

DEPARTMENT OF STATE
BOARD OF STATE CANVASSERS
CONDUCT OF ELECTION RECOUNTS

(By authority conferred on the board of state canvassers by section 889 of the Michigan election law, 1954 PA 116, MCL 168.889)

R 168.901 Definitions.

Rule 1. (1) As used in these rules:

(a) “Act” means the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(b) “Change the result of the election” means either the candidate who lost the election and is requesting the recount would be elected or the recount would result in the opposite outcome for a ballot question.

(c) “Election materials” means equipment used in administering elections, including, but not limited to, electronic voting systems, seals, ballots, ballot containers, ballot container certificates, poll books, results report, statement book, tabulator tape, or another document or report considered necessary by the boards of county or state canvassers.

(d) “Interested party” means the individual or individuals who filed a recount petition or a counter recount petition. More specifically, a candidate, 1 representative of a ballot question committee, or if a ballot question committee did not participate in an election in which there was a ballot question on the ballot, 1 elector who voted in that election.

(e) “Poll book” includes the physical poll book and any poll lists.

(f) “Precinct” as used in a recount means any of the following:

(i) An election day precinct.

(ii) A precinct at an absent voter counting board.

(iii) A precinct at an early voting site.

(g) “Recount center” means a single location where recounts of multiple precincts from multiple counties are conducted.

(h) “Tabulator tape” means the tape that is generated at the close of polls that contains precinct results or the tabulator report when precinct results are not available on a tape.

(2) Unless otherwise defined in these rules, a term defined in the act has the same meaning when used in these rules.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.901a Enforcement of rules; decisions subject to appeal.

Rule 1a. The board of state canvassers and its representatives enforce these rules and regulations to ensure the fair, impartial, and uniform conduct of recounts. Decisions of the boards of county canvassers, under these rules and regulations, applicable statutes, and court decisions, are subject to appeal to the board of state canvassers under R 168.925.

History: 2025 MR 12, Eff. May 12, 2025.

R 168.902 Security arrangements.

Rule 2. (1) On the filing of a petition for recount, the board of state canvassers shall make arrangements with law enforcement to provide for security of the recount staff and all ballots, ballot containers, and electronic voting systems used in the election precincts to be recounted until the recount is completed and the results are certified by the board of state canvassers.

(2) All election materials must remain in the possession of the clerk responsible for the election until requisitioned by the boards of county canvassers under R 168.903.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.903 Time and place of recount.

Rule 3. (1) The board of state canvassers shall publicly announce the time and place for the recount of votes affected by a recount petition.

(2) The board of state canvassers may mandate the use of 1 or more recount centers where multiple counties or jurisdictions are recounted at a central location.

(3) The boards of county canvassers shall arrange for the delivery of the ballots, ballot containers, electronic voting systems, and election materials the boards of county canvassers determine are necessary, at the time and place designated for the recount by the board of state canvassers.

(4) Electronic voting systems not delivered to the board of county canvassers must remain in the possession of the clerk charged with their security and custody under the act and the rules promulgated by the secretary of state.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.904 Review of rules, regulations, and arrangements prior to recount.

Rule 4. Before beginning the recount, the board of state canvassers or its representatives and the board of county canvassers or its representatives shall meet for the purpose of reviewing these rules and regulations and the arrangements made or to be made by the board of county canvassers for the proper conduct of the recount.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.905 Meeting between state board and county board.

Rule 5. At the time and place designated for the commencement of the recount, the board of county canvassers shall meet with the board of state canvassers or its representatives to begin the recount.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.906 Meeting minutes.

Rule 6. The boards of county canvassers shall conduct a recount in an open meeting and keep meeting minutes. Meeting minutes must be provided to the board of state canvassers on request.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.906a Order of counting precincts.

Rule 6a. Precincts shall be counted in the order that results in the most expeditious conduct of the recount without regard for who requested the counting of a particular precinct.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.907 Rescinded.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.908 Performance of recount; materials not subject to a recount.

Rule 8. (1) A recount is performed only if the number of ballots to be recounted is enough to change the result of the election.

(2) A recount is an administrative process limited to determining the number of votes cast on ballots for each candidate seeking a particular office or determining the number of votes cast for or against a ballot question.

(3) If the board of state canvassers or the board of county canvassers receives a petition to conduct an investigation or an audit of the conduct of an election, a petition to assess the qualifications of electors participating in an election or the manner in which ballots are applied for or issued to electors, or a petition to do anything other than conduct a recount as described in this rule, the board of state canvassers or the board of county canvassers must deny that request for a recount.

(4) When conducting a recount, the only materials available to be reviewed in the recount are the ballots, poll book, and any poll lists necessary to complete the recount.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.909 Electronic voting system recount.

Rule 9. Recounts performed using an electronic voting system software application under section 871(4) of the act, MCL 168.871, are governed by the procedures set forth in R 168.793 and the act.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.909a Rescinded.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.910 Determining when to recount precinct.

Rule 10. (1) A precinct shall be recounted if all the following are satisfied:

(a) The ballots are properly sealed in a ballot container in a manner that does not allow a ballot to be added to, or removed from, the ballot container.

(b) The seal number on the seal is accurately recorded in the poll book, on the ballot container certificate, or on the statement of results.

(c) The precinct is in balance, which means the number of ballots to be recounted is the same as the number of ballots issued in the precinct as shown in the poll book, the number of ballots tabulated as shown on the tabulator tape, or the number of ballots cast as shown by the county canvass; or the precinct was certified as out of balance during the county canvass and remains out of balance by an identical or fewer number of ballots.

(2) A recount may still be conducted even if the precinct does not satisfy the conditions under subrule (1) of this rule, if there is a satisfactory explanation in a sworn affidavit demonstrating that the security of the ballots is preserved.

(3) An explanation is satisfactory if the reason for the discrepancy does not affect the security of the ballots and demonstrates that a recount of the ballots will yield a reliable and accurate result. For example, a discrepancy that was caused by innocent human error and specifically explained in the poll book remarks, or when evaluating whether the total number of ballots and the total number of voters match, a discrepancy that was caused by spoiled or defective ballots, ballots that were duplicated for proper reasons or provisional envelope ballots not included in the ballot container.

(4) The only documents that a board of canvassers may use to determine whether a precinct may be recounted are the poll book, the poll lists, the statement of results, the ballot container certificate, the total ballots counted by a tabulator, the county canvass notations on the number of ballots and electors in the poll book, affidavits, and tabulator tapes.

(5) If a precinct is not eligible for a recount, the original return of the votes for that precinct must be taken as correct.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.911 Recounting absent voter ballots.

Rule 11. (1) Absent voter ballots, including absent voter ballots cast at absent voter counting board precincts and combined absent voter counting board precincts, must be recounted in the manner provided under these rules for counting ballots cast on election day.

(2) Absent voter ballots in original sealed envelopes must be counted as if they were voted if the recount board determines they are eligible for voting.

(3) Absent voter ballots that have been voted must be recounted to determine whether the ballots were validly marked.

(4) Appropriate additions and deductions must be made to or from the precinct count.

(5) Unless clearly shown to the contrary, there is a presumption of regularity of action by precinct inspectors. To determine facts required for decision of issues under this rule, precinct inspectors may, if necessary, be called and sworn to give evidence.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.912 Recounting ballots cast at early voting sites.

Rule 12. (1) Ballots cast at early voting sites must be recounted in the same manner provided under these rules for ballots cast on election day.

(2) If a ballot container from an early voting site contains ballots from multiple precincts and 1 or more of those precincts is subject to a recount, each ballot container must be opened, and the ballots must be sorted by precinct to identify and segregate the ballots subject to the recount.

(3) Unless clearly shown to the contrary, there is a presumption of regularity of action by early voting site precinct inspectors. To determine facts required for decision of issues under this rule, early voting site precinct inspectors may, if necessary, be called and sworn to give evidence.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.913 Rescinded.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.914 Rescinded.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.915 Recount staff.

Rule 15. At each table where ballot containers are opened, the boards of county canvassers shall provide at least 2 recount clerks to conduct the recounting of ballots.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.916 Candidate and ballot question committee representatives; powers; identification.

Rule 16. (1) Each candidate or ballot question committee representative is entitled to observe the recount and have their counsel and not more than 2 additional individuals present at each table where ballot containers are being opened or ballots are being recounted.

(2) The individuals in subrule (1) of this rule shall be afforded an opportunity to observe the opening of ballot containers and each ballot as the votes are called, challenge the tabulation of a ballot, and take notes as desired for recordkeeping purposes.

(3) Each individual representing a candidate or ballot question committee shall have written identification provided by the candidate, the candidate's political party, the ballot question committee, or a proponent or opponent of the ballot question if there is no ballot question committee involved in the recount.

(4) For a recount for a ballot question, the treasurer of a ballot question committee involved in the recount shall appoint no more than 1 lead representative for each recount center. The lead representative is responsible for the individuals present at each table where ballot containers are being opened or ballots are being recounted. Once designated, the lead representative may not be changed during the course of the recount.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.917 Board of county canvassers and of state canvasser representatives; duties.

Rule 17. (1) A representative of the board of county canvassers and the board of state canvassers shall be present during the opening of all ballot containers. A representative of the board of county canvassers shall dictate for the record, any part of which may be on forms provided by the board of state canvassers, the following:

- (a) The precinct being recounted.
- (b) Any unusual conditions relative to the ballot container.
- (c) The way the ballot container is sealed.
- (d) The ballot container's seal number.
- (e) The condition of the seal.
- (f) The name and official position of the individual who unseals and opens the ballot container.
- (g) A description of any ballot package, ballot bag, or roll of ballots which is, may be, or is claimed to be involved in the recount, including the way the bag is sealed and the number on the seal.

(2) The representative of the board of county canvassers shall also dictate for the record the entries contained in the poll book and statement book relative to the number of voters who voted at the election and the seal numbers with which ballot containers were sealed.

(3) A representative of any interested party or of the board of state canvassers has the right to dictate any objection, proposed correction, or additional information into the record.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.918 Rescinded.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.919 Rescinded.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.920 Rescinded.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.921 Rescinded.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.922 Recounting ballots; procedure.

Rule 22. (1) The ballots must be placed on the recount table.

(2) The recount staff shall count 1 pile of ballots at a time. One recount clerk shall call the votes, and 1 clerk shall confirm the called votes. The 2 recount clerks shall record the votes on proper forms provided for that purpose.

(3) The whole number of votes cast for each candidate, and for and against each ballot question, must be recorded.

(4) The board of state canvassers may approve an alternative manner of conducting the recount.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.923 Determining the validity of ballot markings.

Rule 23. (1) A vote on a ballot is indicated by making a mark within the predefined target area designated for casting a vote. A vote is valid and must be counted if there is a mark within the predefined area for casting a vote.

(2) The following is a non-exhaustive list of examples of valid votes:

(a) A circle of the predefined area that goes through the inside of the predefined area designated for casting a vote and meant to be filled in by the voter.

(b) A check mark, cross, or “x” that is inside any part of the predefined area designated for casting a vote and meant to be filled in by the voter, even if part of the mark extends outside the predefined area designated for casting a vote.

(c) The word “yes” written inside the predefined area designated for casting a vote and meant to be filled in by the voter.

(d) If the predefined area has a mark inside of it, but there is also a correction that causes a false tabulator read, such as a filled in oval or square that is crossed out or labeled as a “mistake” or similar description.

(3) The following is a non-exhaustive list of examples of invalid votes:

(a) A circle of the predefined area designated for casting a vote that goes around the area, but does not intersect the inside of the predefined area designated for casting a vote.

(b) A check mark, cross, or “x” along the side, top, or bottom of the outside edge of the predefined area designated for casting a vote.

(c) The word “yes” written along the side, top, or bottom of the outside edge of the predefined area designated for casting a vote, regardless of any arrows pointing to the predefined area.

(4) A stray mark within the predefined target area is not a mark indicating a valid vote. The following apply to the evaluation of marks:

(a) To determine whether a mark within a predefined area is a stray mark compare the mark with other marks appearing on the ballot.

(b) A check mark or cross appearing within the predefined area is not considered a stray mark and is a valid vote even if the voter does not consistently mark the entire ballot with the check mark or cross.

(5) Any ballot or part of a ballot from which it is impossible to determine the elector’s choice of candidate is void as to the candidate or candidates affected.

(6) All ballots cast that are not counted are maintained separate from the others by being tied or held in 1 package, and placed in the ballot container with the counted ballots.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.924 Rescinded.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.925 Challenged ballots counted or rejected for recount; appeals.

Rule 25. (1) An interested party may make a challenge to the board of county canvassers of a determination to count or not count a specific vote on a ballot for a candidate or for or against a ballot question subject to the recount.

(2) Any challenged ballot counted or rejected for recount must be identified by a numbered exhibit card or envelope logically associated with the challenged ballot.

(3) The board of canvassers shall keep a record of the challenge, and representatives of all interested parties shall be afforded an opportunity to make a full and complete record of challenges to the proceedings.

(4) After the recount of all ballots in a precinct, but before the recount proceeding itself is completed, all challenged ballots must be presented to the board of county canvassers, which will hear arguments on the challenge and decide whether to accept or reject the challenge.

(5) An interested party can appeal the decision of the board of county canvassers to the representative of the board of state canvassers, who may confirm, reject, or modify the decision of the board of county canvassers.

(6) An interested party can petition the board of state canvassers for a de novo review of the decision of the representative of the board of state canvassers. The petition for de novo review must be filed before the completion of the recount by the board of county canvassers and specify the substance of the challenge and request a de novo review by the board of state canvassers.

(7) The board of state canvassers shall accept petitions for a de novo review only for challenges that concern the determination of how a specific vote on a ballot for a candidate, or for or against a ballot question, is counted.

(8) Once the board of state canvassers receives a petition for de novo review its representative shall make an exhibit detailing the resolution of the challenge that includes the ballot, which must be securely sealed in an exhibit envelope and retained by the board or its representative. The representative shall provide the clerk responsible for the election with a receipt for the ballot that is subject to challenge.

(9) In the same manner that notice of the recount was given under section 868 of the act, MCL 168.868, the board of state canvassers shall notify all interested parties of the date of the meeting where the board of state canvassers will consider the petition for a de novo review.

(10) The interested parties are allowed to present oral and written arguments on the challenges at the meeting where the board of state canvassers will consider the petition. The arguments presented to the board of state canvassers must be limited to arguments made to the board of county canvassers.

(11) The board of state canvassers shall hear and rule on the challenge at the meeting only if the total number of challenges submitted to it could change the result of the election.

(12) The board of county canvassers or the representative of the board of state canvassers may determine a challenge is frivolous. If a challenge is determined to be frivolous, the board of state canvassers may decline to consider the challenge appeal. A challenge may only be determined to be frivolous if any of the following apply:

(a) The challenge is based on a procedure already approved by the board of state canvassers.

(b) The challenge is not related to the tabulation of a specific, individual ballot.

(c) The observer does not provide an explanation for the challenge.

(d) The observer issues multiple challenges at 1 time or otherwise issues challenges designed to delay or interfere with the recount.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.925a Rescinded.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.925b Withdrawal of petition; discontinuance of recount.

Rule 25b. (1) If the individual petitioning for a recount withdraws the petition or discontinues the recount before its completion, the original return is determined correct regardless of any change shown by the recount of the precincts. It is not necessary for any counter petitioner to withdraw or ask for a discontinuance after a petitioner withdraws.

(2) If the counter petitioner for a recount withdraws the petition or discontinues the recount, the original returns for all precincts involved are determined correct regardless of any changes shown by the recount at the time of the withdrawal. A counter petitioner shall not be allowed to withdraw if all precincts the counter petitioner petitioned have been recounted. If a counter petitioner withdraws, the recount of precincts petitioned for by the

original petitioner must continue until the completion or until the original petitioner withdraws.

(3) All withdrawals must be in writing signed by the petitioning party.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.926 Rescinded.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.927 Public observance of recounts; handling of ballots.

Rule 27. (1) The recount must be open to the public for observation, but the public is not allowed within the confines of the actual working area and no individual may vocally or otherwise disturb the recount staff or interfere with the recount process. Violation of this rule results in removal from the recount area by law enforcement.

(2) Only the recount staff, the county board of canvassers, the state board of canvassers or its representative, or a clerk responsible for maintaining the custody of election materials may handle ballots. No member of the public, observer, candidate or the candidate's representative, or a representative of a ballot question committee may touch or otherwise handle a ballot or other election materials.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.928 Designated representative of board of state canvassers.

Rule 28. (1) The board of state canvassers may designate 1 or more representatives in each county or recount center to supervise the conduct of recounts on the board of state canvasser's behalf.

(2) The representative of the board shall be an employee of the department of state, a county clerk, or a staff member of the county clerk, and must have knowledge and experience in conducting a recount.

(3) If more than 1 representative is present at a recount, the representatives present shall designate a lead representative.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.929 Completion of recount; procedure.

Rule 29. (1) On completion of the recount of any precinct, all ballots must be placed in the ballot container. The ballot containers must be properly sealed with a state seal supplied by the board of state canvassers. The ballot containers must be returned to the officers charged with their care and custody under R 168.902. The recount staff shall record the new seal number on the ballot container certificate.

(2) At the conclusion of the recount, the board of state canvassers shall notify each interested party that the recount is complete. The board of state canvassers shall provide notice by mail or email.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.

R 168.930 Certificate of recount results.

Rule 30. The results of the recount for each county must be entered on a certificate provided for that purpose by the board of state canvassers, signed by the board of county canvassers and representative of the board of state canvassers. The county clerk shall certify that the individuals signing the certificate as members of the board of county canvassers are members of that county. The certificate must be delivered to the board of state canvassers, which shall then compile the returns from each county and certify the result.

History: 1979 AC; 2025 MR 12, Eff. May 12, 2025.