shall count only the marks for a single race or measure at a time.
- e. Each team member will then proceed to independently check all ballots marked for each position to ensure that all ballots are marked for the particular position.

- f. On the completion of the count, the team member will independently record their count on a separate tally sheet identifying both the precinct and the position numbers.
- g. The tally sheets are given to the recorder who shall check to see that the counts are the same. If not, the recorder shall direct the members to recount again until each gets the same count. If the counts are the same, the recorder shall record the count on the summary tally sheet, advising the observers of a completed precinct count.

10.3 Recording the Count.

When the count of all precincts is completed, the recorder shall add up the precinct count for a total count for each position. If being used for a recount, the summary tally sheet shall include a column for the original count for each precinct for each race and measure for comparison, and a "difference" column to indicate by positive or negative numbers the difference from the original to the recount. The completed summary tally sheet shall be given to the Elections Superintendent or designee.

10.4 Completion.

When all ballots have been counted they shall be secured and sealed. The results of the count shall be entered into the Director's Abstract of Votes, or, if part of a formal recount, prepared as an amendment to the certified abstract of votes.

ADOPTION

The foregoing Administrative Rules are ADOPTED by the King County Canvassing Board
this _____ day of _____, 200__.

Sherril Huff, Director
King County Elections Division

Kevin Wright, Designee, Prosecuting
Attorney's Office

Anne Noris, Designee, Metropolitan King
County Council Staff

Appendix A: Voter Intent – Statewide Standards on What is a Vote

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