

Rule 10. Canvassing and Recount

10.1 Precanvass accounting

10.1.1 Detailed Ballot Log. The designated election official must keep a detailed ballot log that accounts for every ballot issued and received beginning when ballots are ordered and received. The election officials must reconcile the log at the conclusion of each workday.

10.1.2 Daily voter service and polling center ballot accounting. The designated election official must supply each polling location with a Statement of Ballots Form. Election judges must record the following information on a separate statement of ballots form for each day that the polling location is open:

- (a) The name or number of the polling location;
- (b) The number of ballots provided to or printed on-demand at the polling location;
- (c) The number of ballots cast;
- (d) The number of unvoted ballots;
- (e) The number of damaged or spoiled ballots;
- (f) The number of voted provisional ballots; and
- (g) The date.

10.1.3 After a polling location closes for the day election judges must complete the following tasks:

- (a) Reconcile the total number of voted ballots with the number of voters who voted.
- (b) Verify that the total number of voted ballots, spoiled or damaged ballots, provisional ballots, and unvoted ballots is the same as the number of total ballots supplied to or printed at the polling location.
- (c) Reconcile the number of people who signed signature cards to the total number of ballots cast.

- (d) Provide a written explanation of any discrepancy in the numbers on the Statement of Ballots form, (for example, the voter signed in but left the polling location without voting, etc.).

10.1.4 After the voter service and polling center closes on election night, election judges must return the completed Statement of Ballots form for each day the location was open along with all voted ballots to one of the election offices designated in the election plan.

10.1.5 The designated election official must review the Statement of Ballots forms for completion and accuracy.

10.2 Appointment to the Canvass Board

10.2.1 In all cases, the canvass board must consist of an odd number of members, and each member has equal voting rights.

10.2.2 For an election conducted with any partisan ballot content, each major party may have no more than two representatives on the canvass board. The board must include an equal number of representatives from each major party, unless a major party fails to certify representatives for appointment.

10.2.3 Each major party representative on the canvass board must be registered to vote in the county where the representative will serve and affiliated with the party he or she represents.

10.2.4 A candidate for office and members of the candidate's immediate family may not serve on the canvass board.

10.2.5 The designated election official may appoint canvass workers to help prepare and conduct the canvass.

10.3 Duties of the Canvass Board

10.3.1 The canvass board must make its determinations by majority vote in accordance with section 1-10-101.5(1)(c), C.R.S.

10.3.2 The canvass board's only duties are to:

- (a) Conduct the canvass and certify the official abstract of votes in accordance with section 1-10-101.5, C.R.S., by:

- (1) Reconciling the number of ballots counted to the number of ballots cast; and
 - (2) Reconciling the number of ballots cast to the number of voters who voted.
- (b) Observe the post-election audit in accordance with section 1-7-514(4), C.R.S., and Election Rule 25.2 or 25.3;
 - (c) Conduct any recount in accordance with section 1-10.5-107, C.R.S., and this Rule; and
 - (d) For a canvass board of a controlling county with an instant runoff voting contest that is contained in more than one county, review the final ranking data for that contest from each county to certify a winner of the instant runoff voting contest to the local jurisdiction.

10.3.3 The canvass board may not perform duties typically reserved for election judges while canvassing the results, while including:

- (a) Determining voter intent;
- (b) Evaluating voter eligibility, including reviewing signatures that have been accepted or rejected; and
- (c) Requesting new logs or reports that were not created to conduct the election.

10.3.4 Watchers appointed under section 1-10-101(1)(a), C.R.S., may observe the board while it performs its duties, subject to Rule 8.

10.4 No canvass board may certify official results until authorized to do so by the Secretary of State. The Secretary of State may extend the canvass deadline for one or more counties in order to complete the risk-limiting audit in accordance with Rule 25.2. Before certifying official results, a county that conducts a comparison audit as defined in Rule 25.1.4 must manually adjust the preliminary results to account for discrepancies identified in the risk-limiting audit if directed by the Secretary of State.

10.5 Procedures for Canvass

10.5.1 The designated election official must provide the following information to the canvass board:

- (a) The name of each candidate, office, and votes received;
- (b) The number or letter of each ballot issue or question and votes received;
- (c) The total number of ballots cast;
- (d) The number of provisional ballots cast, including totals for:
 - (1) Ballots accepted by each code; and
 - (2) Ballots rejected by each code.
- (e) The number of mail ballots cast, including totals for:
 - (1) Ballots accepted; and
 - (2) Ballots rejected by each code.
- (f) The number of in-person ballots counted;
- (g) The number of damaged and spoiled ballots.
- (h) If applicable, the number of ballots cast in each party's primary election, including totals for:
 - (1) Ballots accepted in each party's primary election by affiliated and unaffiliated voters; and
 - (2) Ballots rejected by each code;
- (i) If applicable, the ranked voting results report required by section 1-7-1003(7)(a)(I) and (III), C.R.S.; and
- (j) For a canvass board of a controlling county with an instant runoff voting contest that is contained in more than one county, the final, certified, ranking data for the instant runoff voting contest from each county with that contest to allow the canvass board of the controlling county to certify a winner to the local jurisdiction.

10.5.2 Any written documentation regarding official results must be included as part of the canvass.

10.6 Official abstract and reporting to the Secretary of State

10.6.1 The official county abstract must include, by precinct or ballot style, where applicable:

- (a) The total number of active registered electors on election day;
- (b) The total number of registered electors (active and inactive) on election day;
- (c) The statement of votes counted by race and ballot question or issue;
- (d) The total number of ballots cast in the election;
- (e) For instant runoff voting contests conducted by a county clerk that are within a single county, the round-by-round tabulation results of each race; and
- (f) For instant runoff voting contests conducted by a county clerk that are contained in more than one county, a report detailing the rankings each candidate received in the county.

10.6.2 A county must submit the state portion of the abstract and the ENR upload required by Rule 11.9.6 to the Secretary of State in the format approved by the Secretary of State. The state portion of the abstract must include:

- (a) The summary of votes cast for each state race and each ballot question or issue;
- (b) The total number of ballots counted in the election; and
- (c) For instant runoff voting contests conducted by a county clerk that are contained in more than one county, the final, tabulated results of that contest.

10.6.3 A county must notify the Secretary of State immediately after the meeting of the canvass board if:

- (a) The canvass board votes not to certify the abstract of votes cast;
- (b) The canvass board otherwise fails to take action to certify the abstract of votes cast; or
- (c) In an election conducted with partisan ballot content, the composition of the canvass board did not consist of:

- (1) An equal number of board members appointed from each of the opposing major parties; and
- (2) The county clerk or deputy clerk.

10.7 The County Abstract is the Official Permanent Record

10.7.1 The designated election official must keep all official canvass reports and forms as part of the official permanent election record.

10.7.2 Once the canvass board certifies the abstract it may not withdraw the certification. In the event of a recount, the canvass board may only affirm or amend the abstract.

10.8 Role of the Secretary of State

10.8.1 As part of the Secretary's duties under section 1-1-107, C.R.S., the Secretary may provide guidance and investigate imperfections.

10.8.2 The county clerk or any canvass board member may request that the Secretary of State provide guidance and support to the canvass board in the exercise of the board's duties.

10.8.3 If, in the course of assisting a canvass board, the Secretary of State discovers an imperfection that the Secretary believes may affect the conduct of other canvass boards, the Secretary may provide notice to other counties regarding the nature of the imperfection.

10.9 Recount generally

10.9.1 The purpose of a recount is to re-tabulate the ballots.

10.9.2 A county that has successfully completed a comparison audit under Rule 25.2 and reported no discrepancies in the recount contest need not re-scan ballots during a requested recount, except as provided in Rule 10.9.3. In all cases, the county must re-adjudicate ballot images for voter intent in accordance with Rule 10.13.3.

10.9.3 An interested party, as defined in section 1-10.5-106, C.R.S., may request that the county re-scan ballots. The request is due no later the day in which a recount is paid.

10.9.4 For statewide or federal races, ballot issues or ballot questions, the county clerk must coordinate scheduling the recount through the Secretary of State's office so that it can ensure adequate observer coverage.

10.9.5 If there is a recount in a local jurisdiction whose borders encompass area in more than one county, the controlling county, as defined in Rule 4.2.2, must coordinate the scheduling and conduct of the recount with each county that shares the jurisdiction.

10.9.6 Recounts for instant runoff voting contests. The smallest margin in an instant runoff voting contest will be determined by calculating the minimum number of votes that would have to be different to change the round-by-round count, such that the winner in the final round of tabulation would be different. If the smallest margin between two candidates in an instant runoff voting contest is less than or equal to one-half of one percent of the votes cast in the contest, then a recount must be held in accordance with section 1-10.5-103, C.R.S.

- (a) If a recount must be held, the county clerk or designated election official appointed by the municipality holding the ranked voting contest must order a recount of an instant runoff voting contest within a single county, following the canvass of results by the county canvass board or designated election official, as applicable.
- (b) If a recount must be held, each county clerk must order a recount of an instant runoff voting contest contained in more than one county following the canvass of results by the controlling county of the election.

10.10 Recount cost estimates and reimbursements

10.10.1 A county must submit a request for reimbursement for a mandatory recount of a state or federal race or ballot measure using the Secretary of State approved form. The county may not request reimbursement for meals or normal overhead costs or regular employee compensation. The county must include itemized costs for reasonable expenditures, including:

- (a) Mailings and notices;
- (b) Election judges, temporary staff, canvass board pay, and overtime pay; and
- (c) Copies and other office expenses related to the recount.

- 10.10.2 Requested recounts
- (a) The county clerk must provide an itemized cost estimate in accordance with section 1-10.5-106, C.R.S., upon submission of a formal request for a recount.
 - (b) In preparing a cost estimate for a requested recount, the county must use the Secretary of State approved form. The estimate must include reasonable itemized costs for conducting the recount and must distinguish the cost for conducting the recount with and without rescanning the ballots.
 - (c) The county clerk must submit a cost estimate to the Secretary of State when the clerk provides it to a requesting party.
- 10.11 In accordance with section 1-10.5-107, C.R.S., and Rule 10.3.2(c), the canvass board's role in a recount includes selecting ballots for the test, observing the recounting of ballots, and issuing an amended abstract of results, if necessary.
- 10.12 The canvass board must review the post-election audit before selecting the equipment for testing under section 1-10.5-102(3), C.R.S.
- 10.13 Counting ballots during a recount
- 10.13.1 A clear audit trail must be maintained throughout the recount including, but not limited to, a log of seal numbers on transfer cases or ballot boxes, and the corresponding numbered seal for each transfer case or ballot box.
- 10.13.2 Ballots must be reviewed for voter intent using the standards in Rule 18.
- (a) Every overvote, undervote, blank vote, ambiguous mark, and write-in vote in the races or measures subject to the recount must be reviewed in accordance with the Voter Intent Guide.
 - (b) The judges conducting the voter intent review may resolve the intent differently than the judges in the election.
- 10.13.3 To recount ballots by hand count.
- (a) If the tabulation of the original count was conducted by hand count, the recount must be conducted by hand count.

- (b) Ballots must be counted in batches of 25 to ensure that the number of ballots recounted matches the number originally counted.
- (c) Votes must be counted by individual hash marks in 25-count sections by two different judges.

10.13.4 Tabulation of ballots must be completed through a precise, controlled process that ensures each container of ballots is retabulated and resealed before tabulation of the next container begins.

10.13.5 The number of ballots counted according to the final results for that race or measure must be available during the recount for comparison purposes.

10.14 Canvass and reporting results for a recount

10.14.1 For a plurality race or ballot measure, the county clerk must report the results of the recount as the combined total of votes for each race or measure recounted. The total must include undervotes, blank votes, valid write-in votes, and overvotes for the race or measure recounted.

10.14.2 In accordance with section 1-10.5-107, C.R.S., and this Rule 10, the canvass board must amend, if necessary, and re-submit the abstract of votes cast.