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DIRECTIVE 2011-12

March 25, 2011

To: ALL COUNTY BOARDS OF ELECTIONS

Re: Recount Procedures

Summary: This directive is reissued for each primary and general election to inform the boards of elections of the circumstances and procedures for conducting recounts after the official results of an election have been certified. The directive addresses both automatic and requested recounts.

The directive is organized as follows:

- I. When a recount must be conducted, either because it was ordered by election officials (an automatic recount), or because a valid application requesting a recount was filed (a requested recount).
- II. Automatic recount: how to determine if election officials must order a recount.
- III. Requested recount: application for a recount.
- IV. What the board of elections must do before a recount.
- V. Stopping a recount after it has begun.
- VI. Procedures for conducting a recount of a DRE system and an optical scan system.
- VII. Post-recount reconciliation

I. OVERVIEW OF WHEN A RECOUNT MUST BE CONDUCTED

A. Automatic Recount (R.C. 3515.011)

1. Automatic recounts in district, county, and local elections

A recount must be ordered by the appropriate election officials for any district, county, municipal, or township election if the difference between votes cast for the declared winning nominee, candidate, question or issue, and the declared losing nominee, candidate, question or issue is equal to or less than one-half of one percent (0.5%) of the total votes cast on the candidate contest, question or issue.

a. Candidates

The board of elections in the county where the candidate's petition or declaration of intent to be a write-in candidate was filed shall order the recount of races for:

- (1) County, municipal, and township offices, and
- (2) District offices (including members of a board of education or educational service center governing board) of districts wholly contained within that county.

b. Questions & Issues

The board of elections in the county in which the question or issue was filed or certified shall order the recount of an election on a county, municipal, township issue, a local option question, and a school district issue, if the school district is wholly contained within that county.

2. Automatic recounts in multi-county district

The secretary of state orders the recount of any district office, question or issue involving more than one county. When the secretary of state orders an automatic recount, each county board of elections in the district must conduct a recount in its county for the election in question pursuant to the procedures in this directive. Each board of elections in the district shall report the results of its recount to the board of elections in the most populous county in the district.

3. Automatic recounts in statewide elections

An automatic recount is required in any statewide election if the difference between votes cast for two or more statewide candidates for the same race, or between votes on a state issue, is equal to or less than one-fourth of one percent (0.25%) of the total votes cast on the race or issue. The secretary of state is responsible for ordering the recount for any statewide election.

B. Requested Recount (R.C. 3515.01)**1. When appropriate**

A requested recount is appropriate only if an automatic recount of the race is not mandated by R.C. 3515.011.

2. Requested recounts in district, countywide and local candidate elections

Any candidate who was not declared the nominee or was not elected may request, by a written application accompanied by the appropriate monetary deposit (discussed below), a recount of the votes cast in the race in which he or she was a candidate, in any precinct in which he or she was a candidate. The application must be filed with the appropriate board of elections no later than five days after the official results have been certified by the board of elections or, in the case of a district containing territory in more than one county but less than the entire state, by the board of elections of the most populous county.

3. Requested recounts in issue elections of a district, political subdivision or county

Any group of five or more qualified electors who declare that they voted “for” a question or issue that was defeated, or “against” a question or issue that passed, may request, by a written application accompanied by the appropriate monetary deposit (discussed below), a recount of the votes cast on the question or issue in any precinct in which that question or issue was on the ballot. The application must be filed with the appropriate board of elections no later than five days after the official results are certified by the county board of elections or, in the case of a district located in more than one county, by the board of elections of the most populous county. The group filing for the recount must designate, in its application, one of its members as the group’s chairperson.

C. Scheduling a Recount – Providing Written Notice (R.C. 3515.03)

After an application requesting a recount has been filed, or the appropriate board of elections or the secretary of state has ordered an automatic recount, each board of elections participating in the recount shall promptly fix the time, method, and place at which the recount will be made. The recount shall be commenced not be later than 10 days after the day such application is filed or such order is made.

No later than five days after a recount application is filed or an automatic recount is ordered, each board of elections participating in the recount must give written notice of the time and place of the recount to all persons entitled to receive notice, who are as follows:

- Each person for whom votes were cast in the election that is the subject of the recount shall receive notice.
- For question or issue elections, the chairperson of the group of electors that applied for the recount shall receive notice.
- If there is an opposing committee or identifiable group of electors in opposition to the group of electors that applied for the recount, it is advisable to give notice of the time and place of the recount to an identifiable representative of such opposing group.

There must be at least five days notice of a recount, unless the notice requirement is waived in writing by all persons entitled to receive notice. Consequently, a recount may not be held sooner than the fifth day after the board certifies the election results unless each person entitled to receive notice gives the board a written waiver of the five-day notice provision.

II. AUTOMATIC RECOUNT - DETERMINING ONE-HALF OF ONE PERCENT

A. When One Candidate is to be Elected

Where there are two or more candidates for a single office but only one is to be elected, such as city auditor, the votes for all candidates in that race are added together to obtain the total vote. For example:

Candidate A 2,845 votes (declared elected)

Candidate B 2,815 votes (defeated)

Candidate C 2,795 votes (defeated)

The total vote for the office is 8,455. One-half of 1% of 8,455 is 42.275 ($8,455 \times 0.005$). Candidate A defeated Candidate B by 30 votes, which is less than 42.275. Candidate A defeated Candidate C by 51 votes, which exceeds one-half of 1% of the total votes cast for the office of city auditor. However, because one of the defeated candidates was within the one-half percent margin, the entire race is automatically recounted.

B. When Several Candidates are to be Elected

In a case where several candidates are to be elected, the term “declared winning candidate” in the statute refers to the candidate(s) whose election is disputed rather than to all of the candidates for the particular office. Using the example below, if five candidates seek election as council members-at-large, with three to be elected, only the votes cast for

Candidates 3, 4 and 5 are regarded as the “total votes” cast for the third council seat in computing the margin for an automatic recount. For example:

- Candidate 1 4,200 votes (elected)
- Candidate 2 4,100 votes (elected)
- Candidate 3 2,300 votes (declared elected)
- Candidate 4 2,275 votes (declared defeated)
- Candidate 5 2,250 votes (defeated)

Do not include the votes cast for Candidates 1 and 2 in computing the total vote for the third council seat because, based on the margin of victory, their election is not in dispute.

The votes cast for Candidates 3, 4 and 5 total 6,825. One-half of 1% of 6,825 is 34.125 ($6,825 \times 0.005$). Thus, for the third candidate seat:

- Candidate 3 defeated Candidate 4 by 25 votes, which is less than 34.125.
- Candidate 4 defeated Candidate 5 by 50 votes, which is more than 34.125.

Consequently, an automatic recount for Candidates 3 and 4 must be ordered, because the margin of votes cast for them is less than one-half of 1% of the votes cast for the third seat. Only the votes for Candidates 3, 4 and 5 are recounted, not all five candidates.

III. REQUESTED RECOUNT - APPLICATION FOR A RECOUNT

A. Written Application for a Requested Recount (R.C. 3515.01, 3515.02, 3515.03)

R.C. 3515.01 provides that a recount of the election results certified by a board of elections may be requested as follows:

1. Candidate election

A candidate who was not declared the nominee or elected in a race may make written application to the appropriate election officials for a recount of votes cast in that race in some or all of the precincts where that race was submitted to the voters.

2. Issue election

A group of five voters who voted opposite to the certified result (i.e., if the question or issue passed, they voted against it, or vice versa) may file a written application with the appropriate election officials for a recount of votes cast on that issue in all or some of the precincts where that issue was submitted to the voters.

Pursuant to R.C. 3515.02, the defeated candidate or group of voters must file a written application requesting the recount with the appropriate election officials within five days after the official canvass of the election results has been certified, as follows:

- Elections within one county: File with the county board of elections.
- Elections for district containing territory in more than one county but less than the entire state: File with the board of elections of the most populous county of the district.
- Statewide election: File with the Secretary of State.

Because R.C. 3515.03 requires an applicant for a requested recount to name each precinct to be recounted, the definition of “randomly select” in Section VI.A.10 of this directive only applies to requested recounts in situations where the total number of voters who voted on the race or issued to be recounted in the precincts named in the application exceeds 5% of the total vote cast in the election to be recounted. In such case, the board shall follow the definition of “randomly select” in Section VI.A.10. of this directive to select the initial precincts to be hand counted in order to determine whether or not the entire requested recount must be a hand count.

B. Deposit (R.C. 3515.03)

1. Amount

The applicant(s) must file with the application a deposit of \$55 in currency, bank money order, bank cashier’s check, or certified check for each precinct to be recounted.

2. Special depository fund

The board shall deposit all moneys received from an applicant in a special depository fund with the county treasurer. The expenses of the recount and refunds shall be paid from that fund upon order of the board of elections. Any balance remaining in that fund that has not been spent for the recount or refunded to the recount applicant shall be paid into the general fund of the county.

3. Purpose

The deposit serves as security to cover the cost of the recount. If all requested precincts are not counted, any unused balance is refundable to the applicant(s).

C. Assessing Recount Charges (R.C. 3515.07)

1. Calculating the charges

The board of elections calculates the charges for making the recount, including all expenses the board incurs because of the application, other than the regular operating expenses that the board would have incurred if the application had not been filed.

The quotient of the total amount of charges so calculated and fixed, divided by the number of precincts for which votes were counted and which were listed in the application, shall be the charge per precinct for the recount of the votes of the precincts actually recounted and listed in the application. The charges per precinct shall not be more than \$55, or less than \$5, for each precinct in which the votes were recounted.

The board shall deduct the charge per precinct from the money deposited by the applicant, and shall refund to the applicant the balance of the money so deposited.

2. When charges are not to be assessed

No charge per precinct shall be deducted from the recount deposit in the following circumstances:

- a. Upon the completion of the recount of a candidate nomination or election in any precinct, if either of the following occurs:

- (1) The total number of votes cast in such precinct for the applicant, as recorded by the recount, is more than four percent (4%) larger than the number of votes for the applicant in that precinct recorded in the original certified abstract, *or*
 - (2) The applicant is declared nominated or elected.
- b. Upon the completion of the recount of an issue election in any precinct if either of the following occurs:
- (1) The total number of votes in that precinct on the same side of that issue as the side represented by the applicant, as recorded by the recount, is more than four percent (4%) larger than the number of votes in that precinct on the same side of that issue recorded in the original certified abstract, *or*
 - (2) The result of that issue election is declared to be opposite to the original declaration of the result of that issue election.

IV. BEFORE THE RECOUNT

A. Establish Date and Time of the Recount (R.C. 3515.03)

No recount shall be held prior to the official canvass and certification of the election. The board members must fix the time, method, and place of the recount. The board must give five days notice of a recount; consequently, a recount must be held within six to ten days after the automatic recount has been ordered or the application requesting the recount is filed. If, however, each person entitled to receive notice of the recount files with the board a written waiver of the notice requirement, the board may commence the recount sooner than the sixth day.

B. Notice /Waiver of Notice (R.C. 3515.03)

1. Notice

a. All Recounts

Each board of elections conducting a recount must give public notice of the time and place of the recount. The notice shall be given in the same manner that the board notifies the public of the board's meeting.

b. Candidate contests

(1) Territory of office does not exceed one county

The director of a board of elections conducting a recount shall notify all candidates in the race of the time and place for the recount via certified mail. The notice shall be provided at least five days before the recount is to be held.

(2) Multi-county office

The director of the board conducting a recount shall promptly mail notice of the recount to the most populous county of the district.

(3) State office

The director shall promptly notify the secretary of state of a recount filing.

c. Questions/Issues

(1) Automatic recounts

The board of elections shall provide notice of the recount to the taxing authority that submitted the resolution or ordinance to the board of election or the petitioner who filed a petition for a question or issue, whichever is appropriate.

(2) Requested recounts

The board of elections shall give notice of the recount to the person designated as chairman by a group of electors in its application for a recount. The notice shall be provided at least five days before the recount is to be held.

Note: If the board of elections has knowledge of a group in support of or in opposition to the question or issue either by the filing of a political action committee or issue committee under R.C. 3517 or observers under R.C. 3505.21, the board should provide notice of the recount to that group.

2. Waiver

Any person or entity entitled to receive notice of the recount may waive the right to receive a mailed notice by providing the director a written waiver to that effect.

C. Recounts are Open to Observers and General Public (R.C. 3515.03; Directive 2008-29)

1. Generally

All recounts must be conducted in an open and transparent manner. To that end, Ohio law provides that duly appointed observers may be present for any recount to enhance voter confidence through a transparent process. Observers of recounts are governed by R.C. 3515.03 and 3505.21, as well as Directive 2008-29.

The following persons may observe the conduct of a recount:

• Candidate contest

Each candidate in the race to be recounted may attend and observe the recount and may designate one other person, not necessarily an elector, to also observe on his or her behalf. As set forth in Directive 2008-29, a candidate may also designate an attorney to observe the recount.

• Question or issue

- The chairperson of a committee organized in accordance with R.C. 3505.21 to support or oppose a ballot question or issue.
- The chairperson and the legal counsel designated by a group of qualified electors who applied for the recount.
- Any group of five or more qualified electors – i.e., those (1) who voted upon such question or issue and (2) whose votes were in opposition to the votes of the members of the group of electors who applied for the recount, or for whom the recount was required by R.C. 3515.011, whichever is appropriate – may file with the board of elections a written statement to that effect, shall designate in it one of

their number as chairperson of such group , may appoint an attorney at law as their legal counsel, and may request that the persons so designated be permitted to attend and observe the recount. Thereupon, the persons so designated may attend and observe the recount.

2. Observers' Appointment and Conduct

Appointments of observers must be in writing, signed by the candidate or ballot issue chairperson, and submitted no later than five days following board notification of the date and time of the recount to be conducted. An observer may freely observe the recount as set forth in Directive 2008-29, but shall neither interfere with the recount nor touch the ballots.

The rights of the public during a contemporaneous recount are not as extensive as those for duly appointed observers, as is outlined in R.C. 3505.21 for observers at the board of elections office, and as explained in Directive 2008-29.

Throughout a recount, ballots may only be handled by boards of elections members, directors, deputy directors, or other designated employees of the boards. No observer or member of the public may handle a ballot or any other election materials.

V. STOPPING A RECOUNT

A. Before a Mandatory Recount Starts (R.C. 3515.03)

R.C. 3515.03 provides that, at any time *after* a recount is ordered pursuant to R.C. 3515.011 but *before* the recount is held, the declared losing candidate or issue chairperson for a losing side may file a written request to stop the recount. If more than one losing candidate is entitled to the recount, each of the candidates must file a written request to stop the recount. If each losing candidate entitled to the recount requests the recount be stopped, the board must grant the request.

B. After the Recount Starts (R.C. 3515.04)

R.C. 3515.04 provides that, at any time during a recount, the declared losing candidate or candidates or the issue chairperson for the losing side, may file a written request to stop the recount.

If the board finds that results of the recount at that point will not change the official results, the recount must be stopped. If the board finds otherwise, the request to stop recounting must be denied and the recount must continue until all ballots from the precincts involved have been recounted.

VI. RECOUNT PROCEDURES (R.C. 3515.04, 3506.18, 3501.05)

A. All Voting Systems

1. Preparations – Optical Scan Ballots

Recount preparation includes the following steps for reconciliation of paper ballots for precincts randomly selected for the recount and/or for all ballots cast, where applicable:

- a. Select the precincts to be used in the recount (see subsequent procedures for making such random selection);
- b. Make available for inspection, upon request of observers or members of the public, receipts or other documents used to order or receive paper ballots that have been ordered from printers, including ballot stock used for ballot on demand machine ballot production, that show the total number of ballots and/or ballot stock ordered for the precincts included in the recount (including absentee voting) to document an original number of ballots printed for each precinct included in the recount. Photocopied ballots and ballot remakes should be included in this number and itemized as such per precinct that is included in the recount;
- c. Make available for inspection, upon request of observers or members of the public, documentation that shows for the precincts included in the recount the number of ballots voted, spoiled and unvoted, including absentee and provisional ballots and photocopied ballots and ballot remakes, with itemization by type of ballot per precinct that is included in the recount;
- d. Make available for inspection, upon request of observers or members of the public, documentation that shows for all absentee ballots and individually for the precincts included in the recount, where applicable, subtotals of numbers by the type of absentee ballot (regular absentee, provisional absentee, uniformed services absentee, and overseas absentee) for each total:
 - (1) the number of absentee ballots printed, whether by a printer or through ballot on demand,
 - (2) the number of absentee ballots mailed,
 - (3) the number of absentee ballots voted in person,
 - (4) the number of absentee ballots returned unvoted,
 - (5) the number of absentee ballots returned voted,
 - (6) the number of absentee ballots returned voted but returned and/or received after the applicable statutory deadline,
 - (7) the number of absentee ballots rejected and not counted, even if returned,
 - (8) the number of absentee ballots with ID envelopes containing errors that prevented the counting of such ballots, and
 - (9) the number of absentee ballots with ID envelopes containing errors that were corrected by a voter within the 10-day period after the election and able to be counted.
- e. Make available for inspection, upon request of observers or members of the public, documentation that shows the number of provisional ballots printed, whether by a printer or through ballot on demand, the number of provisional ballots voted, and the number of provisional ballots that were supplemented by the voter with required ID within the 10-day period after the election.

2. Preparations – DRE Ballots

Recount preparation includes the following steps for verifying the ballot production for direct recording electronic, AutoMark and optical scan (whether precinct-based or central count) vote tabulation machines for precincts randomly selected for the recount:

- a. Select the precincts to be used in the recount (see subsequent procedures for making such random selection). Only one selection process is necessary for both VVPAT and optical scan paper ballots for the same selected precincts for the recount.
 - b. Make available for inspection, upon request of observers or members of the public, documentation that shows both of the following:
 - (1) Whether the ballot for the race(s) or issue(s) being recounted were programmed in-house and by whom, or through an outside service such as an agent of a voting machine manufacturer or servicing company and by which individual(s), and
 - (2) When programming took place and how many times programming occurred for the machines in question for the election; and
 - c. Make available for inspection, upon request of observers or members of the public, documentation that shows when and by whom the voting machines of precincts randomly selected for the recount in question were logic and accuracy tested.
3. The recount must be conducted by teams of elections officials equally divided among the state's two major political parties (e.g., 2, 4, 6, etc.).
4. A recount team of at least two election officials must compare the total number of votes cast in the candidate contests and question or issue elections being recounted to the number of voters listed in the poll book, poll list, or signature poll book records. If more votes in a precinct appear for a particular race or issue than the number of marked names in the poll book, poll list, or signature poll book records (showing voters who voted, including absentee and provisional voters), such occurrence must be documented and reported to the Secretary of State's office immediately. Please note that each team must be comprised of election officials equally divided among the two major political parties. Any chain of custody logs for the ballots, poll worker reconciliation results, and board of elections reconciliation results should also be reviewed for each precinct being recounted. These records must be available for *visual inspection* by observers upon request; observers and members of the public shall not handle the records.
5. Ballots must be checked to verify that each candidate's race, or a question or issue has been properly identified. Observers and members of the public may observe the inspection of the ballots but may not handle ballots.
6. Regular absentee ballot envelopes returned to, or received by, the board of elections after the statutory deadline may be viewed by observers and members of the public, but shall not be handled by an observer or citizen. The ballot envelopes must remain sealed; the actual ballot contained within the envelope shall not be viewed.
7. Ballots and envelopes, whether they are outside envelopes on late returned ballots or ID envelopes for absentee or provisional ballots, must be handled only by the board of elections members, director, deputy director, or other designated board employees.
8. The board must randomly select whole precincts whose vote totals for the race or issue to be recounted equal at least 5% of the total vote in the race to be recounted.

9. The ballots for these precincts must then be manually hand counted using the procedures set forth in Directive 2008-34 (“Manual Hand Count Procedures”).
10. For the purposes of this directive, “randomly select” means the following:
 - a. Whole precincts shall be selected for the recount.

Note: Each precinct’s ballots shall include for the recount all relevant regular ballots (VVPAT and/or optical scan paper ballots), provisional ballots, and absentee ballots of all types (including provisional absentee ballots) tallied and recorded as part of the official certification. Sealed VVPAT canisters may be opened for the purposes of conducting the recount.
 - b. Enough precincts shall be selected for the recount whose total votes cast, when taken together, equal at least 5% of the total votes cast in the election at issue in the county. To calculate this percentage, multiply the number of total votes cast in the county by 0.05 and then round up to the next whole number if necessary.
 - c. The board shall employ a method that ensures that every precinct subject in the jurisdiction that is to be recounted has the same chance of being selected as any other precinct. Acceptable methods include casing multi-colored die with each different color representing a different numeral in the precinct number or drawing slips of paper from a container. If the latter is employed, the board must allow the slips of paper and the container to be inspected by observers and the public prior to commingling them inside the container for purposes of the drawing.

B. Optical Scan Voting Machines

1. Test the program

Test the voting system in the same manner in which the board performed its pre-election and pre-canvass public tests pursuant to R.C. 3506.14. (Be sure to reset vote totals to zero when test is complete so your recount totals are correct.)

2. Verify ballots

- a. After the board has randomly selected one or more precincts, the sum of whose total votes cast equals at least 5% of the total votes cast for the candidate contests, or question or issue elections being recounted, the board shall select the paper ballots to be compared with the electronic results for the precincts randomly selected for the recount.
- b. Ballots must be checked to verify that each candidate or issue has been properly identified.
- c. Ballots selected must be inspected for mutilations and other invalidities not accounted for by ballot remakes.

3. The recount

- a. For each candidate contest, question, or issue election to be recounted, a hand count of the votes cast on the optical scan paper ballots for each randomly selected precinct must be made by physical examination and hand count of the ballots (*see*

Directive 2008-34). All types of ballots must be included in the hand count (regular, absentee of all types, and provisional, including remakes for any of these types of ballots).

Note: Except as may otherwise be unavoidable (such as a recount of single-precinct local liquor option), the bipartisan teams conducting the hand count should not have access to the previously certified official results of the candidate contest, question or issue election results for that precinct.

- b. Optical Scan counties using DRE voting machines in an election must also include a hand count of the VVPATs for DREs used in the election in question, as described in Section VI. C., below, in the hand count of the precinct(s) randomly chosen for the initial 5%.
- c. At the conclusion of the hand count, the ballots shall be run through the tabulator and the electronic results shall be compared with the tally from the hand count. If the electronic results and the tally from the hand count are identical, then all ballots on which the candidate contest, question or issue to be recounted appears shall be tabulated anew using the electronic voting system (optical scan and/or DRE). If the electronic results and the tally from the hand count are not identical, then the board must ascertain whether the error is a result of the hand tally or the electronic tally. If, after three rounds of hand tallying the ballots for each randomly selected precinct still do not match, all ballots on which the candidate contest, question or issue to be recounted appears shall be hand tallied. If the contest is a local option election or another single precinct election, the hand tally shall suffice and an electronic retabulation is not necessary.
- d. In any case where the final electronic tabulation or hand tally of all ballots differs from the official certified results of that group of precincts, the official certified results shall be amended consistent with the applicable re-counted results.
- e. If the optical scan ballots used in the election being recounted have been run through the tabulator during the recount, then at the conclusion of the recount the program must be retested using the pre-marked test stack of ballots.

C. Direct Recording Electronic (DRE) Voting Machines

In accordance with R.C. 3506.18, the voter verified paper audit trail (VVPAT) serves as the official ballot to be recounted for the ballots cast on a DRE voting machine.

1. Test the program

Test the voting system in the same manner in which the board performed its pre-election and pre-canvass public tests pursuant to R.C. 3506.14. (Be sure to reset vote totals to zero when test is complete so your recount totals are correct.)

2. Verify VVPAT

- a. After the board has randomly selected one or more precincts, the sum of whose total votes cast equals at least 5% of the total votes cast for the candidate contests, or question or issue elections being recounted, the board shall select the VVPATs to be compared with the electronic results for the precincts randomly selected for the recount.

- b. VVPATs must be checked to verify that each candidate's race, question or issue has been properly identified.
- c. Check the public counters to verify the numbers on those counters correspond to the numbers on the VVPAT and the poll book, poll list, or signature poll book records.
- d. Inspect the VVPATs for mutilations and other invalidities.

3. Verify Optical Scan Ballots Cast by Absentee and Provisional Voters

DRE counties must complete the steps in Sections VI.B.1., 2., and 3.(a)-(c) and (e) on pp. 11-12 of this directive, above, for the optical scan ballots cast in the precincts randomly selected for the recount and must include the results of the hand count of those optical scan ballots in the recount as discussed in Section 4., immediately below.

4. The Recount

- a. Perform a hand count of the VVPATs in the randomly selected precincts using the procedures in Directive 2008-34 (Manual Hand Count Procedures).

Note: Except as may otherwise be unavoidable (such as a recount of single-precinct local liquor option) the bipartisan teams conducting the hand count should not have access to the previously certified official results of the candidate contest, question or issue election results for that precinct.

- b. At the conclusion of the hand count of the VVPATs, the removable media (smart cards, compact flash memory cards, etc) from each DRE for which a VVPAT was inspected must be uploaded to the central tabulation system and a report generated for only those precincts having been randomly selected for the recount. If the electronic results and the tally from the hand count are identical, then all removable media (smart cards, compact flash memory cards, etc) from each DRE at any voting location in the county at which a voter was eligible to vote on the candidate, question or issue election to be recounted must be uploaded to the central tabulation system and a report generated. If the electronic results for one machine and the tally from the hand count of the VVPAT from that same machine are not identical, then the board must ascertain whether the error is a result of the hand tally of the VVPAT or the electronic tally. If, after three rounds of hand tallying, the VVPATs for that DRE still do not match, the final hand tally of the VVPAT for that DRE shall be the recounted tally for that candidate contest, question or issue.
- c. In any case where the final electronic tabulation or hand tally of all VVPAT / DREs differs from the official certified results of that group of precincts, the official certified results shall be amended consistent with the applicable re-counted results.

VII. POST-RECOUNT ACTIONS

A. Board of Elections' Duties (R.C. 3515.05)

Upon completion of the recount or upon stopping the recount prior to such time, the board of elections shall promptly prepare and certify an amended abstract showing the votes cast in each precinct in its county in which the candidacy or issue was submitted to electors, and the amended abstract shall reflect the votes of the precincts, the ballots of which were

recounted, as shown by such recount. The board shall, pursuant to R.C. 3505.33, mail copies of the certified amended abstracts to such other boards or election officials as it was required to in the case of the original abstract that is amended by the results of the recount, and shall retain the original certified amended abstracts.

The board shall make an amended declaration of the result of such election in the same manner required in the making of its original declaration of the result of such election.

B. Remedies by Candidates/Issue Groups Affected by Partial Recounts (R.C. 3515.06)

1. Candidates

If, pursuant to R.C. 3515.04, a person who was originally declared the nominee or elected subsequently appears by the amended declaration of the results made following a recount to be not so nominated or elected, that person may, within five days after the date of such amended declaration of the results of such election, file an application accompanied by the appropriate deposit per precinct (*see* Section III, C. on pp. 5-6, above) with the board of elections for a recount of the votes cast at such election in any precinct for which ballots were not recounted. Any such recount shall be conducted in the manner provided herein.

2. Questions/Issues

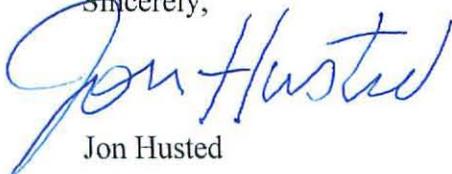
If, following a recount of votes cast in an election upon any issue, the amended declaration of the results of the election shows the result to be contrary to the originally declared result, any group of five or more qualified electors that has filed a statement with the board as provided in the third paragraph of R.C. 3515.03 may, within five days after the date of the amended declaration, file an application accompanied by the appropriate deposit per precinct (*see* Section III, C., on pp. 5-6, above) with the board for a recount of the votes in any precinct for which ballots were not recounted. Any such recount shall be conducted in the manner provided herein.

VIII. CONCLUSION

The procedures described in this directive are the basic requirements for conducting a recount. If a majority of the members of a board of elections believes the results warrant further investigation at any period during the conduct of the recount, it may institute more rigorous recounting procedures by adopting those procedures the board deems necessary in public session. In such an event, the board shall document its procedures and retain such documentation with the ballots recounted and other related forms and documents relating to the recount.

If you have any questions, please feel free to contact your county's assigned elections counsel.

Sincerely,



Jon Husted