

## Post-Election Processes Defined in Missouri Secretary of State: Code of State Regulations

### **15 CSR 30-10.060 Electronic Ballot Tabulation—Election Procedures**

*PURPOSE: This rule provides for procedures to be used by election authorities using electronic tabulating equipment to count voted ballots.*

(1) Voted and unvoted ballots shall be processed using the following rules:

(A) Voted ballots shall always be handled or moved either by a bipartisan team or in the direct view of a bipartisan team;

(B) In those cases where the election authority determines it is more efficient to move voted ballots by use of a single person, those items shall be placed into a tamperproof container and sealed with a numbered seal. Members of a bipartisan team shall witness the sealing and verify the number of the seal by their signatures on a certificate placed on the exterior of the container. The container shall only be opened in the presence of a bipartisan team which shall verify the accuracy of the seal number before the seal is broken;

(C) The election authority shall be responsible for insuring that sufficient certificates are made on each transfer of ballot responsibility to accurately recreate each movement of the ballot from one (1) team to the next. Each transfer shall include a statement that no election material was added, subtracted or altered except as provided by statute or rule and that no irregularities were noticed unless otherwise noted; and

(D) The election authority or his/her representative shall be on hand at all times in the counting center when ballots are unsealed.

(2) Ballot counting shall be conducted as follows:

(A) The election authority shall have the authority to limit access by persons, other than those previously appointed to bipartisan teams, in those areas where ballots are unsealed or are being counted;

(B) Ballot duplication for damaged ballots shall be done by bipartisan teams using whatever method is selected by the election authority provided that—

1. The system provides an exact duplicate of the voter's intent;

2. Both members of the team participate in the process;

3. Both members can review the other's work;

4. There is an undisputed method to match the duplicate card with its original after it has been placed with the remainder of the ballot cards from that precinct; and

5. Allowances are made for watchers to perform their statutory duties;

(C) Any changes to the operating system, application programs, files or counters used in the ballot counting shall be documented by the election authority;

(D) The last transaction with the electronic tabulating system prior to counting ballots shall be the public logic and accuracy test; and

(E) The election authority may conduct other logic and accuracy tests as s/he deems necessary including the hand count of ballots.

(3) Prior to certification of the election results, the accuracy and certification team shall recount the test deck used prior to the start of ballot tabulation on each electronic tabulating machine as follows:

(A) In the event that the counts are not identical, the team shall not certify that the electronic tabulating system was operating properly;

(B) Necessary corrections shall be made to the tabulating program until the test deck is counted properly, and all ballots shall be recounted; and

(C) If the counts are identical, the team shall certify that the system is operating properly.

(4) After the accuracy certification team has approved the count and before the ballots are sealed for final storage, the team processing the ballots shall select one (1) precinct by mutual consent to be recounted. The results of that recount shall be reported on certificates supplied by the secretary of state. One (1) copy shall be filed with the secretary of state within four (4) weeks of the election date and one (1) copy shall be filed with the public records of the election.

(5) After the recount of the selected precinct, bipartisan teams shall place all ballots and other support materials into appropriate tamperproof containers which are sealed in such a way as to prevent any undisclosed entry. If numbered seals are used, those numbers shall appear on the exterior of the container and shall be witnessed by the signatures of the team members.

### **15 CSR 30-10.090 Procedure for Recount or Contested Election**

*PURPOSE: This rule provides program tabulating and accuracy tests in addition to those set out in 15 CSR 30-10.020 (Certification Statements for New or Modified Electronic Voting Systems) for tabulating a recount or contested election.*

(1) Procedure for Recall Contest Using Electronic Data Processing System. A recall contest has two (2) parts. Part 1 consists of a yes or no vote for the recall proposal. Part 2 consists of candidates for the vacant office in the event a majority of yes votes are cast for the recall proposal. Only voters casting valid votes in Part 1 are eligible to vote in Part 2. Ballot cards which do not contain a vote in Part 1 and ballot cards which contain both yes and no votes in Part 1 represent invalid ballots not eligible to vote in Part 2, and must be manually removed from the ballot cards to be tabulated with the electronic processing system. Once the invalid ballot cards have been identified manually and have been put aside, and the total removed has been verified, the remaining valid ballot cards are processed to determine the number of yes and no votes for the recall proposal and the candidate(s) elected to succeed the incumbent.

(2) Standard electronic data processing tests and auditing procedures shall be used to test the accuracy and validity of the programming of the electronic data processing system.

### **15 CSR 30-10.110 Manual Recount**

*PURPOSE: This rule provides a method for the election authority, the secretary of state and the general public to compare electronically tabulated vote results with manual recounts of selected races and ballot issues in certain election precincts.*

(1) Definitions.

(A) County—whenever the word county is used in this rule, it includes the cities of St. Louis and Kansas City.

(B) Precinct—the election authority, at his/her discretion, may consider polling sites containing more than one (1) precinct to be counted as a single precinct for all purposes of this rule.

(2) Prior to the certification of the election results, the accuracy certification team shall randomly select not less than five percent (5%) of all election precincts through the use of a random drawing, but not less than one (1) precinct, in order to conduct a manual recount of selected contested races and ballot issues in the selected precinct(s). Random selection of the precincts shall be open to any member of the public, and the election authority shall notify the public of the time and place of the selection process no later than forty-eight (48) hours prior to the beginning of the selection process by posting a notice in a prominent place, which is easily accessible to the public and clearly designated for that purpose, at the principal office of the election authority.

(3) Recount of the randomly selected precinct(s) shall be conducted in the following manner:

(A) The election authority shall select not less than one (1) manual recount team made up of not less than two (2) persons. The election authority may utilize the accuracy certification team;

(B) For the selected precinct(s), the manual recount team shall unseal the appropriate ballot containers and manually recount certain randomly selected contested races and ballot issues; and

(C) One (1) contested race or ballot issue to be manually recounted shall be randomly selected from each of the following categories, where applicable:

1. Presidential and Vice-Presidential electors, United States senate candidates and state-wide candidates;

2. State-wide ballot issues;

3. United States representative candidates and state general assembly candidates;

4. Partisan circuit and associate circuit judge candidates and all nonpartisan judicial retention candidates;

5. In addition to the candidates and issues previously listed, the manual recount team shall select not less than one (1) contested race or ballot issue from all political subdivisions and special districts, including the county, in the selected precinct(s); and

6. In addition to the candidates and issues previously listed, the manual recount team shall select all races in which the margin of victory between the two (2) top candidates is equal to or less than one-half of one percent (0.5%) of the number of votes cast for the office or issue.

(4) If the results of the manual recount of the selected races and ballot issues differ by more than one-half of one percent (0.5%) from the results of the electronically tabulated vote results, the manual recount team shall immediately notify the election authority, who shall investigate the causes of any discrepancy and resolve any discrepancies prior to the date of certification.

(5) The secretary of state, at his/her sole discretion, and upon the showing of good cause by an election authority not less than three (3) weeks prior to the date of an election, may waive the manual recount requirement for any political subdivision or special district holding an election on the election date.

(6) Upon completion of the manual recount, the manual recount team shall reseal the ballots and other support materials in the appropriate containers. The results of the manual recount shall be reported on certificates provided by the secretary of state. One (1) copy shall be filed with the secretary of state within four (4) weeks of the election date and one (1) copy shall be filed with the public records of the election.

## **15 CSR 30-10.120 Ballot Management Systems**

*PURPOSE: This rule provides that management controls shall be instituted by local election authorities on ballot cards counted by electronic ballot tabulating equipment.*

(1) Definitions.

(A) Ballot cards--the computer card on which a voter indicates their votes in the case of a punch card system or the entire ballot on which a voter marks their votes in the case of an optical scan system.

(B) Destruction of ballot cards--any method which renders the cards unusable for further use as ballot cards including burning, mechanical shredding or cutting and chemical decomposition but does not include landfilling or burying.

(2) All county election officials shall develop and operate a management system to document on the public record the acquisition and usage of all ballot cards provided to them for use in automated tabulating systems.

(3) At a minimum, the system shall provide an ongoing inventory record and a signed written affidavit on the public record for the following activities:

(A) Receipt of ballot cards including date of receipt, total shipment received and serial numbers (if available) of the ballot cards;

(B) Issuance of ballot cards to each polling place including the election date, total number of ballot cards issued and serial numbers, if available;

(C) Receipt of ballot cards from each polling place following the election including election date, a reconciliation for each precinct showing total ballots issued, total ballots voted, total ballots invalidated, total ballots lost and total ballots returned unvoted. The election authority within thirty (30) days after the election shall verify by physical count the number of unvoted ballots. Unvoted ballots shall be shown by serial numbers, if available;

(D) Issuance of ballots to the election authority for the purpose of absentee ballot preparation. This record shall contain all the elements contained in subsection (3)(B). Following the election, the election authority shall complete a record containing all information contained in subsection (3)(C);

(E) Destruction of unvoted ballots for whatever purpose the election authority deems appropriate. This record shall contain the number of ballots destroyed, the method of destruction and the serial numbers of the ballot cards, if available;

(F) Issuance of ballots for educational, testing or any purposes other than those mentioned in subsections (3)(A)--(E). In every case the record shall indicate the purpose for which the ballot cards are issued, the serial numbers of the ballots, if available, and the steps taken by the election authority, including the marking of the word VOID on the face or back of the ballot card or changes to the ballot card to insure that the ballot cards will not be used in subsequent elections; and

(G) All the affidavits in this section shall be maintained in the office of the election authority for a period of two (2) years after the date on which all ballot cards from a single shipment of ballot cards have been completely issued.

(4) Each election authority shall conduct an annual inventory of all ballot cards in their custody comparing the actual number of ballot cards in their custody with the number of cards indicated as being on their inventory records.

(A) This inventory must include verification of all serial numbers if available.

(B) The election authority shall establish the date(s) of the inventory at their discretion between April 1 and June 1 of each year.

(C) Following the required inventory, the election authority shall sign an affidavit including the actual number of ballots on hand at the end of the previous inventory, the number of ballots received since the previous inventory, the number of ballots restocked following elections or other activities outlined in section (3), the number of ballots issued or destroyed since the last inventory based on previously filed affidavits, the actual number of ballots on hand as determined by the present inventory and any discrepancies. In the case of discrepancies, the election authority shall include their assessment of the reason for the discrepancy. In all cases the affidavit shall include serial numbers, if available.

(D) One (1) copy of the affidavit shall be held by the election authority in their office for five (5) years from the date of affidavit and one (1) copy shall be forwarded to the secretary of state.

## **15 CSR 30-10.150 Closing Polling Places (DREs and Precinct Counters)**

*PURPOSE: This rule provides procedures for administering and closing polling places using Optical Scan Precinct Count voting systems (Precinct Counters) and Direct Recording Electronic voting systems (DREs).*

(1) Once one (1) vote is cast on a DRE, the poll workers shall encourage voters to cast their votes on that unit so that at least two (2) more ballots are cast on that unit, even if not by voters needing its accessibility components, in order to protect the privacy of the voter.

(2) Abandoned Ballots.

(A) If a voter leaves the polling place after making their selections on a DRE and printing their ballot, but the voter has not cast the ballot, a bipartisan team of two (2) election judges shall cast the ballot.

(B) If a voter leaves the polling place after making their selections on a DRE, but the voter has not printed or cast their ballot, a bipartisan team of two (2) election judges shall cancel the ballot and make a corresponding notation on an Abandoned Ballot Tracking Form, initialed by both judges.

(C) If a voter places an optical scan ballot into a Precinct Counter and the Precinct Counter rejects the ballot after the voter has left the polling place and if the ballot is still in the Precinct Counter, a bipartisan team of election judges shall take action to ensure that the ballot is counted and deposited in the ballot box.

(D) If a voter leaves their optical scan ballot anywhere in the polling place other than in the Precinct Counter or ballot box and the voter leaves the polling place, the ballot shall not be counted. A bipartisan team of election judges shall mark the ballot "Abandoned" and place the ballot in the Spoiled Ballot Envelope. The judges shall make a corresponding notation on an Abandoned Ballot Tracking Form, initialed by both judges.

(3) Immediately after the polls close and the last voter has voted, the election judges shall close, or supervise the closing of, each of the DREs and Precinct Counters in the polling location against further voting.

(4) The election judges shall cause each DRE and Precinct Counter to print a minimum of one (1) tape showing the number of votes cast on that unit. They shall compare the number of ballots cast as shown on the tape with the number of ballots cast as shown on the election counter of the unit and with the number of voters who signed the precinct register and for Precinct Counters with the number of ballots marked. If these numbers are not identical, the election judges shall document the discrepancy.

(5) The election judges shall accumulate the votes recorded in each unit onto paper audit trail records for the DREs as well as the electronic medium chosen by the election authority, as appropriate for the make, model, and version of the system in use.

(6) After completing the procedures in sections (3)–(5), the memory components shall be removed from any unit that will not be returned to the central location on election night or shall remain sealed in any unit that will be returned to the central location, as appropriate for the make, model and version of the system in use. The DREs and Precinct Counters shall be turned off and secured in their cases and locked or resealed. The number of each seal shall be entered on the appropriate form along with the serial number of the unit or unit case on which it is used. The units or cases shall then be secured.

(7) Any provisional ballots, optical scan ballots, spoiled ballots, paper cast vote records and memory components shall be secured in tamperproof containers securely sealed in such a manner that if the container is opened, the seal will be broken beyond repair.

(8) Audit trail tapes, voter access cards, supervisor's card, ballot encoder devices, precinct binders, numbered lists of voters, voter certificates, recap sheets, and other such paperwork shall be transported to the election authority. In the event the paper cast vote record is unreadable, the audit trail tapes shall be available as an official record when a manual recount of votes is ordered.

(9) All paper cast vote records shall be preserved and secured by election judges in the same manner as paper ballots and shall be available as an official record when a manual recount of votes is ordered and for the post-election verification of the electronically tabulated vote results required by 15 CSR 30-10.060.

### **15 CSR 30-10.160 Electronic Ballot Tabulation—Election Procedures (DREs and Precinct Counters)**

*PURPOSE: This rule provides procedures to be used by election authorities using Optical Scan Precinct Count voting systems (Precinct Counters) and Direct Recording Electronic*

*(DREs) voting systems for securing and tabulating election results at the central location.*

(1) Each unit or case shall only be opened in the presence of a bipartisan team which shall verify the accuracy of the seal number before the seal is broken.

(2) The election authority shall be responsible for ensuring that sufficient certificates or log entries are made on each transfer of DREs, Precinct Counters, memory components, paper cast vote records and ballots to accurately recreate each movement of the DRE, Precinct Counter, memory components, paper cast vote records and ballots. Each transfer shall include a statement that no election material was added, subtracted or altered except as provided by statute or rule and that no irregularities were noticed unless otherwise noted.

(3) The election authority or his/her representative shall be on hand at all times in the counting center when the ballots, paper cast vote records and memory components are unsealed. The units and containers shall be unsealed in the presence of bipartisan teams which shall verify that the seal is intact, and verify the seal number where numbered seals are used, before the seal is broken. When sealing and unsealing the containers, the members of the bipartisan teams shall verify the seal numbers by their signatures on a log sheet designed for that purpose.

(4) The tabulation and consolidation shall be performed in public. The election authority may make reasonable rules and regulations for conduct at the tabulating center, including limiting access to the tabulation area, to ensure the security of the results and the returns and to avoid interference with the tabulating center personnel.

(5) Upon receiving the DREs, Precinct Counters, memory components, paper cast vote records and ballots, the election authority shall verify that the seals are intact, verify the seal number where numbered seals are used and that there is no evidence of tampering with the units, cases, containers or their contents.

(6) Following acceptable procedures appropriate for the make, model, and version of the DRE or Precinct Counter in use, the election authority or his/her designee shall transfer the vote totals from the memory components into the election management system for official tabulation and consolidation.

(7) Prior to certification of the election results, the accuracy certification team(s) shall tabulate the same set of votes used in the pre-election internal logic and accuracy test performed on each memory component used at the polling locations to tabulate votes on DREs and Precinct Counters. This section shall not apply to any memory component on which election results are stored

(A) If the results are not identical to those produced in the pre-election test for any memory component, the team shall not certify that the unit in which that component was used was operating properly.

1. In the case of a Precinct Counter, the necessary corrections shall be made to the program until the results are identical and the ballots cast on the Precinct Counter in which the memory component was used shall be retabulated and the consolidated results corrected accordingly.

2. In the case of a DRE, the paper cast vote records produced by the unit in which the memory component was used shall be hand counted and the consolidated results corrected accordingly.

(B) If the results are identical, the team shall certify that the unit was operating properly.

(8) The paper cast vote records audit trail tapes and ballots shall be kept secured until they must be unsealed to be hand counted in the post-election verification of electronic results pursuant to 15 CSR 30-10.110 or until they must be unsealed to be hand counted when a manual recount of votes is ordered. They shall only be unsealed in the presence of bipartisan teams which shall verify that the seal is intact, before the seal is broken and which shall reseal the containers in such a manner that if the container is opened, the seal will be broken beyond repair after the post-election audit or the manual recount is complete. When sealing and unsealing the containers, the members of the bipartisan teams shall verify the seal numbers by their signatures on a log sheet designed for that purpose.