



King County

Department of Elections

Elections Procedure

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KING COUNTY CANVASSING BOARD ADMINISTRATIVE RULES

Elections Procedure
AD3-001 A



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KING COUNTY CANVASSING BOARD FOR ELECTIONS

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MS: ELE-ES-0100

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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 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. (RCW 29A.04.013, WAC 434-262-010(1))
- b. County Auditor means, for purposes of these rules, the Director of Elections (the Director) who is the 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 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, the initial report will be prepared after 8:00pm on election night. Additional unofficial cumulative reports will be prepared throughout the canvassing period to reflect any changes or additions as a result of mail ballots received, upload of votes cast at Accessible Voting Centers, 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, ballot totals, legislative and congressional district subtotals, if any, and county-wide totals. The director'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, they will be tallied, or processed, through the vote tallying system.)
- i. Ballot is a collective term referring to any mail ballot returned by mail or through a drop location and to any provisional, AVC ballot, email, or fax ballot.

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).

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 who qualifies under Section 2.1 above is available to serve. (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. (RCW 29A.60.140)

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 ballots.*
 - 2) Intervening Election Meetings: *Scheduled as needed following the election. Activities include: review the status of the canvass and the Preliminary Abstract of Votes, and to resolve ballots forwarded to the Board for issues including voter intent 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 and document the corrective action taken regarding any errors or discrepancies noted at the previous meeting, if any, and if satisfied, sign the certificate. (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), 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. Special meetings require a 24-hour notice

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 a digital 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 emergency approval contained in Chapter 434-335-212 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 return 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 Batch Audit

Procedures for conducting a random check of mail ballots shall be adopted by the Board prior to processing ballots. Results from the check shall be filed with final certification documents. RCW29A.60.170 (4)

4.4 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 if in the presence of at least two authorized election staff and observers if provided, or if in the presence of the Canvassing Board itself. (RCW 29A.60.110, WAC 434-261-045)

4.5 Preparing Ballots for Tallying

- a. *Mailed Ballots. Ballots returned by mail shall be delivered to the Ballot Processing 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 signature validation, election staff, as designated by the Board, shall open and prepare the ballots for scanning, duplication, and adjudication. This process shall not begin until the Canvassing Board has been convened and the direction to initiate processing has been given.*

4.6 Manual Inspection of Ballots

- a. A manual inspection is required of all mail ballots. 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. Ballots shall be inspected for damage, write-in votes, incorrect or incomplete marks, and questions of voter 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 sufficient marking in one or more ovals filled in for any single response position shall be tabulated. This rule does not apply to ballots that the voter has corrected pursuant to the instruction on the ballot as outlined in WAC 434-261-086 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 insufficient marking in 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 voter intent can be clearly discerned according to the statewide standards on what is a vote under WAC 434-261-086 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 clear voter intent 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 (RCW 29A.60.031);
 - 2) A voter has already voted one ballot (WAC 434-262-031(2(a)));
 - 3) The voter is not qualified to vote in this election (WAC 434-262-031(2)(d)); or
 - 4) A mail ballot voter signature does not match the signature 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 intent; (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(2)(d))

4.7 Duplication

The following rules are to be used in conjunction with WAC 434-261-086 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 and has marked another choice. (WAC 434-261-086(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 434-261-086(1)(I))
 - 3) The ballot is physically altered or damaged 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 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.
 - 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 issues or offices are marked with a consistent pattern and sufficient definitiveness to determine voter intent 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 434-261-086(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.

4.8 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 for 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 wherein marks upon the ballot raise a question of voter intent and the resolution must be determined by the Canvass Board. (WAC 434-261-086(1)(s))
- 2) Any ballot where the eligibility of the voter to cast the ballot has not been resolved. (*See Chapter 6 - Provisional Ballots*)
- 3) Challenged ballots. (RCW 29A.08.810) (*See Chapter 5 of this manual*).
- 4) 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.

4.9 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 unique number and the date submitted to the Board and summary of the Board's determination after review.*
- 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 signed 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.*

4.10 Initial Reports

As soon as possible after the initial election results have been tabulated, 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 mail ballots received. 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 8 p.m. on election night and the Preliminary Abstract. A schedule of such reports will be provided in advance.

4.11 Canvassing the Returns

Mail ballots received prior to certification shall be canvassed by comparing the number of ballots received against the tally of mail ballots produced by the central count, and accounting for those ballots that were not counted. The canvass report will identify the numbers and reasons for not counting these ballots.

4.12 Preliminary Abstract

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. Provisional ballots will not have been included in the Preliminary Abstract at this point. (WAC 434-262-020)

4.13 Reports and Abstracts

Pursuant to the requirements of RCW 29A.60.235(1) and WAC 434-262-030, the Director shall have prepared a reconciliation reports at the time the election is certified and also within 30-days of certification..

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: accessible voting center reconciliation report; provisional ballot report; mail ballot report; mail ballot batch accountability report; mail ballot rejection report; and the provisional ballot rejection report.

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)

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)

4.14 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. In addition, the official county seal shall be attached.
- b. The certification, the Director's Abstract of Votes, and any written narrative of errors or discrepancies, shall constitute the official county canvass report.
- c. 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.

- d. 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 order of the superior court, or by the Board reconvened specifically for that purpose. (WAC 434-262-070)

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 less than 45 days prior to an election. It is the Board's duty to determine whether or not the vote cast by the challenged voter is valid. If the challenge is filed at least 45 days before an election at which the challenge voter is eligible to vote, the Elections Director presides over the hearing. (RCW 29A.08.820)

5.2 Procedures for Challengers

a. Qualifications of Challengers.

- 1) A challenger must be a registered voter or the county prosecuting attorney. (RCW 29A.08.810(2))

b. Time for Challenge.

- 1) Challenges within Forty-Five (45) Days of Election Day. Challenges initiated by a registered voter against a voter who registered to vote less than 60 days before the election, or who changed residence less than 60 days before the election without transferring his or her registration, must be filed not later than 10 days before any primary, general or special election, or within 10 days of the voter being added to the voter registration database, whichever is later, at the office of the Elections Director. Challenges initiated by the office of the county prosecuting attorney must be filed in the same manner as challenges initiated by a registered voter. (RCW 29A.08.820; WAC 434-324-115)

c. All Challengers Must:

- 1) File a signed affidavit subject to penalties of perjury swearing that, to the challenger's personal knowledge and belief, having exercised due diligence to personally verify the evidence presented, the challenged voter either is not qualified to vote or does not reside at the address given on his or her voter registration record based on one of the reasons allow in subsection 1 of RCW 29A.08.810.
- 2) The challenger must provide the factual basis for the challenge, including any information required by RCW 29A.08.810(1)(c).
- 3) The challenge may not be based on unsupported allegations by anonymous third parties. All documents pertaining to the challenge are public records.
- 4) Challenges based on a felony conviction under RCW 29A.08.520 must be heard according to RCW 29A.08.520 and rules adopted by the secretary of state.

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 election day (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 Director's Procedures

The Director shall:

- a. Within seventy-two hours of receiving the challenge, publish on the Elections internet website, the entire content of the challenge filed under RCW 29A.08.835. Immediately after publishing any voter challenge, the Elections Director shall notify any person who requests to receive such notification on an ongoing basis.
- b. If the challenge is not in proper form or the factual basis for the challenge does not meet the legal grounds for a challenge, the Elections Director may dismiss the challenge and notify the challenger of the reasons for the dismissal. A challenge is not in proper form if it is incomplete on its face or does not substantially comply with the form issued by the secretary of state.
- c. If the challenge is in proper form and the factual basis meets the legal grounds for a challenge, the Elections Director must notify the challenged voter and provide a copy of the affidavit. The Elections Director shall also provide to any person, upon request, a copy of all materials provided to the challenged voter. If the challenge is to the residential address provided by the voter, the challenged voter must be provided notice of the exceptions allowed in RCW 29A.08.112 and 29A.04.151, and Article VI, section 4 of the state Constitution. A challenged voter may transfer or reregister until the day before the election. The Elections Director must schedule a hearing and notify the challenger and the challenged voter of the time and place for the hearing.
- d. All notice must be by certified mail to the address provided in the voter registration record, and any other addresses at which the challenged voter is alleged to reside or the county auditor reasonably expects the voter to receive notice. The challenger and challenged voter may either appear in person or submit testimony by affidavit.
- e. The challenger has the burden to prove by clear and convincing evidence that the challenged voter's registration is improper. The challenged voter must be provided a reasonable opportunity to respond. If the challenge is to the residential address provided by the

voter, the challenged voter may provide evidence that he or she resides at the location described in his or her voter's registration records, or meets one of the exceptions allowed in RCW 29A.08.112 or 29A.04.151, or Article VI, section 4 of the state Constitution. If either the challenger or challenged voter fails to appear at the hearing, the challenge must be resolved based on the available facts.

- f. If the challenge is based on an allegation under RCW 29A.08.810(1) (a), (b), (d), or (e) and the canvassing board sustains the challenge, the challenged ballot shall not be counted. If the challenge is based on an allegation under RCW 29A.08.810(1)(c) and the canvassing board sustains the challenge, the board shall permit the voter to correct his or her voter registration and any races and ballot measures on the challenged ballot that the voter would have been qualified to vote for had the registration been correct shall be counted.
- g. If the challenger fails to prove by clear and convincing evidence that the registration is improper, the challenge must be dismissed and the pending challenged ballot must be accepted as valid. Challenged ballots must be resolved before certification of the election. The decision of the Elections Director or canvassing board is final subject only to judicial review by the superior court under chapter 34.05 RCW.

5.5 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)

5.6 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 a court reporter or electronically recorded.

5.7 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 by the superior court under chapter 34.05 RCW. (RCW 29A.08.840)

5.8 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. If the challenge is based on an allegation under RCW 29A.08.810(1)(c) and the Board sustains the challenge, the Board shall permit the voter to correct his or her registration and any races and ballot measures on the challenged ballot that the voter would have been qualified to vote for had the registration been correct shall be counted. (RCW 29A.08.840)

6. PROVISIONAL BALLOTS

6.1 Provisional Ballots

A provisional ballot is given to a voter whose name does not appear on the voter rolls or who does not have ID to vote at the Accessible Voting Center. The purpose of a provisional ballot is to provide a means of voting to an individual whose voter registration status is in question while protecting the integrity of the election process.

6.2 Question of Valid Registration

Ascertain from the voter registration files whether the voter is in fact registered.

If "yes" the ballot shall be counted, provided the proper ballot has been voted. (See sub-paragraph (b) below)

- a. 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.
- b. 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)

Mail Voter Voting at the Accessible Voting Center. When the records show that a voter had been issued and has returned a mail ballot but then attempts to vote at the accessible voting center, the voter shall be issued a provisional ballot.

7. MAIL BALLOTS

7.1 General Provisions

- a. Processing of Mail Ballots. The initial processing of mail ballots, which includes signature and postmark verification shall be performed by delegates of the Canvassing Board and assigned staff and shall commence as soon as possible.
- b. Opening of Mail 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 mail ballot should take place in the presence of political party observers if they are available, after which the ballots will be locked and sealed when not being processed. (RCW 29A.40.110). (See also Chapter 4.)
- c. 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 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.

7.2 Review of Returned Ballot Envelopes

- a. Examination. Delegates shall examine the postmark and signature on each mail ballot return envelope.
 - 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. (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 the signature on file for that voter. (RCW 29A.40.110 (3)) A signature is considered a match if conditions set forth in WAC 434-379-020 are met.
- c. Any returned ballot where the 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 mail ballots received on or before the day in which a primary, special or general election is certified 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) 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 mail 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 returned a ballot, 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 Ballots

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

7.6 Challenges

The qualifications of any voter may be challenged before a return envelope is received. The Board has the authority to determine the legality of any challenged 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 will have been 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 Ballot Processing Program Manager (Board delegate) of all 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 Elections

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

8.2 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.

8.3 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. 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)
- b. 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)
- c. 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)
- d. Contents of Application for Recount. The person filing a recount application shall include all information required in RCW 29A.64.011.
- e. Deposit. The person filing a recount application shall deposit with the Board a sum in the amount and manner determined by 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 as determined by 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. Observers will follow procedures set forth in RCW 29A.64.030 and by the observer guidelines provided to all observers participating in the process.
- d. 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 recount shall be conducted according to the methods determined by RCW 29A.64.011, 29A.64.021, and 29A.64.041.
- e. 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. (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. (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

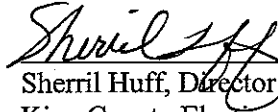
The Board shall determine the actual expenses incurred for conducting a recount. The costs shall be determined based on the results and based on RCW 29A.64.081

9.9 Manual Counting of Ballots

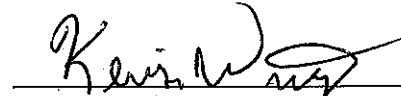
- a. General. The determination of conducting a manual count of the ballots included in a recount is as follows:
 - i. The method is requested by RCW 29A.64.011 or set by RCW 29A.64.021.
 - ii. When the computerized vote tallying system becomes inoperative, or the tabulation program is shown to be defective, or
 - iii. 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.)
 - iv. When a ballot type is used which cannot be processed by the vote tallying equipment, or
 - v. When so directed by the Board.

ADOPTION

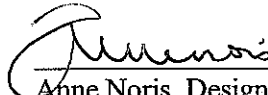
The foregoing Administrative Rules are ADOPTED by the King County Canvassing Board
This 15th day of October, 2010.



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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