

# **ELECTION OBSERVER GUIDELINES HANDBOOK**

SEPTEMBER 14, 2021 CALIFORNIA GUBERNATORIAL  
RECALL ELECTION



**ORANGE COUNTY  
REGISTRAR OF VOTERS**



THE ELECTION OBSERVER GUIDELINES HANDBOOK IS INTENDED TO PROVIDE GENERAL INFORMATION AND DOES NOT HAVE THE FORCE AND EFFECT OF LAW, REGULATION OR RULE. IT IS DISTRIBUTED WITH THE UNDERSTANDING THAT THE REGISTRAR OF VOTERS OF THE COUNTY OF ORANGE IS NOT RENDERING LEGAL ADVICE AND, THEREFORE, THE HANDBOOK IS NOT TO BE A SUBSTITUTE FOR LEGAL COUNSEL FOR THE INDIVIDUAL OR ORGANIZATION USING IT. IT IS THE RESPONSIBILITY OF THE OBSERVER TO OBTAIN THE MOST UP-TO-DATE INFORMATION AVAILABLE, REFLECTING CHANGES IN LAWS OR PROCEDURE SUBSEQUENT TO THE PUBLICATION OF THIS GUIDE.



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Dear Orange County Election Observer,

Thank you for your interest in our Election Observer Guidelines Handbook. This handbook has been designed to provide you with a comprehensive guide to your rights and responsibilities as an Election Observer. With impacts of COVID-19 on the September 14, 2021 California Gubernatorial Recall Election, additional guidelines have been included and updated so public observation can be conducted safely. Although we will be open for public observation, should state guidelines change because of COVID-19, we may need to implement social distancing measures to facilitate safe and transparent election observation.

You will find detailed information throughout this manual on the laws that govern Observers, election and voting processes and procedures, and other election-related activities that are open to Observers. You can find additional resources on our website by visiting [ocvote.com](http://ocvote.com).

This manual is intended to provide general information and does not have the force and effect of law. It is distributed with the understanding that the Orange County Registrar of Voters is not rendering legal advice and, therefore, the handbook is not to be a substitute for legal counsel for individuals or organizations.

We strongly recommend that any interested party obtain legal advice, to assist in complying with applicable California laws, including the California Elections Code and the California Government Code.

Our mission is to serve the voters of Orange County in a uniform, consistent and accessible manner with the highest level of integrity.

Sincerely,

Neal Kelley  
Registrar of Voters

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# PUBLIC OBSERVATION AND COVID-19

## Observing Central Processes

In response to the challenge of providing public access to observe election operations during the COVID-19 pandemic, the Registrar of Voters developed a scalable solution where members of the public can safely view from election operations onsite and remotely while protecting the privacy and security of ballots and voter information. Priority was placed on the solution to be very flexible as operations and business needs can change quickly. A limit to the flexibility of this solution would be the actual physical space and equipment; for example, there is finite amount of space to place cameras and viewing monitors and a finite number of cameras.

Observation opportunities prior to the mailing of ballots will be limited due to the number of activities and processes available for observation and the need for storage space for election materials prior to their distribution. After the mailing of ballot materials to voters, observation opportunities will be expanded.

Some processes include:

- Logic and accuracy testing
- Vote-by-mail processing before, during and after Election Day
- Election night operations
- Post-election canvass
- Signature checking
- Ballot duplication
- Provisional vote processing
- Post-election audits

### **In-Person Observation**

Election Observers that wish to observe central processes at the Registrar of Voters' office in Santa Ana will be required to follow several requirements onsite, which include:

- Wear a face covering if unvaccinated
- Maintain personal space and avoid overcrowding
- Watch an orientation video

Through monitors designed for in-person observation, members of the public will be able to observe the processes listed above. These monitors will also allow the same view to appear across different monitors; for example, 8 monitors can show the same view from a single camera. Estimates are that at least five members of the public can observe at each monitor, dependent on available space to avoid overcrowding (however, this may be modified at any time due to COVID-19 safety precautions). As a result, the Registrar of Voters will determine the maximum number of observers at one time due to space, equipment constraints and applicable safety precautions.

## Health and Safety Measures

In addition to the rights and responsibilities set forth below, election observers must adhere to any health and safety provisions in place in the county in which the observation occurs.

All election observers shall follow practices that help control and prevent the spread of COVID-19, including daily self-screening at home daily prior to arriving at their observation location. When performing daily self-screening, check for any of the following COVID-19 symptoms:

- Frequent cough
- Fever
- Difficulty breathing
- Chills
- Muscle pain
- Headache
- Sore throat
- Recent loss of taste or smell

Election observers should stay home if they are experiencing any of the above symptoms. In addition, the observer should stay home if they:

- Feel sick
- Have tested positive for COVID-19
- Live with someone who has tested positive for COVID-19

## Remote Observation

Livestreaming is hosted on the Registrar of Voters' website where members of the public can select different options for viewing various operations. Some of the past processes and views offered via livestreaming have included: risk-limiting audits, canvass processes (examples include signature challenges, 1% manual tally, etc.), and recount processes. Remote live streams will not display individual voter information or signatures.

Members of the public wishing to observe central processes remotely will have the opportunity to do so beginning on August 16, 2021.

- Election observers may not record or transmit voter data or ballot information.
- The use of force, violence, tactic of coercion or intimidation to compel a person to vote or refrain from voting at any election is a felony punishable by imprisonment in state prison for up to three years. (EC § 18540)
- Interference with the election and canvass, or with a voter casting a ballot, is punishable by imprisonment in state prison for up to three years. (EC § 18502)

Although there are general remote observation opportunities, no challenges will be accepted remotely for any reason at any time. Challenges must be made in-person onsite at the Registrar of Voters' office in Santa Ana.



# GENERAL OBSERVER GUIDELINES

## Election Observers

Election Observers have a right to be in Vote Centers and observe voting procedures. Election Observers have both rights and responsibilities regarding the administration of the electoral process. They may not, in any way, be involved with Vote Center operations, nor are they permitted to interfere with the operation of the Vote Center. These guidelines respond to the rights and responsibilities of members of the public observing the election process and you can find a list of accepted and unaccepted Election Observer actions and relevant Election Codes.

### What Are Observers Allowed To Do?

- Observe proceedings at the polls
- Take notes and watch all procedures
- Ask questions about election procedures
- Ask questions of supervisors at the central counting site
- View mail ballot and provisional ballot processing
- View all activities at the central counting site on Election Day
- View the canvass of the vote activities following the election
- Obtain information from the precinct index
- Use an electronic device, including a smartphone, tablet, or other handheld device, at the central processing site or Vote Center, provided that the use of the device does not result in a violation of any other provision of the Elections Code

### What Are Observers Responsible For?

- All Election Observers must identify themselves upon entering a Vote Center to Vote Center personnel.
- Election Observers must sign-in at the front office and receive a visitor's badge daily, which must be worn at all times while in the facility.
- Maintaining a professional manner while observing the election process
- Ensuring they do not interfere with the election process
- Following established county observation rules/policies

## What Are Observers NOT Allowed To Do?

- Interfere in any way with the election process
- Go near occupied voting booths or approach any voters during the voting process.
- Assist in Vote Center operations
- Touch election-related material, equipment or election staff
- Sit at or stand behind the check-in tables
- Communicate with Vote Center personnel who are presently engaged in a process
- Converse with or solicit voters (within 100 feet of the Vote Center entrance) regarding the casting of a vote or their qualifications to vote
- Talk in a loud voice, cause confusion, or congregate inside a Vote Center
- Display any election material or wear campaign badges, buttons, or apparel
- Wear the uniform of a peace officer, private guard, or security personnel
- Directly challenge a voter. Only the precinct board may do so, based on evidence presented.
- Prevent other observers from observing material or processes
- Use phones/cameras in a way that would violate the Elections Code
  - o "Ballot selfies" are permitted for voters

## Registrar of Voter Facility Operations

- No food or beverage is allowed in the observation area
- Scheduled operations and processes continue whether or not an observer is present
- Observer activity is limited to witnessing whether proper procedures are followed
- Observers may approach sufficiently close to the observed process to determine reasonably whether a challenge of the process is warranted
- Observers shall not interfere with the observed process: no touching of election-related materials, equipment or elections staff, and no direct questioning of the staff doing the work
- There may be no more than two observers for each candidate, proponent, or opponent. Each candidate, proponent, or opponent may assign an additional person to act as the group's supervisor.
- Cell phones, tablets or any electronic devices must be set to vibrate or off. No phone calls, except in the front lobby.
- No audio recorders, radios, or cameras are permitted unless approved
- Silence is required while inside the observation area
- Before and during the observed process, you may quietly ask questions of the process supervisor. You may not directly communicate with any staff member who is engaged in the observed process.
- Written questions or comments may be submitted to the process supervisor throughout each process
- All challenges must be lodged in the manner provided by law. If a challenge unduly impedes or interferes with the work process, challenges shall be discontinued.

## Members of the Media

Reporters, camera crews and other members of the media are allowed at the Vote Center as long as they respect voter privacy and do not interfere with or disrupt the voting process. All media presence at Vote Centers is to be coordinated by the Registrar of Voters. The media is not permitted to take close-up pictures or video footage of actual ballots.

Vote Center personnel are not permitted to speak on behalf of the Registrar of Voters to the media. For any media inquiries or requests for a quote or interview, please call (714) 567-5197.

## What Election Activities Can Be Observed?

### Pre-Election Day

- Ballot creation and voting equipment preparation and testing
- Logic & Accuracy testing of voting system to conduct central count of vote by mail and precinct ballots
- Precinct supplies assembly and distribution
- Vote-by-mail operations (verify signature and eligibility; prepare ballots for counting)

### Voting Period & Election Night

- Vote Center operations
- Vote tabulation and reporting

### Post-Election Day

- Processing provisional ballots and vote-by-mail ballots received at Vote Centers
- Ballot duplication
- Processing write-in ballots
- Ballot reconciliation

# PRE-ELECTION DAY – GETTING STARTED

## Ballot Creation

The public is welcome to view this process. There are no code sections or requirements governing the transparency of this process; however, ballot creation does not begin until the close of filing for candidates, measures, statewide propositions, constitutional amendments and initiatives that have qualified for the ballot. At that time, we may format, translate, and print the ballot materials which may include:

- (1) The Official Ballot; and
- (2) Voter Information Guide

## How Is A Ballot Created?

### Ballot Type

- Creation of the ballot begins with associating a particular combination of contests with each precinct. This combination is called a “ballot type.” In partisan primary elections, additional ballot types are required for each partisan ballot.

### Candidate Order

- The order of candidates on the ballot is determined by a formula based on a randomly ordered alphabet as well as by a “rotation” formula based on the office involved.
- 42 days before the election, the Secretary of State (SOS) conducts a public, random drawing of letters of the alphabet.
- Names of statewide, congressional, countywide, and superior court judicial candidates rotate by assembly district, and state senate, assembly, municipal, board of supervisors, and county board of education candidates follow the SOS random alphabet but do not rotate.

## **Data Generation**

- Ballot type data for every precinct is imported into a database within the Hart voting system's BUILD.
- BUILD uses this data to generate electronic ballot styles and audio files.
- The generated styles data is written onto a secure vDrive.
- The vDrive transfers copies of the ballot style data to the Hart system's Verity Print, TouchWriter, and Scan devices, used at each Vote Center, and transfers cast votes to the system's Count application which tabulates the votes.

## **Verity Central**

- Verity Central allows the in-house scanning of paper ballots.
- It is used to capture data from paper ballots; the ballots are digitally scanned, imaged, reviewed, and resolved, and the votes are captured and stored on the vDrive.

## **General Voting Equipment Preparation and Testing**

Each qualified political party, any bona fide association of citizens, or a media organization may employ, and may have present at the central counting place, not more than two representatives to check and review the preparation and operation of the tabulating devices, their programming and testing, and have the representatives in attendance at any or all phases of the election.

The elections official may limit the total number of representatives in attendance to no more than 10 by a manner in which each interested bona fide association of citizens or media organization has an equal opportunity to participate.

**Elec. Code §15004**

## **Equipment Testing**

- Every piece of voting equipment, including the Verity Touch Writers, Printers, and Scanners goes through a service and maintenance procedure before every election.
- The equipment is tested to ensure it powers up, the screen is visible, and that the data is backed up correctly. This also verifies that all the cables are communicating properly.
- The equipment is tested to make sure it was reset correctly. This ensures that all previous information is erased from the equipment.
- Paper is installed in the printers used, and a test page is printed. The printer is also tested to make sure it scrolls properly.

## **Logic & Accuracy Testing (L&A)**

- L&A testing is conducted on the voting system and the voting equipment that will be used in the election.
- L&A is designed to ensure that the hardware and software to be used in an election are working together properly both as individual units and as a combined system.
- Accuracy is tested by casting and tabulating ballots for which the results are known. We compare the known results to the test results, then resolve the cause of any discrepancies, and re-test.
- Ballots are selected and marked according to a "matrix" developed to encompass every contest and choice, including place holders for over-votes, under-votes, and write-in votes.
- Logic testing ensures that the vote tabulation program and hardware correctly interpret, summarize, and report voters' choices.
- Prior to testing, written notice of the test schedule is faxed or e-mailed to the media, inviting the public to attend the testing. This information is also posted on the Registrar of Voters website.
- After test voting is complete, the test results stored on the vDrive are read into the Count application for tabulation.
- If any discrepancies are found, a precinct-by-precinct report is reviewed to locate the erroneous precinct result(s). These are verified against the vote records and the voting matrix for that precinct to identify the ballot, contest, and option in error.
- Testing and resolution are repeated until no discrepancies occur.

## **Pre-definition**

- Pre-definition is the process performed on a Vote Center's voting equipment by warehouse personnel where the equipment is electronically assigned ("defined") to a Vote Center.
- The vDrive holds the ballot type data.

## Vote-by-Mail (VBM) Ballot Processing

### What Can I Observe?

- Both before and after the election, observers may view the processing of VBM ballot return envelopes, and the processing and counting of VBM ballots.
- Observers will be allowed sufficiently close to observe and challenge whether the individuals handling the ballots are following established procedures.
- Observers may not interfere with the orderly processing of ballot return envelopes or the processing and counting of VBM ballots, including touching or handling of the ballots.

**Elec. Code §15104(a), 15104(e)**

### Who Can Observe?

- Any member of the county grand jury, and at least one member each of the Republican County Central Committee, the Democratic County Central Committee, any other party with a candidate on the ballot, and any other interested organization may observe and challenge the manner in which the VBM ballots are handled, from the processing of ballot return envelopes through the ballot counting and disposition.

**Elec. Code §15104(b)**

### What Can I Challenge?

A challenge to a voters' eligibility may only be made by a member of the precinct board.

**Elec. Code §§ 14240(b), 15105, 15109**

Observers may challenge whether members of the precinct board handling VBM ballots are following established procedures, including:

- Verifying signatures and addresses by comparing them to voter registration information;
- Duplicating accurately any damaged or defective ballots; and
- Securing VBM ballots to prevent any tampering with them before they are counted on Election Day.

**Elec. Code §15104(d)**

## How Do I Challenge?

When challenging a VBM procedure, and because the voter(s) are not present, the challenger shall have the burden of establishing extraordinary proof of the validity of the challenge at the time the challenge is made.

**Elec. Code §15105, 15106**

Taking pictures, video, or use of phones/cameras for the purpose of challenging is not permitted at any time.

## How Are VBM Ballots Processed?

### Envelope Verification

- Beginning 29 days prior to the election, we may begin processing the returned VBM envelopes.
- We verify the voter's signature on the outside of the envelope and update the voter's history file in our database to record that the voter has returned a VBM ballot in the current election.
- We verify the signature by comparing it to the one on the voter's affidavit of registration. Only the elections staff may perform this comparison.

**Elec. Code §3019**



## Removing the Ballots

- Beginning fifteen business days before Election Day, we may remove the ballots from the signature-verified envelopes and prepare them to be machine-read; however, we may not access or release a vote count until the polls have closed on election night.
- Envelopes are placed flat, signature side down, and ballots are removed one at a time.
- Ballots are separated from the bar-coded envelopes, so the voter is no longer identifiable.
- Staff manually reviews ballots for initials, signatures, and those damaged that cannot be scanned.
- Damaged ballots are duplicated by management and ROV employees.
- "Clean" ballots are staged for ballot scanning and ballot resolution.

**Elec. Code §15101**

## Scanning Ballots

- Ballots are batched and brought into the secure ballot scanning room to be processed.
- The batches are scanned into the system.
- As the batch is being scanned, images of the ballots appear on the screen.
- If the batch is scanned successfully, the operator saves the batch and attaches a scan batch report.
- If the batch is not scanned successfully, the batch is not saved, and re-scanned.
- If a batch has a rejected ballot, that ballot is removed from the batch and re-scanned.
- After the batch has been through this entire process, it is secured in a sealed box and prepared for storage.

## **Resolving Ballots**

- Resolution is the process of determining voter intent when the vote is categorized as an under-vote, over-vote, write-in, or unclear voter intent.
- We use Verity Central “Auto Resolve” automatic resolution function only for under-votes.
- For all resolution activity, we use two-person teams to simultaneously review the ballot image and resolve the ballot until it can be accepted and recorded.
- When resolutions are complete, records are saved to be accumulated into the tabulation of other vote results after 8:00 p.m. on Election Day.

## **Tallying VBM Ballots**

Only after all VBM ballots have been verified, resolved, and recorded, may they be counted and canvassed—in the same manner as Vote Center ballots.

**Elec. Code §1510**

# VOTE CENTER OPERATIONS

## Hours of Operations

Vote Center staff arrives onsite 30 minutes before the Vote Center is scheduled to open.

### **Select Vote Centers:**

September 4 – September 10, 2021: 8am - 5pm

### **All Vote Centers:**

September 11 – September 13, 2021: 8am - 8pm

Election Day, September 14, 2021: 7am - 8pm

Each Vote Center layout will be designed in accordance with all currently required health and safety guidelines. When visiting Vote Centers, observers who are unvaccinated, will be required to wear face coverings and will be asked to follow all current safety measures outlined by Vote Center staff.

Floor markers, inside and outside of the Vote Center, will help determine the voting room's capacity. Observers who know each other and are observing on behalf of the same organization, candidate, campaign, etc. are encouraged to coordinate with each other so that to maximize opportunities for voters to cast their ballot and others to participate in observation as well.

## Opening Vote Centers

Polls open on the first day that voting will occur. The open polls report will print. Vote Centers will suspend and reopen every day after the first day until Election Day.

When the first voter arrives only on the first day of opening, the zero report and open polls report will be connected and torn off as one long report. Thereafter, polls report will be printed, teared off and added to the daily envelope at Vote Centers.

## Closing Vote Centers

If there is a line of voters when the polls close, one Vote Center staff will stand at the end of the line politely explaining to voters who arrive in line after the closing time that the polls are closed.

Vote Center personnel will print the suspend polls report, tear it off, and add it to the daily envelope. On Election Night, Vote Center personnel will close the polls instead of suspending polls. All ballots will be returned to the Collection Center every evening.

## Street Index

To view the street index, please visit [ocvote.com/streetindex](https://ocvote.com/streetindex) and fill out the form on the website. Following approval, you will receive login instructions to access the street index online. If you wish to view a paper copy, visit the Registrar of Voters' office in Santa Ana.

## Language Assistance under the Voting Rights Act and California Elections Code

Orange County is required by Section 203 of the Federal Voting Rights Act to provide translated materials and language assistance in the following languages:

- Spanish
- Vietnamese
- Chinese
- Korean

Section 14201 of the California Elections Code also requires that a facsimile ballot (also known as a translated reference ballot) shall be posted in other languages determined by the Secretary of State.

Orange County provides translated ballots in Spanish, Vietnamese, Chinese, and Korean. Translated reference ballots are available for select precincts in Tagalog, Farsi (Persian), Hindi, Gujarati, and Japanese. If a voter marked a preferred language when registering to vote, they will receive their translated election materials. If a voter prefers to vote in-person and wants a ballot in a preferred language, they must request it at a Vote Center.

# POST-ELECTION DAY – COUNTING THE VOTES

## Observation

- Any member of the public may observe all proceedings at the central counting place, but no person, except one employed and designated for the purpose by the elections official or his authorized deputy, shall touch any ballot container, and access to the area where electronic data processing equipment is being operated may be restricted to persons authorized by the elections official.
- For the manual tally of paper ballots, the ballot being read, and the tally sheet shall be within the clear view of the observers.

**Elec. Code §15204**

## Work Area Requirements

- Enter the ballot canvass work area ONLY during canvass operations.
- Inside the ballot canvass work area, no phone calls may be sent or received, and no conversations are allowed.
- Election Observers may get close enough to observe the information on the workstation and the reports pertaining to the workstation. All questions about content or procedures must be submitted in writing.
- Election Observers may take notes during the process but may not record any voter's personal identifying or contact information. The Registrar of Voters reserves the right to read an observer's notes prior to exiting the building.

## Phases

The canvass proceeds in phases, all of which are open to the public:

- Semifinal Official Results;
- Official Canvass;
- Risk Limiting Audits;
- Sealing and Disposition of Ballots; and
- Certification, Statement of the Votes Cast, and Certificates of Election. **Elec. Code**

**§1530**

## **Semifinal Official Results**

- On election night, immediately upon the closing of the polls at 8:00 p.m. and continuing without adjournment until all precincts are accounted for, we collect, resolve, and tally all the votes cast at the Vote Center and the VBM ballots received prior to Election Day. VBM ballots received on Election Day are included in the Final Official tally.
- Beginning at 8:05 p.m. on election night, we release the results of this tally to the public and to the Secretary of State, reported by contest and by precinct. Vote results are considered unofficial until the elections official completes the official canvass.
- The distribution of semifinal official election results will commence at 8:05 p.m. After 8:30 p.m., results are updated every 30 minutes until all precinct counts have been reported.

**Elec. Code §353.5, 15150-15213, 15320**

## **Official Canvass**

In this phase we audit and account for all ballots that were issued, voted, and those that were not used. This phase includes, but is not limited to, the following tasks:

- Inspect all materials and supplies returned by Customer Service Representatives.
- Reconcile the number of voter signatures with number of ballots recorded to the Vote Center; in the event of a discrepancy the number of ballots received from the Vote Center shall be reconciled with the number of ballots cast.
- Reconcile the number of ballots counted, spoiled, canceled, or invalidated due to identifying marks, over-votes, or as otherwise provided by statute, with the number of votes recorded, including VBM and provisional ballots, by the vote counting system.
- Process and count any valid VBM and provisional ballots not included in the semifinal official canvass.
- Count any valid write-in votes.
- Duplicate any damaged ballots, if necessary.
- Reporting final results to the governing board and the Secretary of State, as required.

**Elec. Code §153**

## Conditional Voter Registration/Provisional Ballots

Conditional Voter Registration (CVR) extends the existing 15-day registration deadline in California to eligible voters, allowing them to register and vote provisionally 14 days prior to an election and on Election Day.

The following types of voters must be processed using CVR:

- Voter is not found/not registered.
- Voter has a different name.

### CVR Procedures

- The voter must execute, in the presence of an elections official, the written affirmation stating that the voter is eligible to vote and registered in the county where the voter desires to vote.
- Once voted, the ballot is sealed in a provisional ballot envelope for return to the elections official.
- The provisional ballot of a voter who is otherwise entitled to vote shall not be rejected because the voter did not cast his or her ballot in the voter's assigned precinct.
- To prevent double voting, provisional ballots are not reviewed until all VBM ballots are verified and recorded and history has been applied.
- Provisional ballots are examined, verified, and processed much in the same way as VBM ballots. Each ballot is reviewed and researched on the following points before being accepted for counting: (1) valid signature; (2) current county voter registration; (3) prior county voter registration; (4) current registration address versus new address; (5) whether a VBM or provisional or precinct ballot was returned; and (6) the precinct where the ballot was cast.
- If the provisional voter is eligible to vote, the official must then determine which contests may be voted. If the voter is eligible to vote in all the contests on the voted ballot, then the ballot is processed like a VBM ballot; but, if the voter was only eligible to vote in some of the contests, the eligible portion of the ballot is duplicated on a new paper ballot and the duplicate ballot is processed like a VBM ballot. If the ballot has been voted electronically and determination has been made that it can be counted, those votes will be tallied electronically. If the ballot can only be partially counted, only those contests eligible to be voted will be tallied electronically.

**Elec. Code §14310-14312**

## Risk Limiting Audits

- A risk-limiting audit is a post-election process that involves hand-to-eye, human inspection of ballots in such a manner that if a full manual tally of all the ballots cast in the contest would show different outcomes than the results reported by the voting system.
- Commencing with the statewide primary election held on March 3, 2020, the elections official conducting an election may conduct a risk-limiting audit in place of the one percent manual tally required during the official canvass of any election in accordance with the requirements.
- Participating counties shall conduct a risk-limiting audit on each contest fully contained within the county's borders, and partial risk-limiting audits for each cross-jurisdictional contest. Commencement of the audit and selection of ballots for the audit shall not occur before the reporting of the results to which the contests are being audited.
- An elections official is in compliance with this section if the elections official conducts a ballot-level comparison audit, or ballot polling audit, with a five percent risk limit or a risk-limiting audit with a five percent risk limit using another method for conducting risk-limiting audits as approved by the Secretary of State.
- The risk-limiting audit shall be a public and observable process, with the elections official providing at least a five-day public notice of the time and place of both the risk-limiting audit and the selection of the ballots to be used when conducting the risk-limiting audit.
- The elections official conducting the risk-limiting audit shall publish a report on the results of the risk-limiting audit in the certification of the official canvass of the vote.

**Elec. Code § 15366, 15367**



**APPENDIX A: Voting System Reference: Glossary and Security Features**

**APPENDIX B: Statutory Reference**

**APPENDIX C: Voter Bill of Rights**

## Voting System Reference: Glossary and Security Features

### **100' Sign**

A sign posted approximately 100 feet from the entrance of the Vote Center. This sign establishes the area around the Vote Center where electioneering is not permitted.

### **Access Controller**

A controller that is included with the Verity Touch Writer that is intended for voters that cannot, or prefer not to, use the touchscreen.

### **Americans with Disabilities Act (ADA)**

A civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life.

### **ADA Instructions**

For Vote Centers that require specific modifications to their Vote Center to meet accessibility requirements, instructions will be provided indicating what needs to be done regarding equipment set-up or signage posting.

### **AutoBallot**

A handheld device that scans the barcode on ballot cards to issue ballots on the Verity Print and Verity Touch Writer.

### **Ballot Box**

A large black box that sits underneath the Verity Scan. Securely stores official ballots once they have been scanned.

### **Black Ballot Collection Box**

A large wheeled bag carrying Vote Center supplies on set-up day. Election supplies and materials will be removed, and the bag will be used as a ballot collection box for CVR envelopes, VBM envelopes, Spoiled Envelope, and all live un-scanned paper ballots.

### **Ballot Receipt**

A ticket that prints from ballot receipt printer that Customer Service Representatives use to issue the correct ballot to the voter.

### **Ballot Chain of Custody Form**

A document used to track ballot transportation between the Vote Center and Collection Center. A new form will be completed every evening and sent with the blue ballot transport bag.

### **Ballot Drop Box**

Secure metal containers designed to collect VBM ballots. Permanently installed at 110 locations throughout the county.

**Ballot Retrieval Team**

A pair of trained employees who will regularly retrieve paper ballots from Ballot Drop Boxes and Collection Centers and deliver them to the ROV warehouse.

**Ballot Type**

One of any number of specific ballot configurations issued to the appropriate precinct. At minimum, ballot types differ from one another in content. They may also differ in size of type, in language used, or in method of presentation (e.g., visual or audio). A ballot with a unique collection of contests to be used in the election. Every precinct's (or split precinct's) ballot is lined to one ballot type and there may be several precincts with the same ballot type. The ballot type information is carried on the vDrive.

**Bar Code**

A printed horizontal strip of vertical bars of varying widths, groups of which represent decimal digits. In the Hart Voting System, bar codes are required in order for paper ballots to be correctly scanned. Verity Central uses bar codes to represent a ballot pages' election identifier (ID), party ID, language ID, precinct ID, sheet ID, serial number (if applied), page number, ballot type, and duplex code.

**Black Folder**

A hardcover folder used by a voter who chooses to vote from their vehicle on a paper ballot.

**Blue Ballot Transport Bag**

A large blue canvas sack that will be used to transport ballots from the Vote Center to the Collection Center every evening.

**Board/Bilingual Member Badges**

Name badges that identify each member of the board as a Customer Service Representative. Bilingual Customer Service Representatives shall wear a badge identifying them as being able to speak another language.

**Candidate**

The person nominated for election who is running for political office.

**Cart**

Large metal cage where equipment will be securely stored.

**Cast Vote Record (CVR)**

An anonymous record of the contest options that a voter selected on his or her cast ballot. One Cast Vote Record is equivalent to one ballot.

**Closing Polls**

Process to be completed on Verity Touch Writer and Verity Scan devices at the end of the 7th day (11-day Vote Centers) and Election Night (all Vote Centers). Polls cannot be reopened once they are closed.

**Collection Center**

A designated facility for ballot drop-off. Every Vote Center will have a designated Collection Center.

**Conditional Voter Registration (CVR)**

Conditional voter registration extends the existing 15-day registration deadline in California to eligible voters, allowing them to register and vote provisionally 14 days prior to an election.

**Contest**

A choice to be made on the ballot; a race. Contest types include offices, measures, referendums, propositions and questions.

**Curbside Voter**

Voters with limited mobility who would like to vote in a vehicle or outside the Vote Center.

**Customer Service Representative (CSR)**

Formerly known as Poll Workers. Hired ROV staff members are deployed to a Vote Center.

**CVR Envelopes**

A red bordered form and envelope given to non-standard voters who need to register, or re-register based on their voter eligibility.

**Daily Envelope**

*See Equipment Chain of Custody Envelope*

**Display Stand**

*See Voting Information Sign*

**Drive-Thru Ballot Drop-Off**

Designated area for vote-by-mail ballot drop-off at select Vote Centers. Drive-thru areas will be set-up every morning and taken down every evening throughout the voting period.

**Election Digest**

An Elections Law guide supplied by the Secretary of State. The digest is compiled from California Elections Code and includes sections pertinent to the duties of elections officers.

**Election ID**

An election identification code that is unique for every election. The election ID is used internally by the software applications.

**Electioneering**

Any visible display or audible dissemination of information that advocates for or against any candidate or measure on the ballot within 100 feet of a Vote Center.

**Electronic Ballot**

Provided for voters who prefer to vote with the Verity Touch Writer

**Electronic Pollbook (ePollbook)**

A tablet used to electronically check-in voters at a Vote Center.

**Encryption**

Any procedure used in cryptography to convert plaintext into ciphertext (encrypted message) in order to prevent any but the intended recipient from reading that data.

**Equipment Chain of Custody Envelope**

A large envelope used to track security seals and tabs on voting equipment in order to maintain a secure voting environment. Also used to hold all reports and ballot cards printed in a given day at a Vote Center.

**Extension Cord**

An electric cord that permits the use of an appliance at some distance from a fixed outlet.

**Jurisdiction**

A precinct or group of precincts managed by a single organization.

**Magnaviewer**

A full sheet magnifier available for use by voters who have visual impairment or need additional assistance reading the ballot or voting materials.

**Near Real-Time Voter Data**

All electronic pollbooks used in this election will be connected to a safe and protected internet service. This allows all Vote Centers to communicate voter data to central database in near real time.

**Non-Partisan Voter**

A voter that is not registered with a political party.

**Non-Standard Voter**

A voter who does not follow the standard check-in process. Such voters will have a designation in the electronic pollbook indicating additional information is needed or processes will need to be followed. Voters may be asked to complete a CVR envelope if they wish to vote.

**Observer**

*See Poll Monitor*

**OC Ballot Express**

Orange County Registrar of Voters' online vote-by-mail tracking system.

**Official Ballot**

A ballot printed on Official Ballot Paper and given to voters.

**Official Ballot Paper**

Legal-sized paper with official watermark. Stored inside secured printers, boxes, and/or locked and covered carts.

**Official Return Ballot Envelope**

A vote-by-mail envelope given to the voter when they visit a Vote Center to request a replacement vote-by-mail ballot.

**Orange Canvas Bag**

A bag used to hold Verity keys, AutoBallots, and headphones.

**Plastic Vote Signs & Vote Stakes**

Directional signage that is placed in the path of travel to the Vote Center using stake signs to direct voters to the Vote Center entrance.

**Political Party**

An organized group of people who have the same ideology or have the same political positions.

**Poll Monitor**

People interested in election proceedings and are entitled to observe Vote Center operations during voting hours.

**Poll Worker**

*See Customer Service Representative (CSR)*

**Polling Place**

*See Vote Center*

**Precinct**

A district of the city marked out for governmental or administrative purposes.

**Precinct Notices**

Notices provided by the Secretary of State that must be posted conspicuously inside and outside of the Vote Centers. These notices explain for election procedure for partisan offices.

**Pre-Definition**

Pre-election configuration process by which the individual units of the Vote Center equipment is "defined" with only the selected ballot types and precincts that will be served by the Vote Center in which the units will be operating.

**Presidential General Election**

A regularly scheduled election where both the president and members of the national legislature are elected. This may include elections for local offices.

**Presidential Primary Election**

An election where voters select candidates for an upcoming general election.

**Printer Chain of Custody Form**

A document used to track Official Ballot Paper placed inside OKI Printer paper trays and cardboard boxes inside locked and covered carts.

**Provisional Ballot**

An official ballot given to non-standard voters. Provisional ballots cannot be cast using the Verity Scan devices. Voters can track the status of their Provisional Ballot by visiting [ocvote.com/provisional](http://ocvote.com/provisional).

**Provisional Envelopes**

*See CVR Envelopes*

**Provisional Voters**

*See Non-standard Voter*

**Reconciliation log**

A log that tracks all the scanned ballots on each Verity Scan device. Located in Site Binder and used during opening and closing routines.

**Registrar of Voters (ROV)**

County agency that is responsible for conducting elections in Orange County, CA.

**Remote Accessible Vote By Mail (RAVBM)**

Remote Accessible Vote by Mail System will allow voters in the military, overseas voters, and voters with disabilities to download and mark their ballots at home.

**Replacement Vote-By-Mail Ballot**

A vote-by-mail ballot that voters can request at Vote Centers to replace their lost or damaged VBM ballot.

**Security Seal**

A security sticker placed on the outside of voting equipment that shows "VOID" text if tampered.

**Security Tab**

A uniquely identifiable wired or zip-tie style tab used to secure voting equipment.

**Secrecy Folders**

Green folding covers used to ensure the privacy of voter election choice(s).

**Sip and Puff Tube**

Voter's mouth-controlled personal voting input device that connects to the Verity Touch Writer to enable voting.

**Site Binder**

A three-ring binder that contains set up instructions, Chain of Custody form, Vote Center-specific information, Incident Report forms, and contact list.

**Small Green Bag**

A small pouch used to hold and transport vDrives.

**Spoiled Ballot**

A ballot that is invalid due to voter mistakes, machine-caused damages, or duplicate printing.

**Spoiled Envelope**

An envelope used to hold spoiled ballots. The number of spoiled ballots will be written on the envelope and the sealed envelope will be sent to the Collection Center every night in the blue ballot transport bag.

**Stanchion**

An upright bar forming a barrier for line management.

**Standard Voter**

A voter who follows the standard check-in and voting process.

**State Voter Information Guides**

Contains information about federal and statewide candidates and statewide ballot measures.

**Station Signs**

Signs that will be placed at their corresponding station for check-in, vote, and scan.

**Surge Protector**

A power strip.

**Suspending Polls**

Process to be completed on Verity Touch Writer and Verity Scan when the Vote Center closes for the night and will resume operations the next day.

**Timecard**

A sheet used to record an employee's work hours for payroll purposes.

**Translate Utility**

Hart's system utility within the BUILD application, for capturing audio and textual translations of ballot text in multiple languages.

**Translated Reference Ballot**

A translated copy of an English ballot that is given to a voter upon request.

**vDrives**

The black USB drive to be inserted into the lower compartment of the Verity devices.

**Verity Print**

An on-demand ballot printing device.

**Verity Scan**

A digital scanner for scanning ballots.

**Verity Touch Writer**

An accessible ballot marking device. Voters may use either the touch screen or Access Controller to make their selections.

**Voter Bill of Rights**

Supplied by the Secretary of State, these outline voter rights in each required language and shall be conspicuously posted inside and outside the Vote Center.

**Vote-By-Mail (VBM) Ballot**

A paper ballot, with the same candidates and measures on it as you would receive at your Vote Center that is mailed to you with instructions on how to mark it and how to return it.

**Vote-By-Mail (VBM) Envelope**

Envelope used by voters to mail in their VBM ballots.

**Vote Center**

A full-service in-person voting experience that allows voters to vote, solve voter registration issues, register to vote check in electronically, get a replacement ballot, and receive general assistance for an extended period.



**Vote Center Handbook**

Manual used to train Customer Service Representatives on Vote Center operations.

**Vote Center Information Guides**

Informational guide that includes a sample of the ballot and information about all local candidates and ballot measures.

**Vote-by-Mail Status**

*See OC Ballot Express*

**Voting Information Sign**

A display stand that is delivered to the Vote Center with the voting equipment. It provides information to voters.

**Voter Information Guide (VIG)**

Informational guide that includes a sample of the ballot and information about local candidates and ballot measures specific to contests a voter may vote on.

**Voter Registration Forms**

*See CVR Envelopes*

**Voter's Choice Act**

A law passed in 2016 that allows counties to conduct elections under a new model to provide greater flexibility and convenience for voters.

**Voting Booth**

A small, enclosed area where voters while marking their ballot.

**Incident Reports**

A document used by Customer Service Representatives to record and document issues/problems that may arise during the voting period.

**Wheelchair Access Sign**

These signs direct voters with disabilities to an accessible path to the Vote Center.

**Write-In Candidate**

A candidate in an election whose name does not appear on the ballot, but for whom voters may vote by writing in the person's name.

**Zero Report**

A mandatory report printed on the Verity Touch Writer and Verity Scan devices that will be signed by the first voter. The report displays all zeroes and proves that no voting was conducted prior to the first day of voting.

## STATUTORY REFERENCES

All citations are to California Elections Code, unless otherwise noted.

### **Canvass of the Votes - Canvass Board Members**

15304. In jurisdictions using a central counting place, the elections official may appoint not less than three deputies to open the envelopes or containers with the materials returned from the precincts. If, after examination, any of the materials are incomplete, ambiguous, not properly authenticated, or otherwise defective, the precinct officers may be summoned before the elections official and examined under oath to describe polling place procedures and to correct the errors or omissions.

### **Canvass – Vote-by-Mail Ballots (VBM)**

15100. The provisions of this chapter apply to the processing of VBM ballots during the 29-day period before any election, during the semifinal official canvass, and during the official canvass.
15101. (a) Any jurisdiction in which VBM ballots are cast may begin to process VBM ballot return envelopes beginning 29 days before the election. Processing VBM ballot return envelopes may include verifying the voter's signature on the VBM ballot return envelope and updating voter history records.
- (b) (1) Any jurisdiction having the necessary computer capability may start to process VBM ballots on the 15th business day prior to the election. Processing VBM ballots includes opening VBM ballot return envelopes, removing ballots, duplicating any damaged ballots, and preparing the ballots to be machine read, or machine reading them, but under no circumstances may a vote count be accessed or released until 8:00 p.m. on the day of the election. All other jurisdictions shall start to process VBM ballots at 5:00 p.m. on the day before the election.

(2) For the statewide general election to be held on November 3, 2020, any jurisdiction having the necessary computer capability may start to process vote by mail ballots on the 29th day before the election. Processing vote by mail ballots includes opening vote by mail ballot return envelopes, removing ballots, duplicating any damaged ballots, and preparing the ballots to be machine read, or machine reading them, including processing write-in votes so that they can be tallied by the machine, but under no circumstances may a vote count be accessed or released until 8 p.m. on the day of the election. All other jurisdictions shall start to process vote by mail ballots at 5 p.m. on the day before the election.

(c) Results of any VBM ballot tabulation or count shall not be released prior to the close of the polls on the day of the election.

15102. The official shall appoint a special counting board or boards in numbers that he or she deems adequate to count the VBM ballots. The official shall provide for the forms of tally books and the distribution of the duties of the members of the canvassing board. When the tally is done by hand, there shall be no less than four persons for each office or proposition to be counted. One shall read from the ballot, the second shall keep watch for any error or improper vote, and the other two shall keep the tally.

15103. The elections official shall pay a reasonable compensation to each member of the canvassing board of VBM ballots. This compensation shall be paid out of the treasury of the agency conducting the election as other claims against it are paid.

15104. (a) The processing of VBM ballot return envelopes, and the processing and counting of VBM ballots shall be open to the public, both prior to and after the election.

(b) Any member of the county grand jury, and at least one member each of the Republican county central committee, the Democratic county central committee, and of any other party with a candidate on the ballot, and any other interested organization, shall be permitted to observe and challenge the manner in which the VBM ballots are handled, from the processing of VBM ballot return envelopes through the counting and disposition of the ballots.

(c) The elections official shall notify VBM voter observers and the public at least 48 hours in advance of the dates, times, and places where VBM ballots will be processed and counted.

(d) VBM voter observers shall be allowed sufficiently close access to enable them to observe and challenge whether those individuals handling VBM ballots are following established procedures, including all of the following:

- (1) Verifying signatures and 30 addresses by comparing them to voter registration information;
- (2) Duplicating accurately any damaged or defective ballots;
- (3) Securing VBM ballots to prevent any tampering with them before they are counted on election day.

(e) No VBM voter observer shall interfere with the orderly processing of VBM ballot return envelopes or processing and counting of VBM ballots, including touching or handling of the ballots.

15105. Prior to processing and opening the identification envelopes of VBM voters, the elections official shall make available a list of VBM voters for public inspection, from which challenges may be presented. Challenges may be made for the same reasons as those made against a voter voting at a polling place. In addition, a challenge may be entered on the grounds that the ballot was not received within the time provided by this code or that a person is imprisoned for a conviction of a felony. All challenges shall be made prior to the opening of the identification envelope of the challenged VBM voter.
15106. Except as otherwise provided, the processing of VBM ballot return envelopes, the processing and counting of VBM ballots, and the disposition of challenges of VBM ballots shall be according to the laws now in force pertaining to the election for which they are cast. Because the voter is not present, the challenger shall have the burden of establishing extraordinary proof of the validity of the challenge at the time the challenge is made.
15109. Except as otherwise provided in this chapter, the counting and canvassing of VBM ballots shall be conducted in the same manner and under the same regulations as used for ballots cast in a precinct polling place.

15110. Reports to the Secretary of State of the findings of the canvass of VBM ballots shall be made by the elections official pursuant to Chapter 3 (commencing with Section 15150) and Chapter 4 (commencing with Section 15300).
15111. The elections official shall keep an accurate list of all voters who have received and voted a VBM ballot at each election and compare this list with the roster of voters as provided in Section 15278. That list shall include the election precinct of the voter.
15112. When elections are consolidated pursuant to Division 10 (commencing with Section 10000), and only one form of ballot is used at the consolidated election, the ballots cast by VBM voters shall be counted only in connection with elections to which VBM voter privileges have been extended by law.

Whenever the period of time within which VBM voters' ballots shall be received by the elections official in order to be counted, as provided for any election by this code or any other law of this state, is different from that period of time provided for another election, and the elections are consolidated and only one form of ballot used for both elections, all VBM voters' ballots issued for the consolidated election may be counted for both elections if received by the elections official within whichever period of time is longer.

#### **Canvass – Risk Limiting Audits**

15365. The purpose of this article to provide elections officials with a method to conduct a comprehensive verification of election outcomes through the post-election audit process. This article shall remain in effect only until January 1, 2021, and as of that date is repealed.
15366. As used in this article, the following terms have the following meanings:
- (a) "Ballot" means original, voter-verifiable paper ballots, including voter-marked paper ballots whether marked manually or via a ballot marking device or system, and, where direct recording electronic (DRE) voting systems are used, the voter-verifiable paper audit trail (VVPAT). It does not mean electronic versions of ballots, digital images of ballots, or paper printouts of ballot images or digital cast vote records.
  - (b) "Ballot-level comparison audit" means a type of risk-limiting audit that involves both of the following steps:

(1) The elections official uses an independent system to verify that the cast vote records created by the voting system or ballots created independent from the tally or ballot marking system yield the same election results as those reported by the voting system.

(2) The elections official compares some or all of those cast vote records to a hand-to-eye, human interpretation of voter markings from the corresponding ballot marked by the voter or the voter verified paper audit trail, as defined by Section 19271.

(c) "Ballot polling audit" means a type of risk-limiting audit in which elections officials examine voter markings on randomly selected ballots seeking strong evidence that the reported tabulation outcome is correct.

(d) "Cast vote record" means an auditable document or electronic record that purports to reflect the selections a voter made on a ballot. It lists the contests on the ballot and the voter's selections in each of those contests.

(e) "Cross-jurisdictional contest" means an election contest in which ballots were cast in more than one county.

(f) "Electoral outcome" means the winner or winners of an election contest or whether a measure passed. It does not mean the numerical vote totals.

(g) (1) "Partial risk-limiting audit" of a cross-jurisdictional contest in a given county means any procedure that has at least a 95 percent chance of leading to a full manual tally of the votes in that contest on the ballots cast in that county if the electoral outcome is incorrect in part in that county. If a partial risk-limiting audit leads to such a full manual tally, the vote totals according to that manual tally shall replace the originally reported vote totals for that contest in that county.

(2) An electoral outcome of a cross-jurisdictional contest is incorrect in part in a given county if the tabulation error for that contest in the county, extrapolated in proportion to the number of ballots in the contest cast in that county compared to the total number of ballots cast in the entire contest, would alter the overall electoral outcome of the contest.

(3) The tabulation error of a contest in a county is the difference between the reported vote tally for the contest in that county and what a tally based on manual tally of the votes cast in that county would show, if the manual tally ascertains voter intent by eye, directly from the voter-verifiable paper records.

(h) "Risk-limiting audit" means a post-election process that involves hand-to-eye, human inspection of ballots in such a manner that if a full manual tally of all the ballots cast in the contest would show different outcomes than the results reported by the voting system, there is at most a five percent chance that the post-election process will not lead to such a full manual tally. If this post-election process does lead to a full manual tally, the winner or winners according to that full manual tally replace the winner or winners as reported by the voting system if they differ.

15367.

(a) (1) Commencing with the statewide primary election held on March 3, 2020, the elections official conducting an election may conduct a risk-limiting audit in place of the one percent manual tally required by Section 15360 during the official canvass of any election in accordance with the requirements of this article.

(2) Participating counties shall conduct a risk-limiting audit on each contest fully contained within the county's borders, and partial risk-limiting audits for each cross-jurisdictional contest. Commencement of the audit and selection of ballots for the audit shall not occur before the reporting of the results to which the contests are being audited. The Secretary of State shall define in regulations how all ballots, including provisional ballots and vote by mail ballots whose status has not yet been resolved, shall be taken into account in the audit to ensure that if a full manual tally of the votes on all validly cast ballots would show an electoral outcome that differs from the reported outcome, there is at most a five percent chance that the audit will not require such a tally.

(3) An elections official is in compliance with this section if the elections official conducts a ballot-level comparison audit, or ballot polling audit, with a five percent risk limit or a risk-limiting audit with a five percent risk limit using another method for conducting risk-limiting audits as approved by the Secretary of State. (b) (1) The Secretary of State, in consultation with recognized statistical experts, election verification and integrity stakeholders, voting system manufacturers, and local elections officials, shall adopt regulations to implement and administer this article.

(2) The regulations shall do all of the following:

(A) Require elections officials to establish appropriate audit boards and procedures to conduct the risk-limiting audits.

(B) Establish criteria for public education on risk-limiting audits.

(C) Establish procedures to ensure the security of the ballots, the selection of ballots to be inspected during each audit, and the rules governing cast vote records and other data involved in risk-limiting audits.

(D) Establish the calculations and other methods to be used in the audit to determine whether or when the audit of any contest is required to include the examination of more ballots, and to establish calculations and methods to be used in such an escalation, and to determine whether and when the audit of each contest is complete.

(E) Establish procedures and requirements for testing and disclosing the algorithms and source code of any software used by the Secretary of State for the selection of ballots to be included when elections officials conduct risk-limiting audits under this article.

(F) Establish requirements for the content of the risk-limiting audit report required by subdivision (d).

(G) Establish procedures and requirements to ensure the audit process is observable and verifiable by the public, including disclosing the methods used to select samples and to calculate the risk, providing public opportunity to verify that the correct ballots were inspected during the audit, and providing public opportunity to observe the inspection of the voters' marks on the ballots during the audit.

(c) The risk-limiting audit shall be a public and observable process, with the elections official providing at least a five-day public notice of the time and place of both the risk-limiting audit and the selection of the ballots to be used when conducting the risk-limiting audit.

(d) The elections official conducting the risk-limiting audit shall publish a report on the results of the risk-limiting audit in the certification of the official canvass of the vote.

### **Challenging a Voter at the Polling Place**

14240. (a) A person offering to vote may be orally challenged within the polling place only by a member of the precinct board upon any or all of the following grounds:

- (1) That the voter is not the person whose name appears on the index;
- (2) That the voter is not a resident of the precinct;
- (3) That the voter is not a citizen of the United States;
- (4) That the voter has voted that day;



(b) On the day of the election no person, other than a member of a precinct board or other official responsible for the conduct of the election, shall challenge or question any voter concerning the voter's qualifications to vote.

If any member of a precinct board receives, by mail or otherwise, any document or list concerning the residence or other voting qualifications of any person or persons, with the express or implied suggestion, request, or demand that the person or persons be challenged, the board member shall first determine whether the document or list contains or is accompanied by evidence constituting probable cause to justify or substantiate a challenge. In any case, before making any use whatever of such a list or document, the member of the precinct board shall immediately contact the elections official, charged with the duty of conducting the election, and describe the contents of the document or list and the evidence, if any, received bearing on voting qualifications. The elections official shall advise the members of the precinct board as to the sufficiency of probable cause for instituting and substantiating the challenge and as to the law as herein provided, relating to hearings and procedures for challenges by members of the precinct board and determination thereof by a precinct board. The elections official may, if necessary, designate a deputy to receive and answer inquiries from precinct board members as herein provided.

14241. A piece of mailed matter returned undelivered by the post office shall not be accepted or used as evidence upon which to initiate a challenge as to residency by any member of the precinct board unless other evidence or testimony is also presented, nor shall the mailed matter, standing alone without other evidence or testimony, be accepted as evidence by the precinct board in determining a challenge.
14242. The ground for challenge set forth in paragraph (2) of subdivision (a) of Section 14240 shall not apply to any person duly registered as a voter in any precinct in California and moving from that precinct within 14 days prior to an election.
14243. If the challenge is on the ground that the person seeking to vote is not the person whose name appears on the index, a member of the precinct board shall tender the following oath: "You do swear (or affirm) that you are the person whose name is entered on the index."

14244. If the challenge is on the ground that the person seeking to vote is not a resident of the precinct, the person challenged shall be sworn to answer questions, and after having been sworn, a member of the precinct board shall ask that person: "Are you a resident of this precinct?" If the answer to the question is "Yes," without significant qualification, no other questions shall be asked.
14245. If the challenge is on the ground that the person challenged has already cast a ballot for this election, a member of the precinct board shall tender to the person challenged this oath: "You do swear (or affirm) that you have not previously voted in this election, either by VBM ballot or at a polling place."
14246. If the challenge is on the ground either that the person challenged is not the person whose name appears on the index, or that he or she has voted that day, the challenge shall be determined in favor of the person challenged if that person takes the oath as set forth either in Section 14243 or 14245.
14247. Challenges of voters that they are not residents of the precinct or citizens of the United States shall be tried and determined by the precinct board at the time of the challenge. The precinct board may, at its discretion, also request any other person, present in the polling place to be sworn and answer questions, whom the board believes may have knowledge or information concerning the facts of the challenge.
14248. Before administering an oath to a person regarding his or her place of residence, a member of the precinct board shall read to the person challenged, the rules prescribed by Section 14249 and Article 2 (commencing with Section 2020) of Chapter 1 of Division 2.
14249. If any person challenged refuses to take the oaths tendered, or refuses to be sworn and to answer the questions concerning the matter of residence, that person shall not be allowed to vote.
14250. The precinct board, in determining the place of residence of any person, shall be governed by the rules set forth in Article 2 (commencing with Section 2020) of Chapter 1, Division 2.

14251. Any doubt in the interpretation of the law shall be resolved in favor of the challenged voter.
14252. The precinct board shall compile a list showing all of the following:
- (a) The name and address of each person challenged;
  - (b) The name, address, and any other identification as a voter, of each person offering information concerning any person's qualifications to vote, or testifying pursuant to Section 14247, together with the name and address and any other identification of the person about whom the information or testimony is given;
  - (c) The grounds of each challenge;
  - (d) The determination of the board upon the challenge, together with any written evidence pertaining thereto;
  - (e) If evidence has been presented to the board requesting challenges, the evidence shall be returned to the elections official responsible for the conduct of the election.
14253. In the event that the precinct board determines that persistent challenging of voters is resulting in a delay of voting sufficient to cause voters to forego voting because of insufficient time or for fear of unwarranted intimidation, the board shall discontinue all challenges, and so note on the roster.

#### **Criminal Interference with Voters**

18370. No person, on Election Day, or at any time that a voter may be casting a ballot, shall, within 100 feet of a polling place or an elections official's office:
- (a) Circulate an initiative, referendum, recall, or nomination petition or any other petition;
  - (b) Solicit a vote or speak to a voter on the subject of marking his or her ballot;
  - (c) Place a sign relating to voters' qualifications or speak to a voter on the
- residence, a member of the precinct board shall read to the person challenged, the rules prescribed by Section 14249 and Article 2 (commencing with Section 2020) of Chapter 1 of Division 2.

14249. If any person challenged refuses to take the oaths tendered, or refuses to be sworn and to answer the questions concerning the matter of residence, that person shall not be allowed to vote.
14250. The precinct board, in determining the place of residence of any person, shall be governed by the rules set forth in Article 2 (commencing with Section 2020) of Chapter 1, Division 2.
14251. Any doubt in the interpretation of the law shall be resolved in favor of the challenged voter.
14252. The precinct board shall compile a list showing all of the following:  
(f) The name and address of each person challenged;  
(g) The name, address, and any other identification as a voter, of each person offering information concerning any person's qualifications to vote, or testifying pursuant to Section 14247, together with the name and address and any other identification of the person about whom the information or testimony is given;  
(h) The grounds of each challenge;  
(i) The determination of the board upon the challenge, together with any written evidence pertaining thereto;  
(j) If evidence has been presented to the board requesting challenges, the evidence shall be returned to the elections official responsible for the conduct of the election.
14253. In the event that the precinct board determines that persistent challenging of voters is resulting in a delay of voting sufficient to cause voters to forego voting because of insufficient time or for fear of unwarranted intimidation, the board shall discontinue all challenges, and so note on the roster.

#### **Criminal Interference with Voters**

18370. No person, on Election Day, or at any time that a voter may be casting a ballot, shall, within 100 feet of a polling place or an elections official's office:  
(d) Circulate an initiative, referendum, recall, or nomination petition or any other petition;  
(e) Solicit a vote or speak to a voter on the subject of marking his or her ballot;

Place a sign relating to voters' qualifications or speak to a voter on the subject of his or her qualifications except as provided in Section 14240;

(f) Do any electioneering.

As used in this section, "100 feet of a polling place or an elections official's office" means a distance 100 feet from the room or rooms in which voters are signing the roster and casting ballots.

Any person who violates any of the provisions of this section is guilty of a misdemeanor.

18540. (a) Every person who makes use of or threatens to make use of any force, violence, or tactic of coercion or intimidation, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election, or because any person voted or refrained from voting at any election or voted or refrained from voting for any particular person or measure at any election is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years. (b) Every person who hires or arranges for any other person to make use of or threaten to make use of any force, violence, or tactic of coercion or intimidation, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election, or because any person voted or refrained from voting at any election or voted or refrained from voting for any particular person or measure at any election is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years.

18541. (a) No person shall, with the intent of dissuading another person from voting, within 100 feet of a polling place, do any of the following:

(1) Solicit a vote or speak to a voter on the subject of marking his or her ballot;

(2) Place a sign relating to voters' qualifications or speak to a voter on the subject of his or her qualifications except as provided in Section 14240;

(3) Photograph, videotape, or otherwise record a voter entering or exiting a polling place;

(b) Any violation of this section is punishable by imprisonment in a county jail for not more than 12 months, or in the state prison. Any person who conspires to violate this section is guilty of a felony.

(c) For purposes of this section, 100 feet means a distance of 100 feet from the room or rooms in which voters are signing the roster and casting ballots.

18543. (a) Every person who knowingly challenges a person's right to vote without probable cause or on fraudulent or spurious grounds, or who engages in mass, indiscriminate, and groundless challenging of voters solely for the purpose of preventing voters from voting or to delay the process of voting, or who fraudulently advises any person that he or she is not eligible to vote or is not registered to vote when in fact that person is eligible or is registered, or who violates Section 14240, is punishable by imprisonment in the county jail for not more than 12 months or in the state prison.

(b) Every person who conspires to violate subdivision (a) is guilty of a felony.

#### **Provisional Ballots**

14310. (a) At all elections, a voter claiming to be properly registered but whose qualification or entitlement to vote cannot be immediately established upon examination of the index of registration for the precinct or upon examination of the records on file with the county elections official, shall be entitled to vote a provisional ballot as follows:

(1) An election official shall advise the voter of the voter's right to cast a provisional ballot;

(2) The voter shall be provided a provisional ballot, written instructions regarding the process and procedures for casting the provisional ballot, and a written affirmation regarding the voter's registration and eligibility to vote. The written instructions shall include the information set forth in subdivisions (c) and (d);

(3) The voter shall be required to execute, in the presence of an elections official, the written affirmation stating that the voter is eligible to vote and registered in the county where the voter desires to vote; (b) Once voted, the voter's ballot shall be sealed in a provisional ballot envelope, and the ballot in its envelope shall be deposited in the ballot box. All provisional ballots voted shall remain sealed in their envelopes for return to the elections official in accordance with the elections official's instructions. The provisional ballot envelopes specified in this subdivision shall be a color different than the color of, but printed substantially similar to, the envelopes used for VBM ballots, and shall be completed in the same manner as VBM envelopes;

(c) (1) During the official canvass, the elections official shall examine the records with respect to all provisional ballots cast. Using the procedures that apply to the comparison of signatures on VBM ballots, the elections official shall compare the signature on each provisional ballot envelope with the signature on the voter's affidavit of registration. If the signatures do not compare, the ballot shall be rejected. A variation of the signature caused by the substitution of initials for the first or middle name, or both, shall not invalidate the ballot.

(2) Provisional ballots shall not be included in any semiofficial or official canvass, except upon: (A) the elections official's establishing prior to the completion of the official canvass, from the records in his or her office, the claimant's right to vote; or (B) the order of a superior court in the county of the voter's residence. A voter may seek the court order specified in this paragraph regarding his or her own ballot at any time prior to completion of the official canvass. Any judicial action or appeal shall have priority over all other civil matters.

(3) The provisional ballot of a voter who is otherwise entitled to vote shall not be rejected because the voter did not cast his or her ballot in the precinct to which he or she was assigned by the elections official.

If the ballot cast by the voter contains the same candidates and measures on which the voter would have been entitled to vote in his or her assigned precinct, the elections official shall count the votes for the entire ballot. (A) If the ballot cast by the voter contains candidates or measures on which the voter would not have been entitled to vote in his or her assigned precinct, the elections official shall count only the votes for the candidates and measures on which the voter was entitled to vote in his or her assigned precinct.

(d) The Secretary of State shall establish a free access system that any voter who casts a provisional ballot may access to discover whether the voter's provisional ballot was counted and, if not, the reason why it was not counted.

(e) The Secretary of State may adopt appropriate regulations for purposes of ensuring the uniform application of this section.

(f) This section shall apply to any VBM voter described by Section 3015 who is unable to surrender his or her unvoted VBM voter's ballot.

(g) Any existing supply of envelopes marked "special challenged ballot" may be used until the supply is exhausted.

14311. (a) A voter who has moved from one address to another within the same county and who has not re-registered to vote at that new address may, at his or her option, vote on the day of the election at the polling place at which he or she is entitled to vote based on his or her current residence address, or at the office of the county elections official or other central location designated by that elections official. The voter shall be re-registered at the place of voting for future elections.

(b) Voters casting ballots under this section shall be required to vote by provisional ballot, as provided in Section 14310.

14312. This article shall be liberally construed in favor of the provisional voter.

15350. Provisional ballots cast pursuant to Section 14310 shall be processed and counted in accordance with the provisions outlined in Chapter 3 (commencing with Section 15100) and pursuant to the requirements of Sections 14310 and 14311

#### **Recounts**

15620. Following completion of the official canvass, any voter may, within five days thereafter, file with the elections official responsible for conducting an election in the county wherein the recount is sought a written request for a recount of the votes cast for candidates for any office, for slates of presidential electors, or for or against any measure, provided the office, slate, or measure is not voted on statewide. The request shall specify on behalf of which candidate, slate of electors, or position on a measure (affirmative or negative) it is filed.

If an election is conducted in more than one county, the request for the recount may be filed with the elections official of, and the recount conducted within, any or all of the affected counties.



For the purposes of this section "completion of the canvass" shall be presumed to be that time when the elections official signs the certified statement of the results of the election except that, in the case of a city election, if a city council canvasses the returns itself and does not order the elections official to conduct the canvass as permitted by Section 10263, "completion of the canvass" shall be presumed to be that time when the governing body declares the persons elected or the measures approved or defeated.

15621. Following completion of the official canvass, any voter may, within five days beginning on the 29th day after a statewide election, file with the Secretary of State a written request for a recount of the votes cast for candidates for any statewide office or for or against any measure voted on statewide. The request shall specify in which county or counties the recount is sought and shall specify on behalf of which candidate, slate of electors, or position on a measure (affirmative or negative) it is filed.

The Secretary of State shall forthwith send by registered mail one copy of the request to the elections official of each county in which a recount of the votes is sought.

All the other provisions of this article shall apply to recounts conducted under this section.

15622. The request may specify the order in which precincts shall be recounted.

15623. Any time during the conduct of a recount and for 24 hours thereafter, any other voter may request the recount of any precincts in an election for the same office, slate of presidential electors, or measure not recounted as a result of the original request.

15624. The voter filing the request seeking the recount shall, before the recount is commenced and at the beginning of each day following, deposit with the elections official a sum as required by the elections official to cover the cost of the recount for that day. The money deposited shall be returned to the depositor if, upon completion of the recount, the candidate, slate of presidential electors, or the position on the measure (affirmative or negative) for which the declaration is filed is found to have received the plurality of votes cast which it had not received according to the official canvass or, in an election where there are two or more candidates, the recount results in the candidate for whom the recount was requested appearing on the ballot in a subsequent runoff election or general election who would not have so appeared in the absence of the recount. The

depositor shall be entitled to the return of any money deposited in excess of the cost of the recount if the candidate, slate, or position on the measure has not received the plurality of the votes cast or, in an election where there are two or more candidates, the recount does not result in the candidate for whom the recount was requested appearing on the ballot in a subsequent runoff or general election as a result of the recount. Money not required to be refunded shall be deposited in the appropriate public treasury.

15625. The recount shall be conducted under the supervision of the elections official by special recount boards consisting of four voters of the county appointed by the elections official. Each member of a recount board shall receive the same compensation per day as is paid in the jurisdiction within which the recount is being conducted to members of precinct boards, other than inspectors, to be paid out of the appropriate public treasury.

If the office of the elections official is the subject of the recount, the governing body shall appoint an officer, other than the elections official, to appoint and supervise the special recount boards.

15626. The recount shall be commenced not more than seven days following the receipt by the elections official of the request for the recount under Section 15620 or 15621, and shall be continued daily, Saturdays, Sundays, and holidays excepted, for not less than six hours each day until completed. The recount shall not be commenced until the first day following notification of the individuals specified in Section 15628.

15627. (a) If in the election which is to be recounted the votes were recorded by means of a punchcard voting system or by electronic or electromechanical vote tabulating devices, the voter who files the declaration requesting the recount may select whether the recount shall be conducted manually, or by means of the voting system used originally, or both.

(b) For purposes of direct recording electronic voting systems, "conducted manually" means that either the paper record copies or the voter verified paper audit trail of the electronically recorded vote are counted manually, as selected by the voter who requests the recount.

15628. Not less than one day prior to commencement of the recount, the elections official shall post a notice as to the date and place of the recount and shall notify the following persons of it in person or by any

federally regulated overnight mail service:

- (a) All candidates for any office the votes for which are to be recounted.
- (b) Authorized representatives of presidential candidates to whom electors are pledged if the votes to be recounted were cast for presidential electors.
- (c) Proponents of any initiative or referendum or persons filing ballot arguments for or against any initiative, referendum, or measure placed on the ballot by the governing body the votes for which are to be recounted.
- (d) The Secretary of State in the case of a recount of the votes cast for candidates for any state office, presidential electors, the House of Representatives of the United States, the Senate of the United States, or delegates to a national convention or on any state measure.

15629. The recount shall be conducted publicly.

15630. All ballots, whether voted or not, and any other relevant material, may be examined as part of any recount if the voter filing the declaration requesting the recount so requests.

No examination of any ballot shall include touching or handling the ballot without the express consent of the elections official or the election officer supervising the special recount board. No ballot may be touched or handled during the examination unless the elections official or the elections officer supervising the special recount is present to observe the examination. Except as provided in this section no ballot shall be touched or handled by any person during the recount unless that person is the elections official, a person acting at the direction of the elections official, a member of the special recount board, or by order of the superior court.

15631. On recount, ballots may be challenged for incompleteness, ambiguity, or other defects, in accordance with the following procedure:

- (a) The person challenging the ballot shall state the reason for the challenge.
- (b) The official counting the ballot shall count it as he or she believes proper and then set it aside with a notation as to how it was counted.

(c) The elections official shall, before the recount is completed, determine whether the challenge is to be allowed. The decision of the elections official is final.

15632. In lieu of the returns as reported in the official canvass, upon completion of the recount showing that a different candidate was nominated or elected, that a different presidential slate of electors received a plurality of the votes, or that a measure was defeated instead of approved or approved instead of defeated, there shall be entered the result of the recount in each precinct affected, which result shall, for all purposes thereafter, be the official returns of those precincts for the office, slates of presidential electors, or measure involved in the recount. If the office, slates of presidential electors, or measure are not voted on statewide, the results of any recount which is not completed by counting the votes in each and every precinct in the jurisdiction within which votes were cast on the candidates for the office, on the slates of electors, or on the measure in question shall be declared null and void. If the office, slates of presidential electors, or measure are voted on statewide, the results of any recount will be declared null and void where there is not recounted each vote cast for the office, slates, or measure in any county specified in the request for recount filed with the Secretary of State.

15633. A copy of the results of any recount conducted pursuant to this chapter shall be posted conspicuously in the office of the elections official.

## **Federal Laws**

### **Help America Vote Act of 2002**

Key provisions: (1) new voting system standards and funding to acquire new voting systems that enable every voter to vote independently and privately, to review and correct and verify their ballots before casting them.; (2) allow voters to cast a provisional ballot at the polling place even when there is some doubt about eligibility; (3) requires verification of identity when registering to vote for the first time; (4) facilitates voting by military and overseas voters; (5) facilitates the filing of complaints by voters; and (6) creates Elections Assistance Committee to oversee and study election processes.

Voting Accessibility for the Elderly and Handicapped Act of 1984 [42 USC 1973ee] generally requires polling places to be physically accessible to people with disabilities for federal elections. Where no accessible location is available to serve as a polling place, a political subdivision must provide an alternate means of casting a ballot on the day of the election. This law also requires states to make available registration and voting aids for disabled and elderly voters, including information by telecommunications devices for the deaf (TDDs) which are also known as teletypewriters (TTYs).

#### **National Voter Registration Act of 1993**

(Popular names: Motor Voter Law; NVRA.) The purpose of the Act is to make it easier for all Americans to register to vote and to maintain their registration. It provides for voter registration services while applying for a driver's license, while applying for general assistance or for state-funded public services for the disabled, or by using mail-in forms in a state-approved format. The Act also requires elections officials to take specified steps to maintain an up-to-date voter registration database and to notify voters of their registration status.

#### **Americans with Disabilities Act of 1990**

(Popular name: ADA.) To be protected by the ADA, one must have a disability or have a relationship or association with an individual with a disability. An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such impairment, or a person who is perceived by others as having such impairment. Title II of the Act provides protections in the state and local government activities.

#### **Voting Rights Act of 1965**

Language Minority Groups (LMGs). See §4(f)(4) and §203; interpretations and guidelines are provided in the Code of Federal Regulations (7/1/99 version, Title 28, Chapter I, Part 55, §§55.1- 55.24). The minority language provisions were added to the Act in 1975, and Orange County became a covered jurisdiction under §203(c) pursuant to the July 2002 publication of Census Bureau statistics (67 Fed. Reg. 144, 48871). The language provisions require Orange County to provide election materials and activities in English, Chinese, Korean, Vietnamese and Spanish, in any type of election. Covered activities are defined as "any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots[.]" The basic purpose is to allow members of the LMGs to be effectively informed of and participate effectively in voting-connected activities.

### Voter Bill of Rights

1. You have the right to cast a ballot if you are a valid registered voter (a US citizen who is a resident in this state, at least 18 years of age and not in prison for conviction of a felony, and not currently found mentally incompetent to vote by a court).
2. You have the right to cast a provisional ballot if your name is not listed on the voting rolls.
3. You have the right to cast a ballot if you are present and in line at the polling place prior to the close of the polls.
4. You have the right to cast a secret ballot free from intimidation.
5. You have the right to receive a new ballot if, prior to casting your ballot, you believe you made a mistake. If at any time before you finally cast your ballot, you feel you have made a mistake, you have the right to exchange the spoiled ballot for a new ballot. VBM voters may also request and receive a new ballot if they return their spoiled ballot to an elections official prior to the closing of the polls on Election Day.
6. You have the right to receive assistance in casting your ballot, if unable to vote without assistance.
7. You have the right to return a completed VBM ballot to any precinct in the county.
8. You have the right to election materials in another language, if there are sufficient residents in your precinct to warrant production.
9. You have the right to ask questions about election procedures and observe the elections process. You have the right to ask questions of the precinct board and election officials regarding election procedures and to receive an answer or be directed to the appropriate official for an answer. However, if persistent questioning disrupts the execution of their duties, the board or election officials may discontinue responding to questions.
10. You have the right to report any illegal or fraudulent activity to a local election official or to the Secretary of State's Office.

**If you believe you have been denied any of these rights, or you are aware of any election fraud or misconduct, please call the Secretary of State's confidential toll-free Voter Hotline at 1-800-345-VOTE (8683).**

Information on your voter registration affidavit will be used by elections officials to send you official information on the voting process, such as the location of your polling place and the issues and candidates that will appear on the ballot. Commercial use of voter registration information is prohibited by law and is a misdemeanor. Voter information may be provided to a candidate for office, a ballot measure committee, or other person for election, scholarly, journalistic, political, or governmental purposes, as determined by the Secretary of State. Driver's license and social security numbers, or your signature as shown on your voter registration card, cannot be released for these purposes. If you have any questions about the use of voter information or wish to report suspected misuse of such information, please call the Secretary of State's Voter Hotline at 1-800- 345-VOTE (8683). Certain voters facing life-threatening situations may qualify for confidential voter status. For more information, please contact the Secretary of State's Safe at Home program toll-free at 1-877-322-5227 or visit the Secretary of State's website at [www.sos.ca.gov](http://www.sos.ca.gov).