

No. 22-16413

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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Kari Lake, *et al.*,

*Plaintiffs/Appellants,*

v.

Adrian Fontes, *et al.*,

*Defendants/Appellees.*

On Appeal from the United States District Court  
for the District of Arizona  
Case No. 2:22-cv-00677-JJT  
John J. Tuchi  
United States District Judge

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**ADDENDUM TO DEFENDANT/APPELLEE ARIZONA SECRETARY OF  
STATE ADRIAN FONTES' ANSWERING BRIEF**

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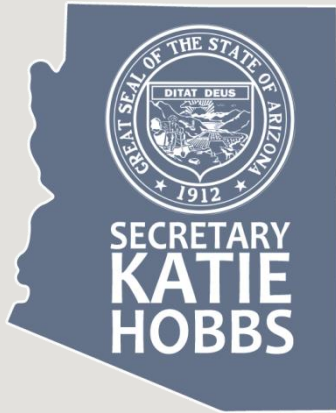
*Attorneys for Defendant/Appellee Arizona  
Secretary of State Adrian Fontes in his  
Official Capacity*

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STATE OF ARIZONA

# 2019 ELECTIONS PROCEDURES MANUAL

December 2019

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# ARIZONA ELECTIONS PROCEDURES MANUAL

A PUBLICATION OF  
THE ARIZONA SECRETARY OF STATE'S OFFICE  
ELECTIONS SERVICES DIVISION

## INTRODUCTION FROM SECRETARY OF STATE KATIE HOBBS

December 2019

I am pleased to provide the 2019 Elections Procedures Manual to county, city, and town election officials and other stakeholders throughout Arizona. Completing a long overdue update to the Elections Procedures Manual has been one of my Administration's highest priorities since transitioning into office in January 2019. To accomplish this, we worked in close partnership with County Recorders, Elections Directors, and their staff, and carefully considered feedback from other stakeholders and the public. With their invaluable contributions, we believe the 2019 Elections Procedures Manual will help ensure the maximum degree of correctness, impartiality, uniformity, and efficiency in election procedures across the state.

Secure, accurate, and accessible elections are at the heart of our democracy and they would not be possible without the continued dedication and vigilance of election workers across the State. Thank you for all that you do for Arizona's voters.

Sincerely,



Katie Hobbs  
Arizona Secretary of State



STATE OF ARIZONA  
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY  
GOVERNOR

EXECUTIVE OFFICE

December 20, 2019

The Honorable Katie Hobbs  
Arizona Secretary of State  
1700 West Washington Street, 7<sup>th</sup> Floor  
Phoenix, AZ 85007

Dear Secretary Hobbs:

My office has reviewed the 2019 version of the Arizona Secretary of State Election Procedures Manual (2019 Procedures Manual) that you submitted for approval on December 18, 2019.

Based upon review and approval submitted on December 19, 2019 by the Attorney General's Office that the 2019 Procedures Manual complies with the Arizona election laws, and my office's review, I hereby approve the 2019 Procedures Manual in accordance with A.R.S. § 16-452(B).

Sincerely,

A handwritten signature in black ink, reading "Douglas A. Ducey".

Douglas A. Ducey  
Governor  
State of Arizona



MARK BRNOVICH  
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ARIZONA

December 19, 2019

The Honorable Katie Hobbs  
Arizona Secretary of State  
1700 E. Washington Street  
Phoenix, Arizona 85007

Re: Approval of the 2019 Elections Procedures Manual

Secretary Hobbs:

Pursuant to A.R.S. § 16-452(B), my office has reviewed the draft Elections Procedures Manual submitted December 18, 2019. Based upon that review, we believe the submitted manual complies with Arizona's election statutes. Accordingly, I approve the Elections Procedures Manual as submitted on December 18, 2019.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mark Brnovich", followed by a long horizontal flourish.

Mark Brnovich  
Attorney General  
State of Arizona

cc: Governor Doug Ducey

## **ABOUT THIS PUBLICATION**

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ARIZONA SECRETARY OF STATE  
2019 ELECTIONS PROCEDURES MANUAL**CHAPTER 4:  
VOTING EQUIPMENT****I. VOTING EQUIPMENT CERTIFICATION**

All components of a voting system must be properly certified prior to use in any election for a federal, state, or county office. [A.R.S. § 16-442\(B\)](#). In addition, a city, town, or agricultural improvement district may adopt for use in its elections any electronic voting system or vote tabulating device approved by the Secretary of State, and thereupon, the voting system or device may be used at any or all elections for voting, recording, and counting votes cast in an election. [A.R.S. § 16-442\(E\)](#).

A voting system is defined as the total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is used to define ballots, cast and count votes, report or display election results, and maintain and produce any audit trail information. [52 U.S.C. § 21081\(b\)\(1\)](#). Thus, a voting system consists of the electronic voting equipment (including central count equipment, precinct voting equipment, and accessible voting equipment) and election management system (EMS) used to tabulate ballots.

This section outlines the procedures under which voting systems are certified, recertified, or decertified for use in Arizona. A new voting system must be certified by:

1. A Voting System Test Laboratory (VSTL) accredited in accordance with the Help America Vote Act;
2. The federal Election Assistance Commission (EAC); and
3. The Secretary of State, based on a recommendation from the state Election Equipment Certification Committee.

[A.R.S. § 16-442\(A\)-\(B\)](#).

Certification includes a review of system documentation and/or conducting a demonstration and functionality test. Upgrades or modifications to an existing voting system require recertification, but if the upgrade or modification is *de minimis*, a demonstration and functionality test is optional and not necessarily required. See [Chapter 4, Section I\(A\)\(2\)](#). A request for emergency conditional certification is subject to different standards. See [Chapter 4, Section I\(C\)](#).

The Secretary of State shall consult with and obtain recommendations regarding voting systems from nonprofit organizations that represent persons who are blind or visually impaired, persons with expertise in accessible software, hardware, and other technology, county and local election officials, and other persons deemed appropriate by the Secretary of State. The Secretary of State shall submit these recommendations to the state Election Equipment Certification Committee to

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be considered for possible certification if the election equipment vendor submits an application for certification. [A.R.S. § 16-442.01\(C\)](#).

## **A. State Certification Process**

A manufacturer's voting system must be tested and certified as a comprehensive suite, not as individual components. Therefore, a manufacturer's proposed combination of hardware, software, and firmware must be tested as an integrated whole to ensure the particular system accurately tabulates votes. As a result, a jurisdiction may not mix-and-match components from different manufacturers' certified voting systems. The officer in charge of elections may mix components from different manufacturers' voting systems only if those systems are not interconnected and under exceptional circumstances after notifying and receiving written approval from the Secretary of State.

### **1. Submitting an Application for Certification**

To initiate state certification, a voting system manufacturer must submit an application to the Secretary of State. The application form is prescribed by the Secretary of State. A complete application packet consists of:

1. A completed application form, including a description of all voting system components and, if seeking recertification, a description of modifications to the prior certified voting system;
2. Product descriptions and/or sales brochures of the voting system components;
3. VSTL Test Report; and
4. EAC Certificate of Conformance, including EAC Certification Number and Scope of Certification.

A manufacturer may submit an application packet to the Secretary of State electronically or by mail. The Secretary of State must conduct a preliminary review of the application packet within 21 days of receipt of a completed packet or sooner if practicable. If the application packet is incomplete, the Secretary of State should inform the manufacturer and need not take further action until the application packet is complete.

### **2. Review by the Election Equipment Certification Committee**

Once the application packet is deemed complete, the Secretary of State must notify and provide all relevant documentation to the Election Equipment Certification Committee and schedule a public meeting. If a demonstration and functionality test will be required, the Secretary of State must (1) coordinate with the manufacturer to receive test ballots; (2) develop a test script to vote the test ballots on all electronic voting equipment; (3) tabulate the test ballots (using alternative equipment provided by the vendor that is not the equipment to be tested in the demonstration and functionality test) in advance of the public meeting to ensure conformity with the test script; and (4) coordinate delivery and storage of the voting system as the test date nears.

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Upon notification by the Secretary of State, to the extent practicable, the Equipment Certification Committee must conduct a public meeting within 90 days to consider an application for certification or recertification.

The Secretary of State coordinates the logistical details for holding the public meeting, including complying with notice requirements in accordance with Arizona open meeting laws, taking meeting minutes, and ensuring the presence of legal counsel. [A.R.S. § 38-431.01](#).

**a. Composition of the Election Equipment Certification Committee**

The state Election Equipment Certification Committee consists of three persons appointed by the Secretary of State with the following qualifications:

1. A faculty member of the engineering college at an Arizona university;
2. A lawyer member of the Arizona Bar Association; and
3. A person who is familiar with voting procedures in the state, such as a trained election official.

Committee members serve without compensation. No more than two of the Committee members may be registered with the same political party. At least one member must have at least five years of experience with, and be able to render an opinion based on knowledge of or training/education in, electronic voting systems, procedures, and security. [A.R.S. § 16-442\(A\)](#).

**b. New Application for Certification**

For a new application for certification, the Election Equipment Certification Committee must conduct the following activities in a public meeting:

1. Review the manufacturer's application packet for completeness;
2. Confirm VSTL approval and EAC certification;
3. Confirm the voting system under review is the same voting system certified by the EAC;
4. Review the voting system and test ballots for compliance with the legal standards for certification;
5. Conduct a demonstration and functionality test;
6. Ask questions to the manufacturer's representatives as necessary;
7. Seek legal advice in executive session as necessary; and
8. Vote on whether to recommend to the Secretary of State approval, conditional approval, or denial of the manufacturer's application.

The Election Equipment Certification Committee may issue a recommendation to the Secretary of State to approve or deny the application, including partial or conditional approval. The Committee may also recommend specific conditions under which the voting system may be used by a county, city, town, or special taxing district.

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The Election Equipment Certification Committee must issue a written recommendation to the Secretary of State based on the majority vote from the public meeting.

**i. Legal Standards for Certification**

A voting system must comply with all federal and state laws, including the following:

1. The voting system must be tested and certified under federal law:
  - a. The voting system must be reviewed and/or tested by an accredited VSTL;
  - b. The voting system must be certified by the EAC; and
  - c. The voting system must otherwise comply with the then-applicable federal Voluntary Voting System Guidelines (VVSG) in effect;
2. The voting system must have the following functional capability and/or characteristics required under federal and state law:
  - a. The voting system must be suitably designed and be of durable construction;
  - b. The voting system must provide for secure, efficient, and accurate voting;
  - c. The voting system must record votes correctly and accurately, including aggregation of the voter's choices made on a single device;
  - d. The voting system must provide a durable paper document that visually indicates the voter's selections and can be (1) used to verify the voter's choices; (2) spoiled by the voter if they fail to reflect the voter's choices, in which case the voter would be permitted to cast a new ballot; and (3) used in recounts and manual audits;
  - e. The voting system must function for all types of elections;
  - f. The voting system must be capable of rotating candidate names within a race and accurately tabulating the results;
  - g. The voting system must aggregate the votes in the EMS in a way that prevents votes from being changed or deleted after voting has concluded; and
  - h. The voting system must contain security features that prevent unauthorized access or hacking;
3. Ballot marking devices and direct-recording electronic (DRE) voting machines must:
  - a. Permit the voter to verify (in a private, secret, and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted;
  - b. Allow the voter to vote for the candidate or ballot measure of choice, allow the voter to vote for or against as many candidates or ballot measures for which they are entitled to vote, and inform the voter if the number of vote choices exceeds the permitted amount or prevent the voter from selecting more than the permitted number of vote choices;

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- c. Prevent the voter from voting for the same person more than once for the same office;
  - d. Have the capability to be sealed and prevent further voting after the close of the polls and/or after the last voter has voted;
  - e. DRE voting machines must produce a paper ballot or voter verifiable paper audit trail (VVPAT) for audit purposes, including the ability to change the ballot or correct any error and noting a spoiled or voided ballot when the voter changes the ballot or corrects an error; and
  - f. Provide the voter with an opportunity (in a private, secret, and independent manner) to correct any error before the ballot is cast and counted or cast a replacement ballot if the previous ballot is spoiled or unable to be changed or corrected;
4. Accessible voting equipment must be capable of:
- a. Allowing the voter to cast and verify (both visually and with audio or synthesized speech) the voter's selections, including a synthesized (or actual) speech recording and braille keyboard or other input method that is ADA compliant;
  - b. Displaying the on-screen ballot in a format substantially similar to that of paper ballots (*see* [Chapter 4, Section II\(E\)\(1\)](#) and [Chapter 8, Section V\(A\)](#));
  - c. Displaying, providing audio or synthesized speech (and if applicable, printing) the ballot in English and in any minority language required under federal or state law;<sup>20</sup> and
  - d. Otherwise providing voters with visual impairments equivalent access to the voting experience compared to that provided for voters without visual impairments.
5. The voting system may not be subject to a recent decertification proceeding or otherwise have been utilized in violation of federal or state law.<sup>21</sup>

[A.R.S. § 16-442\(B\)](#); [A.R.S. § 16-442.01\(A\)-\(B\)](#); [A.R.S. § 16-446\(A\)-\(B\)](#); [A.R.S. § 16-502\(H\)](#); [52 U.S.C. § 20971\(a\)-\(b\)](#); [52 U.S.C. § 21081\(a\)](#).

**ii. Demonstration and Functionality Test**

A demonstration and functionality test consists of:

1. Explaining the testing process (of both primary and general election test ballots) during the public meeting;
2. Casting ballots on all electronic voting equipment in accordance with the test script prepared for the meeting;

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<sup>20</sup> See [Chapter 8, Section VI](#). If the applicable minority language is not a written language, the accessible voting machine must be capable of providing audio or synthesized reading of the ballot to the voter.

<sup>21</sup> For example, under [A.R.S. § 16-1004\(B\)](#), it is a class 5 felony to knowingly modify the software, hardware, or source code for voting equipment without receiving certification from the Election Equipment Certification Committee.

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3. Casting ballots on the accessible voting equipment in English and any minority language required under federal or state law, including testing the audio equipment;
4. If the system captures digital ballot images, determining whether the system:
  - a. Produces digital images of readable quality, including clearly displaying write-in votes;
  - b. Produces digital images that are capable of being sorted by criteria such as race, district, ballot type, or precinct;
  - c. Encrypts the digital images; and
  - d. Is capable of transferring or downloading the digital images at a reasonably fast rate;
5. Ensuring the aggregate vote totals for each race in the EMS match the pre-determined test results prepared by the Secretary of State; and
6. Demonstrating the voting system's ability to function in compliance with applicable state and federal law.

**c. Application for Recertification of Updated/Modified Systems**

Upgrades or modifications to an existing certified voting system require recertification as a precondition for the upgraded/modified system to be used in Arizona elections. Like new applications, an application for recertification requires VSTL approval, EAC certification, and certification by the Secretary of State, based on review and recommendation by the Election Equipment Certification Committee. However, depending on the nature of the upgrade/modification, a demonstration and functionality test may not be necessary.

An upgrade or modification is documented through an engineering change order (ECO) prepared by the manufacturer and submitted to the appropriate VSTL. If the VSTL concludes, and the EAC agrees, that the ECO represents a *de minimis* change to the existing certified voting system, the Secretary of State may:

1. Notify the Election Equipment Certification Committee that the upgrade or modification has been deemed *de minimis* by the EAC;
2. Recommend the Committee conduct its review without a demonstration and functionality test; and
3. If the Committee agrees to forego a demonstration and functionality test, schedule a public meeting to review the manufacturer's application for recertification.

If the Election Equipment Certification Committee foregoes a demonstration and functionality test, the Committee must:

1. Review the manufacturer's application for recertification for completeness in a public meeting, whether in-person, telephonically, or by video teleconference;
2. Confirm VSTL approval and EAC certification;



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3. Ask questions to the manufacturer's representatives as necessary;
4. Seek legal advice in executive session as necessary;
5. Make an independent finding that the upgrade or modification is *de minimis* in nature; and
6. Vote on the manufacturer's application for recertification.

The Election Equipment Certification Committee must issue a written recommendation to the Secretary of State based on the majority vote from the public meeting. The Election Equipment Certification Committee may recommend approval or denial of the application, including partial or conditional approval.

If the Committee determines that the upgrade or modification is not *de minimis*, or the application for recertification otherwise requires additional review or testing, the Committee may vote to schedule a subsequent meeting to conduct a demonstration and functionality test. In that case, the Committee must evaluate the upgraded or modified voting system under the standards applicable to a new application for certification.

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### **3. Secretary of State Final Decision**

Within a reasonable period after receiving the Election Equipment Certification Committee's recommendation, the Secretary of State must issue a final decision on an application for certification or recertification. The Secretary of State may accept, deny, or modify the Election Equipment Certification Committee's recommendation, including issuance of a partial or conditional certification.

The Secretary of State must issue the final decision in writing and notify the manufacturer by mail or email.

A final decision denying certification must include notice that the decision constitutes an appealable agency action. The notice must:

1. Identify the statute, rule, or provision upon which the decision was based;
2. Identify with reasonable particularity the reason why certification was denied or conditioned;
3. Include a description of the manufacturer's right to request a hearing on the decision; and
4. Include a description of the manufacturer's right to request an informal settlement conference pursuant to [A.R.S. § 41-1092.06](#).

[A.R.S. § 41-1092\(3\)](#); [A.R.S. § 41-1092.03\(A\)](#).

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### **4. Appeal Process**

A manufacturer may appeal the Secretary of State's final decision denying an application for certification or recertification.

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**a. Filing Notice of Appeal**

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A manufacturer must file the notice of appeal with the Secretary of State within 30 days after receiving the final decision. The notice of appeal must:

1. Identify the manufacturer;
2. Provide the manufacturer's address;
3. Identify the agency and action being appealed; and
4. Contain a concise statement of the reasons for the appeal.

The notice of appeal must be served by personal delivery or certified mail, return receipt requested.

Within five business days of receiving an appeal, the Secretary of State must:

1. Notify any local jurisdictions who use the manufacturer's voting system or are otherwise potentially affected by the appeal; and
2. Request a hearing from the Office of Administrative Hearings.

[A.R.S. § 41-1092.03\(A\)-\(B\)](#); [A.R.S. § 41-1092.04](#).

**b. Hearing on Appeal**

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If an informal settlement conference pursuant to [A.R.S. § 41-1092.06](#) is not requested, a hearing before the Office of Administrative Hearings:

1. Must be conducted no later than 60 days after the appeal was filed with the Secretary of State;
2. Must include a complete and accurate record;
3. Must be conducted in accordance with [A.R.S. § 41-1092.07](#); and
4. Must be presided over by an administrative law judge, who must issue a recommended decision pursuant to [A.R.S. § 41-1092.08\(A\)](#).

The manufacturer bears the burden of persuasion to establish that the voting system should have been certified or recertified. The administrative law judge must issue a recommended decision within 20 days after the hearing is concluded. [A.R.S. § 41-1092.08\(A\)](#).

The only remedy available is recommended reversal or modification of the Secretary of State's final decision. Damages of any kind may not be awarded.

[A.R.S. § 41-1092.05](#).



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**c. Action on Recommended Decision**

Within 30 days following issuance of the administrative law judge's recommendation, the Secretary of State may accept, reject, or modify the decision. [A.R.S. § 41-1092.08\(B\)](#).

The Secretary of State's decision constitutes the final determination of the application for certification or recertification. The Secretary of State must provide notice of the final determination to the manufacturer and any other interested parties.

**B. Requirements for Equipment Decertification**

If the Secretary of State has reason to believe that a certified voting system is not performing or being utilized in accordance with federal or state law, the Secretary of State may issue an Intent to Decertify the voting system or any component of the system. [A.R.S. § 16-442\(C\)-\(D\)](#).

In reaching the preliminary decision to decertify, the Secretary of State may take into account any of the following:

1. Material breach of contract with any Arizona jurisdiction;
2. Submission of a fraudulent, misleading, or otherwise ineligible application for certification or recertification;
3. Installation or use of an unauthorized voting system;
4. Failure to properly function or perform, including perceived security vulnerabilities;
5. Federal decertification by the EAC;
6. Failure to place election equipment source code in escrow and/or failure to authorize the State of Arizona to access or receive the source code; or
7. Failure to continue to meet any requirements for certification.

Upon issuance of an Intent to Decertify, the Secretary of State must promptly notify the manufacturer and any affected parties. Within 30 days of issuance, the manufacturer and any affected parties may submit written comments to the Secretary of State in support of or opposition to decertification.

Within 120 days of issuance, the Secretary of State must convene the Election Equipment Certification Committee. At a public meeting the Committee must:

1. Review the evidence for and against decertification;
2. Ask questions to the manufacturer's representatives (as necessary);
3. Seek legal advice in executive session (as necessary); and
4. Vote on whether to recommend decertification.

The Election Equipment Certification Committee may recommend full or partial decertification. The Committee may also specify the conditions under which the voting system may continue to

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be used by a county, city, town, or special taxing district. The Election Equipment Certification Committee must issue a written recommendation to the Secretary of State based on the majority vote from the public meeting.

Within a reasonable period after receiving the Election Equipment Certification Committee's recommendation, the Secretary of State must issue a final decision on the Intent to Decertify. The Secretary of State may accept, deny, or modify the Election Equipment Certification Committee's recommendation, including issuance of a conditional recertification. The Secretary must follow the remaining procedures applicable to issuance of a final decision for an application for certification or recertification. See [Chapter 4, Section I\(A\)\(3\)](#) above.

The manufacturer or affected party may appeal a decertification in accordance with the appeal procedures for denials of certification and recertification. See [Chapter 4, Section I\(A\)\(4\)](#) above.

In addition to decertification, the Secretary of State may prohibit the purchase, lease, or use of any voting system (or component thereof) if a manufacturer or jurisdiction: (1) installs, uses, or permits the use of a voting system that is not certified for use or approved for experimental use; or (2) uses or includes hardware, firmware, or software in a voting system version that is not certified for use or approved for experimental use. [A.R.S. § 16-442\(D\)](#).

### **C. Emergency Conditional Certification of Upgrade/Modification**

If a local jurisdiction requires an emergency upgrade or modification to its existing certified voting system, the jurisdiction may apply to the Secretary of State for emergency conditional certification of the upgrade or modification. Emergency conditional certification allows the voting system to be upgraded or modified without seeking VSTL testing or EAC certification. [A.R.S. § 16-442\(G\)](#).

To apply for emergency conditional certification, the local jurisdiction must:

1. Convene its governing board to pass a resolution outlining why the forthcoming election cannot be conducted without the requested emergency conditional certification;
2. Make a written request to the Secretary of State that outlines the need for conditional emergency certification, including:
  - a. A description of the proposed upgrade/modification;
  - b. A description of what aspects of the voting system will be affected;
  - c. An explanation why the upgrade/modification is necessary in order to conduct the next election, including a copy of the governing board's resolution;
  - d. An explanation why the upgrade/modification could not have been sought earlier through the standard recertification process; and
  - e. A description of what safeguards or contingency plans will be implemented if the proposed upgrade/modification does not function as intended during the election; and
  - f. Any other information deemed relevant by the local jurisdiction.

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Upon receipt of a request for emergency conditional certification, the Election Equipment Certification Committee must convene as soon as practicable (but no later than 30 days from the date of the request) and follow the same procedures applicable to an application for recertification, except:

- VSTL approval and EAC certification are not required; and
- Both the local jurisdiction and manufacturer are expected to participate in the public meeting and answer the Election Equipment Certification Committee's questions.

Upon receipt of the Election Equipment Certification Committee's recommendation, the Secretary of State must issue a final decision within 15 days or sooner if practicable.

Any grant of conditional emergency certification is limited to six months from the date of the Secretary's final decision. If the manufacturer has not applied for (and been granted) recertification before expiration of the 6-month period, the conditionally-certified voting system is automatically decertified and ineligible for continued use. [A.R.S. § 16-442\(G\)](#).

The local jurisdiction may appeal a denial of emergency certification in accordance with the appeal procedures for denials of certification and recertification described above. See [Chapter 4, Section I\(A\)\(4\)](#).

## **II. LOGIC AND ACCURACY (L&A) TESTING**

A logic and accuracy (L&A) test is intended to confirm that votes are attributed to the correct candidates and ballot measures in the election management system (EMS) and that each candidate and ballot measure receives the accurate number of votes.

The Board of Supervisors or officer in charge of elections is responsible for performing an L&A test on all voting equipment prior to each election. The conduct of the test must be overseen by at least two elections staff or inspectors (of different political parties), and shall be open to observation by representatives of the political parties, candidates, the press, and the public.

For any election that includes a federal, statewide, or legislative office, the Secretary of State is responsible for conducting an additional L&A test on selected voting equipment. [A.R.S. § 16-449](#).<sup>22</sup>

### **A. Timeframe to Conduct L&A Testing**

#### **1. Accessible Voting Equipment L&A Test**

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<sup>22</sup> Though not required, counties may, in their discretion, conduct additional pre-election L&A tests prior to the county's and Secretary of State's pre-election L&A test and/or additional post-election L&A tests after the county's post-election L&A test, including with participation from representatives of the recognized political parties.

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In-person voting, both during the early voting period and on Election Day, requires the deployment of accessible voting equipment for voters with disabilities (and ballot marking by all voters in certain counties).

The officer in charge of elections must test all accessible voting equipment prior to an election.

- For an all ballot-by-mail election, equipment must be tested at least 15 days before the election.
- For a city, town, school district, special taxing district, or county election, equipment must be tested at least 27 days before the election (prior to the commencement of early voting).
- For a federal, statewide, or legislative election, equipment must be tested prior to the Secretary of State's L&A test, where practicable, or promptly thereafter.

In the case of federal, statewide, or legislative elections, the Secretary of State tests selected accessible voting equipment within seven days before the start of early voting (*i.e.*, between 34 and 27 days before the election). [A.R.S. § 16-449\(B\)](#).

L&A tests for accessible voting equipment are a prerequisite for the County Recorder to open on-site early voting locations.

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## 2. Optical and Digital Equipment L&A Test

The officer in charge of elections must test precinct voting equipment and central count equipment within 30 days of an election. In the case of federal, statewide or legislative elections, the Secretary of State must also test selected equipment within 17 days before the election. [A.R.S. § 16-449\(A\)](#).

However, if a county's accessible voting equipment does not independently tabulate votes (*i.e.*, the equipment marks and/or produces a paper ballot that will be tabulated using different voting equipment), the officer in charge of elections and Secretary of State may test all voting equipment (including precinct voting equipment and central count equipment) during the time period applicable to accessible device testing. [A.R.S. § 16-449\(C\)](#). If the officer in charge of elections wishes to have all voting equipment testing completed together, the officer in charge of elections must make that request to the Secretary of State at least 90 days prior to the election. In order to prepare for this consolidated testing, the officer in charge of elections must provide to the Secretary of State all testing materials as referenced in [Chapter 4, Section II\(D\)\(2\)](#) below, including printed ballots, at least three weeks before the start of early voting. The Secretary of State has discretion to grant or deny a request for consolidated testing based on the circumstances. For example, if test ballots are not timely received, the tests will need to be conducted separately and the officer in charge of elections will be notified of the determination.

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## 3. Rescheduling L&A Tests

The Secretary of State's Office must conduct its L&A tests after the officer in charge of elections has conducted county-level tests whenever practicable. In the event the officer in charge of elections has not successfully conducted an L&A test prior to the Secretary of State's scheduled

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test, the officer in charge of elections should contact the Secretary of State to consider whether to postpone the Secretary's L&A test pending further local testing.

If the electronic voting system has not successfully passed the Secretary of State's L&A test, the Secretary of State may schedule a re-test for a later date. Re-testing may continue during the early voting period and through the day prior to the election. However, the officer in charge of elections may not deploy any electronic voting equipment in a federal, statewide, or legislative election that has not successfully passed the Secretary of State's L&A test.

### **B. Public Notice of L&A Test**

The Board of Supervisors or other officer in charge of elections must publish notice of the time and place of each L&A test at least 48 hours in advance of the test. [A.R.S. § 16-449\(A\)](#). The notice must be published at least once in a daily or weekly newspaper circulated in the county. If no newspaper is published in the jurisdiction, notice must be published in any newspaper of general circulation. [A.R.S. § 16-449\(A\)](#).

If the Secretary of State must reschedule an L&A test or schedule a re-test, and the Board of Supervisors or other officer in charge of elections cannot reasonably comply with the 48-hour public notice requirement, the Board of Supervisors or other officer in charge of elections must:

- Publish notice of the rescheduled L&A test in a daily or weekly newspaper within the county as soon as possible if the notice is capable of being published before the test date;
- Post the notice on the county's website and distribute the notice through any other public communication or social media channel(s) regularly utilized by the county; and
- Provide notice of the place and time of the reschedule L&A test or re-test by phone or email to all L&A test observers from the immediately preceding L&A test.

### **C. Observers for L&A Test**

An L&A test must be observed by the officer in charge of elections. An L&A test must also be open to:

- Designated political party representatives;
- Candidates or candidate representatives;
- Government officials; and
- Members of the public and the media.

[A.R.S. § 16-449\(A\)](#). For security reasons and to prevent disruption of election operations, the officer in charge of elections may specify a designated area where observers are permitted to view the L&A test.

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## **D. Process for Conducting L&A Tests by the Secretary of State**

The Secretary of State must conduct an L&A test on accessible voting equipment and optical/digital scan equipment before each federal, statewide, and legislative election.

### **1. Acquisition of Precinct Information and Voting Equipment**

At least eight weeks before a primary election or PPE, the officer in charge of elections must provide the Secretary of State a complete list of precincts and legislative and congressional districts and ensure the Secretary of State possesses the necessary precinct voting equipment to preliminarily verify the county's L&A test results at the Secretary of State's Office. To conduct the pre-test, the Secretary of State may acquire the necessary voting equipment from the county or directly from equipment vendors, if practicable. If multiple counties use the same type of voting equipment, the Secretary of State may preliminarily test multiple counties' ballots on the same piece of voting equipment without acquiring voting equipment from each county.

### **2. Selection of Precincts and Test Ballots**

The Secretary of State must randomly select precincts that will be included in each type of L&A test conducted by the Secretary of State.

The Secretary of State generally selects five to 10 precincts for a small or medium-sized county and 10-20 precincts for a large county. In doing so, the Secretary of State must ensure:

- At least one precinct is selected in each congressional and legislative district; and
- Each federal, statewide, and legislative candidate and each ballot question will receive at least one test vote in the selected precincts.

The Secretary of State must also acquire test ballots from each county. If a county will use preprinted ballots and ballots through a ballot-on-demand printer, the officer in charge of elections must provide ballots generated through both printing methods.

For a primary election or PPE, the officer in charge of elections must provide the Secretary of State the following test ballots from each pre-determined test precinct:

- 50 ballots from each of the two largest political parties entitled to continued representation on the ballot;
- 25 ballots from every other recognized or new political party; and
- Five "federal-only" ballots.

The Secretary of State may request additional test ballots if necessary. The Secretary of State also may account for new political parties or the possibility that not all recognized political parties will participate in a PPE.



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For a general election, the officer in charge of elections must provide the Secretary of State the following test ballots from each pre-determined test precinct:

- 50 ballots; and
- 10 “federal-only” ballots.

If a precinct contains a precinct split, the officer in charge of elections should ensure the above-referenced test ballots are distributed among each precinct split. In addition, if minority-language ballots are required in the county, the officer in charge of elections must also include minority-language ballots among the requested quantities of test ballots.

The Secretary of State may vary the number of test ballots if necessary.

### **3. Notification of Completion of Programming**

Before each federal, statewide or legislative election, the officer in charge of elections must promptly notify the Secretary of State when the county has completed programming its election.

Within one business day of receiving this notification, the Secretary of State must confirm with the officer in charge of elections the date/time of the accessible and optical/digital scan tests and the conditions for each test, including precinct selections, ballot requirements, and the number of machines selected at random for testing. The Secretary of State must inform the officer in charge of elections of the date/time of the L&A test as soon as practicable.

### **4. Secretary of State Preparation for L&A Testing**

For an accessible voting equipment L&A test, the Secretary of State must:

1. Request that all accessible voting equipment to be used during on-site early voting be made available for the L&A test and be pre-programmed with all precinct ballot styles;
2. Identify the precincts randomly selected by the Secretary of State and request the accessible voting equipment to be utilized at those precincts be made available for the L&A test;
3. Ensure the attendance of any necessary minority language interpreters at the L&A test;
4. Inform the officer in charge of elections that they must:
  - a. Utilize the actual election program for Election Day (not a copy);
  - b. Reset any vote totals from prior L&A tests and ensure equipment zero tapes are accessible for examination;
  - c. Print a zero report from the county’s EMS and ensure the report is accessible for examination;
  - d. Ensure that equipment operators are available to assist with the L&A test;

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- e. Ensure the equipment is set up, set to run in “election mode,” and ready to vote upon the Secretary of State’s arrival;
- f. Ensure that voter card encoders and bar code printers will be available for testing (if applicable);
- g. Ensure political party observers have been contacted for the L&A test;
- h. Ensure that headphones and touchpads will be available for all equipment; and
- i. Ensure all equipment is capable of processing and outputting the testing results.

For an optical/digital scan equipment L&A test, the Secretary of State must:

1. Request the requisite number of test ballots;
2. Request the applicable memory cards or sticks in order to preliminarily verify L&A test results at the Secretary of State’s Office;
3. Request that all central count equipment be made available for the L&A test;
4. Identify the precincts randomly selected by the Secretary of State and request the precinct voting equipment to be utilized at those precincts be made available for the L&A test;
5. Inform the officer in charge of elections that they must:
  - a. Utilize the actual election program for Election Day (not a copy);
  - b. Reset any vote totals from prior L&A tests and ensure equipment zero tapes are accessible for examination;
  - c. Print a zero report from the county’s EMS and ensure the report is accessible for examination;
  - d. Ensure political party observers have been contacted for the L&A test;
  - e. Ensure that equipment operators are available to assist with the L&A test; and
  - f. Ensure the equipment is set up, set to run in “election mode,” and ready to vote upon the Secretary of State’s arrival.

The officer in charge of elections must provide any requested materials or information to the Secretary of State in accordance with the deadline set forth in the Secretary of State’s letter, but no later than five weeks before each election and/or three weeks before the start of early voting.

## **5. Marking Test Ballots and Creation of Test Script**

The Secretary of State must create a script that outlines how each test ballot will be marked.

Votes must be randomly distributed in each of the selected precincts, ensuring that each federal, statewide, and legislative candidate and ballot measure receives at least one vote. In addition, various races and issues must be over-voted to test the optical/digital scan equipment’s ability to notify the voter of, or out-stack, an over-vote, physically or digitally.



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Upon receipt of test ballots from the officer in charge of elections, the Secretary of State must mark the test ballots in accordance with the predetermined script.

The Secretary of State also must create a script for each accessible voting machine that specifies how many ballots will be cast on the machine and how the votes will be distributed during the accessible equipment L&A test.

The Secretary of State must run the test ballots through the optical/digital scan equipment provided to the Secretary of State for preliminary verification purposes.

Finally, the Secretary of State creates a summary report that aggregates the vote totals for each candidate and ballot measure. The Secretary of State must ensure these test ballot results match the summary report.

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## **6. Conducting the L&A Test**

The Secretary of State must bring a sufficient number of personnel to conduct the L&A test.

Upon arrival, the Secretary of State must ensure that the selected voting equipment has zero recorded votes prior to commencing the L&A test. The Secretary of State then must test the selected voting equipment to ensure each machine reports the correct vote totals (and that the EMS reports the correct aggregate totals) in accordance with the prepared scripts.

The Secretary of State must review ballots, and each ballot display on the accessible voting equipment, to confirm formatting, language, and audio requirements in the testing standards have been met (see testing standards in [Chapter 4, Section II\(E\)](#) below).

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## **E. L&A Testing Standards**

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### **1. Accessible Voting Equipment**

Accessible voting equipment must:

1. Display candidate races, ballot measures, and voter instructions in English and any other language required in the county under the federal Voting Rights Act, at the voter's option;
2. Display candidate races, ballot measures, and voter instructions in large print and contrasting colors, at the voter's option;
3. Produce an accurate audio recording in English and any other language required in the county under the Voting Rights Act;
4. Display the correct voting precinct and state, county, and election type;
5. Display instructions how to use the equipment and mark the ballot;
6. Display the ballot as nearly as practicable in accordance with the formatting requirements for paper ballots, including color marking for partisan primary elections;

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7. Display candidate names accurately, in accordance with the candidate's nomination paper;
8. Display ballot measures accurately, in accordance with any certification from the Secretary of State;
9. Sequentially advance from screen-to-screen;
10. Perform the functions selected by the voter;
11. Provide a warning to the voter if the voter attempts to under-vote or over-vote a particular race or issue, or, in the case of an over-vote, prevent a voter from doing so;
12. Increase or decrease the headphone audio volume in accordance with the voter's preferences;
13. Contain a functioning keypad (whether stand-alone or incorporated into the accessible voting equipment screen);
14. Allow the voter to write in a candidate using a keypad in the voter's selected language;
15. Provide a means for the voter to verify all of the voter's selections prior to committing the selections and a means for the voter to change a selection if desired before committing the selections;
16. Display a summary screen at the conclusion of voting that matches the voter's selections; and
17. If the accessible voting equipment independently tabulates votes, tabulate the voter's selections accurately, including:
  - Accurately tabulating in the EMS; and
  - Printing an accurate ballot in English and any other written language required in the county under the Voting Rights Act and/or printing an accurate voter verifiable paper audit trail (VVPAT).

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## **2. Optical and Digital Scan Voting Equipment**

Optical and digital scan voting equipment must:

1. Attribute votes to the correct candidates and ballot measures in the EMS;
2. Attribute the correct number of votes to each candidate and ballot measure;
3. Warn the operator of an over-vote or out-stack, physically or digitally, a ballot in the event of an over-vote;
4. Record no vote in an over-voted race and out-stack for further adjudication if applicable (precinct voting equipment and central count equipment);
5. Accept ballot styles for that specific precinct and reject ballot styles from other precincts (precinct voting equipment only); and
6. Accept ballot styles from the current election and reject ballot styles from a different election.

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In advance of the Secretary of State's L&A test, the officer in charge of elections should conduct a preliminary test of ballots as soon as they are available from the printing vendor to ensure the ballots are correct and meet the requirements for the voting equipment utilized. This may include testing a blank ballot and a fully-voted ballot on every ballot style used in the election.

### **3. On-Screen/Electronic Tallying of Write-In Votes**

If electronic tallying of write-in votes will be utilized as part of the election tabulation system, that functionality shall also be tested during the L&A test to ensure secure and proper functioning and attribution of Write-In Tally Board determinations for the write-in votes tallied. See [Chapter 10, Section II\(G\)\(2\)](#) for requirements for electronic tallying of write-in votes.

### **4. Errors Discovered During Testing**

If any error is detected during L&A testing:

- The cause shall be ascertained and corrected;
- An errorless count shall be made before the voting equipment and programs are approved for use in the election;
- If the election program is found to be the source of the error, a copy of a revised election program shall be filed with the Secretary of State within 48 hours after the revision; and
- If the error was created by voting equipment malfunction, a report shall be filed with the Secretary of State within 48 hours after the correction is made, stating the cause and the corrective action taken.

[A.R.S. § 16-449\(A\)](#).

### **5. Certification of Voting Equipment**

The Secretary of State must certify the voting equipment if the equipment meets the requirements in the L&A testing standards. Voting equipment may not be deployed or used until the Secretary of State has certified that the equipment passed L&A testing.

If the voting equipment does not meet the mandatory requirements from the testing standards, the Secretary of State should work with the officer in charge of elections to determine the cause of the deficiency and whether it can be corrected in a timely manner. If the error can be readily corrected, the voting equipment may be retested until the mandatory requirements have been met; otherwise, the L&A test must be rescheduled for a later time and date.

## **F. County L&A Testing**

The officer in charge of elections must substantially follow the L&A testing procedures applicable to the Secretary of State, except that all of the county's deployable voting equipment must be

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tested. The officer in charge of elections also must conduct a post-election L&A test of tabulation equipment. See [Chapter 12, Section II](#).

### **G. Retention of L&A Programs, Test Ballots, and Database**

The tests ballots and database used in L&A testing shall be:

- Secured immediately after the L&A test is run; and
- Retained until the post-election L&A test is ready to be conducted after ballot tabulation for the election.

Programs and test ballots used in L&A testing shall be under the control of the officer in charge of elections. After completion of the post-election L&A test, the databases and test ballots shall be retained with the official returns according to the retention period applicable for that election.

## **III. SECURITY MEASURES FOR ELECTRONIC VOTING SYSTEMS**

All components of the electronic voting system, including any e-pollbooks uploaded with voter registration information, must be secured in accordance with this section. Counties should also conduct periodic election security and cybersecurity assessments and develop and implement appropriate security procedures and best practices in consultation with county (and, where appropriate, federal and state) information technology and security professionals. Counties may establish more stringent and robust security protocols so long as the following minimum requirements are met.

The officer in charge of elections must develop and implement a training plan to ensure that elections staff (and any temporary workers) understand and comply with all security procedures applicable to the electronic voting system.

A person who knowingly modifies the software, hardware, or source code for voting equipment without receiving approval or certification pursuant to [A.R.S. § 16-442](#) is guilty of a class 5 felony. [A.R.S. § 16-1004\(B\)](#).

### **A. Physical Security of the Electronic Voting System**

Hardware components of the electronic voting system:

1. Must be permanently labeled with a unique serial number for tracking and auditing purposes;
2. Must be inventoried before and after an election;
3. Must be stored in a locked, secured location that prevents unauthorized access;
  - Access to the electronic voting system (including voting equipment and the EMS) must be authorized by the officer in charge of elections. Access must be documented with a

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written log or with electronic key card access that indicates the date, time, and identity of the person accessing the system.

4. Must be sealed with tamper-resistant or tamper-evident seals once programmed;
  - The seal number must be logged as corresponding with particular voting equipment and the election media that has been sealed in the voting equipment. The log should be preserved with the returns of the election. In the event of a recount or re-tally of votes, the officer in charge of elections should be prepared to submit an affidavit confirming that the election program and any election media used in the election have not been altered. [A.R.S. § 16-445\(C\)](#).
5. Must be safeguarded from unauthorized access when being moved, transferred, serviced, programmed, or temporarily stored;
6. May be accessed by elections staff only to the extent necessary to perform their authorized task; and
7. Must be witnessed by two or more election staff members (of different political parties if possible) when being moved or transferred, which includes an inventory of the equipment and chain of custody before and after the move or transfer.

## B. Data Security of the Electronic Voting System

Components of the electronic voting system:

1. Must be password-protected (for voting system software);
  - In addition to complying with any system requirements, passwords must: (1) contain mixed-cased and non-alphabetic characters, if possible; (2) be changed on a regular basis and may not be a vendor-supplied password; and (3) may be known only by authorized users.
2. May not be connected to the internet, any wireless communications device, or any external network (except for e-pollbooks);
  - An EMS must be a stand-alone system, attached only to components inside an isolated network. An EMS may only be installed on a computer that contains only an operating system, the EMS software, data/audio extractor software, and any necessary security software.
3. May not be used to modem election results, whether through analog, cellular, or any similar transmission;
4. May not contain remote access software or any capability to remotely-access the system;
5. Must match the software or firmware hash code on file with the officer in charge of elections prior to programing the election and the hash code on file with either (1) the National Institute of Standards and Technology (NIST); or (2) the Secretary of State at the time of certification of the electronic voting system; and
  - If the EMS software hash code is on file with NIST or the Secretary of State, the officer in charge of elections must certify that the officer compared the hash code on file with

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NIST or Secretary of State for the EMS software with the hash code of the EMS software to be used in the election and certify that the numbers are identical.

6. Must be observed by the officer in charge of elections or a designee if the election program (or any software or firmware) is updated or modified.

In addition, the following security protocols apply to any memory stick or removable electronic storage device used with the electronic voting system:

1. A stick or device must be purchased or received from a reliable source.
2. A stick or device shall be permanently identified with a unique serial number or identifier when in use, and an inventory of all electronic media shall be created and maintained.
3. Electronic storage media shall be physically secured at all times. No physical access should be given to any person unless the election officer in charge of the electronic storage media specifically grants that person access. Secured locations must be provided for storing electronic media when not in use, coding an election, creating the election media, and transferring and installing the election media into the voting device.
4. No electronic storage media shall be left unattended or in an unsecured location once it has been coded for an election. Where applicable, coded election media shall be immediately loaded into the relevant voting device, sealed, logged, and made secure or must be placed in a secured and controlled environment and inventoried.
5. A stick or device should generally not be used to transfer data between an internet-connected system and a non-connected electronic voting system. Only when necessary to import ballot language to the electronic voting system should such transfer occur, and in those circumstances, the internet-connected system and stick or device shall be scanned with updated antivirus software prior to transfer. In addition, the officer in charge of elections shall consider and implement other appropriate security protocols for such data transfers.
6. A stick or device used to transfer data to or from the electronic voting system should only be used one time – to transfer data from one system to a second system and then securely disposed of. When feasible, write-once memory cards or write-once disks should be used instead of USB devices to transfer data to or from an electronic voting system to ensure a “one-way, one-use policy” is self-enforced by the technology.
7. If the individual file to be transferred between systems was electronically received (whether through download, by email, or any other electronic means), the individual file must be scanned with antivirus software prior to being placed on the stick or device. If any files were downloaded from an internet portal, the portal must be a secure portal for data transmission purposes. Regardless of the method of receipt, however, individual files should only be downloaded, transferred, or otherwise utilized if they were received by a trusted third-party source.
8. If a stick or device was received by mail:
  - The stick or device should only be accepted from a trusted, third-party source;

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- The stick or device must be encrypted by the third-party source, and the password to decrypt the stick or device may not be included with the mailing itself; and
- Upon receipt, the stick or device must be scanned with antivirus software prior to opening or otherwise executing any file contained on the stick or device.

Finally, the following security protocols apply to the use of e-pollbooks and ballot-on-demand printers:

1. E-pollbooks and ballot-on-demand printers shall only be connected to authorized and secured networks and resources;
2. E-pollbooks and ballot-on-demand printers should transmit and receive data utilizing industry standard best practices for information and network security, including encryption;
3. E-pollbooks and ballot-on-demand printers shall be patched and updated to current versions as designated by the vendor;
4. Only software, applications, or drivers necessary for e-pollbook operation shall be installed on e-pollbooks;
5. E-pollbooks and ballot-on-demand printers shall be tested before each election to ensure proper operation;
6. To the extent practicable, voter data files on e-pollbooks should be compared to the original files by checking a hash code or, at a minimum, comparing file size prior to testing or use at a voting location; and
7. Only power or charging cables supplied by the vendor or purchased from a verified source shall be used to power e-pollbooks.

#### **IV. CONTINGENCY PLANNING**

The officer in charge of elections must develop a written contingency plan in case election operations, including the use of voting systems and any component thereof, are significantly disrupted. A contingency plan should consider all potential sources of disruption, including but not limited to:

- Systemic equipment failures or malfunctions;
- Power outages;
- Natural disasters or infrastructure failure;
- Terror threats or other civil disturbances; and
- Unauthorized access, intrusion, or hacking into election facilities or equipment.

Among other things, a contingency plan must outline how the officer in charge of elections would ensure continuity in voting in case one or more voting locations becomes temporarily or permanently unusable on Election Day, which may include:



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- Sending voters to an alternative voting location (whether new or existing);
- Seeking a court order to extend voting hours; and/or
- Requesting voters return to the voting location after the problem has been resolved.

The officer in charge of elections must implement any additional procedures necessary to ensure that voters are properly notified and receive the correct ballot style.

In advance of each election, the officer in charge of elections must review/update the contingency plan and ensure that key staff members have been briefed on the plan. As necessary, the officer in charge of elections should also be prepared to review and/or execute the contingency plan in coordination with:

- The County Recorder;
- The Board of Supervisors;
- The County Attorney's office;
- The County Sheriff's office;
- The Presiding Judge of the Superior Court;
- The Secretary of State's Office;
- The Arizona Counter Terrorism Information Center (ACTIC);
- The Arizona Department of Public Safety;
- The Attorney General's office;
- The Federal Bureau of Investigation;
- The U.S. Department of Homeland Security; and
- The U.S. Attorney's office.

The officer in charge of elections must file certain contingency information with the Secretary of State at least 10 days in advance of the election, including:

- A description of the officer's contingency plan to tabulate ballots in case of central count equipment failure (see specific requirements below); and
- A copy of the county's election program (see specific requirements below).

#### **A. Tabulation Contingency Plan**

The officer in charge of elections must file with the Secretary of State a tabulation contingency plan that identifies alternative voting equipment or facilities in case the county experiences a complete loss of its central count equipment or use of its central counting place. The tabulation contingency plan shall be completed no later than the second Monday before the election.



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The plan may include the transport of ballots across county lines. In that case, the ballots must be inventoried and safeguarded by the originating county's employees in the same manner as if the ballots had not been transported. See [Chapter 9, Section VIII\(B\)](#). A county must exhaust all possible options (including the acquisition of additional voting equipment from the vendor) before invoking a contingency plan that involves transportation of ballots across state lines.

The officer in charge of elections must notify the Secretary of State (and the chairpersons of the recognized political parties) if a tabulation contingency plan is invoked.

### **B. Election Program Contingency Plan**

Any jurisdiction that conducts an election must file a copy of the election program with the Secretary of State at least 17 days prior to each election. [A.R.S. § 16-445\(A\)](#). This copy may serve as a backup in case the original program is destroyed or rendered unusable.

The election program must be in a machine-readable format and may be transmitted to the Secretary of State via a password-protected CD, DVD, USB memory stick, or SFTP site.

If any subsequent changes are made to the election program, the officer in charge of elections must file the new copy with the Secretary of State within 48 hours of the change. [A.R.S. § 16-445\(B\)](#).

The Secretary of State must preserve election programs in escrow for three years. The Secretary of State must securely destroy any election program after this retention period has expired. [A.R.S. § 16-445\(A\)](#).

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## CHAPTER 8: PRE-ELECTION PROCEDURES

### I. ESTABLISHING PRECINCTS AND VOTING LOCATIONS

#### A. Establishing Precincts

The Board of Supervisors must establish a convenient number of election precincts within the county and define those precincts' boundaries. If the Board of Supervisors seeks to change existing precinct boundaries, for example, to address population shifts or excessive wait times, the Board must finalize those changes by October 1 in the year preceding a general election and deliver a complete description of the updated precinct boundaries to the County Recorder or other officer in charge of elections. [A.R.S. § 16-411\(A\)](#). The new precinct boundaries become effective on January 2 of the year of the general election. [A.R.S. § 16-412](#).

#### B. Establishing Voting Locations

Counties may conduct Election Day voting using one of two types of voting locations (or any combination thereof, as approved by the Board of Supervisors):

- **Polling places:** voters in a particular precinct are required to vote at a polling place specifically designated for that precinct; or
- **Vote centers:** voters are permitted to vote at any vote center within the county, regardless of which precinct the voter lives in.

Collectively, polling places and vote centers are referred to as “voting locations” in this Manual.

Upon approval of the Board of Supervisors, the officer in charge of elections may establish precinct-based assigned polling places and/or vote centers, or any combination thereof, including co-location of precinct polling places or vote centers that also serve as assigned polling places for certain precincts. See [A.R.S. § 16-411\(B\)\(4\)](#). In any case, the Board of Supervisors (in consultation with the officer in charge of elections) has a duty to establish a reasonable and adequate number of voting locations for an election. [A.R.S. § 16-411\(B\)\(3\)](#).

Except for the designation of an emergency voting location pursuant to [A.R.S. § 16-411\(I\)](#), the Board of Supervisors must finalize all voting locations at least 20 days before a statewide primary or general election or 10 days before a special election. [A.R.S. § 16-411\(B\)](#). Thereafter, the Board of Supervisors or officer in charge of elections must publicly post the names and/or locations of each voting location on the county's website. [A.R.S. § 16-411\(G\)](#).

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## 1. Assigned Polling Places

If a county decides to conduct elections using precinct-based assigned polling places, the Board of Supervisors must designate at least one polling place in each precinct. [A.R.S. § 16-411\(B\)](#).<sup>36</sup>

If no suitable polling place is available within a precinct, the Board of Supervisors may designate a polling place in an adjacent precinct. The Board of Supervisors must make a specific finding that there is no suitable polling place within the precinct and include that finding in a separate section of the order or resolution designating polling places for the election. [A.R.S. § 16-411\(B\)\(1\)](#).

Based on projected high voter demand, precincts may be split for administrative purposes to allow a polling place to be established in each precinct split. Arizona statute requires these polling places to “be listed in separate sections of the [Board’s] order or resolution” designating polling places for the election. [A.R.S. § 16-411\(B\)\(2\)](#).

Based on projected low voter demand (specifically, a high number of PEVL voters), adjacent precincts may be combined for administrative purposes to allow multiple precincts to be serviced by the same polling place and same election board. The Board of Supervisors must make a specific finding that a high number of PEVL voters is likely to substantially reduce the number of voters appearing at one or more specific polling places on Election Day and include that finding in a separate section of the order or resolution designating polling places for the election. [A.R.S. § 16-411\(B\)\(3\)](#).

## 2. Vote Centers

The Board of Supervisors may establish vote centers in lieu of precinct-based polling places. A vote center allows voters from any precinct within the county to cast a ballot with the correct ballot style on Election Day. Vote centers must be established by a vote of the Board of Supervisors and in consultation with the County Recorder and officer in charge of elections. [A.R.S. § 16-411\(B\)\(4\)](#).

Vote centers typically entail ballot tabulation exclusively at the central counting place, without use of precinct voting equipment that will warn voters of an over-vote. In that case, the officer in charge of elections must: (1) establish a voter education program that notifies voters of the effect of casting multiple votes for an office; and (2) provides the voter with instructions on how to correct the ballot before it is cast (including instructions how to spoil the ballot and correct the error through issuance of a replacement ballot). [52 U.S.C. § 21081\(a\)\(1\)\(B\)](#).

## C. Failure to Timely Establish Polling Places

In counties that utilize assigned polling places, if a Board of Supervisors fails to designate a polling place in a particular precinct before a primary or general election (or if the election cannot be held at the polling place originally designated by the Board of Supervisors and the County Recorder or

<sup>36</sup> The Board of Supervisors is not required to designate a polling place for special district or all ballot-by-mail elections, but may designate one or more sites in each district for voters to deposit voted ballots through 7:00 p.m. on Election Day. [A.R.S. § 16-411\(D\)](#). See also [Chapter 3, Section IV](#).

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other officer in charge of elections has not designated an emergency polling place for that precinct for Election Day), the Justice of the Peace of the precinct shall designate the polling place and post public notice two days before the election in at least three locations in the precinct. [A.R.S. § 16-411\(C\)](#).

If the Justice of the Peace fails to do so (or there is no Justice of the Peace for the precinct), the election board of the precinct must designate and give notice of the place for holding the election. [A.R.S. § 16-411\(C\)](#).

#### **D. Consolidation of Polling Places Based on Lack of Candidates**

In counties that conduct assigned polling place elections, if there are no candidates for elected office appearing on the ballot in a particular precinct, the Board of Supervisors may consolidate polling places (and consolidate the tabulation of results in combined precincts) if the following conditions apply:

- All affected voters are notified by mail of the change at least 33 days before the election;
- Notice of the change in polling place includes notice of the new polling place, notice of the hours polls are open on Election Day, and notice of the telephone number to call for voter assistance; and
- All affected voters receive information on early voting, which includes information on how to make a one-time early ballot request.

[A.R.S. § 16-411\(C\)\(1\)-\(3\)](#).

#### **E. Factors to Consider When Selecting Voting Locations**

The following factors should be considered when selecting voting locations:

1. The location should be capable of being used in both the primary and general election;
2. Buildings must be appropriately-sized based on projected voter turnout, among other predictive factors (see [Chapter 8, Section IX\(A\)](#));
3. Property owners must be willing to grant permission to use the building for voting purposes on Election Day, including making the building available the day before Election Day, early morning on Election Day, and until a reasonable time after the polls close on Election Day;
  - Insurance considerations and payment of fees (if any) should be discussed with the property owner;
4. Buildings should have easy ingress and egress to the parking lot, including a parking lot in close proximity to the building;
5. Buildings must meet accessibility requirements or be adapted to meet accessibility requirements for Election Day (see [Chapter 5, Section III](#));

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6. Buildings must have a room or hallway of sufficient size to meet the needs for setting up equipment and voter check-in stations, including adequate space for voters to wait in line;
7. Buildings should have an adequate power source;
8. The property should be located near major traffic arteries, including within walking distance of public transit where possible;
9. The decision of where to locate a polling place or vote center should have public support, especially through outreach to rural and underserved communities;
10. In counties that conduct assigned polling place elections, the polling place must be located within the applicable precinct, unless applicable exceptions apply (see [Chapter 8, Section \(I\)\(B\)\(1\)](#));
11. Voters should not have to travel unreasonable distances to vote;
12. The property must have sufficient parking for voters' use on Election Day; and
13. If re-used, the voting location must have been successfully used in the past.

The elections staff should conduct a site visit to confirm the location's suitability for voting. The officer in charge of elections should also solicit community feedback on all proposed voting locations if practicable.

#### **F. Use of School Facilities for Voting Locations**

Upon request of the officer in charge of elections, a public school must provide sufficient space for use as a voting location in any statewide, county, city, or town election. [A.R.S. § 16-411\(E\)](#).

The principal of a public school may deny the request to host a voting location if, within two weeks of receiving the request, the principal provides a written statement confirming: (1) the school lacks sufficient space to host a voting location; or (2) the safety or welfare of students would be jeopardized by hosting a voting location. [A.R.S. § 16-411\(F\)](#).

#### **G. Polling Place/Vote Center Emergency Designation**

A County Recorder or other officer in charge of elections may grant an emergency designation to a polling place/vote center if either of the following occurs:

- An act of God renders a previously-established Election Day voting location unusable; or
- The County Recorder or other officer in charge of elections has exhausted all options and there are no suitable facilities that are willing to host an Election Day voting location unless the facility receives an emergency designation.

[A.R.S. § 16-411\(I\)](#).

At least two weeks before Election Day, the County Recorder or other officer in charge of elections must post on its website a list of polling places/vote centers with emergency designations and must specify:

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- The reason the emergency designation was granted; and
- The number of attempts made to find another voting location before granting an emergency designation.

[A.R.S. § 16-411\(H\).](#)

Electioneering and other political activity is not permitted on the property of the hosting facility of any polling place/vote center with an emergency designation, even outside the 75-foot limit. [A.R.S. § 16-411\(I\).](#) However, if the voting location is not listed on the jurisdiction's elections website as having an emergency designation, electioneering and other political activity must be permitted on the premises outside the 75-foot limit. [A.R.S. § 16-411\(H\).](#)

If an emergency arises after the initial website posting, the County Recorder or other officer in charge of elections must:

- Update the website as soon as is practicable to include any new emergency designations of polling places/vote centers;
- Highlight the new voting location(s) with an emergency designation on the website; and
- Like other locations with an emergency designation, specify the reason the emergency designation was necessary and the number of attempts that were made to find a standard voting location before granting an emergency designation. [A.R.S. § 16-411\(H\).](#)

#### **H. Requirement to Allow Electioneering Outside 75-Foot Limit**

Except in cases of an emergency designation (*see* Section I(G) above), any voting location or ballot replacement site used on Election Day or during on-site early voting must permit persons to engage in electioneering and other political activity in public areas and parking lots used by voters outside the 75-foot limit. [A.R.S. § 16-411\(H\).](#)

Electioneering or political activity may not result in voter intimidation. Further, no temporary or permanent structure may be erected and access to parking spaces may not be blocked or impaired. [A.R.S. § 16-411\(H\).](#)

#### **I. Ensuring Accessibility at the Voting Location**

Voting locations must comply with the current ADA Checklist for Polling Places and any additional state accessibility requirements. *See* [Chapter 5, Section III](#) for more details.

### **II. APPOINTMENT AND TRAINING OF POLL WORKERS**

At least 20 days before a primary or general election, the Board of Supervisors must appoint at least the following poll workers for each polling place with more than 300 qualified electors and each vote center:

- One inspector;
- Two judges;

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- One marshal; and
- As many clerks as deemed necessary.

[A.R.S. § 16-531\(A\).](#)

For polling places with less than 300 qualified electors, the Board of Supervisors must appoint at least an inspector and two judges. The Board of Supervisors shall give notice of election precincts consisting of fewer than 300 qualified electors to the county chairperson of the two largest political parties not later than 30 days before the election. [A.R.S. § 16-531\(B\).](#)

The inspector, judges, marshal (and clerks, if applicable) are collectively known as the “election board”<sup>37</sup> for a particular voting location and are referred to in this Manual as poll workers or board workers.

The officer in charge of elections must provide a report containing each poll worker’s name, position, precinct, and political party to the Board of Supervisors.

Poll workers must be registered voters, except for student poll workers. In assigned polling place elections, each poll worker must be a registered voter in the precinct of assignment unless there are not enough poll workers that meet this residential requirement. [A.R.S. § 16-531\(A\).](#)

Other than candidates for precinct committeeman, no candidate (nor the spouse, child, or parent of a candidate) for any office on the ballot may serve as a poll worker during that election.

The officer in charge of elections shall ensure that the election board is comprised of individuals registered with different political parties. At minimum, for partisan elections, if the inspector is a member of one of the two largest political parties, the marshal must be a member of the other of the two largest political parties and each of the two judges must be registered with different political parties. An inspector, marshal, or judge may not serve in that position if they have changed their political party registration since the last general election

At least 90 days before an election, the county chairperson of the two largest political parties may designate qualified electors to serve on election boards. When the list is timely submitted, it shall be used to appoint judges. Whenever possible, any person appointed as an inspector shall have had previous experience as an inspector, judge, marshal, or clerk of elections. If there is no qualified person in a given precinct, the appointment of an inspector may be made from names designated

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<sup>37</sup> Notwithstanding [A.R.S. § 16-531\(A\)](#)’s reference to judges and the inspector, Arizona statutes generally provide that the election board is comprised of all poll workers at a particular voting location. *See, e.g.,* [A.R.S. § 16-531\(G\)](#) (allowing students to be appointed to an election board as clerks). This Manual accordingly adopts the interpretation of “election boards” to include inspectors, judges, marshals, and clerks.



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by the county party chairperson. Any registered voter in the precinct, or alternatively, in another precinct, may be appointed as a clerk. [A.R.S. § 16-531\(A\)](#).<sup>38</sup>

### **A. Election Board Duties**

The following duties must be performed by the members comprising the election board. The officer in charge of elections may allocate these duties among different board members as deemed appropriate:

1. Prepare and monitor the voting location, including taking appropriate measures to preserve order and manage voter lines, [A.R.S. § 16-562](#), [A.R.S. § 16-512](#);
2. Open, exhibit, and lock the ballot box before receiving any ballots, [A.R.S. § 16-564\(A\)](#);
3. Maintain the signature roster or e-pollbook;
4. Check for proper identification;
5. Direct voters in the wrong polling place to the correct polling place, including the specific address (for assigned polling place elections only);
6. Mark spoiled ballots (inspector and only one judge required), [A.R.S. § 16-585](#);
7. Ensure that voted ballots are deposited in the correct ballot box, and deposit ballots in the ballot box at the voter's request, [A.R.S. § 16-580\(C\)](#);
8. Assist voters in using accessible voting equipment and assist voters in marking the ballot (two board members of different political parties required), [A.R.S. § 16-580\(E\)](#);
9. Close the polls (inspector and two judges required); [A.R.S. § 16-565\(C\)](#);
10. Prepare a report of the number of voters who have voted and seal the box containing the voted ballots, [A.R.S. § 16-608\(A\)](#), [A.R.S. § 16-616](#); and
11. Return the signature roster, copies of the precinct registers, and other election supplies to the Board of Supervisors or officer in charge of elections. [A.R.S. § 16-617](#).

In addition, the inspector, marshal, and judges of the election board are specifically tasked with the responsibilities described below.

#### **1. Inspector**

<sup>38</sup> If it is impossible to sufficiently staff the boards with members of differing political parties, the officer in charge of elections shall, at minimum, exercise best efforts to utilize board members with no party affiliation or from differing unrecognized parties to ensure that there is a diversity of political party affiliation (including no affiliation) on the election boards and that no election board is comprised of members of only one party. Further, the officer in charge of elections shall document when and how the political parties in the county were contacted about the need for board workers affiliated with those parties and all other actions taken in a best effort to obtain board workers from two different political parties. However, nothing in this Manual shall be interpreted to supersede otherwise applicable statutory requirements, including the requirement that board workers be of differing political party affiliation.



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The inspector serves as the chair of the election board and exercises authority over all election-related activities at the voting location (under the direction of the county officer in charge of elections, who maintains overall authority over the voting location). The inspector usually acts as the single point-of-contact with the officer in charge of elections, poll worker hotline, troubleshooters, or other entity designated by the officer in charge of elections to provide assistance on Election Day.

The inspector's specific duties include the following:

1. As chair of the election board, maintain sufficient knowledge about election procedures and voting equipment;
2. Lead and assign duties to other poll workers, including appointing a substitute judge, marshal, or clerk (while maintaining political party balance) if a poll worker fails to show up or fails to perform their duty on Election Day and no alternative poll worker is available, [A.R.S. § 16-534\(A\)](#), [A.R.S. § 16-533](#); and
3. Ensure the polling place is setup and functions properly, including publicly opening the sealed package of official ballots, ensuring the required ballot styles/types are present, certifying the voting roster, posting appropriate lists and notices, arranging the voting booths, and assisting electors, [A.R.S. § 16-563](#), [A.R.S. § 16-312\(E\)](#), [A.R.S. § 16-343\(F\)-\(G\)](#), [A.R.S. § 16-169\(B\)](#), [A.R.S. § 16-579\(D\)-\(E\)](#), [A.R.S. § 16-572\(A\)](#).

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## **2. Marshal**

The marshal is responsible for preserving order at the voting location, which includes:

1. Announcing the opening and closing of the polls, [A.R.S. § 16-565\(C\)](#);
2. Preserving order and preventing any violation of election law, including voter intimidation or electioneering within the 75-foot limit, from the opening of the polls until the count of the ballots is completed, [A.R.S. § 16-535\(B\)](#); and
3. Periodically measuring the length of wait times, notifying the inspector if wait times have the potential to equal or exceed the 30-minute maximum, and implementing measures to reduce voter wait time, including having the authority to request additional voting equipment or supplies and board workers or to appoint additional board workers upon approval of the officer in charge of elections, [A.R.S. § 16-535\(B\)](#).

The marshal may also perform the duties of any other election board worker on a relief basis. [A.R.S. § 16-535\(B\)](#).

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## **3. Judges**

Judges oversee the voting process itself, which may generally include:

1. Issuing ballots to qualified voters, [A.R.S. § 16-579\(C\)](#), [A.R.S. § 16-467\(B\)](#), [A.R.S. § 16-572\(B\)](#);

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2. Signing the roster for an elector who is unable to sign because of physical disability, [A.R.S. § 16-579\(D\)-\(E\)](#); and
3. Examining electronic voting equipment and comparing the number of votes cast as indicated on the machine with the number indicated on the poll list (or e-pollbook) and the number of provisional ballots cast, [A.R.S. § 16-602\(A\)](#).

### **B. Bilingual Poll Workers**

Jurisdictions covered under the language minority provisions under Section 203 of the Voting Rights Act should appoint bilingual poll workers and/or ensure access to on-site or remote interpretation services in the covered language(s) to provide language assistance to voters who need it. Additionally, an Election Terminology Glossary in the covered languages should be provided among the polling place supplies.

### **C. Student Poll Workers**

The Board of Supervisors may appoint a student to serve as a clerk on the election board if the student:

- Will be at least 16 years old at the time of the election;
- Will be a United States citizen at the time of the election; and
- Provides written permission from a parent or guardian.

A student poll worker must receive poll worker training and must be supervised by a trained adult poll worker at the voting location. [A.R.S. § 16-531\(F\)](#).

A student's absence from school due to service as a student poll worker does not affect the school's average daily membership or count against any mandatory attendance requirements for the student. [A.R.S. § 15-901\(A\)\(1\)](#); [A.R.S. § 16-531\(G\)](#).

### **D. Poll Worker Training**

Within 45 days before an election, the officer in charge of elections must commence poll worker training for inspectors, judges, and any other election board members deemed necessary by the officer in charge of elections. [A.R.S. § 16-532\(A\)](#). At least one poll worker training session should be conducted in-person during each election cycle, but additional training may be conducted online as deemed necessary. Additionally, the officer in charge of elections should develop a mechanism to assess individual poll workers' performance following the election.

Persons who conduct poll worker training must be qualified in election law and have practical experience in the election process. [A.R.S. § 16-532\(A\)-\(B\)](#). Persons who conduct poll worker training must also be certified by the Secretary of State as an election officer in accordance with [A.R.S. § 16-407](#) or under the management of a certified election officer.

Poll worker training must cover the following pre-Election Day topics, as applicable:

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1. Delivery of ballots and supplies to the voting location;
2. Duties of each election board member;
3. Ensuring proper political party representation among election board members;
4. Conducting a pre-election meeting;
5. Gaining building access;
6. Inventorying supplies;
7. Equipment setup and furniture arrangement;
8. Voting equipment checks, including ensuring that equipment seals have not been tampered with and match the seal log;
9. Conducting an official ballot count;
10. Customer service responsibilities, including voter assistance, assistance to voters with a disability, and ensuring language accessibility; and

Poll worker training must also cover the following Election Day topics, as applicable:

1. Opening the voting location;
2. Hours the voting location will be open;
3. Poll workers' hours;
4. Establishing the 75-foot limit and enforcing non-electioneering and non-intimidation rules;
5. Sharing voting locations with tribal elections;
6. Procedures for checking identification;
7. Provisional ballot processing;
8. Operation of voting equipment;
9. Operation of accessible voting equipment;
10. Operation of e-pollbooks or procedures for managing the signature rosters and poll lists;
11. Troubleshooting, including when and how to implement wait-time reduction and other contingency plans;
12. Any voter registration information deemed necessary;
13. Who may vote in the election;
14. Use of precinct registers and/or the issuance of ballot types/styles (political party, FED only, ballot splits, etc.);
15. Standard voting procedures;
16. Recorder's Certificates;
17. Spoiled ballot procedures;

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18. Procedure for early ballot drop-off;
19. Political party observers;
20. Procedures for challenges;
21. Kids Voting;
22. Closing the polls;
23. Transmitting results and/or delivery of voted ballots;
24. Completing a Certificate of Performance, verifying that various election duties were properly performed; and
25. Preparing the official and unofficial envelope contents (*see* [Chapter 8, Section V](#)).

The officer in charge of elections may require additional training for poll workers at any time. Regardless of whether additional training is provided, however, poll workers must be notified in writing prior to Election Day of any changes in election law or procedure that became effective since the last poll worker training. [A.R.S. § 16-532\(E\)](#).

### **1. Premium Training**

The officer in charge of elections may institute an advanced method of instruction and testing for certain election board members known as premium training. The premium training must include at least eight hours of training and a written examination on election law and procedures. [A.R.S. § 16-532\(D\)](#).

Those who complete this training and pass the test are certified as a “premium board worker.” Premium board workers are certified for a period of 30 months and, if approved by the Board of Supervisors, are entitled to additional compensation. [A.R.S. § 16-532\(D\)](#).

The officer in charge of elections may require additional training for poll workers at any time. Regardless of whether additional training is provided, however, poll workers must be notified in writing prior to Election Day of any changes in election law or procedure that became effective since the last poll worker training. [A.R.S. § 16-532\(E\)](#).

### **2. Certificate of Qualification**

Upon successful completion of poll worker training, each election board member will receive a certificate of qualification from the Board of Supervisors or officer in charge of elections stating the worker’s name and the course of instruction completed. No inspector or judge (except those appointed to fill a vacancy and as provided in [A.R.S. § 16-533](#) and [A.R.S. § 16-534](#)) may serve on Election Day unless the person has been issued a certificate of qualification. [A.R.S. § 16-532\(A\)](#).

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### **E. Poll Worker Compensation**

The Board of Supervisors must set the compensation of poll workers, which constitutes a county charge. [A.R.S. § 16-536](#). The Board of Supervisors may approve poll worker pay by virtue of approving the election director's budget for the forthcoming election.

Poll workers must be paid at least \$30 per day. [A.R.S. § 16-536](#). The Board of Supervisors may approve additional compensation for premium board workers. [A.R.S. § 16-532\(D\)](#).

## **III. DESIGNATION OF POLITICAL PARTY AND OTHER OBSERVERS**

Political party representatives are permitted to observe at voting locations and central counting places for partisan elections. The proceedings at the central counting place may also be observed by up to three additional people representing a candidate for nonpartisan office, or representing a political committee in support of or in opposition to a ballot measure, proposition or question. Such observation (and observation at early voting locations, emergency voting centers, and County Recorder processing procedures, where permitted by the County Recorder or other officer in charge of elections) are subject to the procedures described below. Observation at nonpartisan elections may be permitted at the discretion of the officer in charge of elections. [A.R.S. § 16-590\(A\)-\(B\)](#); [A.R.S. § 16-621\(A\)](#).

The County Recorder or other officer in charge of elections may develop additional local procedures governing political party observation. Additional procedures shall allow political party observers to effectively observe the election process, and no changes to the procedures shall be made after the Tuesday prior to the election in order to facilitate compliance by the county political parties and designees.

### **A. Appointment Process**

The county chairperson (or designee) of each party represented on the ballot must submit the names of specific political party observers to the County Recorder or officer in charge of elections in writing (in hard copy or electronically in advance of observation, as required by the County Recorder or officer in charge of elections). The County Recorder or officer in charge of elections may require reasonable deadlines for advance notice of appointments. Where there is no county political party officer to make the appointment, the state political party chairperson may appoint political party observers for that county.

Political party observers may be appointed to specific voting locations (for Election Day observation), to a central counting place, or to multiple voting locations as authorized by the political party chairperson and the officer in charge of elections. Observers appointed to observe in multiple locations need only one appointment in writing designating the various locations where the observer is appointed. An appointment is not transferable to another individual.

Unless agreed upon by the political parties, not more than one party representative for each party represented on the ballot shall be at a voting location at one time. [A.R.S. § 16-590\(C\)](#). Further,

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only one representative at any one time of each political party represented on the ballot who has been appointed by the political party chairperson shall remain within the 75-foot limit while the polls are open. [A.R.S. § 16-515\(A\), \(B\), \(H\)](#).

Appointed political party observers need not be qualified electors in the precinct or county of observation. Except for precinct committeeman candidates, candidates appearing on the ballot or official write-in candidates shall not serve as political party observers.

### **B. Observer Credentials**

The political party letter of appointment with the signature of the appointing authority (and, if required by the County Recorder or officer in charge of elections, on political party letterhead) serves as the written credential necessary to conduct observation at a voting location or central counting place. Credentials must be issued by the recognized political party chairperson or designee; this authority may not be delegated to a candidate or candidate's agent. The political party observer must present the political party appointment letter (or copy thereof, if permitted by the County Recorder or officer in charge of elections) to the appropriate election official upon entering the voting location, County Recorder's office, or central counting place, and be prepared to show identification if requested.

### **C. Observation at Voting Locations**

Political party observers may observe the following activities at a voting location:

- Opening the voting location;
- Voting at the voting location (but may not observe in the voting booth or otherwise impede voters' ability to maintain a secret ballot);
- Closing the voting location;
- Transport of ballots from the voting location to a receiving site (using a separate vehicle); and/or
- Any other significant voting or processing activities at the voting location provided that it does not interfere with or impede the election procedures or staff.

Each recognized political party is presumptively entitled to have no more than one political party observer at a time at each voting location. [A.R.S. § 16-590\(C\)](#).

All political party observers are subject to removal by the County Recorder or other officer in charge of elections for failure to comply with a request to cease an activity that interferes with the election process or violates state or federal law.

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### **D. Observation at Central Counting Places**

Political party representatives may observe at a central counting place and at each point where ballots are handled or transferred from one election official to another, including areas where the following activities take place:

- Receiving the ballots at the County Recorder's office or central counting place;
- Inspecting the ballots;
- Reviewing ballots by the Write-in Tally Board;
- Duplicating ballots by the Ballot Duplication Board;
- Adjudicating ballots by the Electronic Vote Adjudication Board;
- Receiving electronic media or processing voting results by the Accuracy Certification Board;
- Tabulation of ballots; and/or
- Any other significant tabulation or processing activities at a central counting place provided that it does not interfere with or impede the election procedures or staff.

### **E. Observer Guidelines**

The following observation guidelines govern all observers:

1. An observer may not mark any ballot, place any type of material on a ballot, or otherwise touch a voted ballot during observation. Further, an observer shall not offer to assist any voter in the process of voting at a voting location. If a voter specifically requests an observer's assistance in voting, the observer may only assist the voter after relinquishing the observer's formal status as an observer (for example, by returning any observer badge or identification, exiting the voting location, and then accompanying the voter into the voting location as an assistant rather than an observer). The observer may resume their role as an observer after assisting the voter.
2. Observers shall not touch or handle election materials, rosters, early ballot envelopes, provisional ballot envelopes, ballot transfer containers, voting machines, or voting machine components except as expressly permitted by the officer in charge of elections during demonstrations.
3. Observers may not interfere with or impede the election procedures or staff.
  - If an observer has a question about the proceedings or seeks to raise an objection, the observer should speak solely to the designated point of contact (e.g., inspector, County Recorder, or other officer in charge of elections) and not to other poll workers or staff.
  - The officer in charge of elections or inspector may prohibit observers from using electronic devices in the voting location or central counting place if doing so would interfere with or impede the election procedures or staff. No photos may be taken within the 75 foot limit of a voting location. [A.R.S. § 16-515\(G\)](#).



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- Observers may not wear, carry, or display any materials that identify or express support or opposition for a political party, political organization, or a candidate or ballot measure appearing on the ballot. [A.R.S. § 16-515\(F\)](#).
  - In cases where multiple ballots are dropped off at a voting location, as observer may not, within the 75-foot limit: (1) inspect, copy, or photograph the early ballot envelopes in an effort to discern voters' identities; or (2) confront, question, or photograph the individual who dropped off the early ballots.
  - Observers can enter and leave a voting location or central counting place so long as their entering and leaving does not interfere with or impede the election procedures or staff.
4. Observers may take handwritten notes during observation, but must use a writing instrument of a color designated by the officer in charge of the election or procedure.
  5. If an observer is asked by the inspector or other officer in charge to cease an activity that interferes with the election process, the observer must comply or face possible ejection.
  6. Observers must be prepared to show their appointment credential immediately upon entering any voting location or central counting place or upon request by any election official.
  7. At a central counting place, all observers must check in with the County Recorder or other officer in charge of elections prior to being admitted and may be required to log in and out of the facility each time they enter or leave.
  8. At a central counting place, the County Recorder or other officer in charge of elections may ensure that observers are given identifying badges to ensure that observers are clearly identifiable.

#### **IV. ISSUING PRE-ELECTION NOTICES**

##### **A. Secretary of State: 120-Day Notice of Offices to be Elected**

At least 120 days before a primary election, the Secretary of State must notify in writing each Board of Supervisors and officer in charge of elections of the federal, statewide, and legislative offices for which candidates will be nominated at the primary election. [A.R.S. § 16-202](#).

##### **B. County: 180-Day Notice of Election to Local Jurisdictions**

At least 180 days before each consolidated election date, the Board of Supervisors or officer in charge of elections must give written notice to each school district, community college district, city and town within the county's geographical boundaries. The Board of Supervisors or officer in charge of elections also must give written notice to all special taxing districts within the county. [A.R.S. § 16-205\(A\)](#).

The notice must include:

- The specific election date;

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- The deadline by which the local jurisdiction must inform the Board of Supervisors or officer in charge of elections whether an election will be held; and
  - The deadline to inform the Board of Supervisors or officer in charge of elections should be set at or just after special taxing districts' 150-day deadline to call an election pursuant to [A.R.S. § 16-226\(A\)](#).
- Any additional information deemed necessary by the Board of Supervisors or officer in charge of elections.

The notice may be mailed, emailed, or otherwise electronically transmitted.

### C. Special Taxing District/Nonpartisan Election Notices

The governing body of a special taxing district must provide various public notifications before conducting an election that is not held concurrently with a general election. [A.R. S. § 16-226\(B\)](#); [A.R.S. § 16-227\(A\)](#).<sup>39</sup>

- A special taxing district must call an election at least 150 days in advance of an election, except for elections called pursuant to [A.R.S. § 19-209](#). [A.R.S. § 16-226\(A\)](#). “Calling” an election means the governing board of the special taxing district must officially inform the applicable Board of Supervisors or officer in charge of elections that the district intends to conduct an election.
- In addition, the special taxing district must also issue a “call of election” to the public by publishing the “call of election”, at least two times and at least one week apart, in a newspaper of general circulation covering the jurisdiction between 132 and 90 days before the election. [A.R.S. § 16-227\(A\)](#). Alternatively, the special taxing district may mail the “call of election” to each household containing a qualified elector at least 90 days before the election. [A.R.S. § 16-227\(B\)](#).
- Finally, a special taxing district must issue a “notice of election,” which is like the call of election but intended as the final public notice in advance of a special taxing district election. [A.R.S. § 16-228\(A\)-\(B\)](#). A special taxing district that conducts a ballot by mail election need only issue the notice specified in [A.R.S. § 16-228\(C\)-\(D\)](#). Notice requirements specific to fire district or irrigation and water conservation district bond elections can be found at [A.R.S. § 48-806\(A\)](#) and [A.R.S. § 48-3190\(A\)](#), respectively.

A special taxing district must file an affidavit certifying compliance with federal and state law with the applicable Board of Supervisors at least five days before holding a nonpartisan election. [A.R.S. § 16-229](#).

<sup>39</sup> A.R.S. §§ 16-225 to 16-229 outline various requirements for holding “nonpartisan” elections. [A.R.S. § 16-226\(B\)](#) defines nonpartisan elections (for purposes of those statutes) as elections of special taxing districts not held concurrent with the general election.

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## V. PREPARATION OF BALLOTS

The County Board of Supervisors is responsible for preparing the official ballot to be used in federal, statewide, legislative, and countywide elections. [A.R.S. § 16-405](#); [A.R.S. § 16-503\(A\)](#). The Board of Supervisors may delegate this responsibility to the officer in charge of elections.

### A. Official Ballot Format

#### 1. Form and Content of the Ballot

##### a. *Requirements for All Ballots*

###### i. Paper Type

All official ballots must be printed with black ink on white paper of sufficient thickness to prevent the printing from being discernible on the reverse side the ballot. [A.R.S. § 16-468\(2\)](#); [A.R.S. § 16-502\(A\)](#).

###### ii. Font

The ballot must use the same font and color template throughout the ballot. [A.R.S. § 16-502\(A\), \(C\)](#). The only color exception is for a political party indicator or stripe to be printed on official ballots used for a partisan primary election or PPE. See [Chapter 7, Section III\(A\)](#) and [Chapter 8, Section V\(A\)\(1\)\(b\)](#).

The ballot must use the same font size within each category on the ballot (for example, all candidate names for a particular race must be printed in the same font size), which must be printed in no less than 8-point font if practicable. However, ballot measure numbers must be printed in at least 12-point font. The officer in charge of elections may adjust spacing between the letters on a ballot to accommodate space limitations.

###### iii. Early Ballot Designation

Early ballots, including ballots-by-mail and in-person early ballots, shall be identical to regular ballots, except that early ballots shall have the word “early” printed or stamped on them. [A.R.S. § 16-545\(A\)](#).

###### iv. Spacing and Heading

The ballot must contain sufficient spacing between races and sections to enable the voter to clearly understand the ballot.

On the front side, the ballot must be headed with the phrase “Official Ballot” in bold-faced plain letters, with a heavy rule above and below the heading. The ballot may not contain any other statement or matter printed above the “Official Ballot” header. [A.R.S. § 16-502\(A\)](#).

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Immediately below the “Official Ballot” heading, the following components must be printed in the following order:

- A subheading that specifies the type of election (general, primary, or special), the election date, and the name of the county and state holding the election;
- Instructions to the voter how to properly mark the ballot; and
- The various candidate names and/or ballot measures. [A.R.S. § 16-502\(A\), \(C\)](#).

**v. Candidate Races**

For candidate races, the official ballot must:

- Arrange the candidate names according to [A.R.S. § 16-502\(C\)](#) in column format, starting with the left-hand column;
- List the name of the office to be filled at the head of each portion of the column;
- List the district number, division number, or other jurisdictional name/number to the right of the office name to be filled, if applicable;
- Include the designation “Vote for not more than \_\_\_\_\_” below the name of each office to be filled to indicate the appropriate number of candidates to select;
- List candidate names according to last name, followed by first name and any nickname;
  - The officer in charge of elections may: (1) shorten or truncate a candidate’s name (with the candidate’s consent) in order to fit the candidate’s name on the ballot; and/or (2) decline to print the candidate’s requested nickname if it suggests reference to professional, fraternal, religious, or military titles.
- Contain a location for the voter to place a mark to vote for their candidate of choice to the right or left (and on the same line) of each candidate’s name;
- Contain the candidate’s political party designation in bold-faced letters next to the candidate’s name (for partisan races only); and
- Contain blank lines that correspond to the number to elect placed below the last candidate name for a particular office, along with a location for the voter to place a mark next to their write-in candidate(s) of choice.

[A.R.S. § 16-502\(C\)-\(G\)](#); [A.R.S. § 16-311\(G\)](#); [A.R.S. § 16-341\(C\)](#).

Additionally, the ballot must contain the name or number of the precinct in which the ballot will be utilized, and may include the precinct part or ballot style code. [A.R.S. § 16-502\(A\)](#).

**b. Additional Requirements for Primary Election Ballots**

In addition to the specifications outlined in [Section V\(A\)\(1\)\(a\)](#) above, primary election ballots must comply with the following additional requirements.

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Primary election ballots must be printed with a particular color to indicate the political party ballot. [A.R.S. § 16-461\(B\)](#). The ballot may be printed on colored stock or on white stock with a distinctive color indicator such as a stripe. The following colors represent the recognized political parties:

- Blue: Democratic Party
- Green: Green Party
- Yellow: Libertarian Party
- Red or Salmon: Republican Party

The officer in charge of elections may use varying hues of the requisite colors, but may not select entirely different colors as substitutes for the requisite colors. The primary election ballot displayed in accessible voting equipment must also utilize a color designation for each political party. [A.R.S. § 16-446\(B\)\(9\)](#).

If the number of recognized party candidates in a particular race exceeds the number to elect, the officer in charge of elections must rotate candidate names in that particular race by precinct so that each candidate will appear substantially an equal number of times in each possible location for the particular race across all primary election ballots. If the number of candidates in a particular race is less than or equal to the number to elect, the candidates' names must be listed in alphabetical order by last name and no rotation is required. [A.R.S. § 16-464\(A\)](#).

If more persons file nomination petitions for the office of precinct committeeman than the number to elect in a particular precinct, the county officer in charge of elections must prepare a separate ballot style that includes the office of precinct committeeman for the voters registered with that political party in that precinct. [A.R.S. § 16-822\(C\)](#). The position of the precinct committeemen candidate names must be drawn by lot at a public meeting called by the Board of Supervisors for that purpose. [A.R.S. § 16-464\(B\)](#). This ballot style, which includes all the races in the precinct and the precinct committeeman race, must be provided only to voters registered with that political party in the precinct. [A.R.S. § 16-822\(C\)](#).

### ***c. Additional Requirements for General Election Ballots***

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In addition to the specifications outlined in [Section V\(A\)\(1\)\(a\)](#) above, general election ballots must comply with the following additional requirements.

For partisan candidate races, the official ballot must list candidates in a particular race in the following descending order:

- Candidates who are registered with a recognized political party that appeared on the gubernatorial ballot in the most recent general election for the office of governor, listed in the order that corresponds to the number of votes for each party's gubernatorial candidate in that county;
- Candidates who are registered with a recognized political party that did not appear on the gubernatorial ballot in the most recent general election for the office of governor, listed in alphabetical order by last name; and

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- Independent candidates who were nominated pursuant to [A.R.S. § 16-341](#) (along with a three-letter designation determined by the filing officer), listed in alphabetical order by last name. [A.R.S. § 16-502\(E\)](#).

If there are two or more candidates of the same political party for the same office, or more than one candidate for a judicial office, the names of all such candidates in the particular race must be rotated so that each candidate will substantially appear an equal number of times in each possible location. However, if the number of candidates in a particular race is less than or equal to the number to elect, the candidates' names must be listed in alphabetical order by last name and no rotation is required. [A.R.S. § 16-502\(E\), \(H\)](#).

In general elections with a presidential candidate on the ballot, presidential electors' first and last names must be listed in alphabetical order (according to last name). The presidential and vice-presidential candidates' last names must be printed in bold and placed adjacent to the elector names, with the presidential candidate's name printed above the vice-presidential candidate's name. [A.R.S. § 16-502\(C\)\(1\)](#).

For ballot measures, the officer in charge of elections must use one of the following methods to describe the measure:

1. Print the full text of the measure on the ballot;
2. Print a summary of the measure that contains a statutorily-prescribed heading, an official title, a descriptive title, and a summary that describes the measure's effect; or
3. Print a summary of the measure that contains an alternative heading and a summary that describes the measure's effect, but omits the official title and descriptive title (see below for specific requirements).

The ballot must contain the words "Yes" and "No" or "For \_\_\_\_" and "Against \_\_\_\_", along with a space for the voter to mark their choice, below the description of the ballot measure. [A.R.S. § 19-125\(B\)-\(F\)](#); [A.R.S. § 16-502\(L\)-\(N\)](#).

#### **d. Additional Requirements for PPE Ballots**

Similar to a partisan primary election ballot, a PPE ballot must distinguish political party ballots by color and contain candidate names for only that political party. [A.R.S. § 16-245\(A\)](#). Otherwise, PPE ballots must comply with the following specific requirements.

A PPE ballot must contain the following information in descending order:

- The following header at the top of the ballot:  
"Official Ballot of the \_\_\_\_\_ Party,  
Presidential Preference Election (date),  
County of \_\_\_\_\_,  
State of Arizona"

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- The title “\_\_\_\_\_ Party Candidates for President of the United States;”
- The text “Vote for not more than one;” and
- The political party candidates certified to appear on the ballot. [A.R.S. § 16-245\(A\)-\(B\)](#).

The ballot also may contain printed instructions to voters as prescribed for other elections (see below for specific instructions). [A.R.S. § 16-245\(B\)](#).

Unlike all other ballots, candidate order is determined by lot drawn at a public meeting conducted by the Secretary of State. The officer in charge of elections must print candidate names in the order and format specified by the Secretary of State, without rotation of candidate names. [A.R.S. § 16-245\(B\)](#). Write-in votes are not permitted, and no other elections may be combined with a PPE ballot. [A.R.S. § 16-241\(A\)](#); [A.R.S. § 16-247](#).

A PPE ballot must comply with any other ballot format requirements in [Section V\(A\)\(1\)\(a\)](#) that are not inconsistent with this Section.

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## 2. Ballot Marking Instructions

Immediately below the subheading that specifies the type of election, the election date, and the name of the county and state holding the election, an official ballot may contain the following voter instructions:

1. Put a mark according to the instructions next to the name of each candidate for each office for whom you wish to vote.
2. If you wish to vote for a person whose name is not printed on the ballot, write such name in the blank space provided on the ballot or write-in envelope and put a mark according to the instructions next to the name so written.
3. Put a mark according to the instructions next to the word “yes” (or “for”) for each proposition or question you wish to be adopted. Put a mark according to the instructions next to the word “no” (or “against”) for each proposition or question you wish not to be adopted.

[A.R.S. § 16-502\(A\)](#). The officer in charge of elections may add additional instructions to the ballot as needed.

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## 3. Order of Candidate Races

### a. Partisan Candidate Offices

Partisan candidate races must be listed in the following order in the partisan section of the ballot:

1. Presidential electors;
2. U.S. Senator;
3. U.S. Representative;



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4. Governor;
5. State Senator;
6. State Representative;
  - [A.R.S. § 16-502\(D\)](#) requires state legislative candidates' names to appear directly below the gubernatorial candidates' names. In election years where there are no gubernatorial candidates on the ballot, legislative candidates' names must still appear before statewide offices.
7. Secretary of State;
8. Attorney General;
9. State Treasurer;
10. Superintendent of Public Instruction;
11. State Mine Inspector;
12. Corporation Commissioner;
13. County Offices;
  - The officer in charge of elections may determine the ballot order for County Supervisor, County Assessor, County Attorney, Clerk of the Superior Court, County Recorder, County School Superintendent, County Sheriff, and County Treasurer.
14. Justice of the Peace; and
15. Constable.

[A.R.S. § 16-502\(C\)](#). Candidate races not up for election must be omitted from the ballot. Precinct Committeemen must be included on a separate ballot style only for voters registered with the particular political party. See [Chapter 8, Section V\(A\)\(1\)\(b\)](#). PPE ballots are subject to different requirements. See [Chapter 8, Section V\(A\)\(1\)\(d\)](#).

**b. Nonpartisan Candidate Offices**

Subject to the exceptions outlined below, the following nonpartisan candidate races must be listed in order in the nonpartisan section of the ballot:

1. Justice of the Supreme Court;
2. Judge of the Court of Appeals (Division 1);
3. Judge of the Court of Appeals (Division 2);
4. Judge of the Superior Court (retention in Maricopa, Pima, and Pinal Counties);
5. Judge of the Superior Court (election in Apache, Cochise, Coconino, Gila, Graham, Greenlee, La Paz, Mohave, Navajo, Santa Cruz, Yavapai, and Yuma Counties).
6. Governing Board Member of a School District;

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7. Governing Board Member of a Community College District;
8. Governing Board of a Joint Technical Education District;
9. Governing Board Member of a Special Taxing District;
10. City or Town Mayor;
11. City or Town Council Member.

[A.R.S. § 16-502\(J\)](#). The following exceptions apply to candidate order in the nonpartisan candidate section:

- The officer in charge of elections may reasonably adjust the nonpartisan candidate order in order to avoid printing on the reverse side of the ballot, to achieve uniformity with the reverse side of the ballot, or to eliminate blank space;
- A recall election involving a candidate who was originally elected in a partisan race should be listed in the partisan section of the ballot, and (if applicable) in the section of the partisan ballot where candidate's race was originally positioned, [A.R.S. § 19-213](#); and
- An election to fill the vacant unexpired term of a nonpartisan office must appear under separate heading immediately below the nonpartisan candidates and shall include the expiration date of the term of the vacated office. [A.R.S. § 16-502\(K\)](#); [A.R.S. § 15-424\(F\)](#).

Candidate races not up for election (or judicial offices not up for retention) should be omitted from the ballot.

**i. Determining Judicial Offices Subject to Retention**

Following appointment, a justice or judge (including superior court judges in counties with a population that exceeds 250,000) serves an initial 2-year term before seeking retention in office. [Ariz. Const. Art. VI, § 37\(C\)](#). Thereafter, justices and judges serve 6-year terms between retention elections. [Ariz. Const. Art. VI, § 4](#); [Ariz. Const. Art. VI, § 37\(C\)](#); [A.R.S. § 12-101](#); [A.R.S. § 12-120.01\(B\)](#).

Supreme Court justices appear on the ballot for retention in all Arizona counties.

For the 16 judges in Division 1 of the Court of Appeals, which covers Maricopa, Yuma, La Paz, Mohave, Coconino, Yavapai, Navajo, and Apache Counties:

- The 10 judges appointed from Maricopa County in Division 1 of the Court of Appeals must appear on the Maricopa County ballot for retention;
- The five judges appointed from Yuma County, La Paz County, Mohave County, Coconino County, Yavapai County, Navajo County or Apache County in Division 1 of the Court of Appeals must appear on these 7 counties' ballots for retention;
- Retention of the 16th judge in Division 1 of the Court of Appeals depends on the county of residence:

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- If the judge was appointed from Maricopa County, that judge must appear on the Maricopa County ballot for retention;
- If the judge was appointed from Yuma County, La Paz County, Mohave County, Coconino County, Yavapai County, Navajo County or Apache County, that judge must appear on these 7 counties' ballots for retention.

[A.R.S. § 12-120.02\(A\).](#)

For the six judges in Division 2 of the Court of Appeals, which covers Pima, Pinal, Cochise, Santa Cruz, Greenlee, Graham, and Gila Counties:

- The four judges appointed from Pima County in Division 2 of the Court of Appeals must appear on the Pima County ballot for retention; and
- The two judges appointed from Pinal County, Cochise County, Santa Cruz County, Greenlee County, Graham County, or Gila County in Division 2 of the Court of Appeals must appear on these six counties' ballots for retention.

[A.R.S. § 12-120.02\(A\)-\(B\).](#)

Superior court judges appear on the ballot for retention in the county in which they were elected or appointed. [Ariz. Const. Art. 6, § 37\(B\).](#)

The Arizona Commission on Judicial Performance must notify the Secretary of State which justices and judges are up for retention in a particular general election. [A.R.S. § 19-123\(A\)\(5\);](#) [A.R.S. § 19-124.01.](#)

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#### **4. Political Party Designations**

In a partisan race where a candidate sought a political party nomination by primary, the officer in charge of elections must place a three-letter designation to the right of the candidate's name that corresponds to the party designated in the candidate's nomination paper. [A.R.S. § 16-502\(E\).](#)

The following three-letter designations correspond to the current or recently recognized political parties:

- DEM: Democratic Party
- GRN: Green Party
- LBT: Libertarian Party
- REP: Republican Party

In a partisan race where an independent candidate sought a nomination other than by primary, the officer in charge of elections must determine a three-letter designation based on the three-word designation in the candidate's nomination paper. [A.R.S. § 16-341\(D\);](#) [A.R.S. § 16-502\(E\).](#)

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A political party selection of “independent” must be designated as “IND” on the general election ballot. Otherwise, the officer in charge of elections has sole discretion how to translate other non-recognized political party selections into three-letter designations (except that independent candidates may not be designated as “DEM,” “GRN,” “LBT,” or “REP” on the general election ballot).

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## **5. Special Provisions for Ballot Measures**

### ***a. Numbering Ballot Measures***

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For any measure that has qualified for the ballot, the officer in charge of elections must assign a three-digit proposition or question number based on the ballot measure type:

- Constitutional Initiative: 100 series
  - A “constitutional initiative” is brought about by petition and represents the citizens’ effort to amend the Arizona Constitution.
- Constitutional Referral: 100 series
  - A “constitutional referral” is a proposed constitutional amendment referred to the general election ballot by the Arizona Legislature.
- Statutory Initiative: 200 series
  - A “statutory initiative” is brought about by petition and represents the citizens’ effort to amend, add, or strike a statute.
- Statutory Referral: 300 series
  - A “statutory referral” is a statutory measure referred to the general election ballot by the Arizona Legislature.
- Citizen Referendum: 300 series
  - A “citizen referendum” is brought about by petition and represents the citizens’ effort to veto a bill recently passed by the Arizona Legislature or other local government body.
- Local charter amendment, initiative, referendum, bond measure, or budget override: 400 series

Propositions or questions within a jurisdiction must be numbered consecutively based on the order filed with the officer in charge of elections. Individual numbers continue from the last number used in the previous election and do not repeat until all 100 numbers in that series have been used. [A.R.S. § 19-125\(B\)](#). For non-statewide ballot measures appearing on the ballot in multiple counties, unless otherwise agreed upon by the applicable counties, the county with the highest population of voters shall assign the number for the ballot measure and, where practicable, other counties shall use that same number for the same ballot measure in order to minimize voter confusion.

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The proposition or question number must be printed in reverse type (white type on black background) in at least 12-point font. [A.R.S. § 19-125\(C\)](#). For example, a statutory initiative designated as Proposition 205 must be printed on the ballot as follows:

**PROPOSITION 205**

**PROPOSICIÓN 205**

***b. Order of Ballot Measures***

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Ballot measures must appear on the ballot in the following order, below any nonpartisan candidate races in the nonpartisan section of the ballot:

- State constitutional amendments;
- Statewide statutory initiatives;
- Statewide referenda;
- County ballot measures, including school district, joint technical education district, and community college district ballot measures;
  - The officer in charge of elections may determine the ballot order for county initiatives, county referenda, county school district bond measures, county school district budget overrides, community college district bond measures, community college district budget overrides, special taxing district bond measures, and special taxing district budget overrides.
- City or town ballot measures; and
  - The city or town clerk may determine the ballot order for city charter amendments, city or town initiatives, and city or town referenda.
- Special taxing district ballot measures.

[A.R.S. § 16-502\(L\)](#); [A.R.S. § 19-125\(B\)](#). Ballot measures types that will not be voted on in the election should be omitted from the ballot.

***c. Printing Initiatives and Referenda on the Ballot***

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The officer in charge of elections may use one of the three methods to print initiatives and referenda (including legislative referrals) on the official ballot:

1. Print the full text of the measure on the ballot, followed by the words “**yes**” and “**no**” or “**for** \_\_\_\_\_” and “**against** \_\_\_\_\_” for the voter to mark their choice;
2. Print a standard summary of the measure that contains a statutorily-prescribed heading, an official title, a descriptive title, and a summary that describes the measure’s effect (see below for specific requirements); or

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3. Print a condensed summary of the measure that contains an alternative heading and a summary that describes the measure’s effect, but omits the official title and descriptive title (see below for specific requirements).

- i. Standard Summary of the Measure

If the officer in charge of elections chooses the standard summary option (printing a statutorily-prescribed heading, an official title, a descriptive title, and an analysis of the measure’s potential effect), the following requirements apply.

Below the proposition number, the officer in charge of elections must print one of the following **headings**, as applicable:

- Constitutional Initiative: “Proposed Amendment to the Constitution by the Initiative;”
- Constitutional Referral: “Proposed Amendment to the Constitution by the Legislature;”
- Statutory Initiative: “Proposed by Initiative Petition;”
- Statutory Referral: “Referred to the People by the Legislature;” or
- Citizen Referendum: “Referendum Ordered by Petition of the People.”

An **official title** must be printed below the prescribed heading. The official title comprises a description of the constitutional or statutory provisions being amended, added, or deleted by the measure. This information is drawn from the introductory portion of the initiative or referendum itself.

A **descriptive title** must be printed below the official title. The descriptive title constitutes a summary of the principal provisions of the measure, not to exceed 50 words.

Finally, an **analysis of the potential effect** of a “yes” or “no” vote on the measure must be printed below the descriptive title. Each analysis must begin with following introductory phrases:

A “yes” vote shall have the effect of \_\_\_\_\_.

A “no” vote shall have the effect of \_\_\_\_\_.

The “yes” line must be filled with a “brief phrase” that describes the essential change to existing law should an initiative or referral receive a majority of votes cast in the election. The “no” must be filled with a “brief phrase” that describes how the status quo will be maintained should the measure not receive a majority of votes. For a citizen referendum, a “yes” vote has the effect of approving the enactment passed by the Legislature and allowing the bill to go into effect, whereas a “no” vote essentially constitutes a citizens’ veto and prevents the bill from going into effect.

Below the ballot measure analysis, the officer in charge of elections must print the words “yes” and “no” for the voter to mark their selection on the ballot.

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For statewide ballot measures, the heading, official title, descriptive title, and “yes/no” analysis are drafted by the Secretary of State and approved by the Attorney General before being provided to the officer in charge of elections for printing on the ballot. For local ballot measures, the local jurisdiction is responsible for drafting the heading, official title, descriptive title, and “yes/no” analysis.

[A.R.S. § 19-125\(C\)-\(D\)](#); [A.R.S. § 19-141](#).

**ii. Condensed Summary of the Measure**

In lieu of printing the full standard summary of a measure that includes the official title and descriptive title, the officer in charge of elections may print an alternative summary on the ballot that contains the following information below the proposition number:

1. One of the following methods of designating the measure in the ballot header:
  - The standard header, as prescribed for the standard summary above:
    - Constitutional Initiative: “Proposed Amendment to the Constitution by the Initiative”
    - Constitutional Referral: “Proposed Amendment to the Constitution by the Legislature”
    - Statutory Initiative: “Proposed by Initiative Petition”
    - Statutory Referral: “Referred to the People by the Legislature”
    - Citizen Referendum: “Referendum Ordered by Petition of the People”; ***or***
  - The word “Proposition,” “Question,” or “Charter Amendment” (as applicable), followed by the phrase “relating to \_\_\_\_\_” and inserting the subject matter of the measure;
2. One of the following methods of explaining the effect of the measure:
  - An analysis of the potential effect of a “yes” or “no” vote on the measure as prescribed for the standard summary above; or
  - The full text of the measure;<sup>40</sup>
3. The words “yes” and “no” for the voter to mark their selection on the ballot; and
4. Instructions that direct the voter to the official title, descriptive title, and full text of the measure as printed on the sample ballot and posted in the voting location.

[A.R.S. § 16-502\(M\)](#); [A.R.S. § 19-125\(E\)](#); [A.R.S. § 16-502\(N\)](#); [A.R.S. § 19-125\(F\)](#).

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<sup>40</sup> The full text of the measure need not be printed on the ballot itself, but may be printed on a separate insert (a “tablecloth”) that accompanies the sample ballot. The full text must be made available at each voting location as well. [A.R.S. § 16-502\(N\)](#); [A.R.S. § 19-125\(F\)](#).



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In other words, this alternative summary allows the officer in charge of elections flexibility to omit the official title, descriptive title, and full text of the measure from the official ballot due to space limitations.

The alternative heading and “yes/no” analysis are drafted by the Secretary of State and approved by the Attorney General before being provided to the officer in charge of elections for printing on the ballot. [A.R.S. § 19-125\(D\)](#).

## **B. Proofing Ballots**

The officer in charge of elections must proof the official ballot (in all languages and in all formats, including ballots displayed and spoken in accessible voting equipment) prior to distributing the ballots for voting purposes.

## **C. Sending Ballot Proofs to Candidates and Political Parties**

At least 45 days before a primary or general election (unless a shorter time is available due to the pendency of a lawsuit), the officer in charge of elections should send a proof of the official ballot to:

- Each candidate (or candidate’s agent) who will appear on the ballot; and
- The county chairperson of each recognized political party that will have at least one candidate on the ballot.

By statute, the officer in charge of elections must send a proof of the official ballot at least 45 days before a primary or general election. [A.R.S. § 16-461\(A\)\(2\)-\(3\)](#); [A.R.S. § 16-510\(A\)](#). Despite the 45-day statutory requirement, however, officers in charge of elections are encouraged to send ballot proofs at least 60-days before a primary or general election to allow sufficient time to make changes to the ballot before the UOCAVA mailing deadline. See [Chapter 2, Section I\(D\)](#).

The officer in charge of elections may send the ballot proof by mail, email, or any other method of delivery. The candidate/candidate’s agent and/or county chairperson must inform the officer in charge of elections of any errors or omissions in the ballot proof within five calendar days after receipt. [A.R.S. § 16-461\(B\)](#).

## **D. Financial Responsibility for Printing Ballots**

Official ballots used in federal, statewide, legislative, and county elections must be printed at county expense. Expenses for ballots used in city, town, or special taxing district elections must be borne by the applicable city, town, or special taxing district. [A.R.S. § 16-503\(B\)-\(C\)](#).

For ballots that contain races from multiple jurisdictions, the officer in charge of elections may contract with a city, town, or special taxing district to reimburse the county for the proportional amount of printing expenses.

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## **E. Storage and Security of Ballots**

The officer in charge of elections must implement security procedures to ensure that official ballots are properly secured prior to distribution to voting locations.

For security reasons, official ballots:

1. Must be inventoried upon receipt and prior to distribution to voting locations;
2. May be accessed by elections staff only to the extent necessary to perform their authorized task;
3. Must be stored in a locked, secured location that prevents unauthorized access;
  - Access to ballots must be authorized by the officer in charge of elections. Access to the ballot storage location (the outer access area, not each individual cage or storage unit) must be documented with a written log or with electronic keycard access that indicates the date, time, and identity of the person accessing the ballots. The electronic log for key card access must be accessible but need not be printed out.
4. Must be witnessed by two or more election staff members (of different political parties if possible) when being moved or transferred, which includes an inventory of the ballots before and after the move or transfer.

The officer in charge of elections shall also implement reasonable security procedures for auditing and accountability of blank ballot stock for use with on-demand printers.

## **F. Sample Ballots**

The officer in charge of elections must prepare sample ballots for each primary and general election. [A.R.S. § 16-461\(A\)](#); [A.R.S. § 16-510](#). A sample ballot provides voters who intend to vote in-person on Election Day advanced notice of the candidates and issues that will appear on their ballot.

### **1. Preparing Sample Ballots**

Sample ballots:

- May be printed on a single page or multiple pages;
- May not indicate the name or identity of any public official who prepared the sample ballot or to whom the sample ballot must be returned; [A.R.S. § 16-461\(F\)](#),<sup>41</sup>
- Must be imprinted with the Great Seal of the State of Arizona for elections involving a federal, statewide, or legislative candidate or statewide ballot measure; alternatively, the seal of the appropriate county, city or town (whichever corresponds to the highest-level

<sup>41</sup> The public official's name may only appear in the candidate section of the ballot, if applicable.

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jurisdiction with a candidate or measure on the ballot) may be imprinted in lieu of the state seal; [A.R.S. § 16-461\(G\)](#); and

- Must include the following warning in a conspicuous location on the ballot: “This is a sample ballot and cannot be used as an official ballot under any circumstances.” [A.R.S. § 16-461\(D\)](#).

Primary election sample ballots are subject to additional requirements, as they must be printed with a different color (or contain a distinctive color indicator) that corresponds to the recognized political party appearing on that ballot. [A.R.S. § 16-468\(2\)](#). Sample ballots to be mailed to voters who are not registered with a recognized political party:

- May contain all political party candidates on the same sample ballot; and
- May be printed in alternative paper formats that do not conform to the same size as an official ballot, including a reduced size ballot. [A.R.S. § 16-461\(B\)](#).

For a general election involving a ballot measure, the officer in charge of elections must print the official title and descriptive title on the ballot and include the full text of the measure with any mailing. The full text of the measure need not be printed on the ballot itself, but may be printed on a separate insert (a “tablecloth”) that accompanies the sample ballot. [A.R.S. § 16-502\(N\)](#); [A.R.S. § 19-125\(F\)](#).

Ballots should be prepared in sufficient time for proofs to be transmitted to candidates at least 45 days before the election. For primary elections, the officer in charge of elections must transmit the ballot proofs to political parties as well. [A.R.S. § 16-461\(A\)](#). If a county conducts an election on behalf of a local jurisdiction, the officer in charge of elections may transmit the ballot proofs to the local filing officer, who in turn must forward the proofs to the applicable candidates for approval.

## 2. Printing and Mailing Official Sample Ballots to Households

At least 11 days before a primary or general election (except for all ballot-by-mail elections), the County Board of Supervisors is responsible for printing and mailing a sample ballot to each household containing at least one active registered voter who is not on PEVL. [A.R.S. § 16-461\(D\)](#); [A.R.S. § 16-510\(C\)](#); *see also* [A.R.S. § 16-193\(2\)](#). The Board of Supervisors may delegate this responsibility to the County Recorder or other officer in charge of elections.

The sample ballot mailing:

- Must contain the appropriate sample ballot or ballots that correspond to the political party preference of the eligible voters in the household (for primary elections only);
- Must contain the words “Official Voting Materials” on the outgoing envelope or mailer face mailed to voters, [A.R.S. § 16-461\(G\)](#);
- Must include the list of acceptable forms of identification to vote at a voting location pursuant to [A.R.S. § 16-579\(A\)\(1\)](#); and

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- Must contain the statement (for assigned polling place elections only): “Have you moved? You **MUST** go to the polling place designated for your **CURRENT RESIDENCE ADDRESS**. If you go to the **WRONG** polling place, your (provisional) ballot will **NOT COUNT**.”

### 3. Sample Ballots at Voting Locations

The Board of Supervisors is responsible for printing and distributing at least two official sample ballots of each ballot style for use at polling places during the primary and general election. [A.R.S. § 16-510\(B\)](#). The sample ballots must correspond to the appropriate official ballots for the polling place and be contained in the precinct supplies for that location. The Board of Supervisors may delegate this responsibility to the officer in charge of elections.

Sample ballots need not be provided to vote centers if the vote center is able to print sample ballots upon request.

The officer in charge of elections must make the sample ballots available in plain view or post a notice at voting locations that sample ballots are available upon request. [A.R.S. § 16-461\(B\)](#).

### 4. Financial Responsibility for Preparing and Mailing Sample Ballots

The Board of Supervisors shall seek reimbursement from the Secretary of State for each sample ballot mailed to a county household. [A.R.S. § 16-510\(C\)](#). See [Chapter 12, Section IV\(C\)](#).

## VI. LANGUAGE MINORITY VOTING MATERIALS

After the U.S. Supreme Court’s decision in *Shelby County v. Holder*, 570 U.S. 529 (2013), the State of Arizona is no longer a covered jurisdiction required to provide all voting materials in Spanish under the federal Voting Rights Act, Sections 4(b), 4(f)(3), and 4(f)(4). Nonetheless, counties and other political subdivisions are strongly encouraged to continue to provide voting materials in Spanish, as well as other languages previously required in the county.

The following counties are currently independently covered under Section 203 of the Voting Rights Act and therefore have an obligation to print (in the case of written languages) and/or provide (in the case of oral languages) voting materials in additional languages for the following language minority groups:

- Apache County: Navajo
- Coconino County: Navajo
- Gila County: Apache
- Graham County: Apache
- Maricopa County: Spanish
- Navajo County: Navajo

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- Pima County: Spanish
- Pinal County: Apache
- Santa Cruz County: Spanish
- Yuma County: Spanish

Voting Rights Act Amendments of 2006, Determinations Under Section 203, 81 FR 87532-01 (Dec. 5, 2016), available at <https://www.gpo.gov/fdsys/pkg/FR-2016-12-05/pdf/2016-28969.pdf>.

A covered jurisdiction must determine which language, forms of languages, or dialects will be effective in meeting the requirements of the Voting Rights Act. [28 C.F.R. § 55.11](#).

The following sections describe the minority language requirements in greater detail.

### **A. Voting Materials Required To Be in Minority Language(s)**

If a covered jurisdiction is required to provide language assistance, all materials distributed to (or provided for the benefit of) voters must be printed in the required language(s), [28 C.F.R. § 55.19\(a\)](#), including:

- Registration and voting notices;
- Forms;
- Instructions;
- In-person assistance;
- Ballots (including accessible ballots and the accompanying audio translation); and
- Any other materials or information relating to the electoral process. [28 C.F.R. § 55.15](#).

A covered jurisdiction may attempt to use cost effective methods of compliance if they are equivalent in their effectiveness to more costly methods. [28 C.F.R. § 55.16](#). This may include implementing a system that provides translated voting materials to fewer than all registered voters, as long as the system is designed and implemented in a way that ensures language minority group members who need translated materials and assistance can receive them. [28 C.F.R. § 55.17](#).

Where the language of the applicable minority group is oral or unwritten, the covered jurisdiction is only required to provide oral instructions, assistance, or other information relating to registration and voting in the covered language. [52 U.S.C. § 10503\(c\)](#).

### **B. Types of Elections Requiring Minority Language Voting Materials**

A covered jurisdiction must provide voting materials in the required language(s) for all elections within the covered jurisdiction, including the elections of each municipality, school district, or special taxing district within the covered jurisdiction. [28 C.F.R. § 55.10\(a\)-\(b\)](#); [28 C.F.R. § 55.9](#).

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For offices that cross county lines, language minority voting material requirements are to be applied on a county-by-county basis. Accordingly, if an individual county is not a covered jurisdiction, that county does not need to provide bilingual voting materials. [28 C.F.R. § 55.10\(c\)](#).

## VII. PREPARATION OF SIGNATURE ROSTERS AND E-POLLBOOKS

Prior to a statewide primary or general election, the County Recorder must prepare paper signature rosters and precinct registers or e-pollbook data and distribute the rosters/data to the officer in charge of elections for use at each voting location on Election Day. [A.R.S. § 16-168\(A\)-\(B\)](#); [A.R.S. § 16-169\(A\)](#); [A.R.S. § 16-583\(A\)](#). A signature roster or e-pollbook serves as the official list of eligible voters (other than secured voters) for a particular voting location or election.<sup>42</sup>

If a County Recorder uses paper signature rosters, the rosters must be bound with a suitable cover and bear the title “signature roster \_\_\_\_\_ precinct, \_\_\_\_\_ county, Arizona” (if used in assigned polling place-assigned). The cover must contain the following affidavit for the inspector to sign:

“I, \_\_\_\_\_, inspector of the board of election of \_\_\_\_\_ precinct, \_\_\_\_\_ county, Arizona hereby certify that the foregoing (excepting signatures in red) are true and correct signatures of all electors who voted in precinct on \_\_\_\_\_.

(date)

(inspector)”

[A.R.S. § 16-169\(B\)](#). An e-pollbook must be accompanied by an affidavit (equivalent to that specified for paper rosters) to be signed by the inspector on Election Day. [A.R.S. § 16-169\(C\)](#).

The County Recorder or other officer in charge of elections must have a back-up solution, such as a printed roster or other contingency plan, in case the e-pollbooks do not properly function on Election Day. [A.R.S. § 16-571\(C\)](#). The County Recorder or other officer in charge of elections must also implement cybersecurity protocols to ensure the integrity of e-pollbook data when e-pollbooks are electronically connected to county systems. See [Chapter 4, Section III\(B\)](#).

A County Recorder should ensure the signature roster or e-pollbook contains the most up-to-date information prior to printing or distribution. In particular, a County Recorder should check the DHS SAVE database to confirm eligibility for any registrant who submitted an Alien Registration Number, Naturalization Certificate Number, or Citizenship Certificate Number as proof of citizenship. See [Chapter 1, Section II\(A\)\(6\)](#). If time permits, the County Recorder should be prepared to print a supplement to the signature roster or conduct a last-minute upload to the e-

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<sup>42</sup> For purposes of this Section, an e-pollbook includes a system whereby electronic tablets or computers are uploaded with voter registration data or are connected to a live voter registration database via a secure virtual private network (VPN) connection.



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pollbooks. In cases where the roster or e-pollbook cannot be timely updated, the County Recorder may issue a Recorder's Certificate to any affected registrants. See [Chapter 1, Section II](#).

A signature roster or e-pollbook must contain the following information:

1. Name;
2. Residence address;
3. Registration date and status (active/inactive); and
4. Party preference or registered party.
5. Roster number, numbered consecutively (paper signature roster only);
6. Mailing address (if different than residence address);
7. Signature block (an early ballot affidavit may serve as the signature block when conducting on-site early voting or a ballot-by-mail election);
8. "Federal-only" voter designation (if applicable);
9. Indicator if voter requested, received, or returned an early ballot, as applicable;

A signature roster or e-pollbook must also contain the following information, if practicable:<sup>43</sup>

1. Birth year;
2. Ballot type/style, including political party ballot selected in a partisan primary;
3. Voter ID number;
4. Barcode (paper signature rosters only);
5. A standardized oath that poll workers obtained valid proof of identity from every voter, or if identification was not presented, the provisional ballot envelope was marked appropriately.

A signature roster or e-pollbook may not contain secured registrants' information. If a county uses a tablet or computer terminal that has live access to the voter registration database via a secure virtual private network (VPN) connection, the system must be capable of shielding secured registrants' information from public view (or providing view access only to the secured registrant). See [Chapter 4, Section III](#).

For paper rosters, additional pages for inactive voters and voters who voted a provisional ballot must be included in any signature roster (either attached to the back of the roster, in a separate

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<sup>43</sup> Additional data, such as full dates of birth, may be transmitted to e-pollbook vendors to facilitate e-pollbook functionality provided the following requirements are met: (i) only data required for e-pollbook functionality shall be transmitted to e-pollbook vendors; (ii) the data shall be transmitted using secure methods, such as encryption or secure website or SFTP; (iii) the County Recorder or officer in charge of elections shall exercise best efforts to protect the confidentiality of registrant data transferred to vendors, including requiring the vendor to agree to reasonable confidentiality terms; and (iv) the vendor shall securely dispose of the transmitted data after it is no longer needed for the election at issue.



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roster, or identified within the roster). If inactive voters are comingled with active voters on the signature roster, the inactive voters must be clearly identified and the officer in charge of elections must have the ability to identify and/or extract the inactive voter information after the election to update the voter registration record. For provisional ballot voters, the roster must be numbered consecutively starting with “V-1,” “V-2,” etc. [A.R.S. § 16-584\(E\)](#). E-pollbooks must also contain inactive voters and have a means of indicating which voters voted a provisional ballot.

## VIII. PREPARATION OF VOTING SUPPLIES

### A. Materials to Be Distributed to Voting Locations

The following items should be included among supplies distributed to voting locations, as applicable:

1. Election board worker supplies:
  - Board workers’ checklists;
  - Signature rosters, poll lists, and precinct registers (if paper signature rosters are utilized);
  - Challenge lists or forms;
  - Sample ballots (for assigned polling place elections), *see* [Chapter 8, Section V\(F\)](#);
  - Relevant election laws and training guides;
  - Provisional ballot envelopes or affidavits (*see* [Section VIII\(B\)](#) below);
  - Provisional ballot roster;
  - Ballot box keys; and
  - Demonstration ballots (ballots that contain marking instructions)
2. Signs:
  - Arrows;
  - “Vote Here” signs;
  - “Instructions to Voters” notice, *see* [Chapter 9, Section I\(A\)](#);
  - “Right to Vote a Provisional Ballot” notice, *see* [Chapter 9, Section I\(A\)](#);
  - “Handicap Parking” signs (if no permanent signs are available);
  - “Curbside Voting Available” signs (as needed); and
  - Write-in candidate notice, *see* [Chapter 9, Section I\(A\)](#);
3. Supply Bag:
  - Voting equipment manuals (if applicable);
  - Pens and/or pencils;

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- A method for measuring the 75-foot limit;
  - Masking tape; and
  - “I Voted” stickers (if available);
4. Official returns envelope;
- Upon completion of the election, the official returns envelope must contain any spoiled ballots, a copy of the signature roster (paper jurisdictions only), and the challenge list/forms (if applicable). The envelope must be sealed with a pressure-sensitive label, and the inspector and judges are required to sign across the seal and onto the envelope. [A.R.S. § 16-615](#). If the voting location has a tabulation machine, the official returns envelope should also contain a copy of the results tape from the tabulation machine, printed immediately after the close of the polls.
5. Unofficial returns envelope (if necessary);
- By statute, upon completion of the election, the unofficial returns envelope must contain completed payroll vouchers and any other items directed by the officer in charge of elections. The unofficial returns must be made available for inspection for six months after the election. [A.R.S. § 16-616](#); [A.R.S. § 16-551\(D\)](#). However, the use of e-pollbooks or other technology may render an unofficial returns envelope unnecessary if the technology electronically captures all the required information.
6. Payroll supplies:
- Payroll voucher
7. Miscellaneous supplies:
- ADA temporary equipment, including ramps, door props, door handles, etc. (as needed);
  - Magnifying sheets that may be used to magnify the text on a ballot;
  - Precinct map (assigned polling place elections only);
    - In assigned polling place elections, a poll worker may use the map to assist the voter in locating the correct polling place, but may also use an e-pollbook to identify the correct precinct or provide contact information (phone number or website) for the voter to contact the elections department or County Recorder’s office. Alternatively, the poll worker may offer the option to vote a provisional ballot using the accessible voting equipment if the equipment is capable of displaying all ballot styles.
  - U.S. flag & stand;
  - Badges / name tags;
  - Secrecy sleeves that may be used to protect the secrecy of the voter’s choices when carrying the ballot in the voting location;
  - Ballot boxes with seals;

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- Voting equipment, including e-pollbooks with seals, accessible voting equipment with seals, and tabulation equipment with seals (if applicable); and
  - Voting booths, including voting booths that are accessible for voters with a disability;
8. Ballots of each required ballot style or blank ballot stock.

### B. Provisional Ballot Envelope and Affidavit

A voted provisional ballot must be placed and sealed in a provisional ballot envelope. A provisional ballot envelope must have affixed to it an affidavit for the voter to complete and provide the following information:

1. First and last name;
2. Current residence address;
3. Current mailing address;
4. Former name, if any;
5. Former residence address, if any;
6. Date of birth;
7. Telephone number;
8. AZDL/ID# or SSN4;
9. Date (if necessary); and
10. A signature attesting to the following statement:

“I swear or affirm under penalty of perjury that the above information is correct, that I have resided in the precinct and/or district at least 29 days before the election, that I am eligible to vote in this election and that I have not previously voted in this election.

I know that my provisional ballot will only be counted if I have voted in the correct precinct, which is based on where I currently live. **I understand that voting in the wrong precinct or county means that my ballot will not be counted.”**

Counties may exhaust existing provisional ballot envelopes or affidavits before printing envelopes or affidavits with the updated language. Elections conducted through vote centers are exempt from utilizing the statement applicable to out-of-precinct voting. Counties may also capture this information and statements electronically, but the voter must sign the affidavit envelope.

The provisional ballot envelope or affidavit also must contain the following information for the poll worker to complete:

1. The reason why the voter was issued a provisional ballot;
2. An indication of whether the voter presented proper or insufficient identification;
3. Provisional ballot affidavit number;

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- The provisional ballot envelope should contain a tear-off stub for the voter to retain or the voter should be provided a provisional ballot receipt. Both the envelope affidavit and the receipt or tear-off stub should have matching provisional ballot affidavit numbers.
- 4. Precinct number or voting location;
- 5. Type of party ballot issued, if applicable;
- 6. An indication of whether the ballot is a “federal-only” ballot; and
- 7. The poll worker’s signature.

The provisional ballot envelope may contain an “Official Use Only” section for County Recorder use, which may include (but is not limited to) the following information:

1. Voter ID number;
2. Type of ID provided;
3. Recorder staff member who processed provisional ballot;
4. Whether ballot was counted or not counted; and
5. Reason for rejection, if applicable.

## **IX. IMPLEMENTING A WAIT TIME REDUCTION PLAN**

“Wait time” is defined as the duration of time from when the voter arrives in line to the time the voter is provided a ballot or access to an accessible voting equipment to vote a regular ballot.

The officer in charge of elections must establish and approve a specific wait time reduction plan for each election to ensure that voters do not have to wait in lines at the voting location for more than 30 minutes. The factors outlined in the following sections are not exclusive. See [A.R.S. § 16-411\(J\)](#).

### **A. Projecting Voter Turnout**

The officer in charge of elections must project voter turnout at each voting location prior to the election to assure the location is adequately staffed and equipped to meet voter demand.

The officer in charge of elections should take into account the following information to project voter turnout:

1. The percentage of voter turnout from the prior two elections of a similar type;
2. The number of ballots (including regular, early, and provisional) cast in the prior two elections of a similar type, [A.R.S. § 16-411\(J\)\(1\)](#);
3. The number of registered voters, both active and inactive, [A.R.S. § 16-411\(J\)\(3\)](#);
4. The number of registered voters who requested an early ballot or are on the permanent early voting list, [A.R.S. § 16-411\(J\)\(2\)](#); and

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5. The potential number of ineligible voters that could attempt to vote, especially during a PPE.

### **B. Re-Precincting**

If excessive wait times are likely to occur at a particular polling place, whether based on population growth or any other reason, the officer in charge of elections must consider redrawing precinct boundaries to reduce the likelihood of this possibility. [A.R.S. § 16-411\(J\)](#). This decision should be made well in advance of the election.

To determine whether recent or projected population growth warrants re-precincting, the officer in charge of elections should consider:

- The year-over-year growth in registered voters in the precinct; and/or
- The potential for future construction or land development in the precinct (based on information obtained from the county assessor, city clerk, or town clerk).

If the officer in charge of election concludes that precinct size would have an adverse impact on Election Day wait times, the officer should recommend redrawing the precinct in order to better allocate voters. In that case, the County Recorder must also transfer the affected voters into their newly-designated precinct.

The County Recorder must mail a new voter registration card to each affected voter, which satisfies the requirement to mail a notice of the precinct change. [A.R.S. § 16-412](#).<sup>44</sup>

The Board of Supervisors must approve all precinct lines by October 1 of an odd-numbered year. [A.R.S. § 16-411\(A\)](#). The new precinct boundaries become effective on January 2 of the year of the general election. [A.R.S. § 16-412](#). By January 2 of the following year, the officer in charge of elections must ensure all relevant maps and legal descriptions have been updated with the new precinct lines, voter registration records are updated, and new voter registration cards (with updated precincts) are issued to all affected voters. [A.R.S. § 16-412](#).

### **C. Staffing and Supplying Voting Locations**

The officer in charge of elections should deploy additional resources at voting locations where projected turnout (including both eligible and ineligible voters) is expected to exceed normal levels.

The officer in charge of elections should:

1. Determine the optimal number of poll workers, based on:
  - The projected time to check-in a voter and seek proof of identity;

<sup>44</sup> The statute provides an exception if a sample ballot containing voters' newly-designated precinct name or number is mailed prior to the next primary election. See [A.R.S. § 16-412](#).

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- The projected time involved in use of accessible voting devices;
  - The number of voters likely to cast provisional ballots;
  - The number of independent voters who may seek to vote (if conducting a PPE); and
  - Any increased or unusual level of interest in the election.
2. Determine the proper number of signature rosters/e-pollbooks and voting equipment in order to keep up with demand;
  3. Recruit additional poll workers who will be assigned or remain in reserve on Election Day, including recruitment of students and other county workers;
  4. Conduct additional training for poll workers (including premium poll workers) assigned to high volume precincts;
  5. Ensure proper signage at all polling locations, including signs that will educate voters in line about how to proceed through the voting process efficiently;
  6. Determine the number of bilingual poll workers needed for each voting location;
  7. Empower the inspector to request additional poll workers and, in exceptional cases, recruit poll workers from the line with permission of the officer in charge of elections;
  8. Ensure the inspector is prepared to shift personnel, redistribute responsibilities, reorganize the voting location, or make any other changes that will facilitate efficiency and reduce wait times;
  9. Assign troubleshooters or equivalent staff who are capable of reaching any voting location within 30 minutes of being dispatched (if geographically feasible); and
  10. Ensure troubleshooters or equivalent staff have made prior contact with each inspector they oversee on Election Day, including a discussion about voting location layout and contingency plans.

#### **D. Conducting Voter Education**

The officer in charge of elections must educate voters by disseminating information that may help reduce wait times on Election Day, including, but not limited to, information on the following topics:

1. Voters must present a valid identification;
2. Voters' registration must be up-to-date;
3. Voters may only vote at their designated polling place based on their current address (assigned polling place elections only);
4. Peak voting times compared to times when wait times are likely shorter;
5. Information about any websites, phone apps, or other technology that facilitate the voting process or provide voter education;

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6. Encourage voters to bring their sample ballots to the polls with selections already marked to help accelerate their voting process; and
7. Early voting and permanent early voting options.

Much of this information must be reported in the county's voter education report. See [Chapter 13, Section II](#).

### **E. Developing Contingency Plans**

The officer in charge of elections must have a contingency plan ready to implement if wait times consistently or significantly exceed 30 minutes. The contingency plan must include, but need not be limited to, the following:

1. A transfer plan for poll workers to move from a less busy location or from a reserve staging area;
2. A plan to open alternate voting locations (including a plan to educate voters about the new location);
3. A plan to add additional e-pollbooks (if used in the county);
4. A plan to add voting/secrecy booths; and
5. A plan to add accessible voting equipment.

To the extent practicable, a plan for implementing back-up paper systems should be available in case of electronic equipment failure or loss of power.

The marshal will monitor the voter wait time at a polling place, and must inform the inspector (who must, in turn, contact the officer in charge of elections) when the wait time reaches 20 minutes or more.

### **F. Emergency Procedures**

The ballot box shall not be removed from the voting location or presence of bystanders until all ballots are counted, nor opened until after the polls are finally closed unless an emergency renders the polling place unusable to the point where it can no longer function as a polling place because law enforcement or other emergency personnel have ordered the polling place to be evacuated or



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as determined by the officer in charge of elections to allow voting to continue while awaiting an evacuation order. The following procedures shall be followed in the event of an emergency:

- If the locked ballot box must be removed from the polling place due to an emergency, at least two members of the election board, not members of the same political party, shall accompany the box to a new polling place designated by the officer in charge of elections.
- If practical and available, a law enforcement officer shall aid in the transfer of the ballot box.
- If two members of the election board are not available to transfer the ballot box, one member of the election board and one law enforcement officer may accompany the box to the new polling place.
- Two additional board members shall verify whether the ballot box arrived at the new polling place and that it was not opened or damaged.
- All election board members who accompanied the locked ballot box to the new location and the one or two board members who verified the box's arrival shall file a report with the officer in charge of elections that describes the actions taken by the board members. This report shall be filed on the day of the emergency.
- On the day of the emergency in which the ballot box was moved, all election board members who aided in the transfer and verification of the locked ballot box shall indicate on official documents containing their oath whether they witnessed the transfer of the box and whether the box remained locked.

[A.R.S. § 16-564\(A\)-\(E\), \(G\).](#)

### **G. Ballot Box Overflow Procedures**

If during the course of an election the ballot box can no longer accommodate additional ballots, the officer in charge of elections shall dispatch an additional ballot box to the appropriate voting location. The full ballot box shall remain locked until closing of the polls. If a tabulation unit is used, it shall be removed and placed on the additional ballot box or another tabulation unit and ballot box should be dispatched so voting may continue. If another unit is deployed, poll workers must first run zero tapes and confirm transfer, including checking security seals.

In the event there is no spare ballot box available, the board workers shall remove a sufficient number of ballots from the ballot box and shall place the removed ballots into the case that will be used for the transfer of the ballots to the officer in charge of elections. The inspector and both judges shall oversee the transfer and the following shall apply:

1. The number of removed ballots shall be hand counted immediately by the election board.
2. A written document shall be produced and signed by the board members supervising the count. The written document shall indicate the count and the reason for the removal of ballots.

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3. The removed ballots and corresponding documentation shall be placed in the transfer case and shall be kept sealed until the polls are closed.
4. Once the removed ballots are sealed in the transfer case, the original ballot box shall be relocked or sealed and voting may continue.
5. At the close of the polls, the ballots in the locked or sealed ballot box shall be: (i) removed from the ballot box and immediately tabulated; or (ii) maintained in the locked and sealed box and securely transferred to the officer in charge of elections for tabulation. If tabulation occurs after of closing of the polls, the count shall be documented.
6. Ballots should be sealed in ballot boxes or transfer cases with any corresponding documentation while ensuring tabulated ballots are kept separate from un-tabulated ballots.
7. The sealed ballot boxes and/or transfer cases will be transported to the central counting place designated by the officer in charge of elections.

At the close of an election, if the ballot box has been opened, a report detailing those events and other pertinent information shall be made by the officer in charge of elections to the chairpersons of all recognized political parties in that county at their request. [A.R.S. § 16-564\(F\), \(G\)](#).

#### **H. Complete Power or Unit Failure/Ballot Emergency Bin**

In counties that use polling place tabulation units, any ballots that have been deposited in the emergency bin during a complete power failure or unit failure must be fed through the tabulation unit when polls close and prior to generating the results tape at the end of the day.<sup>45</sup> In addition, the following steps must be completed:

- Using the key provided, at least two board workers not from the same political party shall open the ballot box emergency bin and remove the unprocessed ballots, if any, that were placed in the emergency bin due to a complete power failure or tabulation unit failure.
- The board workers shall feed the unprocessed ballots, one by one, into the tabulation unit, making sure that the digital readout increases by one each time.
- If any ballot that is over-voted or blank is returned, the inspector will use the override procedure to allow the ballot to be scanned.
- After all of the unprocessed ballots have been fed into the tabulation unit, the board workers may proceed with the regular procedures for closing the polls.
- After the polls have closed, any ballot the machine is unable to process or that has been marked but is returned as “unreadable” shall be set aside and sent to the central counting place for duplication.

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<sup>45</sup> There is no “complete power failure” or “unit failure” if the battery backup remained operative.

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## **I. Determining Optimal Layout**

The officer in charge of elections must determine the optimal layout for each voting location based on voter turnout projections. High volume voting locations should process provisional voters separately from other voters to maintain a continuous flow of voters.

## **J. Wait-Time Reduction Survey**

In order to test the efficacy of wait time reduction efforts over time, the officer in charge of elections should participate in occasional wait time reduction surveys at the request of (and in collaboration with) the Secretary of State.

## **K. Public Input**

The officer in charge of elections is encouraged to solicit public feedback on the wait time reduction plan, for example, by posting the proposed plan on the officer's website and soliciting feedback.

# **X. CANCELING AN ELECTION**

Certain candidate elections may be canceled if there are equal to or fewer candidates seeking office, including write-in candidates, than the number to elect for a given race.

The following races are eligible for cancellation:

1. Precinct committeeman, [A.R.S. § 16-410\(A\)](#); [A.R.S. § 16-822\(B\)](#);
2. School district governing board member, [A.R.S. § 16-410\(A\)](#); [A.R.S. § 15-424\(D\)](#);
3. Community college district governing board member, [A.R.S. § 16-410\(A\)](#); and
4. Any special taxing district board member, [A.R.S. § 16-410\(A\)](#); [A.R.S. § 48-5503\(C\)](#).

If a candidate race qualifies for cancellation, the applicable Board of Supervisors may cancel the election no earlier than 75 days before Election Day, appoint to the office those candidates who had timely filed a nomination paper for the office, and issue a certificate of election to the candidate. [A.R.S. § 16-410\(A\)-\(B\)](#).

After approval of the Board of Supervisors to cancel the election, the officer in charge of elections must omit the race in question from the ballot. If the cancellation occurs after the ballots have been printed, the canceled race must not be canvassed. [A.R.S. § 16-410\(D\)](#).

If no candidates filed nomination papers for the office in question, the Board of Supervisors may cancel the election no earlier than 75 days before Election Day, declare the office vacant, and initiate procedures to fill the vacancy. [A.R.S. § 16-410\(C\)](#).

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## CHAPTER 10: CENTRAL COUNTING PLACE PROCEDURES

### I. CENTRAL COUNTING PLACE OPERATIONS

All early ballots and provisional ballots are initially processed by the County Recorder and then transferred to the officer in charge of elections for tabulation at the central counting place. Regular ballots cast on Election Day that are not processed and tabulated at the voting location are also transmitted to the central counting place for processing and tabulation. Central counting place operations are conducted under the direction of the Board of Supervisors or the officer in charge of elections. The operations must be in accordance with the procedures outlined in this manual, and open to observation by representatives of each political party and the public.

The central counting place and the computer center, where the computer containing the election management system (EMS) is securely kept, may be separate or joined as determined by the Board of Supervisors or designee. Maximum efficiency and control results when all board functions are performed in the same facility. However, when physical restrictions result in inadequate working spaces, it is permissible to separate board functions as long as prescribed board functions and sequence are maintained and the public can observe.

When the computer center, central counting place, or receiving sites are not at the same location, the officer in charge of elections or designee transfer the ballots to the computer center or observe the transmission of voted results, even if they are initially received and processed at another location.

A security officer or an election official may conduct tours through the central counting place for the public. At no time shall any public observance of the election process interfere with or interrupt the normal ballot flow, nor shall members of the public touch a ballot, computer, or tabulation device (except as permitted by the officer in charge of elections during demonstrations). [A.R.S. § 16-621\(A\)](#).

#### A. Deputies/Oath of Office

All persons taking part in the actual processing and counting of ballots, including the employees of a jurisdiction conducting an election, must be appointed in writing and take an oath provided by the Board of Supervisors (or designee) that they will faithfully and impartially perform their duties. Any person who has not been appointed in writing or taken the oath shall, under no circumstances, be permitted to touch any ballot, computer, or counting device used in processing ballots.

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## **B. Providing Live Video Recording at Central Counting Place**

For any statewide, legislative, or county election, and subject to local appropriation, the county officer in charge of elections must provide a live video recording of the custody of all ballots when ballots are present in the tabulation room in the central counting place.<sup>50</sup>

The live video recording must include date and time indicators. If the live coverage is interrupted, the officer in charge of elections must attempt to reinstate coverage as soon as practicable. Any disruption in live video recording does not prevent the officer in charge of elections from continuing to tabulate ballots. The officer in charge of elections must record the video coverage and retain the recording as a public record at least through the challenge period for the election. At minimum, the challenge period is through the date to file or conclude any post-election recount or election contest.

The county officer in charge of elections must timely provide the website hyperlink to the Secretary of State, who must publish those hyperlinks on the Secretary of State's website. [A.R.S. § 16-621\(C\)](#).

## **C. Manual Ballot Counting**

If it becomes impracticable to count all or some of the ballots with tabulating equipment, the officer in charge of elections may direct that ballots be counted manually, following the provisions governing the counting of paper ballots. No valid ballot shall be left uncounted.

# **II. ESTABLISHING CENTRAL COUNTING PLACE BOARDS**

The Central Counting Place may have 11 or more types of boards as needed, which may be combined, if practicable, at the discretion of the officer in charge of elections. The Board of Supervisors or officer in charge of elections shall appoint boards for the tallying of results after the polls have closed. More than one board may be appointed for each type of board:

1. Receiving Board
2. Inspection Board
3. Central Counting Place Board
4. Ballot Duplication Board
5. Electronic Vote Adjudication Board
6. Accuracy Certification Board
7. Write-in Tally Board
8. Provisional Ballot Board

<sup>50</sup> Live video recording is not required for L&A testing or the post-election hand count audit. [A.R.S. § 16-602\(B\)](#).

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- 9. Special Election Board
- 10. Audit Board
- 11. Snag Board

Board members are appointed by the Board of Supervisors or other county officer in charge of elections at least 14 days prior to the board beginning its duties. All board members should be trained on their duties before assuming their positions. Some boards may have their duties combined at the discretion of the County Recorder or officer in charge of elections.

Unless otherwise noted below, each board is comprised of two members of different political parties. County party chairpersons may nominate persons to fill board positions. Without a nomination from a party chairperson, the Board of Supervisors (or designee) may fill the position with a member of the appropriate party.<sup>51</sup>

Separate boards consisting of two judges and an inspector will be appointed to process early ballots and write-in votes. At least one of the judges should not be a member of the same political party as the inspector.

The following procedures for processing ballots shall be followed, unless the Secretary of State has granted a jurisdiction permission to use another method. A jurisdiction wishing to deviate from these instructions must make a request in writing no later than 90 days prior to the election for which the exception is requested.

### **A. Receiving Board**

The Receiving Board consists of two members who are not registered in the same political party. The officer in charge of elections or designee serves as the chair of the Receiving Board.

The Receiving Board is responsible for receiving the following items from the elections boards at the polling places and voting locations after the polls have closed, as applicable:

- 1. Memory devices;
- 2. Ballot transport containers containing ballots;
- 3. Early ballots that have been dropped off at a polling place;

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<sup>51</sup> If it is impossible to sufficiently staff the boards with members of different political parties, the officer in charge of elections shall, at minimum, exercise best efforts to utilize board members with no party affiliation or affiliated with unrecognized political parties to ensure that there is a diversity of political party affiliation (including no affiliation) on the boards and that no board is comprised of members of only one party. Further, the County Recorder or officer in charge of elections shall document when and how the political parties in the county were contacted about the need for board workers affiliated with those parties and all other actions taken in a best effort to obtain board workers from two different political parties. However, nothing in this Manual shall be interpreted to supersede otherwise applicable statutory requirements, including requirements as to differing political party affiliation of board workers.

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4. Provisional ballots;
5. Official returns container;
6. Unofficial returns container;
7. Precinct payroll envelope containing vouchers and a copy of the Official Ballot Report;
8. Duplicate poll list; and
9. Signature roster or e-pollbook.

When a ballot transfer container is delivered to a Receiving Board, the following entries shall be made in the Receiving Board Log, as applicable:

1. Precinct/polling place or vote center name or other identifier;
2. Signatures of the persons delivering the container;
3. Seal number of the Ballot Transfer Container;
4. Seal number on the carrying case of the tabulation unit;
5. Seal number on the carrying case of the Accessible Voting System unit and memory packs; and
6. Initials of the person receiving the ballot transfer container.

The Receiving Board shall ensure proper chain of custody documentation for all items received. The Receiving Board shall give a numbered receipt acknowledging receipt of such ballots to the person in charge who delivers such ballots. [A.R.S. § 16-608\(A\)](#).

If it appears that the ballot transfer container seal is broken, it shall be immediately referred to the officer in charge of elections or Snag Board for disposition. All other ballot transfer containers should be delivered unopened to the Inspection Board.

## **B. Inspection Board**

The Inspection Board is responsible for:

- Opening and verifying information on the precinct ballot report if the ballot transfer container contains any voting materials other than voted ballots; and
- Inspecting returns as necessary.

Receiving Boards and Inspection Boards should normally be combined, unless circumstances would render this inefficient. The officer in charge of elections shall provide each board with a log to enter pertinent data for each precinct/polling place or vote center.

### **1. Preliminary Procedures**

When the ballot transfer container or alternate ballot box arrives at the central counting place, the Inspection Board shall:



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1. Break the seal and open the ballot transfer container;
2. Break the seal on the alternate ballot box, if used;
3. Remove the Ballot Report Form and check to see that the seal number is the same as shown on the log—if the Ballot Report Form is absent, incomplete, or the seal number does not agree with the number on your inspection board log, call for the supervisor or officer in charge of elections;
4. Enter on the inspection board log:
  - Precinct name and/or number or voting location
  - Number of write-in ballots,
  - Number of provisional ballots, and
  - Number of early ballots dropped off at the polling place;
5. Separate the types of ballots to be processed into:
  - Provisional ballots,
  - Write-in ballots,
  - Voted ballots, and
  - Early ballots.

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## **2. Provisional Ballots**

If there are provisional ballots:

1. The provisional ballot envelopes should be visually distinguishable from other ballot envelopes issued at a voting location or early voting site. Provisional and conditional provisional ballot envelopes may be printed on colored paper, may bear bar codes that do not identify the voter, or may use other methods to visually distinguish those types of ballot envelopes;
2. Keep provisional ballots separate from conditional provisional ballots;
3. Complete the provisional ballot transmittal slip by entering:
  - The number of provisional ballots stated on the ballot report, and
  - The actual number of provisional ballots received; and
4. Record the number of provisional ballots on the inspection board log.

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## **3. Voted Early Ballots**

Early ballots dropped off at the polling place must be delivered to the County Recorder for signature verification, and may be verified prior to or along with the provisional ballots. For more information about processing early ballots, *see* [Chapter 2, Section VI](#).

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#### **4. Regular Voted Ballots**

Regular ballots that were tabulated at the voting location remain in the ballot transfer container received from the precinct or are packaged for storage and retention in the Treasurer's vault.

#### **5. Write-In Ballots**

If there are write-in ballots:

1. Count the total number of ballots containing write-ins, if not previously counted at the polling place;
2. Record the number on the log; and
3. Complete a transmittal envelope for delivery of ballots containing write-in votes to the Write-In Tally Board.

### **C. Central Counting Place Board**

The Central Counting Place Board is responsible for the processing and tabulation of voted ballots on the central count tabulation equipment and the EMS and shall maintain the security of the ballots throughout the process. The Central Counting Place Board shall be under the direction of the Central Counting Place Board inspector; and consist of as many trained personnel selected by the Board of Supervisors (or designee) as required to process all ballots delivered to the computer room.

Members of the Central Counting Place Board should be familiar with the L&A test requirements, data processing procedures, and ballot tabulation equipment. There shall be no preferential counting of ballots for the purpose of projecting the election. [A.R.S. § 16-621](#).

The Central Counting Place Board shall:

1. Secure all processed ballots until successful completion of the last accuracy certification test;
2. Seal the ballot containers and secure the room where the ballots are located;
3. Keep the containers in a secure area until:
  - The end of the challenge period, or
  - If a challenge is filed, until the challenge has been resolved, and
  - The ballots have been released to the custody of the officer in charge of elections;
4. Transfer the sealed containers to the officer in charge of elections who shall transfer the ballots to the County Treasurer for retention.

The computer operating area, where the computer containing the EMS is located, shall be in a separate room or in an area of a larger room which is clearly marked as the computer operating area. Only members of the Central Counting Place Board and Accuracy Certification Board may

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be permitted in the immediate computer operating area. Other observers may be permitted to observe the operations of these boards and the computer from a designated location, but must not interfere with the conduct of the operations. The Snag Board may enter the computer operating area to resolve any discrepancy.

Except for a County Recorder whose name is not on the ballot and who is carrying out official duties, no public officer serving in an elected position, or any candidate for an elective public office at the election shall be permitted to enter the central counting place unaccompanied by the officer in charge of elections or designee, any area where a central count board has been convened, any area where decisions about ballots are being made, or any other operational area where ballots are being processed or tallied.

## **D. Ballot Duplication Board**

When any ballot, including an early ballot, is damaged or defective so that it cannot be read by the tabulation machine, it must be duplicated by a Ballot Duplication Board and the duplicated ballot must be tabulated in place of the damaged ballot. [A.R.S. § 16-621\(A\)](#).

### **1. Establishing a Ballot Duplication Board**

Each Ballot Duplication Board shall be comprised of at least two members who are registered voters not of the same political party and who are appointed by the officer in charge of elections. An Inspection Board may serve as a Ballot Duplication Board.

The Ballot Duplication Board duplicates ballots that cannot be read by the tabulation machine but on which the voter has nonetheless clearly indicated their intent to vote on a particular race or ballot measure. This may include crumpled or otherwise damaged ballots, ballots with smudged ink, or ballots which are marked in the wrong color of ink or with a device that cannot be read by the tabulation machine. If voter intent is not clear and Ballot Duplication Board members do not agree on the voter intent for a particular ballot, that ballot should be referred to the Snag Board or officer in charge of elections for resolution prior to duplicating the ballot.

### **2. General Duplication Guidelines**

Generally, only UOCAVA ballots, early ballots, and ballots cast at voting locations without a tabulation machine on-site should be duplicated at central counting facilities. Voters who vote at a voting location with a tabulation machine on-site feed their voted ballots directly into the tabulation machine and have the opportunity to correct an unreadable ballot or ballot read as over-voted or blank on the spot.

If a voter selects more than the maximum number of seats for a race, the tabulation machine will read the race as over-voted. Similarly, if a voter voted for a candidate whose name is printed on the ballot by marking the appropriate arrow or oval and also wrote the candidate's name in the write-in area, the tabulation machine will read that race as over-voted. Over-voted ballots shall be sent to the Ballot Duplication Board (and the Snag Board or officer in charge of elections for

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adjudication if needed), even if the voter correctly filled in the arrow or oval for other races on the ballot. If voter intent can be determined, the ballot shall be duplicated and counted.

If a voter has consistently marked their ballot by circling the name of the candidates, or circling yes or no for issues, or placing an x, check mark, punched hole, or other similar mark next to the voter's choices, the tabulation machine will read the ballot as blank or invalid. These blank ballots shall be sent to the Ballot Duplication Board.

If the early ballot board finds ballots that are torn, corrected with white-out or labels, erased, or marked with ink or crayon that cannot be read by the equipment, the ballot must be sent to the Ballot Duplication Board.

Ballots received via fax, email, or secure web portal from UOCAVA voters shall be forwarded to the Ballot Duplication Board for processing.

### **3. Procedures for Duplicating a Ballot**

A damaged or unreadable ballot must be duplicated according to the following procedures:

- Ensure the correct ballot style for the voter's precinct will be used to create the duplicated ballot;
- Mark the proper precinct identification code, if applicable;
- Record an identical serial number on both the original and duplicate ballot (including spoiled duplicates) – this ties the ballots together and creates a paper trail as required by statute, [A.R.S. § 16-621\(A\)](#);
- Conspicuously mark the original ballot as “DUPLICATED;”
- Conspicuously mark the duplicate ballot as “DUPLICATE,” [A.R.S. § 16-621\(A\)](#);
- Using the damaged or unreadable ballot as a guide, mark a blank ballot with votes identical to those on the original ballot;
- Do not duplicate write-in names that are not on the authorized write-in list (“blank” or “unofficial” may be typed in if using a ballot marking device to duplicate and the name/line cannot be left blank). However, mark the arrow or fill in the oval to indicate the vote cast;
- After marking the duplicate ballot, check to make sure it is identical to the original, including over-votes if voter intent cannot be determined and any under-votes;
- If the Ballot Duplication Board makes any errors, mark the duplicate ballot “SPOILED” in a conspicuous manner, and repeat the above steps on a new ballot;
- Place all original ballots in an envelope or container labeled “ballots that have been duplicated.”

It is never permitted to enhance or alter a voter's original ballot markings to render the ballot readable. Instead, the ballot should be duplicated.

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### **E. Accuracy Certification Board**

The Accuracy Certification Board consists of two elections officials registered with two different political parties and shall be appointed by the Board of Supervisors (or designee). The Accuracy Certification Board is responsible for verifying the accuracy of computer programs, through the L&A test materials, and attesting to the procedures during computer processing of ballots. [A.R.S. § 16-449](#).

All L&A tests shall be observed by the Accuracy Certification Board, and open to representatives of political parties, candidates, the press, and the general public. Political party observers are distinguished from members of the general public, who may view the central counting place activities from the public viewing area. Properly credentialed political party observers may observe the proceedings from inside the room where they happen. However, under no circumstances should a political party observer touch or operate the election server computer or any scanning device. See [Chapter 10, Section I\(A\)](#).

If an error is detected in the L&A test, it shall be corrected. An errorless test must occur and be completed before the program and computer are certified.

Immediately after completion of the tabulation of ballots, the Accuracy Certification Board shall certify that:

- The number of ballots processed for each precinct or voting location was checked against the number of ballots received from the precinct or voting location by the Ballot Inspection Board (part of the Central County Place Board), as reflected on the Ballot Report Form; and
- Any discrepancies in the number of ballots received and the number processed by the vote tally system are properly resolved.

### **F. Provisional Ballot Processing**

Provisional ballots are processed initially by the County Recorder and then by a Provisional Ballot Board at the central counting place.

The provisional ballot affidavit, whether part of the provisional ballot envelope or a separate form, shall be deemed sufficient if it is signed by the voter and, if the voter did not provide adequate identification at the voting location, the signature matches the signature on the voter's registration record. A provisional ballot shall not be rejected solely for lack of a signature on the affidavit by polling place election officials.

A conditional provisional ballot cast by a voter must be clearly distinguishable and kept separate from other provisional ballots. A conditional provisional ballot must not be processed and forwarded for tabulation until the voter has produced sufficient identification to the County Recorder, in accordance with the provisions of this manual governing proof of identity. See

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[Chapter 9, Section IV](#). The County Recorder must disqualify the ballot if the voter does not provide sufficient identification by the deadline.

## **1. County Recorder Responsibilities**

### ***a. Verification of Provisional Ballots***

All provisional ballots must be verified for proper registration within 10 calendar days after a general election that includes an election for federal office, and within five business days for all other elections. [A.R.S. § 16-135\(D\)](#). The provisional ballot shall be counted if:

1. The voter's registration is verified and the voter is eligible to vote in the precinct, *and*
2. The voter's signature does not appear on any other signature roster for that election, *and*
3. There is no record that the voter voted early in that election.

For a provisional ballot to be counted, the County Recorder shall confirm that all of the following requirements are met:

1. Confirm that the provisional ballot affidavit is signed;
2. Confirm that the voter was registered to vote and was eligible to vote in the election;
3. Confirm that the voter voted in the correct polling place or voting location or cast the ballot for the correct precinct;
4. Confirm that there is no record that the voter voted early for that election;
5. If the voter moved without updating their address and voted in the precinct for the new address, confirm that the voter did not vote in the prior precinct by confirming that the voter did not sign the signature roster for the prior precinct;
6. For a partisan primary election, confirm that the voter received and voted the correct party ballot based on the voter's party affiliation;
7. If the voter is registered as a "federal-only" voter, confirm that the voter received a "federal-only" ballot or clearly mark or stamp the outside of the provisional ballot envelope to indicate that the voter is a "federal-only" voter and only races for federal candidates should be duplicated and tabulated.

The County Recorder shall deliver only provisional ballot envelopes and/or affidavits of qualified voters who meet the above requirements to the Board of Supervisors or officer in charge of elections for counting. Rejected provisional ballot envelopes and/or affidavits should be separately retained and delivered to the officer in charge of elections for retention in accordance with [A.R.S. § 16-624](#).

### ***b. Rejection Reason Code***

The rejection code reason is determined by the County Recorder. The rejection reasons include:

1. Not registered;

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2. No ballot in envelope;
3. Registered after 29-day cut-off;
4. No signature;
5. Insufficient/illegible information;
6. Voter did not provide adequate identification and signature does not match;
7. Wrong party;
8. Outside jurisdiction ballot;
9. Voter challenge upheld;
10. Voted in wrong precinct;
11. Voted and returned an early ballot;
12. Proper identification not provided by deadline;
13. Not eligible; and
14. Other (please specify).

**c. Updating Voter Registration Records**

The County Recorder shall update the appropriate county register or registration database with the names of all provisional voters whose registration was verified to indicate that those voters are qualified to vote in future elections.

The County Recorder may also use the information from a provisional ballot envelope or affidavit to update a voter's name and address. A provisional ballot envelope or affidavit may also be used to register a voter for the first time for future elections (not the current election the provisional ballot was used for) if the form substantially complies with [A.R.S. § 16-152](#). Additionally, a "federal-only" voter may use the provisional ballot process to provide a driver license number as DPOC for future elections (although not for the current election the provisional ballot was used in).

**d. Voter Verification of Provisional Ballot Status**

The County Recorder shall create a provisional ballot record for the voter that contains the following information:

1. Provisional ballot receipt number;
2. Name of the voter;
3. Precinct/polling location where the provisional ballot was cast;
4. Provisional ballot status;
5. Provisional ballot status reason;
6. Address (optional)



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7. Date of Birth (optional)
8. Political Party (optional).

[A.R.S. § 16-584\(E\).](#)

This information will be used for online verification of a voter's provisional ballot. The information shall be available online for one month after posting.

As soon as possible after verification of the provisional ballots is complete, a notice informing the voter whether their vote was counted or not counted, and the reason for not counting if applicable, shall be provided to the voter. This may be in the form of a notice mailed to the voter, or the voter may access the information pursuant to the instructions on the receipt that was issued to the voter at the time they voted the provisional ballot. The receipt will provide the voter with clear instructions on how to determine the status of their vote.

The County Recorder or other officer in charge of elections shall provide to provisional voters a toll-free number or other method of verifying the status of their votes. Reasonable restrictions will be employed to limit transmittal of the information only to the voter, such as verifying the date of birth, state or country of birth, or other information that could confirm the voter's identity if compared with the voter registration information on file. The officer in charge of elections will request verification of identity with information from the voter's registration record or provisional ballot envelope. [A.R.S. § 16-584\(F\).](#)

## **2. Provisional Ballot Board Responsibilities**

The Board of Supervisors shall appoint one or more Provisional Ballot Boards, consisting of two elections officials not of the same political party, for the processing of provisional ballots. They must also appoint additional clerks as needed, designate the supervisory authority, designate the location for processing, and provide all necessary supplies.

Provisional ballot boards may convene and begin ballot processing any time after provisional ballots are delivered to the officer in charge of elections. The provisional ballot processing board shall place official and unofficial returns in containers marked "official returns" and "unofficial returns." The container may be an envelope or any other container that keeps the official and unofficial returns physically separated by precinct.

The inspector on the Provisional Ballot Board shall be in charge of processing. The inspector shall receive the provisional ballot envelopes from the verification staff and record the precinct identification data on the transmittal form.

## **3. Verification Staff Procedures for Specific Scenarios**

Verification staff at the central counting place must follow the following procedures in the specified scenarios below.

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***a. Provisional Ballots Cast by Federal-Only Voters***

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The verification staff must examine the outside of the provisional ballot envelope to determine if the Recorder's Office has identified the voter as a "federal-only" voter. If that indicator is present and the Recorder's Office has indicated that the ballot is otherwise verified, the verification staff will open the provisional ballot envelope and confirm whether the ballot inside is a "full-ballot" or "federal-only" ballot.

- If the ballot in the provisional ballot envelope is a "federal-only" ballot, the ballot shall be removed and processed for tabulation.
- If the ballot in the provisional ballot envelope is a "full-ballot," the verification staff will remove the ballot from the envelope and send the ballot to the Ballot Duplication Board for duplication of the races for President of the United States (Presidential Electors), United States Senator, and United States House of Representatives only. No other race or ballot measure will be duplicated from that ballot.

***b. Provisional Ballots Voted on an Accessible Voting Device that Independently Tabulates Votes***

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The verification staff must examine the provisional ballot affidavit to determine if the Recorder's Office has identified the voter as a "federal-only" voter. If that indicator is present and the Recorder's Office has indicated that the ballot is otherwise verified, the verification staff will print a copy of the voted ballot or pull the voter-verifiable paper audit trail to confirm whether the ballot is a "full-ballot" or a "federal-only" ballot.

- If the ballot is a "federal-only" ballot, the ballot shall be marked "accepted" on the EMS and processed for tabulation.
- If the ballot is a "full-ballot," the verification staff will mark the ballot "Fed-Only" and send the ballot to the Ballot Duplication Board for duplication of the offices of President of the United States (Presidential Elector), United States Senate, and United States House of Representatives only. No other race or ballot measure will be duplicated from that ballot. The provisional ballot shall be marked "rejected" on the EMS and the duplicated ballot shall be counted with the rest of the provisional paper ballots.

***c. Damaged Ballots***

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If there are damaged provisional ballots, the verification staff must:

1. Count the number of damaged ballots in each precinct;
2. Initiate a transmittal slip to accompany the ballot to the Ballot Duplication Board;
3. Record the number on the slip; and
4. Forward the ballots, with the transmittal slip, to the Ballot Duplication Board.

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**d. Ballots Ready for Counting**

The number of ballots ready to be counted must be recorded on a transmittal slip. The ballots and transmittal slip are forwarded to the Central Counting Place Board.

**e. Ballots to Be Duplicated**

If any provisional ballots require duplication, the verification staff must forward those ballots to the Ballot Duplication Board in a proper transmittal envelope.

**f. Write-In Votes**

After the provisional ballots have been counted on a tabulation unit, any ballots containing write-in votes shall be separated from the other ballots and forwarded to the Write-in Tally Board.

**4. Challenges**

Challenges of provisional ballots will be determined by the Provisional Ballot Board using the procedure outlined for counting early ballots in [Chapter 2, Section V](#). If the voter is found to be not registered, the ballot shall remain unopened and be retained in the same manner as voted ballots. Party representatives and alternates may be appointed to be present during provisional ballot processing and to challenge the disposition of provisional ballots.

**G. Write-In Tally Board**

**1. Write-In Tally Board Procedures**

The Write-In Tally Board is comprised of one inspector and two judges, who are members of the two political parties which cast the highest number of votes in the state at the last general election. At least one of the judges must be of a different political party than the inspector. At least 90-days before an election, the county chairperson of the two largest political parties may designate qualified electors to serve on Write-In Tally Board. When the list is timely submitted, it shall be used to appoint board members. Without a nomination from a party chairperson, the Board of Supervisors (or designee) may fill the position with a member of the appropriate party. [A.R.S. § 16-531\(A\), \(E\)](#). The Write-In Tally Board may manually tally write-in votes or do so through an electronic voting system pursuant to [Chapter 10, Section II\(G\)\(2\)](#) below. [A.R.S. § 16-531\(E\)](#).

If the voter writes the name of a candidate on the ballot, the vote shall be counted for that candidate. If a voter writes the name of a political party on an FWAB, the vote shall be counted as a vote for the candidate of that party. Any abbreviation, misspelling, common nickname, or other minor variation in the name of a candidate or political party shall be disregarded in determining the validity of the vote if the intent of the voter can be ascertained. [A.R.S. § 16-543.02\(C\)](#).

Write-in votes are tallied only if the ballot is properly marked by the voter. This is done by writing in the name of a qualified write-in candidate and by filling in the oval or connecting the arrow (or

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other method of properly marking the vote as indicated in the instructions for the particular optical scan or digital scan ballot). [A.R.S. § 16-448](#).

If a write-in vote is declared to be invalid, the Write-In Tally Board manually tallying write-in votes must disqualify the vote. The Write-In Tally Board must not count any write-in vote that an election official has identified as disqualified.

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## **2. Electronic Tallying of Write-In Votes**

As an alternative to manual tallying of write-in votes, the Write-In Tally Board may utilize an electronic program to tally write-in votes for qualified write-in candidates. Any electronic tallying of write-in votes shall be done pursuant to the requirements in this Section unless the Secretary of State has granted a jurisdiction written approval to use alternate procedures. A jurisdiction wishing to deviate from the procedures in this Section must make a request in writing no later than 90 days prior to the election for which the exception is requested.

### **a. EMS Requirements**

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To utilize an electronic program to tally write-in votes, the following minimum system and application requirements must be met:

1. The application must be part of an EMS that has received federal and state certification and is authorized for use in elections in Arizona.
  - The application must be installed with the EMS on a secure, isolated, closed network and shall not be connected to the internet or an external network.
2. The application shall provide distinct security roles, with separate usernames and secure passwords for each user or station. These security roles must have different functions. Each election worker shall be given access to only the components of the application necessary to perform their duties. If a secured username and password are used for each station rather than each user, a detailed log of who utilized each station and at what time(s) shall be maintained.
3. Users (and, if applicable, stations) shall have unique usernames and secure passwords. Vendor-supplied generic passwords may not be used.
4. Log-in must be required each time the application is started. The application and/or tabulation system shall be capable of identifying ballots that contain write-in votes.
5. The application shall provide comprehensive logging of any changes to the ballot record for audit purposes, as well as validation of all changes through the use of multiple electronic “signatures” before committing any changes to the EMS results.
6. The application shall include electronic review, attribution of eligible write-in votes, and tallying of official write-in votes within the application.
7. The application shall allow for each transaction to be reviewed and approved by at least two election officials of different political party affiliation.

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8. There must be an efficient and reliable means of identifying and locating the physical ballots that have been electronically tallied if needed for auditing. For example, the tabulation machine may be programmed to out-stack and/or print identification numbers on the ballots with write-in votes to be electronically tallied.

The tabulation equipment may be programmed to stop on, sort, or flag write-in votes for races with official write-in candidates. Official write-in candidates may be entered into the EMS after the write-in filing deadline to facilitate this process as long as doing so does not modify the election programming if L&A testing has been completed.

**b. L&A Testing Requirements**

If write-in votes will be electronically tallied, that functionality of the tabulation system will also be tested during the L&A test for that election to ensure proper and secure functioning. In addition, a paper audit log must be produced, verified, and signed off on by the Write-In Tally Board members *before* committing their selections to the EMS (see [Chapter 10, Section II\(G\)\(2\)\(c\)](#) below).

**c. Electronic Tallying Procedures**

Prior to electronically tallying any ballots with write-in votes, the Write-In Tally Board must be trained in their duties and application functionality.

1. The electronic tallying of write-in votes must be performed in a secure location, preferably in the same location as the EMS system, but open to public viewing.
2. An Write-In Tally Board that electronically tallies write-in votes must use the EMS and electronic adjudication/tallying application to: (i) electronically filter and review ballots with write-in votes; and (ii) determine voter intent and attribute votes to official write-in candidates according to the procedures specified in [Chapter 10, Section II\(G\)\(1\)](#). Write-in votes for unofficial write-in candidates are invalid and shall not be tallied electronically.
3. If the Write-In Tally Board cannot agree on the resolution of a vote, that vote shall be flagged and referred to the officer in charge of elections or designee for final determination.
4. The EMS and/or electronic adjudication/tallying application shall provide a report on the official write-in votes tallied, the names of the members of the Write-In Tally Board that processed the votes on the report, and the date of processing.
5. The electronic write-in tally process shall include production of a paper audit log of the Write-In Tally Board's decisions as to each ballot/vote electronically tallied. The paper audit log must be verified and signed off on by the board members, who shall verify that the paper audit log accurately reflects the board's selections and that those selections are accurately reflected in the electronic adjudication/tallying application *prior to* committing the selections to the EMS.
6. To meet the requirement of a board-verified paper audit log, the Write-In Tally Board shall either:

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- a. Maintain a manual, hard-copy log of its selections for the official write-in votes tallied by batch; or
- b. Print a log of its selections by batch from the application, verify that the printed log accurately reflects the board's selections, and confirm that those selections are accurately reflected in the electronic adjudication/tallying application *prior to* committing the selections for that batch to the EMS.

## **H. Audit Board**

The officer in charge of elections is responsible for overseeing a post-election audit of each voting location using an Audit Board.

All election board logs, the Official Ballot Report, tabulation units, accessible voting device tapes/printouts, and a copy of the downloaded precinct results shall be delivered to an Audit Board upon the completion of each election board's function.

The Audit Board:

1. Receives the Official Ballot Reports for each voting location and any supplemental information from the election boards that could explain any discrepancies;
2. Receives the signature rosters, poll lists (or scanned copies), or reports from e-pollbooks that show voter check-ins and signatures;
3. Receives the tabulation unit and accessible voting device precinct paper tape;
4. Receives a copy of the transmitted precinct results from the election management system;
5. Verifies the counts on the Official Ballot Report;
6. Verifies that the count from the tabulation unit and accessible voting device precinct paper tapes is the same as the count from the transmitted precinct results on the election management system;
7. Produces a written record that the correct vote totals for each candidate and issue were transmitted from the polling place to the election management system;
8. Has access to all voting locations' ballot statements contained in the unofficial return envelope;
9. Identifies discrepancies in the reports following final tabulation of duplicated ballots and provisional ballots;
10. Resolves problems that appear to be of major significance in the presence of political party observers; and
11. Resolves and documents all discrepancies.

The functions of the Audit Board must be completed prior to the acceptance of the canvassing results in order to ensure the integrity of the canvass results.

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**I. Snag Board**

The Snag Board is comprised of at least three members who are knowledgeable about the entire elections process. Where possible, its members should have experience working as board members in several previous elections cycles. It is appointed by the Board of Supervisors or officer in charge of elections, and should have members of at least two political parties.

The function of the Snag Board is to resolve any problem brought to its attention by any of the other election boards.

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## CHAPTER 11: HAND COUNT AUDIT

A limited precinct hand count and early ballot hand count audit must be conducted after each countywide primary, special, general, and PPE election and compared against the results from the electronic tabulation system, unless applicable exceptions apply. The purpose of the hand count audit is to compare the results of the machine count to the hand count to assure that the machines are working properly and accurately counting votes. Those conducting the hand count shall not be provided the machine count results of the batches of ballots they are hand counting prior to completion of the hand count of that batch. If the results from the hand count audit are within the “designated margin” of the electronic results for selected ballots, the hand count is deemed to have confirmed the accuracy of the electronic tabulation equipment, the hand count may cease, and the countywide electronic results are deemed the official results of the election. If the results from the hand count audit are outside of the designated margin, a second hand count of the same ballots is required, potentially followed by an expanded hand count and one or more jurisdiction-wide hand counts depending on the results. [A.R.S. § 16-602\(C\)-\(F\)](#).

### I. DESIGNATION OF HAND COUNT BOARD MEMBERS

At least 14 days prior to a countywide primary, special, general, or PPE election, the officer in charge of elections must notify the county chairpersons of each recognized political party of the requirement to designate Hand Count Board members, who will perform the hand count audits under the supervision of the officer in charge of elections. The officer in charge of elections should forecast the requisite number of board members (including alternate board members) based on the number of precincts/vote centers included in the hand count and/or the total number of ballots to be hand counted.

The political party county chairpersons must designate Hand Count Board members and alternates at least seven days before the election (*i.e.*, by 5:00 p.m. on the Tuesday before the election). If the political party is not represented by a county chairperson, the chairperson of the applicable state political party (or designee) may appoint the Hand Count Board members.

The proposed board members and alternates must be registered to vote in Arizona but need not be registered members of the political party that designated them. Candidates appearing on the ballot, except for the office of precinct committeeman, may not serve as Hand Count Board members. Board members are entitled to receive compensation, but not for lodging, meals, or travel.

The officer in charge of elections must notify a political party county chairperson by 9:00 a.m. on the Wednesday before the election if there is a shortage of required board members (*i.e.*, the total number of proposed board members provided by all parties is less than four times the number of precincts to be audited). The chairperson must provide additional board member names by the next business day (5:00 p.m. on the Thursday before the election).

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The hand count shall not proceed unless a sufficient number of Hand Count Board members has been designated by 5:00 p.m. on the Thursday preceding the election and appear at the designated time and location to perform the hand count. The hand count may also be canceled (and the electronic tabulation of ballots will constitute the official count) if the officer in charge of elections removes enough board members (due to disruption or members being unable to perform their duty) such that there is an insufficient number of board members and the shortage cannot be remedied with substitutions.

The officer in charge of elections must notify the Secretary of State if the hand count will be canceled. Among other information, the notification to the Secretary of State must outline the steps taken by the officer in charge of elections to secure sufficient participation in the hand count.

If a sufficient number of members are present for the hand count, the officer in charge of elections must create boards by selecting at least two judges and one inspector per board. Each Hand Count Board must be comprised of designees from at least two recognized political parties and no more than 75% of the members may be from the same political party. Typically, for a three-member Hand Count Board, no more than two board members shall be members of the same political party entitled to continued representation on the ballot. All board members must take the oath specified in [A.R.S. § 38-231\(E\)](#).

Board members may not bring any electronic devices, black pens, blue pens, or cell phones into the designated location of the hand count. [A.R.S. § 16-602\(B\)\(7\)](#).

## **II. OBSERVATION OF THE HAND COUNT AUDIT**

The hand count is not subject to the live video requirements of [A.R.S. § 16-621\(C\)](#). However, political party representatives who are observing the hand count may bring their own video cameras to record the hand count. The sole act of recording the hand count does not constitute sufficient grounds to for the officer in charge of elections to prohibit observers from recording or to remove them from the facility. However, the observation or recording may not interfere with the hand count. In addition, to preserve the right to a secret ballot, no recording of ballot content shall be allowed. If either situation occurs, the officer in charge of elections may remove the observers or board members from the facility or further restrict video recording. [A.R.S. § 16-602\(B\)](#).

## **III. TYPES AND QUANTITIES OF BALLOTS TO HAND COUNT**

A post-election hand count audit includes a precinct hand count, which involves a manual count of regular ballots from selected precincts, and an early ballot hand count, which involves a manual count of a percentage of early ballots cast in the election.

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### **A. Ballots Included in the Precinct Hand Count**

For the precinct hand count, the officer in charge of elections must conduct a hand count of regular ballots from at least 2% of the precincts, or 2 precincts, whichever is greater. Provisional and conditional provisional ballots are not included in the hand count. [A.R.S. § 16-602\(B\)\(1\)](#).

In counties that utilize vote centers, each vote center is considered to be a precinct/polling location and the officer in charge of elections must conduct a hand count of regular ballots from at least 2% of the vote centers, or 2 vote centers, whichever is greater.

In a PPE, the officer in charge of elections must conduct a hand count of regular ballots from 2% of the polling places or vote centers established pursuant to [A.R.S. § 16-248](#). [A.R.S. § 16-602\(B\)\(3\)](#).

### **B. Ballots Included in the Early Ballot Hand Count**

The officer in charge of elections is required to conduct a hand count of 1% of the total number of early ballots cast, or 5,000 early ballots, whichever is less. [A.R.S. § 16-602\(F\)](#). Counties may elect to audit a higher number of ballots at their discretion.

At least one batch of up to 400 early ballots from each central count machine used to tabulate early ballots and at least one accessible voting machine (if those machines independently tabulate votes) used during on-site early voting shall be selected for the early ballot hand count process. The officer in charge of elections must securely sequester those selected ballots along with their unofficial electronically-tabulated results for use in the early ballot hand count.

## **IV. SELECTING PRECINCTS/POLLING PLACES TO BE HAND COUNTED**

The county political party chairpersons (or designees) shall take turns randomly drawing the precincts, vote centers, or consolidated polling places for the hand count. If a chairperson appoints a designee, the appointment must be in writing with the signature of the chairperson. The precincts/polling places shall be selected by lot without the use of a computer and the order of selection by the county political party chairpersons (or designees) shall also be by lot.

The selection of the precincts/polling locations shall not begin until all ballots voted in the precinct polling places have been delivered to the central counting facility. The unofficial vote totals from all precincts/polling locations shall be made public before selecting the precincts/polling locations to be hand counted. The selection of precincts/polling locations shall occur prior to the selection of the races to be counted.

At least 2% of the precincts/polling locations in the county (rounded to the nearest whole number) or two precincts/polling locations, whichever is greater, shall be selected at random from a lot consisting of every precinct/polling location in that county. For any election where there are

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consolidated polling locations, the number of precincts to hand count should be calculated based on the number of active polling locations for that election.

For counties utilizing vote centers, each vote center shall be considered to be a precinct/polling location during the selection process and the officer in charge of elections must conduct a hand count of regular ballots from at least 2% of the vote centers, or two vote centers, whichever is greater.

The process for selecting the precincts for Primary and General Elections is:

1. **Determine Selection Order:** Select by lot the order in which the county political party chairpersons (or designees) shall draw precincts/polling locations. The selection order will apply for the entire hand count process.
2. **Create Lot:** Create a lot containing all precincts/polling locations in the county.
3. **Select Precincts:** Draw the required 2% or two precincts/polling locations to be counted from a lot containing every precinct/polling location in the county. Precincts/polling locations without any registered voters shall be excluded from the pool of available precincts/polling locations in the county. The county political party chairpersons (or designees) shall alternate selecting precincts/polling locations based on the order defined in Step 1 from the lot until the required number of precincts/polling locations is selected.
  - a. If a tabulation unit from a vote center was selected as a precinct/polling location to be hand counted, a subsequential selection shall be conducted to select a touchscreen voting machine (if they independently tabulate votes, and if there are more than one) utilized at that vote center:
    - **Create Lot:** Create a lot containing all touchscreen voting machines used at the same vote center in which a tabulation unit was previously selected.
    - **Select Touchscreen Voting Machines:** Draw a corresponding number of touchscreen voting machines to be hand counted for each tabulation unit from a vote center that was previously selected, from a lot containing every touchscreen voting machine utilized at a vote center from which a tabulation unit was selected during the selection of the precincts/polling locations.
4. **Record Precincts.** The officer in charge of elections shall record the precincts/polling locations to be hand counted in the Master Precinct and Race Selection Worksheet. The precincts/polling locations shall be listed in the order selected. The order of the precincts/polling locations shall be used when selecting the contested races in [Section V](#) of this Chapter.

[A.R.S. § 16-602\(B\)\(1\), \(B\)\(2\), \(B\)\(2\)\(e\), \(C\).](#)

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## V. RACES ELIGIBLE TO BE HAND COUNTED

### A. Eligible Races Generally

The races to be counted in the hand count audit generally includes up to five contested races, which shall include:

- One statewide candidate race;
- One statewide ballot measure (if the election has a statewide ballot measure on the general election ballot);
- One legislative candidate race (Arizona House of Representatives or Arizona Senate); and
- One federal candidate race (United States House of Representatives or United States Senate);
- One presidential elector race (only in general elections with a race for President of the United States).

#### [A.R.S. § 16-602\(B\)\(2\), \(5\).](#)

A candidate race within one of the above-referenced categories is eligible for inclusion in the hand count only if the race is “contested,” meaning there are more candidates seeking election or nomination than the number of seats available. [A.R.S. § 16-602\(B\)\(2\)\(f\).](#) Write-in candidacies do not create contested races if the race is not otherwise contested. [A.R.S. § 16-602\(B\)\(4\).](#)

If there are no contested races within one of the above-referenced categories, one or more additional contested races from one of the other categories must be selected by lot until the required number of contested races are selected for the hand count. [A.R.S. § 16-602\(B\)\(2\)\(e\).](#) For example, because a statewide ballot measure will not appear on the ballot during a primary election, an additional contested race from one of the other categories of eligible races must be drawn to make up the required four races.

For a primary election, each political party primary is considered a separate race. For example, the requirement to select one contested legislative race is satisfied by selecting either the Democratic or Republican primary election race. [A.R.S. § 16-602\(B\).](#)

For federal and legislative candidate races, only the type of office (House or Senate) must be selected, not any particular district. [A.R.S. § 16-602\(B\)\(2\)\(c\)-\(d\).](#) Therefore, if, for example, the race for U.S. House of Representatives has been selected to satisfy the federal candidate race category, and the county encompasses parts of three Congressional districts, ballots cast in any of the Congressional districts are eligible for the hand count audit as long as those races are contested.

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## **B. Eligible Races in Special Elections**

For a special election to vote on a statewide ballot measure, all statewide ballot measures should be selected for the hand count audit (assuming there are four or fewer statewide ballot measures on the special election ballot).

For a special election to fill a Congressional vacancy:

- If a Congressional primary is contested, all contested political party races should be selected for the hand count audit for that special primary election (assuming there are four or fewer contested primaries);
- Regardless of whether a Congressional primary was contested, a contested special general election must be selected for the hand count.

## **C. Eligible Races in PPEs**

A hand count must be conducted following a PPE. [A.R.S. § 16-602\(B\)\(3\)](#). Since no other races may appear on a PPE ballot, all contested political party preference races should be selected for the hand count audit (assuming there are four or fewer contested preference races). [A.R.S. § 16-241\(A\)](#).

# **VI. SELECTING RACES TO BE HAND COUNTED**

The county political party chairpersons (or designees) must randomly select the particular contested races to be hand counted, in the same order determined at the beginning of the hand count process and used to select precincts/polling locations.

If there are fewer than four contested races on the ballot, only the contested races on the ballot that fall within one of the four categories shall be included in the hand count audit. If there are no contested races in any of the designated categories in an election, no hand count will take place. [A.R.S. § 16-602\(B\)\(2\)\(e\)-\(f\)](#).

## **A. Selecting Races for Primary and General Elections**

The following process shall be used to select the races to be counted for both the precinct hand count and early ballot hand count for primary and general elections:

1. **Determine the race categories available for this election.** The possible race categories shall be statewide candidate, federal candidate, state legislative candidate, and ballot measure, and, in a presidential election year, presidential elector. Some categories may not appear on the ballot for a particular election. [A.R.S. § 16-602\(B\)\(2\)](#).
2. **Create a master list of all contested races.** Create a list by race category of all possible contested races. This list will be referenced when creating the lots of possible races to count. The entries on this list shall be specific. Examples for the Primary would include Governor/Democrat or State House/Republican. Examples for the General would include State Treasurer or State Senate.



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**3. Determine the required number of races that will be counted from each category.**  
There should be one race for each required category unless a category does not have an eligible race.

**a. Determine if there is a contested presidential elector race.**

- If there is no contested presidential elector race on the ballot, place a zero in the “Presidential Elector” line of Section B of the Master Precinct and Race Selection Worksheet, *see* sample form in [Chapter 17](#).
- If there is a contested presidential elector race, place a tick mark in the “Presidential Elector” line.

**b. Determine if there is a contested statewide candidate race.**

- If there is no contested statewide candidate race on the ballot, place a zero in the “Statewide Candidate” line of Section B of the Master Precinct and Race Selection Worksheet and place a tick mark in the “Additional Races Needed” line.
- If there is a contested statewide candidate race, place a tick mark in the “Statewide Candidate” line.

**c. Determine if there is a statewide ballot measure race.**

- If there is no statewide ballot measure on the ballot, place a zero in the “Statewide Ballot Measure” line of Section B of the Master Precinct and Race Selection Worksheet and place a tick mark in the “Additional Races Needed” line.
- If there is a statewide ballot measure race, place a tick mark in the “Statewide Ballot Measure” line.

**d. Determine if there is a contested federal candidate race on any of the ballots in the precincts/polling locations selected.**

- If there is no contested federal candidate race in any of the selected precincts/polling locations, place a zero in the “Federal Candidate” line of Section B of the Master Precinct and Race Selection Worksheet and place a tick mark in the “Additional Races Needed” line.
- If there is a contested federal candidate race, place a tick mark in the “Federal Candidate” line.

**e. Determine if there is a contested state legislative race on any of the ballots in the precincts/polling locations selected.**

- If there is no contested state legislative race in any of the selected precincts/polling locations, place a zero in the “State Legislative” line of Section B of the Master Precinct and Race Selection Worksheet and place a tick mark in the “Additional Races Needed” line.
- If there is a contested state legislative race, place a tick mark in the “State Legislative” line.



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- f. **If additional races are needed, determine if the number of races can be satisfied by an additional race(s) in another category.**
  - The priority for selecting other categories, if needed, is as follows: statewide candidate, statewide ballot measure, federal candidate and then state legislative. All additional races shall be fulfilled with the highest priority race category possible. The categories of races to be hand counted and the number per category shall be recorded on the Master Precinct and Race Selection Worksheet.
4. **Separate out the contested races by category and create selection lots for each category from which a race or races will be selected.**
  - a. For the statewide candidate lot in a primary election, each contested party race shall be placed in the lot (*e.g.*, Governor/Republican, State Mine/Democrat).
  - b. For the federal candidate lot, the officer in charge of elections shall evaluate each of the precincts/polling locations selected to determine the possible federal candidate race types for the lot. If one or more precincts/polling locations have a contested federal candidate race, that race type shall be placed in the lot. In a primary election, each contested party race type shall be placed in the lot. The selections for U.S. House of Representative shall not contain the specific district since the names of the candidates may vary among the sampled precincts/polling places (*e.g.*, U.S. House/Republican and U.S. House/Democrat).
  - c. For the state legislative lot, the officer in charge of elections shall evaluate each of the precincts/polling locations selected to determine the possible contested state legislative race types for the lot. If one or more precincts/polling locations have a contested state legislative race, that race type shall be placed in the lot. In a primary election, each contested party race type shall be placed in the lot. The selections for state legislative race shall not contain the specific district since the names of the candidates may vary among the sampled precincts/polling locations (*e.g.*, State House/Democrat, State House/Republican, State House/Libertarian).
    - If any candidate race is for a vacancy, the vacancy race shall be treated as a separate race for creating lots. For example, if an AZ Corporation Commission seat is vacant and the term ends in 2010 and there is also a race for the seat with a term that ends in 2012, the Corporation Commission Term Ending 2010 and Corporation Commission Term Ending 2012 will be two separate races when creating the Statewide Candidate lot.
5. **Select the contested races to be hand counted.** The county political party chairpersons (or designees) shall alternate selecting races continuing with the order defined when selecting precincts/polling locations. The races will be selected by lot until the required number of races is selected. Categories of contested races shall be drawn in the following order until the required number of contested races is reached: presidential elector, statewide candidate, statewide ballot measure, federal candidate, and state legislative candidate. Document any selected race(s) in Section C of the Master Precinct and Race Selection Worksheet.

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- If a selected candidate race does not have a contested race in each of the selected precincts/polling locations, only the precincts/polling locations where there is a contested candidate race shall be hand counted for that race. The machine counts of the races in this category shall be added together and measured against the hand counts of the races in this category to determine if the total difference falls within the designated margin.
6. **The races selected for the precinct hand count shall be the same used for the early ballot hand count.** Because the batches used for the early ballot hand count do not correspond to the precincts/polling locations selected for the precinct hand count, the names of candidates for the selected races may differ among the various early ballot batches selected for the audit. The machine counts of the races in such categories shall be added together and measured against the hand counts of the races in those categories to determine if the total difference falls within the designated margin.
  7. **Create Hand Count Board Worksheets.** The officer in charge of elections shall create a Hand Count Board Worksheet for each Hand Count Board. The worksheet documents the members of the Hand Count Board and what races they will be hand counting.

### B. Selecting Races for a PPE

The following process shall be used to select the races to be hand counted for a PPE:

1. **Determine Selection Order.** Select by lot the order in which the county political party chairpersons (or designees) shall choose from the pool of available precincts.
2. **Create Lot of Polling Locations.** Create a lot of available polling locations. A county may consolidate precincts in a PPE. Only actual polling locations will be placed in the lot of available polling locations.
3. **Select Precincts.** Draw the required 2% or two polling locations to be counted among a lot containing every actual polling location for the PPE.
4. **Record Precincts.** The officer in charge of elections shall record the polling locations to be hand counted in Section A of the Master Precinct and Race Selection Worksheet.
5. **Create Lot of Contested Races.** Create a lot of the contested races available for the PPE. Each political party that is participating in the PPE will count as a contested race.
6. **Select Race(s).** If there are four contested races or less, all possible races will be hand counted. If there are more than four contested races, the county political party chairperson (or designee) who is next (from Step 1), shall choose a contested PPE race to be hand counted. The political party chairpersons (or designees) will alternate until four contested races are selected.
7. **Record Race.** The officer in charge of elections shall record the PPE race(s) to be hand counted in Section B of the Master Precinct and Race Selection Worksheet.

[A.R.S. § 16-602\(B\)\(3\).](#)

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## VII. HAND COUNT TABULATING METHODS

There are two approved methods of hand counting votes:

- Stacking method: used for hand counting optical/digital scan ballots; and
- Three-person call-out method: used for hand counting votes from the VVPAT of an accessible voting machine.

For either method, each judge shall be given a tally sheet that shall be marked with the precinct/polling location, the race, and the names of the candidates for that particular race. *See* Sample Hand Count Tally Sheet in [Chapter 17](#).

### A. Stacking Method for Optical/Digital Scan Ballots

The stacking method is used for hand counting optical/digital scan ballots, and may also be used to hand count paper ballots printed by accessible ballot marking devices. For the stacking method, the inspector picks up each ballot and sorts the ballots into piles with the assistance of the other two board members (the judges) and tallies the number of votes for each candidate in the particular race using the process below.

#### 1. Processing Ballots with Write-In Votes

1. Since write-in votes may not have been tabulated yet, it is very important to keep ballots with write-in votes segregated from ballots without write-in votes. To do so, the first judge counts the total number of ballots with write-in votes. The second judge shall recount the total number of ballots with write-in votes. If the totals from both judges match, the result shall be documented in the Hand Count Tally Sheet.
  - Ballots with write-in votes may be marked with yellow highlighter to enable them to be readily segregated from other ballots after the hand count of the batch is complete.
2. The inspector shall announce the specific race to be counted, identify that race on the ballot, and separate out ballots with over-votes or no selection for that race. The two judges shall confirm that the inspector performs this step correctly.
3. The inspector shall announce the first candidate/selection listed in the race and begin the **stacking process** for that candidate/selection:
  - The inspector shall hold up the ballots one at a time and declare the voter's choice for the specific candidate/selection in the race. All ballots with a vote for that candidate/selection shall be placed in one stack (the "yes" stack) and all ballots with a vote for any other candidate/selection in the race shall be placed in a separate stack (the "no" or "other" stack). The judges shall view each ballot and ensure that the inspector is placing the ballot in the right stack.
  - After the sorting process is complete, one judge shall count each pile in stacks of 10 or 25 (or another agreed-upon pre-determined number) and then the other

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judge shall recount each stack. The inspector shall enter the number of ballots in each stack onto the Hand Count Tally Sheet.

- The inspector shall move the “yes” stack aside, perform the stacking process for the next candidate/selection in the race using the ballots in the “no” or “other” stack, and repeat until done recording totals for all candidates/selections on the Hand Count Tally Sheet.
    - If the race being counted is for multiple seats (*e.g.*, vote for two), it will be necessary to go through entire set of ballots for each candidate, without the option of setting aside the “yes” stack as described in the prior step.
  - If there is any question about the intent of the voter, the determination of voter intent must be made by unanimous consent of all three Hand Count Board members using the standards established in [Chapter 11, Section IX](#). If a unanimous decision cannot be reached by the Hand Count Board, the officer in charge of elections shall make the final decision regarding the voter’s intent. A notation of the final decision shall be logged on the tally sheet and the inspector shall place the ballot into the proper stack for counting.
4. After completing the stacking process, the inspector shall place the ballots with write-in votes back in the write-in envelope and keep those ballots separated from the regular ballots.

## 2. Processing Regular Ballots

1. The first judge shall count the total number of regular ballots. The second judge shall recount the total number of regular ballots. If the totals from both judges match, the result shall be documented in the Hand Count Tally Sheet.
2. The inspector announces the specific race to be counted, identifies that race on the ballot, and separates out ballots with over-votes or no selection for that race. The two judges shall confirm that the inspector performs this step correctly.
3. The inspector announces the first candidate/selection listed in the race and begins the **stacking process** for that candidate/selection, using the same procedure described above for ballots with write-in votes.
4. After completing the stacking process, the inspector shall place the regular ballots back in the regular ballot envelope and keep those ballots separated from the ballots with write-in votes.

### **B. Three-Person Call-Out Method for Ballots Cast on Accessible Voting Devices that Independently Tabulate Votes**

The three-person call method may be used when hand counting votes from an accessible voting machine that independently tabulates votes, including the VVPAT (*see* Section VII(C) below).

1. The inspector shall take the ballots one at a time. On each ballot, the inspector shall find the races that were selected to be hand counted and announce the races one at a

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time. The judges will find the race on the proper “DRE Hand Count Tally Sheet.” The inspector shall then announce the name of the candidate that the voter marked on the ballot for that race or, if a ballot measure, the voter’s selection for the measure.

- The determination of voter intent must be made by unanimous consent of all three Hand Count Board members, using the standards established in [Chapter 11, Section IX](#). If a unanimous decision cannot be reached by the Hand Count Board, the officer in charge of elections shall make the final decision regarding the voter’s intent. A notation of the final decision shall be logged on the tally sheet.
2. The judges shall place a tick mark by the voted candidate’s name on the tally sheet. After processing each batch of 25 ballots, the judges shall compare the number of tick marks with each other. If the results from both judges match, the judges shall cross through the remaining numbers in the row. If the results do not match, the Hand Count Board shall recount the batch of 25 ballots until the results from both judges match.
  3. Upon completion of the hand count, the judges shall sign the final “Hand Count Cumulative Sheet.”

### **C. Process for Hand Counting Accessible Voting Audit Tapes**

The Hand Count Board, under the direction of the officer in charge of elections, shall:

1. Unroll the VVPAT generated by the accessible voting device and verify the precinct.
2. Mark through all the voided or spoiled votes cast with a red pen/pencil in a manner that is visually distinguishable but does not interfere with the ability to read the paper.
3. Mark through all provisional votes with a red pen/pencil in a manner that is visually distinguishable but does not interfere with the ability to read the paper.
4. Ensure that the voided or spoiled and provisional votes are not counted.
5. If the paper roll is unable to be read for any reason, a new precinct shall be selected for the precinct hand count in accordance with [Section VIII](#) of this Chapter. If no other precinct/polling location is available for selection, the unreadable ballots shall be read using the printed version of the electronic ballots as generated by the accessible voting device. The officer in charge of elections shall make the determination of whether a paper roll is readable.
6. Utilize the Three-Person Call Tabulating Method.
7. If multiple accessible voting devices were used in the precinct or for early voting, repeat the process above for each paper roll generated by the Accessible Voting Devices.
8. Record results on the Accessible Voting Device Hand Count Tally Sheet.

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## VIII. PROCEDURES FOR CONDUCTING THE HAND COUNT

The officer in charge of elections must commence the hand count with a public announcement and explanation of the procedure. The hand count must begin within 24 hours after the polls close on Election Day and must be completed before the county canvass. [A.R.S. § 16-602\(I\)](#). The start of the hand count can be defined as the official training of the Hand Count Board members, selection of the precincts and races, coordinating the hand count with the party leaders, or any other activity that furthers the progress of the hand count for that election.

Hand count board members shall not bring cellular phones, other electronic devices, or pens with black or blue ink into the official hand counting area.

Throughout the hand count, the officer in charge of elections must retain custody and control of all hand counted ballots. [A.R.S. § 16-602\(H\)](#).

### A. Precinct Hand Count

#### 1. Precinct Hand Count Process

The initial precinct hand count must be conducted according to the following procedure for each race selected for the hand count.

1. The officer in charge of elections: (i) ensures each board is properly assembled and has been provided all necessary forms and supplies; (ii) apportions ballots to the Hand Count Boards; and (iii) announces which specific race will be hand counted. The boards are not provided with the electronically-tabulated results for any race at this time.
2. The inspector or one of the judges fills out a **Hand Audit Tally Sheet** (*see* sample forms in [Chapter 17](#)) for each race to be hand counted.<sup>52</sup> The inspector signs each Hand Audit Tally Sheet. All Hand Audit Tally Sheets from the precinct hand count shall be provided to the officer in charge of elections after completion.
  - a. Each judge shall fill out the top of the Hand Audit Tally Sheet, listing the precinct/polling location name, precinct/polling location number, inspector name and their name as the judge. Each judge shall also check the box for the proper election type.
  - b. For a candidate race, list each candidate's name on a separate counting line of the Hand Audit Tally Sheet. For ballot measures, list "Yes" on the first counting line and "No" on the second counting line.
3. For optical/digital scan ballots, the Hand Count Board shall separate ballots with write-in votes from the other precinct/polling location ballots and hand count each group of ballots using the stacking method described in Section VII(A) above. For ballots cast on accessible voting devices that independently tabulates votes and VVPATs, the Hand Count Board

<sup>52</sup> See Sample Count Tally Sheet – Stacking Method, and Hand Count Tally Sheet – Three-Person Call Out Method, in [Chapter 17](#).



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shall conduct the hand count using the three-person call-out method, *see* Sections VII(B)-(C) above.

4. The Hand Count Board shall list the totals for each candidate on the appropriate Hand Audit Tally Sheet. Each precinct/polling location shall have one Hand Audit Tally Sheet for the optical/digital scan ballots and one for the accessible voting devices, unless the accessible voting device produces a paper ballot read by a tabulation unit and those paper ballots were hand counted using the stacking method. At this point, the hand count results for the batch is compared to the machine count results and the Auditor initials the Hand Count Tally Sheet to indicate that there are no discrepancies in the batch totals.
5. The officer in charge of elections shall create a Precinct Hand Count Margin Worksheet (*see* sample form in [Chapter 17](#)) for each race that was hand counted and calculate the hand count margin using the Precinct Hand Count Margin Worksheet and following the steps below in the presence of the county political party chairpersons (or designees):
  - a. **Fill out Top of Form.** Fill out the date of the election. Circle the proper election (general, special, primary, or PPE). State the race category that the worksheet is for (presidential elector, statewide candidate, statewide ballot, federal candidate, or state legislative candidate). List the specific race (*e.g.*, State Senator, Corporation Commission/Democrat). List the hand count round (1st hand count, 2nd hand count, expanded hand count or final hand count).
  - b. **Enter Hand Count Totals.** For each precinct/polling location that was hand counted, enter separately the hand count totals for the optical/digital scan ballots and the hand count totals for the accessible voting devices. These totals will come directly from the Hand Count Tally Sheets. Each candidate's counts or yes/no counts for ballot measures from the Hand Count Tally Sheet must be listed in the table. The total number of hand counted votes shall be calculated and noted in the worksheet.
  - c. **Enter Machine Count Totals.** For each precinct/polling location that was hand counted, enter separately the machine totals for the optical/digital scan ballots and the machine totals for the accessible voting devices. These totals will come directly from Election Management Systems. Each candidate's counts or yes/no counts for ballot measures from the Hand Count Tally Sheet must be listed in the table. The total number of machine counted votes shall be calculated and noted in the worksheet.
  - d. **Calculate Absolute Difference.** For each candidate's total or ballot measure yes/no total, calculate the absolute difference between the hand count and the machine count. The absolute difference is the difference between the two numbers listed as a positive value (*e.g.*, [100 – 99] or [99 – 100] will both have an absolute value of one). The total absolute value for each precinct/machine type shall be calculated and noted in the worksheet.
  - e. **Calculate Grand Totals.** Add up all the machine count totals for a particular race category to calculate the “Grand Total Machine Count.” Add up all the absolute



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differences for a particular race category to calculate the “Grand Total Absolute Difference.”

- f. **Calculate Hand Count Margin.** Divide the “Grand Total Absolute Difference” by the “Grand Total Machine Count” and multiply the result by 100 to calculate the margin in a percentage form.
6. Compare the hand count margin for each race to the designated margin established by the Vote Count Verification Committee (established by the Secretary of State pursuant to [A.R.S. § 16-602\(K\)](#)) to determine if it is in the acceptable range or if a second or expanded precinct hand count is required. The applicable designated margin is available on the Secretary of State’s website at <https://www.azsos.gov/elections/voting-election/voting-equipment>.
7. If the calculated margin for the specific race from the Precinct Hand Count Margin Worksheet is less than the designated margin for the precinct hand count established by the Vote Count Verification Committee, the precinct hand count will be deemed concluded and the results of the electronic tabulation will constitute the official count for that race. The officer in charge of elections shall indicate on the Hand Count Cumulative Sheet that the count is complete and two members, one of each political party from each Hand Count Board present, shall sign the sheet.

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## 2. Second Precinct Hand Count

If any hand counted race results in a calculated margin that is equal to or greater than the designated margin for the precinct hand count, a second precinct hand count of that race and of those same ballots shall be performed. A new Precinct Hand Count Margin Worksheet shall be created for the second precinct hand count for the race in question.

If the second precinct hand count results in a calculated margin that is less than the designated margin, the precinct hand count will be concluded and the results of the electronic tabulation will constitute the official count for that race. The officer in charge of elections shall indicate on the Hand Count Cumulative Sheet that the count is complete and a representative from each political party present shall sign the sheet. [A.R.S. § 16-602\(C\)](#).

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## 3. Expanded Precinct Hand Count

If the second precinct hand count results in a margin that is equal to or greater than the designated margin, the precinct hand count shall be expanded to include a total of twice the original number of randomly selected precincts/polling locations. Those additional precincts/polling locations (equal to the original number of randomly selected precincts/polling locations, so that the total number of ballots hand counted is twice the original number) shall be selected in accordance with the process set forth in Section IV. If the remaining number of precincts/polling locations for a race is less than the original number of precincts/polling locations selected for the first hand count, then the total remaining precincts/polling locations shall be included in the expanded hand count. [A.R.S. § 16-602\(C\)](#). A new Precinct Hand Count Margin Worksheet shall be created for the expanded Precinct Hand Count race in question.

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If the calculated margin for the expanded precinct hand count (as calculated based on the results of the original hand count plus the expanded hand count) is less than the designated precinct hand count margin, the precinct hand count will be concluded and the results of the electronic tabulation will constitute the official count for that race. The officer in charge of elections shall indicate on the Hand Count Cumulative Sheet that the count is complete and a representative from each political party present shall sign the sheet. [ARS § 16-602\(E\)](#).

#### **4. Full Precinct Hand Count**

If the expanded precinct hand count results in a calculated margin that is equal to or greater than the designated precinct hand count margin, the precinct hand count shall be extended to include the entire jurisdiction for that race. If the jurisdictional boundary for that race includes any portion of more than one county, the full precinct hand count shall not be extended into the precincts/polling locations that are outside of the county that is conducting the full precinct hand count. A new Precinct Hand Count Margin Worksheet shall be created for the full precinct hand count race.

If necessary, the officer in charge of elections may work with the county political party chairpersons (or designees) to select additional Hand Count Board members using the same selection procedure for the initial Hand Count Board members.

The full hand count must be repeated for a particular race until the results of a full hand count are identical to the results of another full hand count for that race. When an identical hand count result is achieved, the hand count (not the electronic tabulation) constitutes the official result for the race in that county. The precinct hand count totals shall be added to the total count of early ballots, provisional ballots, conditional provisional ballots, and write-in votes to determine the final count and the officer in charge of elections shall report that final count to the Secretary of State. [A.R.S. § 16-602\(D\)](#).

#### **B. Early Ballot Hand Count**

The early ballot hand count is a hand count of a percentage of early ballots actually voted. The number of early ballots to be counted is 1% of the total number of early ballots cast or 5,000 early ballots, whichever is less. Each machine used for early ballot tabulation shall have at least one batch included in the early ballot hand count, and batch sizes may not exceed 400 ballots. [A.R.S. § 16-602\(F\)](#).

##### **1. Early Ballot Hand Count Process**

The selected early ballots shall be hand counted according to the following procedure for each race selected for the early ballot hand count.

1. Prior to beginning the tabulation of early ballots, the officer in charge of elections shall determine the total number of early ballots sent for the election. From this number the officer in charge of elections shall calculate a number that equals 1% of the number or

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5,000, whichever is less. Because the number of early ballots voted (including in-person early voting) will generally be lower than the number of early ballots sent, this calculation should yield a number of ballots that meets or exceeds the number of early ballots required to be hand counted.

2. The officer in charge of elections shall then determine the number and size of the batches. The number of batches must be enough to include at least one batch per machine used for early ballot tabulation. That number must then be doubled to account for the possibility of an expansion from 1% to 2% of early ballots required to be hand counted. The batch size can be any amount up to 400 ballots. The size of the batch should start with the 1% number divided by the number of machines used for early ballot tabulation. The table below provides some examples.

	County A	County B	County C
Number of early ballots sent to voters	4,000	60,000	800,000
Number of machines used for early ballot tabulation	2	4	3
1% of early ballots sent to voters, or 5,000, whichever is less	40	600	5,000
2% of early ballots sent to voters, or 10,000, whichever is less (in case expansion is needed)	80	1,200	10,000
Size of Batches	20	150	400 (max)
Number of Batches Required to Meet 1%	$(40/20) = 2$	$(600/150) = 4$	$(5,000/400) = 13$
Number of Batches Required to Meet 2%	$(80/20) = 4$	$(1,200/150) = 8$	$(10,000/400) = 25$

3. The county political party chairpersons (or designees) will work with the officer in charge of elections to randomly select one or more batches of early ballots included in the initial tabulation. This includes at least one batch from each machine used to tabulate early ballots, and shall securely sequester those ballots, along with their unofficial tally reports, for use in the early ballot hand count.
  - a. Every precaution should be taken to ensure that no partial or complete tallies of the early election board be released or divulged before all precincts have reported or one hour after the closing of the polls on Election Day, whichever occurs first.
4. From the sequestered early ballots, the officer in charge of elections will randomly select the required number of early ballots with which to conduct a hand count of the same races that are being hand counted in the precinct hand count and create batches consisting of up to 400 ballots per batch. The total number of ballots divided into batches shall satisfy the total number of early ballots required to be hand counted. At least one batch shall be created from early ballots tabulated on each machine used for tabulating early ballots. The batches may be selected from any presorted early ballot returns from Step 3 above. The batches

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used for the early ballot hand count need not correspond to the precincts/polling locations selected for the precinct hand count. The names of the candidates may vary among the batches if necessary. The machine counts of the races in this category shall be added together and measured against the hand counts of the races in this category to determine if the total margin of difference falls within the designated margin.

5. If a county has an EMS that can produce sub-reports of results, then the officer in charge of elections will complete the steps necessary to create a batch report for each batch and print out the sub-report.
6. The ballots included in a batch, as well as the baseline and batch tally reports, will be clearly labeled and sequestered separate from any other ballots or batches. The machine that the batches of early ballots were counted on shall be identified and listed with the batch. Each batch may include a stack of regular ballots and a stack of ballots with write-in votes.
7. This process shall continue until a sufficient number of batches have been created.
8. On Election Day, the officer in charge of elections shall calculate the exact number of early ballots tallied up to that point in time. From this number, the officer in charge of elections shall calculate a number equaling 1% of the total early ballots. This shall serve as the number of ballots to audit.
9. The political party chairpersons shall randomly select one or more batches until enough ballots have been selected to equal the number of ballots to audit.
10. If needed, for each race selected for audit, the officer in charge of elections shall calculate the electronic total for the race by subtracting the batch tally total for that race from the baseline tally total for that race. This shall be done for all selected batches. All races selected for the precinct hand count shall also be hand counted in the early ballot hand count. For the early ballot hand count, the races shall be listed in Section C of the Master Precinct and Race Selection Worksheet.
11. A Hand Count Tally Sheet shall be created for each possible contested race listed on the Master List of All Contested Races.
12. The Hand Count Board members shall then perform a hand count of the optical/digital scan ballots using the stacking method. If accessible voting devices that independently tabulate votes are used for early voting, then at least one batch from each accessible voting device shall be included in the early ballot hand count and hand counted using the three-person call-out method.
13. The officer in charge of elections shall add all hand count results together for each race, including any accessible voting device results, add all electronic results together for each race, including any accessible voting device, and calculate the margin of difference using the Early Ballot Hand Count Margin Worksheet as follows:
  - a. **Fill out Top of Form.** Fill out the date of the election. Circle the proper election (general, special, primary, or PPE). State the race category that the worksheet is for (presidential elector, statewide candidate, statewide ballot, federal candidate, or state legislative candidate). List the specific race (*e.g.*, State Senator, Corporation

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Commission/Democrat). List the hand count round (1st hand count, 2nd hand count, expanded hand count or final hand count).

- b. **Enter Hand Count Totals.** Enter separately the hand count totals for the optical/digital scan ballots and the hand count totals for the accessible voting devices. These totals will come directly from the Hand Count Tally Sheets. Each candidate's counts or yes/no counts for ballot measures from the Hand Count Tally Sheet must be listed in the table. The total number of hand counted votes shall be calculated and noted in the worksheet.
- c. **Enter Machine Count Totals.** Enter separately the machine totals for the optical/digital scan ballots and the machine totals for the accessible voting devices. These totals will come directly from Election Management Systems. Each candidate's counts or yes/no counts for ballot measures from the Hand Count Tally Sheet must be listed in the table. The total number of machine counted votes shall be calculated and noted in the worksheet.
- d. **Calculate Absolute Difference.** For each candidate's total or ballot measure yes/no total, calculate the absolute difference between the hand count and the machine count. The absolute difference is the difference between the two numbers listed as a positive value (e.g., [100 – 99] or [99 – 100] will both have an absolute value of one).
- e. **Calculate Grand Totals.** Add up all the machine count totals for a particular race category to calculate the “Grand Total Machine Count.” Add up all the absolute differences for a particular race category to calculate the “Grand Total Absolute Difference.”
- f. **Calculate Hand Count Margin.** Divide the “Grand Total Absolute Difference” by the “Grand Total Machine Count” and multiply the result by 100 to calculate the margin in a percentage form.

If the margin of difference between the manual count of early ballots compared to the electronic tabulation of those ballots is less than the designated early ballot hand count margin, the electronic tabulation shall be the official count of the race and included in the canvass. No further hand count of the early ballots shall be conducted. The officer in charge of elections or Hand Count Board shall mark off and sign the Early Ballot Hand Count Margin Worksheet as completed. [A.R.S. § 16-602\(F\)](#).

## 2. Second Early Ballot Hand Count

If the margin of difference is equal to or greater than the designated early ballot hand count margin for any race, the Hand Count Board shall repeat the hand count of the same early ballots for that race.

If the second early ballot hand count results in a margin that is less than the designated margin, the early ballot hand count will be concluded and the results of the electronic tabulation will constitute the official count for that race. No further hand count of the early ballots shall be conducted. The

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Hand Count Board shall mark off the chart as completed and two members, one of each political party, from each Hand Count Board present shall sign the chart. [A.R.S. § 16-602\(F\)](#).

### **3. Expanded Early Ballot Hand Count**

If the margin is equal to or greater than the designated early ballot hand count margin for any race, the Hand Count Board shall conduct an expanded early ballot hand count for that race, to include a number of additional early ballots equal to 1% of the total early ballots cast or an additional 5,000 ballots, whichever is less, to be randomly selected from the batch or batches of sequestered early ballots. The Hand Count Board shall hand count the additional early ballots using the steps spelled out in [Chapter 10, Section VIII\(B\)\(1\)](#) above. [A.R.S. § 16-602\(F\)](#).

To calculate the hand count margin for the expanded early ballot hand count, add the first and expanded electronic count and add the first and expanded hand count together and then calculate the margin using the equation in Step 13 in [Chapter 10, Section VIII\(B\)\(1\)](#) above.

If the expanded early ballot audit results in a difference for that race that is equal to or greater than the designated early ballot hand count margin, the manual counts shall be repeated for that race until a manual count results in a margin that is less than the designated margin.

All results shall be documented in writing and signed by the officer in charge of elections and all county political party chairpersons (or designees) present. The officer in charge of elections shall label the ballots used for the early ballot hand count and preserve them separately. [A.R.S. § 16-602\(F\)](#).

### **C. Review of Election Program by a Special Master**

If a full jurisdiction-wide hand count was necessary, the Secretary of State must make available the escrowed election program source code for that county's election equipment to the superior court for that county. The superior court for that county must then appoint a special master to review the election program.

The special master must:

1. Have expertise in software engineering;
2. Not be affiliated with an election equipment or software vendor;
3. Not be affiliated with a candidate who appeared on the ballot in that county;
4. Be bound by a signed nondisclosure agreement with respect to the contents of the election program.

The special master must prepare a public report to the superior court and to the Secretary of State with their findings on any discrepancies found in the election program.



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The Secretary of State's Election Equipment Certification Committee must review this report when considering the continued certification of that election equipment and software. [A.R.S. § 16-602\(J\)](#).

## IX. STANDARD FOR DETERMINING VOTER INTENT IN HAND COUNT

Ballots with vote choices that were marked improperly, corrected or erased, or otherwise read as blank or unclear by the electronic tabulation machine have likely been duplicated using the procedures in [Chapter 10, Section II\(D\)](#) prior to being tabulated and/or committed to the EMS. Where necessary, the Hand Count Board members must also determine the voter's intent on such ballots, using the following standards:

1. If the voter selected more than the allowed number of selections for a particular race and the voter's intended choice(s) cannot be positively determined, then no vote is counted for any candidate for that race or for or against that ballot measure.
2. If the voter did not select any choice for a particular race or ballot question, then no vote is counted for any candidate for that race or for or against that ballot measure.
3. If the voter clearly and unambiguously indicated their intended vote choice on the face of the ballot in a manner consistently used throughout the rest of the ballot but the vote choice was nonetheless unreadable by the electronic tabulation equipment, either due to the voter marking the ballot using an improper method or for other reasons, the Hand Count Board must count the voter's intended choice in the hand count.
  - If the voter properly marked the ballot (for example, filled in the oval or connected the arrow) but the ballot face includes other extraneous marks, the extraneous marks should be disregarded and the Hand Count Board must consider the properly marked vote choice as the voter's intended selection.
4. If the voter attempted to erase or undo their original vote choice, the Hand Count Board must determine which mark is clearest and count it as the proper vote choice.
5. If the voter marked the ballot using an improper method (for example, circling a vote choice rather than filling an oval) such that the selections were unreadable by the electronic tabulation equipment, but the markings indicate the clear and unambiguous intent of the voter and the improper method is consistently used throughout the rest of the ballot, the Hand Count Board must count the voter's selections in the hand count, even if a ballot is slightly defaced or soiled.

The Hand Count Board members must reach a unanimous decision as to voter intent. If the Hand Count Board members are unable to reach a unanimous decision in a particular race, the officer in charge of elections shall make the final determination of voter intent. [A.R.S. § 16-602\(G\)](#).



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## **X. HAND COUNT OF RECOUNTED ELECTIONS**

A precinct hand count audit must also be conducted following a court-ordered recount pursuant to [A.R.S. § 16-661](#) through [A.R.S. § 16-663\(B\)](#). This means any ballots that have been electronically re-tabulated for purposes of a recount are treated as if a new election took place and therefore are again subject to hand count audit requirements.

The same procedures for a precinct hand count shall be followed except that the officer in charge of elections and the political parties must conduct a hand count of at least 5% of precincts for the recounted race. [A.R.S. § 16-663\(B\)](#). In counties that conduct vote center-based elections, the officer in charge of elections and the political parties must conduct a hand count of at least 2% of the total number of ballots that were subject to the recount.

## **XI. REPORTING RESULTS OF THE HAND COUNT**

Within two business days of the completion of the precinct hand count and early voting hand count, and prior to the county canvass, the officer in charge of elections must electronically submit a report to the Secretary of State that includes the following information:

- Dates of the precinct and early ballot hand counts;
- Precincts or vote centers selected for the precinct hand count;
- Races selected;
- Summary of the results by precinct/voting location and race for both the electronically tabulated vote totals and the hand counted totals; and
- The margins from the hand count when compared to the electronically tabulated results.

The Secretary of State must post the results on the Secretary of State's website. [A.R.S. § 16-602\(I\)](#).

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## CHAPTER 12: OTHER POST-ELECTION DAY PROCEDURES

### I. REPORTING ELECTION RESULTS

The officer in charge of elections may publicly release election results at the earlier of:

- The time when all ballots cast on Election Day at voting locations have been tabulated and publicly reported; or
- One hour after all polls under the jurisdiction of the officer in charge of elections have closed on Election Day.

Polls presumptively close at 7:00 p.m. on Election Day unless extended by court order. [A.R.S. § 16-551\(C\)](#); [A.R.S. § 16-565\(A\)](#).

For elections involving a federal, statewide, or legislative candidate race or a statewide ballot measure, the officer in charge of elections must promptly transmit those election results to the Secretary of State, prior to or immediately after making those results public. For the initial transmission of election results on Election Day, and as additional results are tabulated prior to the county canvass, the officer in charge of elections must transmit election results to the Secretary of State in the required electronic format using an application specified by the Secretary of State. [A.R.S. § 16-622\(B\)](#).

### II. CONDUCTING POST-ELECTION LOGIC & ACCURACY TEST

A post-election logic and accuracy (L&A) test of tabulation equipment must be performed by the officer in charge of elections after the official count has been completed but before the county canvass.

The post-election L&A test must be performed using the same election program and tabulation equipment used for the pre-election L&A test and the election. The same test ballots and test script from the pre-election L&A test must be utilized.

The post-election L&A test should generate the same results as the pre-election L&A test. If the post-election L&A test does not yield the same results, the officer in charge of elections should visually assess the test ballots and/or voting equipment for errors or malfunctions. If the problem still cannot be resolved, the officer in charge of elections should contact the Secretary of State and/or the County Attorney for further assistance.

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### III. FILING FEDERAL POST-ELECTION REPORTS

#### A. Election Assistance Commission Reporting

Within 90 days after a federal general election (or any later date established by the federal Election Assistance Commission (EAC)), the Secretary of State must submit a comprehensive post-election report to the EAC in accordance with the format prescribed by the EAC. The report must be prepared in conjunction with, and based on data from, County Recorders and/or the other officers in charge of elections. [A.R.S. § 16-142\(B\)](#).

#### B. Department of Justice UOCAVA Reporting

At the request of the United States Department of Justice, the Secretary of State must report the following information following a federal election:

- The number of UOCAVA ballots requested for the election;
- The number of UOCAVA ballots timely transmitted; and
- The number of UOCAVA ballots that were not timely transmitted.

If the County Recorder believes that UOCAVA ballots will be transmitted late, the County Recorder should notify the Secretary of State as soon as practicable.

County Recorders must provide the required data to the Secretary of State in order to meet the federal reporting requirements. [52 U.S.C. § 20308](#).

### IV. POST-ELECTION REIMBURSEMENT REQUESTS

#### A. Reimbursement for Conducting Local Election

Within 90 days after conducting an election on behalf of a local jurisdiction, the County Recorder or other officer in charge of elections must prepare an accounting report which itemizes all expenditures incurred by the county in administering the election. The report must include the specific charges for each local jurisdiction which participated in the election. Local jurisdictions that participated in the election may request and receive a copy of the report. [A.R.S. § 16-205\(D\)](#).

#### B. Reimbursement for PPE Expenses

Within 90 days after a PPE, the County Recorder or other officer in charge of elections should submit a proper claim to the Secretary of State for reimbursement of expenses incurred in conducting the election. The claim must include the number of registered voters in the county as of January 2 of the PPE year.

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The Secretary of State must reimburse each county that submitted a claim at the specified statutory rate per active registered voter in the county as of January 2. [A.R.S. § 16-250\(B\)](#).<sup>53</sup>

The Secretary of State may reimburse a county at a rate greater than \$1.25 per active registered voter, in the Secretary of State's discretion, if the County Recorder or other officer in charge of elections: (1) submitted a proper claim that outlined the county's actual expenses to conduct the PPE; and (2) demonstrates that reimbursement at the statutory rate would significantly jeopardize the county's ability to comply with federal and state law. [A.R.S. § 16-250\(B\)](#).

### **C. Reimbursement for Sample Ballots**

The Board of Supervisors or officer in charge of elections shall seek reimbursement from the Secretary of State for each sample ballot mailed to a county household. The Board of Supervisors or officer must present a certified claim that specifies the actual cost for printing, labeling and postage, along with supporting documentation. The Secretary of State shall direct payment of such authenticated claims from funds of the Secretary of State's Office. [A.R.S. § 16-510\(C\)](#).

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<sup>53</sup> Although [A.R.S. § 16-250\(B\)](#) specifies that reimbursement for the PPE must be based on the number of active registered voters as of "January 1" of the year of the PPE, the 54th Legislature, First Regular Session, via Senate Bill 1154, amended [A.R.S. § 16-168\(G\)](#) to require County Recorders to report voter registration statistics as of January 2 each year, rather than January 1. Accordingly, January 2 is used in lieu of January 1 here.

**Arizona Constitution**

Article II – Declaration of Rights

Section 4 – Due Process of Law

No person shall be deprived of life, liberty, or property without due process of law.

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**A.R.S. § 16-441**

Title 16 – Elections and Electors  
Chapter 4 – Conduct of Elections  
Article 4 – Voting Equipment

**§ 16-441. Effective date of article; approval of counting equipment**

Provisions of this article shall become effective and operative when electronic or electromechanical vote recording and ballot counting equipment has been satisfactorily tested and has received the approval of the secretary of state.

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**A.R.S. § 16-442**

Title 16 – Elections and Electors  
Chapter 4 – Conduct of Elections  
Article 4 – Voting Equipment

**§ 16-442. Committee approval; adoption of vote tabulating equipment; experimental use; emergency**

**A.** The secretary of state shall appoint a committee of three persons, to consist of a member of the engineering college at one of the universities, a member of the state bar of Arizona and one person familiar with voting processes in the state, no more than two of whom shall be of the same political party, and at least one of whom shall have at least five years of experience with and shall be able to render an opinion based on knowledge of, training in or education in electronic voting systems, procedures and security. The committee shall investigate and test the various types of vote recording or tabulating machines or devices that may be used under this article. The committee shall submit its recommendations to the secretary of state who shall make final adoption of the type or types, make or makes, model or models to be certified for use in this state. The committee shall serve without compensation.

**B.** Machines or devices used at any election for federal, state or county offices may only be certified for use in this state and may only be used in this state if they comply with the help America vote act of 2002 and if those machines or devices have been tested and approved by a laboratory that is accredited pursuant to the help America vote act of 2002.

**C.** After consultation with the committee prescribed by subsection A of this section, the secretary of state shall adopt standards that specify the criteria for loss of certification for equipment that was used at any election for federal, state or county offices and that was previously certified for use in this state. On loss of certification, machines or devices used at any election may not be used for any election for federal, state or county offices in this state unless recertified for use in this state.

**D.** The secretary of state may revoke the certification of any voting system or device for use in a federal, state or county election in this state or may prohibit for up to five years the purchase, lease or use of any voting system or device leased,



installed or used by a person or firm in connection with a federal, state or county election in this state, or both, if either of the following occurs:

1. The person or firm installs, uses or permits the use of a voting system or device that is not certified for use or approved for experimental use in this state pursuant to this section.
2. The person or firm uses or includes hardware, firmware or software in a version that is not certified for use or approved for experimental use pursuant to this section in a certified voting system or device.

**E.** The governing body of a city or town or the board of directors of an agricultural improvement district may adopt for use in elections any kind of electronic voting system or vote tabulating device approved by the secretary of state, and thereupon the voting or marking device and vote tabulating equipment may be used at any or all elections for voting, recording and counting votes cast at an election.

**F.** The secretary of state or the governing body may provide for the experimental use of a voting system or device without a final adoption of the voting system or device, and its use at the election is as valid as if the machines had been permanently adopted.

**G.** After consultation with the committee prescribed by subsection A of this section, the secretary of state may approve for emergency use an upgrade or modification to a voting system or device that is certified for use in this state if the governing body establishes in an open meeting that the election cannot be conducted without the emergency certification. Any emergency certification shall be limited to no more than six months. At the conclusion of the certification period the voting system or device shall be decertified and unavailable for future use unless certified in accordance with this section.

**A.R.S. § 16-442.01**

Title 16 – Elections and Electors  
Chapter 4 – Conduct of Elections  
Article 4 – Voting Equipment

**§ 16-442.01. Accessible voting technology; recommendations; certification; applicability**

**A.** On completion of the certification process pursuant to this section and § 16-442, the secretary of state shall require that voting systems that are used by entities that are governed by § 16-204, but not including cities and towns with a population of less than twenty thousand persons, provide persons who are blind or visually impaired with access to voting that is equivalent to that provided to persons who are not blind or visually impaired.

**B.** For the purposes of this section:

1. A voting system that provides the voter with the ability to cast and verify by both visual and nonvisual methods all of the selections that were made by that voter is deemed to provide equivalent access.
2. Nonvisual methods for casting and verifying a selection made on a voting system include the use of synthesized speech, braille and other output methods that do not require sight.

**C.** The secretary of state shall consult with and obtain recommendations regarding voting systems from nonprofit organizations that represent persons who are blind or visually impaired, persons with expertise in accessible software, hardware and other technology, county and local election officials and other persons deemed appropriate by the secretary of state. After receiving recommendations, the secretary of state shall submit to the committee established pursuant to § 16-442 one or more voting systems that provide equivalent access pursuant to this section for possible certification for use in this state.

**D.** Subsection A of this section applies to voting systems that are purchased or upgraded on or after January 1, 2006.

**A.R.S. § 16-444**

Title 16 – Elections and Electors  
Chapter 4 – Conduct of Elections  
Article 4 – Voting Equipment

**§ 16-444. Definitions; applicability of general laws**

**A.** In this article, unless the context otherwise requires:

1. “Ballot” means a paper ballot on which votes are recorded.

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4. “Electronic voting system” means a system in which votes are recorded on a paper ballot by means of marking, and such votes are subsequently counted and tabulated by vote tabulating equipment at one or more counting centers.

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7. “Vote tabulating equipment” includes apparatus necessary to automatically examine and count votes as designated on ballots and tabulate the results.

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**A.R.S. § 16-445**

Title 16 – Elections and Electors  
Chapter 4 – Conduct of Elections  
Article 4 – Voting Equipment

**§ 16-445. Filing of computer election programs with secretary of state**

**A.** For any state, county, school district, special district, city or town election, including primary elections, that uses vote tabulating devices as provided in this article, there shall be filed with the secretary of state at least seventeen days before the date of the election a copy of each computer program for each election. The secretary of state shall hold all computer program software filed pursuant to this section in escrow for three years. The secretary of state shall securely destroy the software filed pursuant to this section on the expiration of the three-year period.

**B.** A copy of any subsequent revision of the computer program shall be filed in the same manner within forty-eight hours following the revision.

**C.** Any tape or disc used in the programming or operation of a vote tabulating device on which votes are counted and any tape used in compiling vote totals shall be kept under lock and seal, and if there is a retally of votes, the officer entrusted with the tapes or discs shall submit the officer's affidavit stating that they are the tapes or discs, or both, used in the election and have not been altered.

**D.** All materials submitted to the secretary of state shall be used by the secretary of state or attorney general to preclude fraud or any unlawful act under the laws of this title and title 19<sup>1</sup> and shall not be disclosed or used for any other purpose.

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<sup>1</sup> Section 19-101 et seq.

**A.R.S. § 16-446**

Title 16 – Elections and Electors  
Chapter 4 – Conduct of Elections  
Article 4 – Voting Equipment

**§ 16-446. Specifications of electronic voting system**

**A.** An electronic voting system consisting of a voting or marking device in combination with vote tabulating equipment shall provide facilities for voting for candidates at both primary and general elections.

**B.** An electronic voting system shall:

1. Provide for voting in secrecy when used with voting booths.
2. Permit each elector to vote at any election for any person for any office whether or not nominated as a candidate, to vote for as many persons for an office as the elector is entitled to vote for and to vote for or against any question on which the elector is entitled to vote, and the vote tabulating equipment shall reject choices recorded on the elector's ballot if the number of choices exceeds the number that the elector is entitled to vote for the office or on the measure.
3. Prevent the elector from voting for the same person more than once for the same office.
4. Be suitably designed for the purpose used and be of durable construction, and may be used safely, efficiently and accurately in the conduct of elections and counting ballots.
5. Be provided with means for sealing the voting or marking device against any further voting after the close of the polls and the last voter has voted.
6. When properly operated, record correctly and count accurately every vote cast.
7. Provide a durable paper document that visually indicates the voter's selections, that the voter may use to verify the voter's choices, that may be spoiled by the voter if it fails to reflect the voter's choices and that permits the voter to cast a new ballot. This paper document shall be used in manual audits and recounts.

8. To the extent practicable, provide for the ballot layout to be in the same order of arrangement, including rotation, as provided for paper ballots, except that information may be printed in vertical or horizontal rows, or in a number of separate pages or screens that are placed or displayed on the voting device. The titles of offices may be arranged in vertical columns or in a series of separate pages or screens and shall be printed above or at the side of the names of candidates so as to indicate clearly the candidates for each office and the number to be elected. If there are more candidates for an office than can be printed in one column or on one ballot page or screen, the ballot shall be clearly marked that the list of candidates is continued on the following column, page or screen, and to the extent practicable, the same number of names shall be printed on each column, page or screen.

9. Provide for a color designation for use in the primary election for each political party represented.

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**A.R.S. § 16-449**

Title 16 – Elections and Electors  
Chapter 4 – Conduct of Elections  
Article 4 – Voting Equipment

**§ 16-449. Required test of equipment and programs; notice; procedures manual**

**A.** Within the period of time before the election day prescribed by the secretary of state in the instructions and procedures manual adopted pursuant to § 16-452, the board of supervisors or other election officer in charge, or for an election involving state or federal candidates, the secretary of state, shall have the automatic tabulating equipment and programs tested to ascertain that the equipment and programs will correctly count the votes cast for all offices and on all measures. Public notice of the time and place of the test shall be given at least forty-eight hours prior thereto by publication once in one or more daily or weekly newspapers published in the town, city or village using such equipment, if a newspaper is published therein, otherwise in a newspaper of general circulation therein. The test shall be observed by at least two election inspectors, who shall not be of the same political party, and shall be open to representatives of the political parties, candidates, the press and the public. The test shall be conducted by processing a preaudited group of ballots so marked as to record a predetermined number of valid votes for each candidate and on each measure and shall include for each office one or more ballots that have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment and programs to reject such votes. If any error is detected, the cause therefor shall be ascertained and corrected and an errorless count shall be made before the automatic tabulating equipment and programs are approved. A copy of a revised program shall be filed with the secretary of state within forty-eight hours after the revision is made. If the error was created by automatic tabulating equipment malfunction, a report shall be filed with the secretary of state within forty-eight hours after the correction is made, stating the cause and the corrective action taken. The test shall be repeated immediately before the start of the official count of the ballots in the same manner as set forth above. After the completion of the count, the programs used and the ballots shall be sealed, retained and disposed of as provided for paper ballots.

**B.** Electronic ballot tabulating systems shall be tested for logic and accuracy within seven days before their use for early balloting pursuant to the instructions and



procedures manual for electronic voting systems that is adopted by the secretary of state as prescribed by § 16-452. The instructions and procedures manual shall include procedures for the handling of ballots, the electronic scanning of ballots and any other matters necessary to ensure the maximum degree of correctness, impartiality and uniformity in the administration of an electronic ballot tabulating system.

**C.** Notwithstanding subsections A and B of this section, if a county uses accessible voting equipment to mark ballots and that accessible voting equipment does not independently tabulate or tally votes, the secretary of state in cooperation with the county officer in charge of elections may designate a single date to test the logic and accuracy of both the accessible voting equipment and electronic ballot tabulating systems.

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**A.R.S. § 16-452**

Title 16 – Elections and Electors

Chapter 4 – Conduct of Elections

Article 4 – Voting Equipment

**§ 16-452. Rules; instructions and procedures manual; approval of manual; field check and review of systems; violation; classification**

**A.** After consultation with each county board of supervisors or other officer in charge of elections, the secretary of state shall prescribe rules to achieve and maintain the maximum degree of correctness, impartiality, uniformity and efficiency on the procedures for early voting and voting, and of producing, distributing, collecting, counting, tabulating and storing ballots. The secretary of state shall also adopt rules regarding fax transmittal of unvoted ballots, ballot requests, voted ballots and other election materials to and from absent uniformed and overseas citizens and shall adopt rules regarding internet receipt of requests for federal postcard applications prescribed by § 16-543.

**B.** The rules shall be prescribed in an official instructions and procedures manual to be issued not later than December 31 of each odd-numbered year immediately preceding the general election. Before its issuance, the manual shall be approved by the governor and the attorney general. The secretary of state shall submit the manual to the governor and the attorney general not later than October 1 of the year before each general election.

**C.** A person who violates any rule adopted pursuant to this section is guilty of a class 2 misdemeanor.

**D.** The secretary of state shall provide personnel who are experts in electronic voting systems and procedures and in electronic voting system security to field check and review electronic voting systems and recommend needed statutory and procedural changes.

## **A.R.S. § 16-462**

Title 16 – Elections and Electors  
Chapter 4 – Conduct of Elections  
Article 5 – Ballots and Supplies; Primary

### **§ 16-462. Form of paper ballot**

The ballots for a primary election shall be printed with a different color designation for each political party that is included on the ballot. Unless otherwise provided by law, the ballot shall be printed, “official ballot of the \_\_\_\_\_ party, primary election (date), \_\_\_\_\_ precinct, county (or city or town) of \_\_\_\_\_, state of Arizona”. Below the heading shall be placed the title of each office to be voted for, and an instruction to the voter as to how many are to be voted for for the particular office, thus: “vote for not more than \_\_\_\_\_” (insert the number to be elected), under which shall be placed alphabetically and alternated, as provided by law, the names of all the party's candidates to be voted for in each precinct of the county or precinct or ward of the city or town for whom nomination papers have been filed for such office, leaving as many blank lines as there are offices under that title to be filled, followed by a place for the voter to make a mark to indicate the voter's choice either to the right or the left of the candidate's name, and of the blank line. Double or more columns may be arranged on the ballot. In other respects the ballot shall conform as nearly as possible to the ballot prescribed for general elections.

**A.R.S. § 16-468**

Title 16 – Elections and Electors  
Chapter 4 – Conduct of Elections  
Article 5 – Ballots and Supplies; Primary

**§ 16-468. Form of ballot; optical scanning system; sample ballots**

For any ballots intended for use in an optical scanning system, the following apply:

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2. Ballots shall be printed in plain clear type in black ink, and for a general election, on clear white materials, and shall be of a size and arrangement to fit the construction of the vote tabulating equipment or other voting device. For a primary election, ballots shall have a different color indicator for each political party that is represented. Ballots may contain printed code marks that may be used for placing the ballots in the correct position for tabulating devices. The code marks shall not be printed or used in any manner that will disclose the identity of the voter who votes that ballot.

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**A.R.S. § 16-502**

Title 16 – Elections and Electors  
Chapter 4 – Conduct of Elections  
Article 6 – Ballots and Supplies; General

**§ 16-502. Form and contents of ballot**

**A.** Ballots shall be printed with black ink on white paper of sufficient thickness to prevent the printing thereon from being discernible from the back, and the same type shall be used for the names of all candidates. The ballots shall be headed “official ballot” in bold-faced plain letters, with a heavy rule above and below the heading. Immediately below shall be placed the words “type of election, (date of election)” and the name of the county and state in which the election is held. The name or number of the precinct in which the election is held shall be placed on the ballot in a uniform location for all ballots. No other matter shall be placed or printed at the head of any ballot. Instructions to the voter on marking the ballot may be printed below the heading as follows:

1. Put a mark according to the instructions next to the name of each candidate for each office for whom you wish to vote.
2. If you wish to vote for a person whose name is not printed on the ballot, write such name in the blank space provided on the ballot and put a mark according to the instructions next to the name so written.
3. Put a mark according to the instructions next to the word “yes” or “for” for each proposition or question you wish to be adopted. Put a mark according to the instructions next to the word “no” or “against” for each proposition or question you wish not to be adopted.

**B.** Immediately below the ballot instructions shall be placed the following:

Section One  
Partisan Ballot

**C.** Immediately below the heading for section one there shall be placed in columns the names of the candidates of the several political parties. Next to each candidate's name there shall be printed in bold-faced letters the name of the political party. At the head of each column shall be printed the names of the offices to be filled with

the name of each office being of uniform type size. At the head of each column shall be printed in the following order the names of candidates for:

1. Presidential electors, which shall be in a list and next to the list shall be printed in bold type the surname of the presidential candidate, and the surname of the vice presidential candidate who is seeking election jointly with the presidential candidate shall be listed directly below the name of the presidential candidate. The indicator for the selection of the presidential and vice presidential candidates shall be directly next to the surname of the presidential candidate, and one mark directly next to a presidential candidate's surname shall be counted as a vote for each elector in the list next to the presidential and vice presidential candidates.

2. United States senator.

3. Representatives in Congress.

4. The several state offices.

5. The several county and precinct offices.

**D.** The names of candidates for the offices of state senator and state representative along with the district number shall be placed within the heading of each column to the right of the office name for state offices and immediately below the candidates for the office of governor. The number of the supervisorial district of which a candidate is a nominee shall be printed within the heading of each column to the right of the name of the office.

**E.** The lists of the candidates of the several parties shall be arranged with the names of the parties in descending order according to the votes cast for governor for that county in the most recent general election for the office of governor, commencing with the left-hand column. In the case of political parties that did not have candidates on the ballot in the last general election, such parties shall be listed in alphabetical order below the parties that did have candidates on the ballot in the last general election. The names of all candidates nominated under § 16-341 shall be placed in a single column below that of the recognized parties. Next to the name of each candidate, in parentheses, shall be printed a three-letter abbreviation that is taken from the three words prescribed in the candidate's certificate of nomination.

**F.** Immediately below the designation of the office to be voted for shall appear the words: "Vote for not more than \_\_\_\_\_" (insert the number to be elected).

**G.** In each column at the right or left of the name of each candidate and on the same line there shall be a place for the voter to put a mark. Below the name of the last named candidate for each office there shall be as many blank lines as there are offices of the same title to be filled, with a place for the voter to put a mark. On the blank line the voter may write the name of any person for whom the voter desires to vote whose name is not printed, and next to the name so written the voter shall designate his choice by a mark as in the case of printed names.

**H.** When there are two or more candidates of the same political party for the same office, or more than one candidate for a judicial office, the names of all such candidates shall be so alternated on the ballots used in each election district that the name of each candidate shall appear substantially an equal number of times in each possible location. If there are fewer or the same number of candidates seeking office than the number to be elected, the rotation of names is not required and the names shall be placed in alphabetical order.

**I.** Immediately below section one of the ballot shall be placed the following:

Section Two  
Nonpartisan Ballot

**J.** Immediately below the heading for section two shall be placed the names of the candidates for justices of the supreme court, judges of the court of appeals, judges of the superior court standing for retention or rejection pursuant to article VI, section 38, Constitution of Arizona, judges of the superior court standing for election pursuant to article VI, section 12, Constitution of Arizona, school district officials and other nonpartisan officials in a column or in columns without partisan or other designation except the title of office in an order determined by the officer in charge of the election.

**K.** Immediately below the offices listed in subsection J of this section, the ballot shall contain a separate heading of any nonpartisan office for a vacant unexpired term and shall include the expiration date of the term of the vacated office.

**L.** All proposed constitutional amendments and other propositions or questions to be submitted to the voters shall be printed immediately below the names of candidates for nonpartisan positions in such order as the secretary of state, or if a city or town election, the city or town clerk, designates. Placement of county and local charter amendments, propositions or questions shall be determined by the



officer in charge of the election. Except as provided by § 19-125, each proposition or question shall be followed by the words “yes” and “no” or “for \_\_\_\_\_” and “against \_\_\_\_\_” as the nature of the proposition or question requires, and at the right or left of and next to each of such words shall be a place for the voter to put a mark according to the instructions that is similar in size to those places appearing opposite the names of the candidates, in which the voter may indicate his vote for or against such proposition or question by a mark as defined in § 16-400.

**M.** Instead of printing the official and descriptive titles or the full text of each measure or question on the official ballot, the officer in charge of elections may print phrases on the official ballot that contain all of the following:

1. The number of the measure in reverse type and at least twelve point type.
2. The designation of the measure as prescribed by § 19-125, subsection C or as a question, proposition or charter amendment, followed by the words “relating to...” and inserting the subject.
3. Either the statement prescribed by § 19-125, subsection D that describes the effects of a “yes” vote and a “no” vote or, for other measures, the text of the question or proposition.
4. The words “yes” and “no” or “for” and “against”, as may be appropriate and a place for the voter to put a mark.

**N.** For any ballot printed pursuant to subsection M of this section, the instructions on the official ballot shall direct the voter to the full text of the official and descriptive titles and the questions and propositions as printed on the sample ballot and posted in the polling place.

**A.R.S. § 16-602**

Title 16 – Elections and Electors  
Chapter 4 – Conduct of Elections  
Article 10 – Tally and Returns

**§ 16-602. Removal of ballots from ballot boxes; disposition of ballots folded together or excessive ballots; designated margin; hand counts; vote count verification committee**

**A.** For any primary, special or general election in which the votes are cast on an electronic voting machine or tabulator, the election judge shall compare the number of votes cast as indicated on the machine or tabulator with the number of votes cast as indicated on the poll list and the number of provisional ballots cast and that information shall be noted in a written report prepared and submitted to the officer in charge of elections along with other tally reports.

**B.** For each countywide primary, special, general and presidential preference election, the county officer in charge of the election shall conduct a hand count at one or more secure facilities. The hand count shall be conducted as prescribed by this section and in accordance with hand count procedures established by the secretary of state in the official instructions and procedures manual adopted pursuant to § 16-452. The hand count is not subject to the live video requirements of § 16-621, subsection D, but the party representatives who are observing the hand count may bring their own video cameras in order to record the hand count. The recording shall not interfere with the conduct of the hand count and the officer in charge of the election may prohibit from recording or remove from the facility persons who are taking actions to disrupt the count. The sole act of recording the hand count does not constitute sufficient grounds for the officer in charge of the election to prohibit observers from recording or to remove them from the facility. The hand count shall be conducted in the following order:

1. At least two percent of the precincts in that county, or two precincts, whichever is greater, shall be selected at random from a pool consisting of every precinct in that county. The county political party chairman for each political party that is entitled to continued representation on the state ballot or the chairman's designee shall conduct the selection of the precincts to be hand counted. The precincts shall be selected by lot without the use of a computer, and the order of selection by the county political party chairmen shall also be by lot. The selection of the precincts shall not begin until all ballots voted in the precinct polling places have been

delivered to the central counting center. The unofficial vote totals from all precincts shall be made public before selecting the precincts to be hand counted. Only the ballots cast in the polling places and ballots from direct recording electronic machines shall be included in the hand counts conducted pursuant to this section. Provisional ballots, conditional provisional ballots and write-in votes shall not be included in the hand counts and the early ballots shall be grouped separately by the officer in charge of elections for purposes of a separate manual audit pursuant to subsection F of this section.

2. The races to be counted on the ballots from the precincts that were selected pursuant to paragraph 1 of this subsection for each primary, special and general election shall include up to five contested races. After the county recorder or other officer in charge of elections separates the primary ballots by political party, the races to be counted shall be determined by selecting by lot without the use of a computer from those ballots as follows:

- (a) For a general election, one statewide ballot measure, unless there are no measures on the ballot.
- (b) One contested statewide race for statewide office.
- (c) One contested race for federal office, either United States senate or United States house of representatives. If the United States house of representatives race is selected, the names of the candidates may vary among the sampled precincts.
- (d) One contested race for state legislative office, either state house of representatives or state senate. In either case, the names of the candidates may vary among the sampled precincts.
- (e) If there are fewer than four contested races resulting from the selections made pursuant to subdivisions (a) through (d) of this section and if there are additional contested federal, statewide or legislative races or ballot measures, additional contested races shall be selected by lot not using a computer until four races have been selected or until no additional contested federal, statewide or legislative races or ballot measures are available for selection.
- (f) If there are no contested races as prescribed by this paragraph, a hand count shall not be conducted for that precinct for that election.

3. For the presidential preference election, select by lot two percent of the polling places designated and used pursuant to § 16-248 and perform the hand count of those ballots.
4. For the purposes of this section, a write-in candidacy in a race does not constitute a contested race.
5. In elections in which there are candidates for president, the presidential race shall be added to the four categories of hand counted races.
6. Each county chairman of a political party that is entitled to continued representation on the state ballot or the chairman's designee shall select by lot the individual races to be hand counted pursuant to this section.
7. The county chairman of each political party shall designate and provide the number of election board members as designated by the county officer in charge of elections who shall perform the hand count under the supervision of the county officer in charge of elections. For each precinct that is to be audited, the county chairmen shall designate at least two board workers who are registered members of any or no political party to assist with the audit. Any qualified elector from this state may be a board worker without regard to party designation. The county election officer shall provide for compensation for those board workers, not to include travel, meal or lodging expenses. If there are less than two persons for each audited precinct available to participate on behalf of each recognized political party, the recorder or officer in charge of elections, with the approval of at least two county party chairpersons in the county in which the shortfall occurs, shall substitute additional individual electors who are provided by any political party from anywhere in the state without regard to party designation to conduct the hand count. A county party chairman shall approve only those substitute electors who are provided by the county chairman's political party. The political parties shall provide to the recorder or officer in charge of elections in writing the names of those persons intending to participate in the hand count at the audited precincts not later than 5:00 p.m. on the Tuesday preceding the election. If the total number of board workers provided by all parties is less than four times the number of precincts to be audited, the recorder or officer in charge of elections shall notify the parties of the shortage by 9:00 a.m. on the Wednesday preceding the election. The hand count shall not proceed unless the political parties provide the recorder or officer in charge of elections, in writing, a sufficient number of persons by 5:00 p.m. on the Thursday preceding the election and a sufficient number of persons, pursuant to this paragraph, arrive to perform the hand count. The recorder or

officer in charge of elections may prohibit persons from participating in the hand count if they are taking actions to disrupt the count or are unable to perform the duties as assigned. For the hand count to proceed, not more than seventy-five percent of the persons performing the hand count shall be from the same political party.

8. If a political party is not represented by a designated chairperson within a county, the state chairperson for that political party, or a person designated by the state chairperson, may perform the actions required by the county chairperson as specified in this section.

**C.** If the randomly selected races result in a difference in any race that is less than the designated margin when compared to the electronic tabulation of those same ballots, the results of the electronic tabulation constitute the official count for that race. If the randomly selected races result in a difference in any race that is equal to or greater than the designated margin when compared to the electronic tabulation of those same ballots, a second hand count of those same ballots and races shall be performed. If the second hand count results in a difference in any race that is less than the designated margin when compared to the electronic tabulation for those same ballots, the electronic tabulation constitutes the official count for that race. If the second hand count results in a difference in any race that is equal to or greater than the designated margin when compared to the electronic tabulation for those same ballots, the hand count shall be expanded to include a total of twice the original number of randomly selected precincts. Those additional precincts shall be selected by lot without the use of a computer.

**D.** In any expanded count of randomly selected precincts, if the randomly selected precinct hand counts result in a difference in any race that is equal to or greater than the designated margin when compared to the electronic tabulation of those same ballots, the final hand count shall be extended to include the entire jurisdiction for that race. If the jurisdictional boundary for that race would include any portion of more than one county, the final hand count shall not be extended into the precincts of that race that are outside of the county that is conducting the expanded hand count. If the expanded hand count results in a difference in that race that is less than the designated margin when compared to the electronic tabulation of those same ballots, the electronic tabulation constitutes the official count for that race.

**E.** If a final hand count is performed for an entire jurisdiction for a race, the final hand count shall be repeated for that race until a hand count for that race for the

entire jurisdiction results in a count that is identical to one other hand count for that race for the entire jurisdiction and that hand count constitutes the official count for that race.

**F.** After the electronic tabulation of early ballots and at one or more times selected by the chairman of the political parties entitled to continued representation on the ballot or the chairman's designee, the chairmen or the chairmen's designees shall randomly select one or more batches of early ballots that have been tabulated to include at least one batch from each machine used for tabulating early ballots and those ballots shall be securely sequestered by the county recorder or officer in charge of elections along with their unofficial tally reports for a postelection manual audit. The chairmen or the chairmen's designees shall randomly select from those sequestered early ballots a number equal to one percent of the total number of early ballots cast or five thousand early ballots, whichever is less. From those randomly selected early ballots, the county officer in charge of elections shall conduct a manual audit of the same races that are being hand counted pursuant to subsection B of this section. If the manual audit of the early ballots results in a difference in any race that is equal to or greater than the designated margin when compared to the electronically tabulated results for those same early ballots, the manual audit shall be repeated for those same early ballots. If the second manual audit results in a difference in that race that is equal to or greater than the designated margin when compared to the electronically tabulated results for those same early ballots, the manual audit shall be expanded only for that race to a number of additional early ballots equal to one percent of the total early ballots cast or an additional five thousand ballots, whichever is less, to be randomly selected from the batch or batches of sequestered early ballots. If the expanded early ballot manual audit results in a difference for that race that is equal to or greater than the designated margin when compared to any of the earlier manual counts for that race, the manual counts shall be repeated for that race until a manual count results in a difference in that race that is less than the designated margin. If at any point in the manual audit of early ballots the difference between any manual count of early ballots is less than the designated margin when compared to the electronic tabulation of those ballots, the electronic tabulation shall be included in the canvass and no further manual audit of the early ballots shall be conducted.

**G.** During any hand count of early ballots, the county officer in charge of elections and election board workers shall attempt to determine the intent of the voter in casting the ballot.



**H.** Notwithstanding any other law, the county officer in charge of elections shall retain custody of the ballots for purposes of performing any required hand counts and the officer shall provide for security for those ballots.

**I.** The hand counts prescribed by this section shall begin within twenty-four hours after the closing of the polls and shall be completed before the canvassing of the election for that county. The results of those hand counts shall be provided to the secretary of state, who shall make those results publicly available on the secretary of state's website.

**J.** For any county in which a hand count has been expanded to all precincts in the jurisdiction, the secretary of state shall make available the escrowed source code for that county to the superior court. The superior court shall appoint a special master to review the computer software. The special master shall have expertise in software engineering, shall not be affiliated with an election software vendor nor with a candidate, shall sign and be bound by a nondisclosure agreement regarding the source code itself and shall issue a public report to the court and to the secretary of state regarding the special master's findings on the reasons for the discrepancies. The secretary of state shall consider the reports for purposes of reviewing the certification of that equipment and software for use in this state.

**K.** The vote count verification committee is established in the office of the secretary of state and all of the following apply:

1. At least thirty days before the 2006 primary election, the secretary of state shall appoint seven persons to the committee, not more than three of whom are members of the same political party.
2. Members of the committee shall have expertise in any two or more of the areas of advanced mathematics, statistics, random selection methods, systems operations or voting systems.
3. A person is not eligible to be a committee member if that person has been affiliated with or received any income in the preceding five years from any person or entity that provides election equipment or services in this state.
4. The vote count verification committee shall meet and establish one or more designated margins to be used in reviewing the hand counting of votes as required pursuant to this section. The committee shall review and consider revising the designated margins every two years for use in the applicable elections. The



committee shall provide the designated margins to the secretary of state at least ten days before the primary election and at least ten days before the general election, and the secretary of state shall make that information publicly available on the secretary of state's website.

5. Members of the vote count verification committee are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.<sup>1</sup> The committee is a public body and its meetings are subject to title 38, chapter 3, article 3.1<sup>2</sup> and its reports and records are subject to title 39, chapter 1.<sup>3</sup>

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<sup>1</sup> Section 38-621 et seq.

<sup>2</sup> Section 38-431 et seq.

<sup>3</sup> Section 39-101 et seq.