

15 CSR 30-10.040 Electronic Ballot Tabulation—Counting Preparation

PURPOSE: This rule provides for procedures in connection with the preparation for vote recording and tabulation including appointment of judges, equipment and program preparation and pre-election testing.

- (1) The election authority is responsible for insuring that the electronic tabulating system s/he chooses to use accurately records, counts, or both, all proper votes cast and complies with all applicable state statutes and rules.
- (2) The election authority is responsible that all steps have been taken to insure that the electronic tabulating equipment operates properly at the time of the pre-election public logic and accuracy test and during the tabulation of ballots on election night.
- (3) The election authority is responsible for making necessary arrangements for a back-up ballot tabulating system.
- (4) The election authority is responsible for providing a duplicate of the counting program for the computer system on which the ballot tabulation is to be done, regardless of the back-up counting system used.
- (5) Prior to each election day, the election authority is responsible for appointing one (1) or more bipartisan teams composed of equal numbers of members from the two (2) major parties to carry out the functions of—certifying the accuracy of the electronic tabulating equipment, receiving election materials from the polls, duplicating damaged or defective ballots, processing ballots through the electronic tabulating system and preparing election materials for final storage. Each person so appointed shall have the qualifications of and take the oath of office prescribed for election judges in section 115.091, RSMo. These persons will be selected from lists compiled as outlined in section (6) except where an election authority is a board of election commissioners, the election authority may designate persons of its own choosing.
- (6) Beginning in 1987, not less than sixty (60) days prior to the first election date of each calendar year, each election authority, except as noted in section (5), shall notify by mail, the chairpersons of the two (2) major political parties within their jurisdiction of the number of persons from their parties needed for the bipartisan teams used in processing and counting ballots. Each chairperson shall have thirty (30) days to provide a list to the election authority, in writing, of twice as many persons meeting the qualifications of section 115.091, RSMo, as the election authority has indicated are necessary. If the chairpersons cannot respond in that thirty (30)-day period with the list of names or enough persons to fill all positions, the election authority shall select persons from that party to fulfill those functions. Nothing contained in this rule shall prohibit an election authority from requesting a new list of names for the bipartisan teams for each election provided that the lists are requested sixty (60) days prior to the election and that the chairpersons have thirty (30) days for response. For elections in 1986, the election authority shall select members of the bipartisan teams in a manner consistent with the way in which s/he has previously selected these personnel. If the authority has not previously utilized automated tabulating equipment, s/he shall follow the same schedule as will be used in succeeding years except that the chairpersons shall be notified not later than sixty (60) days prior to the August primary.
- (7) Prior to election day the election authority shall supervise a public logic and accuracy test of the electronic tabulating equipment conducted by the accuracy certification team.
 - (A) The logic and accuracy test shall be open to any member of the public and the election authority, by some appropriate method, shall notify the public of the time and date of the test.
 - (B) Persons, other than candidates and other individuals required to be notified under section 115.233, RSMo, wishing to participate in the testing process shall file a written request with the election authority at least twenty-four (24) hours prior to the publicized time of the logic and accuracy test.
 - (C) The election authority shall prepare an appropriate logic and accuracy test deck which will include the following conditions:
 1. Each ballot position must be tested;
 2. No two (2) candidates for the same office may receive the same number of votes, but each candidate must receive one (1) vote;
 3. In situations where a voter can legally vote for more than one (1) person for an office, at least one (1) card shall be voted for the maximum number of allowable candidates;
 4. One (1) card shall be marked to have one (1) more vote for each candidate or question than is allowable;
 5. One (1) card shall have no votes recorded on it;
 6. In general partisan elections, each party shall receive at least two (2) straight party votes, except that no two (2) parties shall receive the same number of votes. Additionally each party shall receive at least one (1) straight party vote where a candidate of another party receives a vote on the ballot;

7. Cards should be punched or marked to test all name rotations, if used;

8. One (1) card (if possible) shall contain a vote for a candidate for whom persons using that ballot format are not entitled to vote; and

9. Use of a fifty-seven (57) card deck to test the program satisfies all requirements of existing rules. The secretary of state may approve other techniques.

(D) The accuracy certification team may run the test deck as provided by the election authority, or may make as many additions, subtractions or changes in the ballot cards as they desire, as long as the minimums of (7)(C)1.—9. are maintained.

(E) Each ballot style or format shall be tested during the logic and accuracy test.

(F) The accuracy certification team shall conduct a count of the test deck using the primary and any back-up tabulating equipment which may be used to tabulate election ballots and compare the results with those expected from a manual count of the test deck.

(G) If the results are incorrect, then changes, corrections, or both, will be made until an errorless count is made.

(H) After the team is satisfied that the equipment is tabulating the ballots properly, each candidate on the ballot or any representative of a group which has notified the election authority pursuant to (7)(B) may add up to fifteen (15) ballots to the test deck. The new test deck will be counted.

(I) If the results match with the manual count, the team shall certify that the system is accurate and properly counting ballots. All logic and accuracy test materials including the deck shall be sealed in a tamper-proof container and sealed with a numbered seal. All team members shall verify, by signature or initials, the seal number on a certificate placed on the outside of the container.

(J) The election authority shall have custody of the logic and accuracy test materials including the program until called for by the accuracy certification team.

*Auth: section 115.225, RSMo (1986).**
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and readopted: Filed April 17, 1987, effective June 25, 1987.

*Original authority 1977.

15 CSR 30-10.050 Election Procedures

PURPOSE: This rule provides for the appointment and instruction of election judges.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) The election authority shall appoint a minimum of four (4) judges for each polling place to be used in the election according to sections 115.079, 115.081 and 115.083, RSMo.

(2) All persons not previously trained in the use of the type of voting equipment being used, prior to entering into the performance of their duties as judges at the election, shall attend a course of instruction for judges in the use and operation of the electronic voting system, conducted under the authorization and supervision of the election authority. In addition to the normal duties of the judges of election, the instruction shall cover the proper use and procedures for use of the voting devices, ballot cards, marking of the ballot cards, procedures for write-in votes (when applicable), replacing spoiled ballots and procedures for safeguarding and transfer of ballot cards and other materials.

(3) The voting and marking devices, registration books, identification cards, ballots and other necessary supplies shall be delivered to the polling places prior to 5:30 a.m. on election day.

(4) Instructions to Election Judges. The election authority shall provide the *Instruction Guide for Election Judges* issued by the secretary of state to be given to election judges in each polling place. All election procedures outlined in the instruction guide will be performed by judges in polling places having electronic voting systems.

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Feb. 11, 1983.

*Original authority 1977.

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) 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 ballots or other election material by use of a single person, those items shall be placed into a tamper-proof 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 challengers to function;

(C) Prior to beginning the election night logic and accuracy test, systems will be implemented to refuse or record any change to the operating system, application programs, files or counters used in the ballot counting. A certificate shall be executed outlining the steps taken;

(D) The last transaction with the electronic tabulating system prior to counting ballots will be the recount of the test deck used in the pre-election public logic and accuracy test.

1. No person may open the seal on the tamper-proof container holding the accuracy and logic test materials until one (1) hour before starting the counting of ballots.

2. In the event the counts are not identical, no ballot shall be counted until the error is reconciled to the satisfaction of the election authority and the accuracy certification team.

3. The team shall include as part of the election record, a report of its findings and determinations as to the error which caused the variance.

4. If the counts are identical, the team shall certify that the system is operating properly;

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

(F) Immediately after counting the last ballot, the accuracy and certification team shall recount the test deck used prior to the start of ballot tabulation.

1. In the event that the counts are not identical, the team shall not certify that the electronic tabulating system was operating properly.

2. Necessary corrections shall be made to the tabulating program until the test deck is counted properly and all ballots shall be recounted.

3. If the counts are identical, the team shall certify that the system is operating properly;

(G) 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; and

(H) After the recount of the selected precinct, bipartisan teams shall place all ballots and other support materials into appropriate tamper-proof 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 to by the signatures of the team members.

*Auth: section 115.225, RSMo (1986).**
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**Original authority 1977.*

15 CSR 30-10.070 Certificates by Officers; Security Areas; Retention of Material; Independent Audit
 (Rescinded June 25, 1987)

15 CSR 30-10.080 Absentee Balloting

PURPOSE: This rule sets out procedures for absentee balloting in addition to those found in Chapter 115, RSMo.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) All jurisdictions using electronic data processing tabulation systems may conduct absentee balloting by the same means. The

requirements of Chapter 115, RSMo shall be followed.

(2) For absentee ballots to be voted within the office of the election authority, the election authority may provide voting devices equipped with ballot label assemblies as provided in 15 CSR 30-10.030 or by voting on the styrofoam-type backing in the case of the 5081 type ballot cards in the same manner as does the voter who receives an absentee ballot by mail.

(3) For absentee ballots to be voted elsewhere, the election authority shall provide:

(A) A ballot card mounted on a backing of styrofoam or other similar material to permit convenient and efficient marking of the ballot card if the 5081 type card is used. Ballot cards where the mark is by way of a pencil do not require the backing materials;

(B) A disposable marking device for marking the ballot card;

(C) A printed paper listing of the offices, candidates and questions containing reproductions of the pages of the ballot label assembly used for voting;

(D) Absentee voting instructions in substantially the same form as section (6) of this rule;

(E) Ballot card envelope, if used; and

(F) Envelope for returning voted ballot to election authority.

(4) The absentee ballots so voted shall be counted in the manner provided in section 115.301, RSMo.

(5) The absentee ballots should then be processed in accordance with the "Procedures After the Polls Close" outlined in the *Instruction Guide for Election Judges and Clerks*.

(6) Absentee voting instructions are shown in Exhibits 3A and B.

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**Original authority 1977.*

EXHIBIT 3A**Sample Absentee Voting Instructions
For Punch Card Voting Jurisdictions****ABSENTEE VOTING INSTRUCTIONS*****READ ALL INSTRUCTIONS BEFORE VOTING***

Your "ballot packet" consists of:

- BALLOT CARD (which is mounted on styrofoam backing)
- Ballot Card Secrecy envelope (gray)
- Absentee ballot envelope in which Ballot Card and Secrecy envelope will be inserted
- Official Absentee ballot sheet listing offices, candidates and/or questions
- Absentee Voting Instructions (this sheet)
- Wire Punch device (paper clip)

If you spoil your ballot card in any manner—you may return the ballot packet to the Election Authority and request a new ballot card.

TO VOTE

Read the Official Absentee Ballot sheet noting the offices, the candidate names, questions and other special instructions. Next to the name of each candidate and question is a NUMBER or set of numbers which correspond to numbers on the ballot card.

Using the wire punch device supplied, firmly punch out the small "black dot" on the ballot card above the number of the candidate or issue.

Punch with sufficient force so that the "black dot" is completely punched out of the ballot card.

AFTER VOTING THE BALLOT CARD

- Place the ballot card in the gray secrecy envelope.
- In the presence of a notary public fill out the envelope including your signature. Let the notary sign, date and emboss the envelope.
- Place the ballot card (inside the secrecy envelope) inside the large envelope after the notary fills out his section and completes the embossing.
- Seal the large envelope.
- Return the envelope to the Election Authority either in person or by the U.S. Postal Service.

The envelope containing your ballot must be received by the Election Authority not later than 7 p.m. on the day of the election.

EXHIBIT 3B

Sample Absentee Voting Instructions
for Mark Sense Voting Jurisdictions**ABSENTEE VOTING INSTRUCTIONS***INSTRUCTIONS FOR MARKING BALLOT(S)*USE ONLY THE PENCIL PROVIDED

VOTE BOTH SIDES OF BALLOT

1. On receipt of this ballot the voter, using the pencil provided, shall prepare the ballot for voting in the following manner.
 - (1) Should the voter desire to vote a "straight party ticket" he shall place a cross (X) mark in the circle immediately below the party name. If the voter desires to vote for one or more candidates on more than one party ticket, by voting what is commonly known as a "split ticket" he may place a cross (X) mark in the circle immediately below one party name and mark cross (X) marks in the squares at the left of the names of candidates on other tickets for whom he wishes to vote.
 - (2) If the voter desires to vote for one or more candidates whose name or names do not appear on the printed ballot, he may do so by writing the name of the person for whom he desires to vote, and placing a cross (X) mark in the square at the left of such name on the printed ballot in the column provided for write-ins.
 - (3) Where there are two or more candidates for like office in a group, a cross (X) mark in the square to the left of a candidate's name automatically votes against the candidate whose name appears within the same horizontal lines in the column under the circle in which appears the cross (X) mark.
2. All candidates of the party whose circle is marked shall be counted as voted for, excepting where squares are crossed preceding the names of the candidates in other columns. If two or more candidates for the same office are thus designated, neither shall be counted. If the cross (X) is not placed in the circle immediately below the party name at the head of the column, but does appear in the squares opposite the various candidates' names, then only these names shall be counted for, and none other. A cross (X) mark is any line crossing any other line at any angle within the voting space and no ballot shall be declared void because a cross (X) mark therein is irregular in form.
3. It is unlawful to deface or tear a ballot in any manner or to erase any printed name, figure, word or letter therefrom, or to erase any mark made thereon by the voter.
4. A ballot without any marks shall not be counted. Ballots shall be counted only for the person for whom the marks thereon are applicable; when a voter places a mark against two or more names for the same office, and only one candidate is to be chosen for the office, none of the candidates is deemed to have been voted for and the ballot shall not be counted for either candidate.
5. DO NOT FOLD BALLOT. All ballots must be returned to the election authority no later than 7:00 p.m. on election day in order to be counted.

**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 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.

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**Original authority 1977.*

15 CSR 30-10.100 Rejection of Votes
(Rescinded December 13, 1979)**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) After the electronic recount provided for in 15 CSR 30-10.060(2)(G) and prior to the certification of the election results, the accuracy certification team shall randomly select not less than one (1) precinct for every one hundred (100) election precincts or fraction thereof, 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).

(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 selected from lists as outlined in 15 CSR 30-10.040(6) except when an election authority is a board of election commissioners, the election authority may designate persons of its own choosing. Each person so appointed shall have the qualifications of and take the oath of office prescribed for election judges in section 115.091, RSMo. The election authority may utilize the accuracy certification team selected in 15 CSR 30-10.040;

(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; and

5. In addition to the candidates and issues previously listed, the manual recount team shall select not less than three (3) contested races or ballot issues from all political subdivisions and special districts, including the county, in the selected precinct(s). When there are three (3) or fewer contested races or

ballot issues within this category at a selected precinct, all shall be counted.

(4) 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.

(5) 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.

*Auth: section 115.225.1., RSMo (1986).
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March 26, 1990.*

**Original authority 1977.*

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.

*Auth: section 115.225.1., RSMo (1986).**

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**Original authority 1977.*