



# OFFICE OF THE SECRETARY OF STATE

## ELECTIONS DIVISION

<b>Directive of the Secretary of State</b>	<b>Subject:</b> 2024 Wasco County Recount District Attorney's Office	<b>Directive Issued at the Request of:</b> Secretary of State	<b>Date:</b> July 2, 2024	<b>Number:</b> 2024-03
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The Secretary of State in carrying out the duties of the office shall issue detailed directives necessary to maintain uniformity in the application, operation, and interpretation of Oregon election laws. (ORS 246.110-120) The information provided here is an official directive of the Secretary of State.

On July 2, 2024, Candidate for District Attorney in Wasco County, Travis Marston filed a demand for recount of votes cast at the May 21, 2024, Primary Election.

Pursuant to ORS 258.190 (1) this is an official directive of the Secretary of State.

This directive instructs Wasco County to perform a full recount of all ballots cast for Wasco County District Attorney at the May 21, 2024, Primary Election. Further, it provides instructions on the methods by which to conduct the recount.

Wasco County Elections Officials may determine the specific day(s) to conduct the recount but must notify the state of their recount schedule according to the instructions provided.

Attached to and included as part of this Directive are the following materials:

- Instructions for completing the full recount for Wasco County District Attorney
- Ballot examples
- SEL 797 Form (Recount Tally and Certification Form) on which to record the recount tally and return to the State Elections office

**LaVonne Griffin-Valade**

*Secretary of State*

By:

**Molly Woon**

*Elections Director*

# Instructions for Completing Recount Demand

## **Preparing for the Recount Demand**

Recount demands are conducted pursuant to ORS Chapter 258.161-270. Recount demands are filed with the Secretary of State's office using form SEL 800, no later than the 42<sup>nd</sup> day after the election and a supplemental demand not later than the 52<sup>nd</sup> day after the date of the election. A candidate or an officer of their political party can file a demand on their behalf. A deposit of \$15.00 for each precinct being recounted must be paid to the Secretary of State before the form can be accepted. **All recounts are conducted by hand.** The recount is to be conducted as openly and expeditiously as possible. When the Secretary of State receives notice of a recount demand they will notify the County Elections Official within 24 hours.

## **Providing notice to the State of your county's recount schedule**

The County Elections Official must notify the State Elections office as soon as possible after scheduling the recount. Notice must be given at least two business days before the start of the recount. Notice should be provided by email to: [elections.sos@sos.oregon.gov](mailto:elections.sos@sos.oregon.gov) and should include:

- the date, time and location of the recount
- the expected duration of the recount
- the number of counting boards to be appointed for the recount

## **Providing notice to affected parties and other interested parties**

The Secretary of State will prepare an official notice of the recount to affected parties which includes the candidates in that race.

County Elections Officials are encouraged to notify the counties local media by regular mail or by email and should post their recount schedule on the county website. Information provided in the county notice should include the expected duration of the recount and any special parking arrangements for observers.

## **Appointment of Counting Boards**

The County Elections Official must appoint at least one two-person counting board, consisting of county electors to conduct the hand recount. The members of each counting board cannot all be members of the same political party. Duties of the counting board include determining the voters' intent on each ballot, separating the ballots into different stacks based on the option selected on each ballot, and then counting the number of ballots in each stack. All duties must be performed in a uniform manner in accordance with ORS Chapter 258 and this directive.

County Elections Officials may appoint as many counting boards as necessary to ensure the orderly and timely completion of the recount. The County Elections Official should designate a chairperson for each counting board prior to beginning the recount.

## **Instructions for Completing Recount Demand (cont.)**

The members of a counting board:

- shall be selected from the list of county electors
- shall not have been a candidate for any office voted upon at the election
- shall be compensated at least the minimum wage required by state or federal law, whichever is higher

### **Official Observers**

Affected candidate may designate and authorize an observer for each counting board performing the recount in the county. Such authorization must be in writing and provided to the County Elections Official prior to the beginning of the recount.

All observers must have appropriate written authorization signed by the affected candidate.

Authorized observers will be allowed as close as possible to the counting boards without impeding the process given the space limitations of each county. Observers shall not in any way interfere with the preparation or counting procedure. Any comments or questions about the proceedings in progress shall be directed to elections supervisory personnel, not to the counting boards. If at any time any observer creates a distraction or otherwise impedes the progress of the preparation or the count, the proceedings will be stopped, and corrective action may be taken by the elections official.

Authorized observers do not have the right to address a counting board concerning the process. Any observed procedural irregularity or perceived error may be reported to elections supervisory personnel who are to take corrective actions, if necessary.

In addition to authorized observers for the candidate, County Elections Officials may allow other observers at their discretion.

### **Preparation for Recount Procedures**

Preparation for recount may include any preliminary preparation of the ballots that the elections official deems necessary.

Some election-related materials are not part of a recount but are available to be examined. At the request of an affected party, these materials shall be reviewed as soon as practicable following a request, at a time designated by the elections official.

Under 254.426(3), challenge envelopes are confidential and are NOT included in the recount and are NOT available for examination. This does not apply to ballot return envelopes challenged under ORS 254.431 for non-matching or missing signatures.

## Instructions for Completing Recount Demand (cont.)

### Ballot Counting Procedures

Before starting the recount, the elections official, or designated staff member, shall assemble all ballot containers and other materials pertinent to the recount. Each counting board shall examine the seals of the containers to make certain they have not been broken. The seals on all containers holding ballots to be recounted shall be broken in the presence of the counting board and authorized observers.

The ballots or ballot cards shall be taken from the container. The ballots to be recounted shall be separated into the following stacks:

- “candidate” votes
- overvotes\*
- undervotes\*
- duplicated ballots
- rejected ballots, if any (as defined in ORS 254.505)\*\*

\*An overvote occurs when an elector marked two or more candidate choices. An undervote occurs when the elector does not mark any choice for the candidate. Each overvote and undervote ballot must be examined by the counting board to confirm that the voter did, in fact, cast an overvote or an undervote.

\*\*During the original count there may have been some ballots rejected by elections personnel in the pre-inspection process. These ballots should be in a “Rejected Ballots” envelope. Each of these ballots must be re-inspected and a decision made by at least three of the members of the counting board whether to count the ballot not previously counted. If the decision is to count the ballot, it is to be counted in the same manner as all other ballots. The rejected ballots are to be signed or initialed and dated by the counting board chairperson. If any ballots that were originally not counted are determined to be countable, this fact and the quantity counted shall be noted on the “Rejected Ballots” envelope to explain the discrepancy between the original count and the recount.

Any ballot that was duplicated by the original election board shall be checked against the original ballot to ensure that the vote for the office or measure being recounted was properly duplicated. Duplicated ballots shall be sorted into appropriate stacks according to how the ballots were voted. The original ballot should then be resealed.

The counting boards shall divide into two-person teams after all of the ballots have been separated into the appropriate stacks and inspected. Each two-person team shall count each stack of ballots and record the count on scratch paper. The teams shall compare their counts. If the counts do not agree, each stack must be recounted again until agreement is reached. Once the count is agreed upon, the number shall be recorded on the SEL 797 form, then provided to the Secretary of State.

## **Instructions for Completing Recount Demand (cont.)**

The county elections official will compare the vote count reported by the counting board with the original vote count. Any difference in the vote count prepared by the counting board and the original count must be reviewed by the county elections official before the recount of a precinct is considered complete.

For each step in the process, every ballot and each count should be verified by at least two members of the counting board.

All materials must be resealed after the recount is completed. Resealing may be done precinct by precinct, in groups of precincts contained in one sealable container, or a county as a whole, at the county elections official's discretion. If the recount occurs over more than one day, all ballots must be resealed in containers at the close of business each day.

The results for individual precincts are considered unofficial until they have been abstracted and certified by the county elections official.

### **Certification of Recount Costs**

Pursuant to ORS 258.231, the certification of costs may include:

- Payment to recount boards at a rate not to exceed the rate at which such elections personnel were paid during the election prior to the recount;
- Payment to additional employees required to conduct the recount and overtime payment to regular employees who are eligible to receive overtime payments;
- Postage and telephone charges directly related to the recount.
- The costs for security

The Secretary of State allows billing for the costs of renting facilities, furniture and vehicles if used solely for the purpose of a recount.

The certification of costs of a recount shall not include:

- General administrative costs;
- Allowances for meals or lodging.

No later than 30 days after the completion of the recount the County Elections Official shall submit to the Secretary of State the SEL237 and SEL952 with the supporting documents, claiming the costs for the recount expenses only.

## Instructions for Completing Recount Demand (cont.)

### Ballot Examples

The following are some examples of ballots which may have been marked by the voter in a manner that may not have allowed the vote tally system to tally it as the voter intended.

While the final determination is made by the counting board, these standards are adopted in the [2024 Vote by Mail Procedures Manual](#).

Write-in processing examples and ballot examples are provided on page 42 of [2024 Vote by Mail Procedures Manual](#).

### Examples

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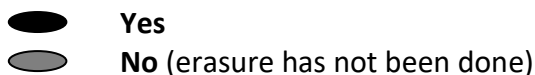
Two (or more) voting areas have been marked and one mark has been erased, but enough residue is left that the scanner may read an overvote.



Tally as a **Yes** vote because an attempt at erasure was made.  
Vote tally system probably recorded as an overvote.

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One response is indicated with a heavy line or dark oval and a second response is marked with a narrow line or pale oval, but no erasure has been attempted.



Tally as an **overvote** because no attempt at erasure was made.  
Vote tally system probably recorded as an overvote.

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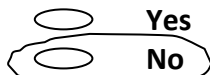
The voting area has been completed for one response and a dot or partially completed voting area is marked for the other.



Tally as a **Yes** vote.  
Vote tally system probably recorded as an overvote.

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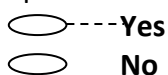
The voting area has not been marked, but the response is circled.



Tally as a **No** vote.  
Vote tally system probably recorded as an undervote.

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The voting area has not been marked but there is a connective line between the response and the voting area to indicate the vote.



Tally as a **Yes** vote.  
Vote tally system probably recorded as an undervote.

## Instructions for Completing Recount Demand (cont.)

### Ballot Examples (cont.)

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More than one voting area has been completed, but a word or mark is used to indicate the correct vote.

 **Yes**  
not this  **No**

Tally as a **Yes** vote.

Vote tally system probably recorded as an overvote.

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A word has been used to indicate the vote instead of completing the voting area.

 **Yes**  
I want this one  **No**

Tally as a **No** vote.

Vote tally system may or may not have recorded as a No vote.

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The entire response area for a contest is crossed out.

 **Yes**  
**No**

Tally as an **undervote**.

Unclear how vote tally system may have recorded.

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Corrections are made with liquid white-out.

 **Yes**  
 **No**

Tally as a **No** vote.

Vote tally system probably recorded as an overvote.





