



RECOUNT GUIDELINES

San Luis Obispo County Recount Guide for Local Elections

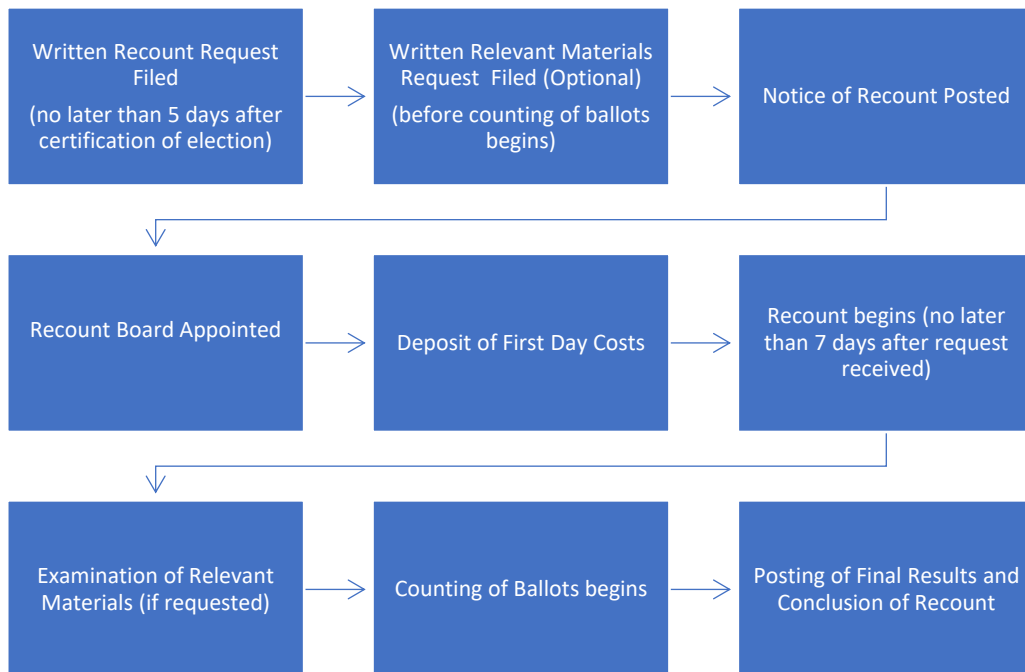
Introduction

This guide provides a brief overview of the process for voter-requested recounts of election results for local elections.

A recount is conducted by the Elections Division for the purpose of verifying the number of votes counted for any office or measure in an election. California Elections Code sections 15620 through 15634 govern voter-requested recounts and recount procedures are outlined in sections 20810 through 20842 of the California Code of Regulations.

Overview of Recount Process for Local Elections

The typical steps in the recount process for local elections are listed below:



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Written Recount Request

A. Eligibility to Request Recount

Any California registered voter may request a recount.¹

B. Method of Request

A recount request must be in writing and filed with the County elections official.² The County accepts recount requests provided in person, via mail, or e-mail. While not required, the County recommends using the form attached as Appendix A to this guide to request the recount of a local election.

C. Timing of Request

The recount request must be received by the elections official no later than 5 p.m. on the fifth (5) day after the elections official signs the certified statement of results.³ If the deadline falls on a weekend or holiday, the deadline is 5 p.m. on the next business day.⁴

D. Format of Request

The request for recount must:

- 1) Be in writing;
- 2) State the contest to be recounted;
- 3) Specify on behalf of which candidate, slate of electors, or position for or against any local measure; and
- 4) State the method of counting (either voting system or manual).⁵

The request may, but is not required to, include:

- 1) The suggested order of precincts to be counted; and
- 2) A request to examine potentially relevant materials (see below for more information).⁶

¹ Elections Code § 15620(a); Cal. Code Regs., tit. 2, § 20812(a).

² Elections Code § 15620(a).

³ Elections Code § 15620(a),(c).

⁴ Elections Code § 15.

⁵ Elections Code §§ 15620(a), 15627(a).

⁶ Elections Code §§ 15622, 15630.

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Request to Examine Potentially Relevant Materials

A requestor may, but is not required to, examine relevant materials related to the particular contest to be recounted.⁷

A. Potentially Relevant Materials or Examination

Materials available for examination could include any of the following types of materials if they are relevant to the particular contest to be recounted:

1. Unvoted ballots;
2. Vote by mail and provisional ballot envelopes;
3. Voting system redundant vote data;
4. Ballot definition files;
5. Language translation files;
6. Central database or other electronic repository of results for the election in which the contest subject to recount occurred;
7. Election data media devices;
8. Audit logs;
9. Systems logs;
10. Pre- and post-election logic and accuracy testing plans and results;
11. Polling place event logs;
12. Precinct tally results;
13. Central count tally results and consolidated results in a structured, non-proprietary format;
14. Surveillance video recordings; or
15. Chain of custody logs, including logs of security seals and access to election-related storage areas.⁸

B. Timing of Request

Requests for specific categories of relevant material must be filed with the elections official before the recounting of ballots commences.⁹

C. Format of Request

Requests for relevant materials should:

- 1) Be in writing;

⁷ Elections Code § 15630.

⁸ Cal. Code Regs., tit. 2, § 20811(f).

⁹ Cal. Code Regs., tit. 2, § 20813(a).

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- 2) Identify specific categories of material to be examined; and
- 3) Identify the potential relevance to the particular contest to be recounted.¹⁰

While not required, the County recommends using the form attached as Appendix C to this guide to help requestors clarify the materials they wish to examine and expedite the collection of those materials.

Blanket requests for “all relevant materials” do not comply with California election law and, given the breadth of potentially relevant materials for any particular contest to be recounted, the elections official will not be able to comply with such requests. The elections official reserves the right to seek additional clarification or deny the request if it lacks specificity or does not qualify as potentially relevant to the particular contest to be recounted.

D. Meeting with Elections Official

Before the commencement of the recount, a meeting with the elections official or designee is typically scheduled to assist the requestor in making a focused and effective request for potentially relevant materials.

E. Costs of Examination

The requestor will be responsible for all costs related to collecting and providing relevant materials for examination.¹¹

F. Timing of Examination

Relevant materials are made available for examination prior to the posting of the final results of the recount. Typically, the County schedules the examination of relevant materials to take place during the first week of the recount.

¹⁰ Cal. Code Regs., tit. 2, § 20813(a).

¹¹ Cal. Code Regs., tit. 2, § 20815(a).

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Appointment of Recount Boards and Personnel

A recount must be conducted under the supervision of the elections official by recount boards, consisting of four (4) voters of the county.¹² The members of the recount board are appointed by the elections official before commencement of the recount.¹³ The elections official reserves the right to appoint additional personnel as necessary to collect and produce relevant materials, sort or retrieve materials, or perform any other administrative tasks related to the recount.¹⁴

¹² Elections Code § 15625.

¹³ Cal. Code Regs., tit. 2, § 20818(a).

¹⁴ Cal. Code Regs., tit. 2, § 20818(d).

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Costs and Deposits

Before the recount begins, and at the beginning of each day, the requestor must pay a deposit to cover the cost of the recount for that day.¹⁵ The amount of the deposit will be determined by the elections official.¹⁶ The deposit must be paid in cash, cashier's check, or money order.¹⁷ At the elections official's discretion, electronic payment by credit or debit card may be accepted.¹⁸

The elections official shall notify the requestors of the amount due each day and the requestors shall pay the cost for each day by 9:00 a.m. Failure to timely make payment may lead to the termination of the recount.¹⁹

Costs are based on actual staff time and materials. The following list below gives an idea of some, but not all of, the types of activities typically included in the cost of a recount:

- Staff time for:
 - Meeting with requestors and other interested parties
 - Identifying, collecting, and preparing ballots and other materials for examination
 - Hiring and training recount boards and other personnel
 - Resolving challenges
 - Preparing notices, publications, and other documentation/correspondence
 - Preparing tally sheets
 - Supervision of the examination of relevant materials
 - Supervision of recount, boards, and other personnel
 - County Counsel costs for challenges and legal advice
- County Overhead
- Security (if necessary)
- Computer Support
- Legal Notices
- Copy Charges
- Postage

If at the conclusion of the recount, the actual costs exceed the estimated costs, the requestor shall pay the additional amount.²⁰ If at that time the estimated costs exceed the actual costs, the

¹⁵ Elections Code § 15624; Cal. Code Regs., tit. 2, § 20815(c).

¹⁶ Cal. Code Regs., tit. 2, § 20815(c).

¹⁷ Cal. Code Regs., tit. 2, § 20815(d).

¹⁸ Cal. Code Regs., tit. 2, § 20815(d).

¹⁹ Cal. Code Regs., tit. 2, § 20815(g).

²⁰ Cal. Code Regs., tit. 2, § 20815(i).

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elections official shall refund the excess amount to the requestor.²¹ If the recount results in a different outcome (different winning candidate(s) or different result on a measure passing or failing) in the contest being recounted, then all money deposited will be returned.²²

²¹ Cal. Code Regs., tit. 2, § 20815(h).

²² Elections Code § 15624.

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Notice and Commencement of Recount

A. Notice of Recount

At least one day prior to the recount, the elections official will post the date and the place of the recount.²³ The elections official will notify the following persons by overnight mail:

- Candidates for the recounted office;
- Proponents of initiatives of referendums; and
- Persons filing arguments for measures.²⁴

B. Commencement of Counting

The recount starts no later than seven (7) calendar days following the receipt of the request.²⁵ The recount continues every day (except weekends and holidays) for at least six hours a day until completed.²⁶ Typically, the counting of ballots will begin once all relevant materials requested have been made available for examination.

C. Precinct Order

Subject to the approval of the elections official, the requestor may specify the order in which precinct will be recounted.²⁷ While not required, the County recommends using the form attached as Appendix B to this guide to specify the order in which precincts will be recounted.

D. Daily Schedule

The elections official will set the daily schedule for the recount, including the hours of operation and approximate break and lunch times.²⁸ The schedule must be posted in a conspicuous place at the Elections Office and at the location where the recount takes place, if different.²⁹

E. Daily Tally

At the end of each day, the elections official shall post and announce publicly the following:

- The results of the recount tally for each precinct recounted that day;
- The certified election results tally for each precinct recounted that day;

²³ Elections Code § 15628.

²⁴ Elections Code § 15628(a)-(c).

²⁵ Elections Code § 15626.

²⁶ Elections Code § 15626.

²⁷ Elections Code § 15622.

²⁸ Cal. Code Regs., tit. 2, § 20819.

²⁹ Cal. Code Regs., tit. 2, § 20819.

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- A running tally of the total recount results for all precincts recounted to date; and
- A running tally of the total certified election results for all precincts recounted to date.³⁰

F. Observers

Observers must:

- Follow all rules established by the elections official or they may be refused entry to the recount area;
- Sign in on the daily log;
- Wear an office-issued ID badge at all times during the recount;
- Surrender the ID badge at the end of the day;
- Not use a camera, recording device, or cell phone in the area where the recount occurs; and
- Not sit at the recount tables, touch any ballots, tally sheets or other material of the recount boards, or place any material on the recount table.³¹

G. Spokesperson

Representatives for each interested party shall appoint a spokesperson for their group.³² An interested party means the requestor, all candidates for the election being recounted, or proponents or persons filing ballot arguments for or against any initiative, referendum or measure being recounted.³³ Questions other than ballot challenges shall be routed through the spokesperson, who shall then direct the question to the elections official.³⁴ Official discussions with any interested party concerning resolution of questions shall include each interested party or their spokesperson.³⁵

³⁰ Cal. Code Regs., tit. 2, § 20818(c).

³¹ Cal. Code Regs., tit. 2, § 20820.

³² Cal. Code Regs., tit. 2, § 20820(b).

³³ Cal. Code Regs., tit. 2, § 20811(c); Elections Code 15628.

³⁴ Cal. Code Regs., tit. 2, § 20820(c).

³⁵ Cal. Code Regs., tit. 2, § 20820(c).

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Challenges

A. Challenge Process

A ballot that was counted in the official canvass, including a counted vote by mail or provisional ballot, may be challenged ***only*** on grounds of disqualifying distinguishing marks or some other grounds visible on the face of the ballot so that the ballot can be isolated and removed from the count if the elections official determines that the ballot was not properly cast.³⁶ Challenges may only be made concerning the specific election being recounted.

Frivolous or mass challenges are disruptive and unnecessarily prolong the recount. If such challenges occur, the elections official will advise the observer of the challenge requirements and will excuse the observer if the frivolous or mass challenges continue.

Observers must abide by the following challenge requirements:

- The person challenging shall state audibly the reason for the challenge.
- Make the challenge **before** the board reads the next card.³⁷

The recount board shall determine how to count the ballot and tally it as the board decides.

- If the challenger disagrees with the board's decision, the board will complete a Challenged Ballot Record form. The form should include:
 - Date
 - Challenge Number
 - Precinct Number
 - Imprint ID (indicates tabulator, batch, and ballot number within the batch)
 - Reason for challenge and person initiating the challenge.
 - Recount board's decision (circle the appropriate candidate or over/under vote).
- The board member will paperclip the ballot with the form and place them in a manilla envelope.
- The board member will return the envelope of challenges with the precinct ballot group to the elections official for resolution.

³⁶ Cal. Code Regs., tit. 2, § 20823(a).

³⁷ Elections Code § 15631(a).

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B. Resolution of Challenges

- Resolution of challenged ballots shall take place in a segregated area within the recount location, separate from that being used to perform the recount, as determined by the elections official, to avoid confusion and mixing of ballots.³⁸
- Challenges shall be resolved each day after all special recount boards complete their work, or more often, if necessary, as determined by the elections official, but in any event before the conclusion of all recount proceedings.³⁹ The determination of the elections official on a challenge shall be final.⁴⁰ The elections official shall maintain a record of each challenge and the determination on each challenge.⁴¹
- The following procedures are used to resolve challenged ballots:
 - The elections official inspects the challenged ballot, reviews the Challenged Ballot Record form and determines if the challenge is proper.
 - The elections official either approves or denies the board’s determination.
 - If approved, the board does not change the recount tally.
 - If denied, the board changes the tally accordingly.
 - The elections official will document the determination on the Challenged Ballot Record form accordingly.

C. Rejected Unopened Vote by Mail or Provisional Ballots

A voted ballot that was not counted in the official canvass, including a rejected unopened vote by mail or provisional ballot, may be challenged and added to the count if the elections official determines that the ballot was properly cast.⁴² In determining whether a voted ballot not counted in the official canvas was properly cast, the elections official shall comply with the applicable provisions of the Elections Code and related regulations.

³⁸ Cal. Code Regs., tit. 2, § 20823(b).

³⁹ Cal. Code Regs., tit. 2, § 20823(c).

⁴⁰ Elections Code § 15631(c).

⁴¹ Cal. Code Regs., tit. 2, § 20823(c).

⁴² Cal. Code Regs., tit. 2, § 20823(a)(2).

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Conclusion of Recount

The recount shall continue until:

- (1) there are no more votes left to count;
- (2) the requestor calls a halt to the recount; or
- (3) the requestor fails to deposit the required amount.⁴³

If the recount is halted before all votes are counted, the results of the recount are declared null and void.⁴⁴ Upon completion of the recount, the elections official shall post the results of the recount in a highly visible public location in the Elections Office.⁴⁵ If a different candidate or position on a measure receives a plurality of votes after completion of the recount, the results of the official canvass will be changed and the election results re-certified.⁴⁶

⁴³ Cal. Code Regs., tit. 2, § 20815(g).

⁴⁴ Elections Code § 15632.

⁴⁵ Cal. Code Regs., tit. 2, § 20822(a).

⁴⁶ Cal. Code Regs., tit. 2, § 20822(c)(2).

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Appendix A

Request for Recount of Local Election

Election to be Recounted: _____

Request on behalf of candidate/position for or against a local measure

Candidate: _____

Position on Measure: _____

Method of Recount (Please check one): Voting System _____ or Manual Count _____

Name of Designated Spokesperson: _____

Attachments (Check box if any apply)

Requested Order of Precincts _____

Request for Potentially Relevant Materials _____

Name (Printed): _____

Signature: _____

Date: _____

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Appendix B

Requested Order of Precincts (Optional)

Instructions: Subject to the approval of the Elections Official, the voter requesting the recount may specify the order in which precincts shall be recounted. If you wish to specify the order of recount, please list the order of precincts in the table below.

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Appendix C

Request to Examine Potentially Relevant Materials (Optional)

Instructions: As part of any recount, a requestor may examine all ballots, whether voted or not, and any other relevant material. All requests for the examination of relevant materials must be received by the elections official before the recounting of ballots commences. **No requests for the examination of relevant materials will be granted after the recounting of ballots begins.** The requestor will be responsible for all costs related to collecting and providing relevant materials for examination.

The types of potentially relevant material are specified in section 20811(f) of the California Code of Regulations (listed on the back of this form). Any request to examine potentially relevant materials must identify the specific categories of material to be examined and the potential relevance to the particular contest to be recounted. If more than one specific category of material is requested, please attach an additional form for each category.

Blanket requests for “all relevant materials” do not comply with California election law and the elections official will not be able to comply with such requests. The elections official reserves the right to seek additional clarification regarding a request and may deny the request if it lacks specificity or does not qualify as potentially relevant to the particular contest to be recounted.

Election to be Recounted: _____

Specific Category of Potentially Relevant Material: _____

Briefly explain the potential relevance of the material to this recount:

Name (Printed): _____

Signature: _____

Date: _____

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California Code of Regulations
Title 2. Administration.
Division 7. Secretary of State
Chapter 8.1. Recounts
Article 1. General Provisions
§ 20811(f)

(f) "Relevant material" includes but is not limited to unvoted ballots, vote by mail and provisional ballot envelopes, voting system redundant vote data, ballot definition files, language translation files and the central database or other electronic repository of results for the election in which the contest subject to recount occurred, election data media devices, audit logs, system logs, pre- and post-election logic and accuracy testing plans and results, polling place event logs, precinct tally results, central count tally results and consolidated results in a structured, non-proprietary format, surveillance video recordings and chain of custody logs, including logs of security seals and access to election-related storage areas.

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