



# NORTH CAROLINA STATE BOARD OF ELECTIONS

*Mailing Address:*  
P.O. Box 27255  
Raleigh, NC 27611

(919) 814-0700 or  
(866) 522-4723

*Fax:* (919) 715-0135

## Numbered Memo 2020-31

**TO:** County Boards of Elections  
**FROM:** Karen Brinson Bell, Executive Director  
**RE:** Statewide Recount  
**DATE:** November 16, 2020

---

This memo provides guidance for the conduct of an anticipated statewide recount in the contest for NC Supreme Court Chief Justice. Although a recount has not yet been demanded, we are providing advance guidance to help you expedite your preparation in the event a recount is called.

### 1. Preparation for Recount

#### 1.1. Establish a schedule

Recounts may begin on Thursday, November 19, 2020, or earlier if notice was already provided to comply with the 48-hour notice requirement. All recounts should be completed by the end of the day on Wednesday, November 25, 2020.

If you are not using a high-speed scanner, plan that it will take four to six seconds to scan each ballot. This means you should plan to scan 600 to 900 ballots per hour. If you are using a State Board or another county's high-speed scanner, the board meeting and scanning must occur in your county. Recounts may not take place in another county.

All counting teams should take a 15-minute break after every two hours of counting to avoid fatigue, which may lead to unintended errors. It is recommended that teams take at least a 30-minute meal break after counting periods in both the morning and afternoon.

#### 1.2. Notice the Recount

Prepare and publish notice of the recount meeting at least 48 hours before the meeting. Send notice of the recount to your notice list, county party chairs, and other interested parties. You should also post it on your website, if possible. If you have a local recount request, send notice to the candidate who requested the recount, the apparent winner, and any designees.

Also complete the State Board's survey, which will provide the location and schedule of each county's recount to the state parties and affected candidates. This will also be posted on the State Board website.

### 1.3. Secure a Location

Arrange for a space to conduct the recount. This may be your county board office or another location if your office is not sufficiently large. You should arrange the area such that public observers are separated from the area where ballot tabulation is occurring. There should also be a designated area for board members to view the recount.

If a county board uses multiple rooms or locations for a recount, they shall require that a permanent county staff member be assigned at each site and the staff member shall be designated as the recount captain for that location. Assigning a recount captain helps maintain control over the recount and ensures that ballots and other items remain accounted for at all times.

Mass gathering limits due to the pandemic do not apply to elections, as outlined in [Numbered Memo 2020-12](#); however, all participants must socially distance. This may mean you have to limit the number of people who are in the room for the recount. If it is not possible to procure a sufficiently large space for those who may want to attend in person, the county board of elections must include on the meeting notice the number of public attendees allowed, indicate if RSVP is required to secure one of those spots, and broadcast the absentee board meetings via video feed using a service such as WebEx or Microsoft Teams. The public must be able to see and hear the proceedings without compromising the secrecy of any voter's ballot. Staff must ensure that the public cannot view any voted ballots or other confidential information, such as voter signature, on the feed. A staff member should be assigned to monitor the video feed throughout the absentee board meeting to ensure that confidential information is not viewable by the public. County board members and staff must be particularly mindful of ballot secrecy when duplicating ballots and inserting ballots into the tabulator. All individuals present must wear face coverings unless an exception applies.

### 1.4. Secure Bipartisan Teams

The county board of elections shall arrange for two-person bipartisan counting teams for each tabulator, consisting of:

1. Tabulator Attendant – will feed ballots into tabulator
2. Tabulator Observer – will provide individual ballots to the tabulator attendant

The county board of elections shall arrange for one person to manage the distribution of the voted ballots for each of the voting sites that are subject to the recount. You may need extra persons to assist or in case of emergencies.

### 1.5. Organize Recount Materials

Make sure you have your voting equipment, blank USB sticks, blank ballots for any ballots that cannot be tabulated, additional paper rolls, and extension cords and power strips. It is recommended that you print a copy of this memo for distribution at the recount meeting.

You should also create a back-up copy of your official canvass data within your vendor's tabulation software module (e.g. Verity Count, Unity/Electionware ERM).

## 2. Presence of Board Members

Recounts are open to the public and must be performed in the presence of the board or under the supervision of the board. This means that either a quorum of the board or a bipartisan team of two board members must be present for the entire recount.

You must plan to have at least a quorum of board members present when any ballots that did not scan will be counted by hand. A quorum of board members must also be present when determinations of voter intent need to be made.

## 3. Public Observance

Any person may attend the recount. This includes the candidates, their representatives or legal counsel, media representatives, and any other interested persons. These persons may observe the counting process but may not observe individual ballots. The bipartisan counting teams, members of the county board staff, and the county board members are the only persons who may handle and touch the ballots and other election materials.

The county board of elections shall exercise control over the conduct of the recount to ensure that the bipartisan counting teams do not experience interference from any person observing the recount. All persons who are not under the supervision of the county board of elections are considered observers and shall not impede or disrupt the recount process in any way. If any observer engages in disruptive behavior that in the opinion of the board of elections threatens the orderly conduct of the recount, the board of elections shall issue a warning. If the observer does not cease the offending conduct, the county board shall order the observer's removal.

It is recommended that observers wear badges or nametags identifying themselves and their role (candidate, media, etc.). The county board of elections shall mark observer areas and require that observers remain within those areas unless otherwise permitted by the board of elections. If there is not sufficient room for all observers to view the election materials, preference shall be given to candidates or their designees.

The use of video or still cameras by the public inside the recount room is not permitted because of the statutory prohibition on photographing or videotaping individual ballots. The board of

elections may enforce reasonable restrictions on items brought into the recount room such as telephones, food, or drink.

#### 4. Combining Recounts

It is permissible to combine the statewide recount with a recount in a local contest, if one has been requested, or if the board has decided to perform a discretionary recount in accordance with G.S. § 163-182.7(a). However, the combined recount must be properly noticed to the parties and candidates who may be affected by the recount.

#### 5. Counting of Ballots and Voter Intent

Official ballots must be counted according to the principles and rules contained in [G.S. § 163-182.1\(a\)](#) during the initial count and for any recount:

**§ 163-182.1. Principles and rules for counting official ballots.**

(a) General Principles That Shall Apply. - The following general principles shall apply in the counting of official ballots, whether the initial count or any recount:

1. Only official ballots shall be counted.
2. No official ballot shall be rejected because of technical errors in marking it, unless it is impossible to clearly determine the voter's choice.
3. If it is impossible to clearly determine a voter's choice in a ballot item, the official ballot shall not be counted for that ballot item, but shall be counted in all other ballot items in which the voter's choice can be clearly determined.
4. If an official ballot is marked in a ballot item with more choices than there are offices to be filled or propositions that may prevail, the official ballot shall not be counted for that ballot item, but shall be counted in all other ballot items in which there is no overvote and the voter's choice can be clearly determined.
5. If an official ballot is rejected by a scanner or other counting machine, but human counters can clearly determine the voter's choice, the official ballot shall be counted by hand and eye.
6. Write-in votes shall not be counted in party primaries or in referenda, but shall be counted in general elections if all of the following are true:
  - a) The write-in vote is written by the voter or by a person authorized to assist the voter pursuant to G.S. 163-166.8.
  - b) The write-in vote is not cast for a candidate who has failed to qualify under G.S. 163-123 as a write-in candidate.
  - c) The voter's choice can be clearly determined.

...

For examples on how to apply the standards in [G.S. § 163-182.1\(a\)](#) to real-world scenarios, please see [Numbered Memo 2019-07](#).

## 6. Recount Procedures

### 6.1. Opening Procedures

1. Keep a log of attendees.
2. Close the room when it reaches capacity.
3. Give attendees a name badge.
4. Review recount procedures with those in attendance.

### 6.2. Preliminary Procedures

1. The bipartisan team of officials shall take an oath.<sup>1</sup>
2. The board of elections shall announce the name of each precinct, one-stop site, or absentee group to be tallied before beginning the recount process for that precinct unit.
3. The county board of elections shall make a record of the number of the tamper-evident seal, protective counter, or other device, if any, before opening any of the voting equipment. The bipartisan team shall examine the electronic voting equipment to determine that any other tamper evident seals are intact and match the log maintained by the board of elections. The team shall note on the Recount Audit Sheet any irregularities or evidence of possible tampering with the device.
4. The bipartisan teams together shall complete an audit sheet to record the following:
  - Machine serial number
  - Precinct name or code
  - Voter history count
  - Bipartisan team name
  - Date and time of beginning and end of recount
5. A member of the bipartisan team shall open the sealed ballot container for the voting site. This shall be done in full view of elections officials and observers.
6. A member of the bipartisan team shall remove ballots from the sealed ballot container and place ballots on table.
7. A member of the bipartisan team may use an air spray can or give the ballots a gentle shake to remove any residue from the ballots.
8. The team shall open the ballot box and inspect all compartments to ensure the bin is empty.

---

<sup>1</sup> Suggested oath: “I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; that I will endeavor to support, maintain and defend the Constitution of said State not inconsistent with the Constitution of the United States; that I will honestly discharge the duties of recounting ballots in \_\_\_ County for primary (or election) held this day, and that I will fairly and honestly tabulate the votes cast in said primary (or election); so help me, God.”

9. A member of the bipartisan team shall open the polls on the voting equipment and print a zero tape.
10. Once the zero tape prints, the bipartisan team shall inspect the tape and confirm that there are no results on the tape. The team shall sign the zero tape.
11. The tabulator observer shall take the stack of ballots that have been placed on the table and hand a ballot to the tabulator attendant one at a time.

### 6.3. Counting Procedures

1. The tabulator attendant shall feed the ballots into the tabulator.
2. If a ballot cannot be tabulated, the ballot should be fed into the emergency bin on the tabulator. Before the ballot is placed into the emergency bin, the ballot attendant shall announce: "Damaged Ballot." Ballots with overvotes can be tabulated by machine and should be accepted by the tabulator after it provides a warning message.
3. If any individual ballot is marked as a provisional ballot and is found in the tabulator for a precinct or one-stop site, the ballot shall not be fed into the tabulator, but instead shall be placed into the emergency bin. Before the ballot is placed into the emergency bin, the ballot attendant shall announce: "Provisional Ballot."
4. The bipartisan team will continue to tabulate ballots removed from the ballot container and have them fed into the tabulator throughout the counting process.
5. The counting process will be conducted in two-hour intervals. After one hour, the team members shall reverse roles.
6. At the end of each counting period, the ballot box will be opened by the tabulator attendant and the ballots will be bundled and sealed. The number of ballots sealed in the ballot container shall be recorded.
7. At the start of each counting period, at the one-hour role switch, and at the end of each counting period, a bipartisan team member shall record the number of ballots on the public count of each machine and the number of ballots that have been removed from the ballot container.
8. Once all ballots have been removed from the ballot container, the tabulator attendant shall open the emergency bin and remove any damaged ballots or provisional ballots that were required to be entered into the bin. Each ballot type shall be handled as follows:
  - Damaged ballots: Examine "kicked out" ballots to determine the reason and show to board members for their determination as to voter intent, in accordance with **Section 5, Counting Ballots and Voter Intent**, of this memo. All ballots that were rejected for tabulation purposes by the machine shall be recounted by hand by a bipartisan team of four, with two officials (one from each of the two parties in the State with the largest number of registered voters) to relay the results of each ballot with one person reading the ballot and the other official observing the ballot and the person reading the results of the ballot, and two officials (one from each of the two parties in the State with the largest number of registered voters) recording the tally of votes for each candidate on paper while stating aloud after each choice is read on the fifth tally for a particular candidate, the word "tally."

- Provisional ballots: place ballot in envelope marked “retrieved provisional.”
9. Finally, the bipartisan team shall review a report showing the number of reported ballots cast per precinct or site and verify that this is the total number of ballots tabulated for that site in the recount.

#### 6.4. Tabulation

1. Close the polls: Once the bipartisan teams have completed their work, a member of the county board of elections or a county board staff member shall place the optical scan tabulator into postelection mode and generate a results tape for the reporting unit.
2. Once the tape prints, the bipartisan team members shall sign the results tape.
3. In the presence of at least two members of the county board, a county board staff member shall compare the contest results on the results tape to the canvassed results in the results tabulation software for any contest that is being recounted.
4. Import the output file from the vendor’s tabulation software module (ASCII, CSV etc.) into Election Reporting under the “Canvass Recount” menu. Contests that are eligible for a recount will be enabled.
5. The county board shall print a canvass report and create a results ASCII file.
6. The output file from the vendor’s tabulation software module (ASCII, CSV etc.) shall be read into Election Reporting.
7. The county board of elections must compare the results on the results tabulation software report to the totals in Election Reporting.

#### 6.5. Wrap Up

1. Replace all the voted ballots in the security containers in which they were stored and reseal the container.
2. The container shall be labeled with the precinct name and the bipartisan team members shall sign the seal.
3. Have board members sign a seal to be placed on the ballot boxes/containers after results are obtained.

### 7. Precinct Sort

County boards shall not conduct the precinct sort until any recounts have been completed. We understand this means you may not be able to complete the precinct sort by 30 days after the election. Precinct sorts shall be completed within 30 days of the completion of the recount.

## 8. Possible Hand Eye Count

A hand eye recount may be necessary as follows:<sup>2</sup>

1. If the apparent winner after the initial balloting is the apparent loser after the first recount, that candidate shall be entitled to demand a second recount, by hand-to-eye, in a sample of precincts.
2. If the apparent winner after the initial balloting remains the apparent winner after the first recount, the county board shall determine whether there is a discrepancy in the machine totals between the initial balloting and the first recount in accordance with the following:
  - If the machine totals from the initial balloting and the first recount are the same, no second recount is necessary.
  - If the machine totals from the initial balloting and the first recount are not the same, the county board shall determine if the discrepancy in the machine total between the initial balloting and the first recount can be reconciled. The county board shall examine all outstacked or center bin ballots from the first recount, determine how each ballot shall be counted, and reconcile the count with the machine count on the initial balloting. If this reconciliation produces the same machine total for the first recount as the machine total in the initial balloting, no second recount is necessary. If the reconciliation produces a different machine total for the first recount than the machine total in the initial balloting, the losing candidate is entitled to demand a second recount, by hand-to-eye, of all ballots.

If a hand-to-eye recount is conducted, it shall be conducted in a sample of precincts, drawn at random by the State Board. That sample shall be all the ballots in three percent (3%) of the precincts casting ballots in each county in the jurisdiction of the office, rounded up to the next whole number of precincts. The sample chosen by the State Board shall be of one or more full precincts, full counts of mailed absentee ballots, full counts of one or more one-stop early voting sites, or a combination.<sup>3</sup>

---

<sup>2</sup> 08 NCAC 09 .0107.

<sup>3</sup> See G.S. §§ 163-182.7A and 163-182.1(b)(1).