

# Elections Division

William Francis Galvin, Secretary of the Commonwealth

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## How to Request a Recount

### Introduction

In Massachusetts, recounts are a quasi-judicial procedure based on the General Laws, court decisions, and customs developed from practical experience. A recount is a straightforward procedure if all parties involved work from the same basic understanding of established rulings and if proper decorum is maintained. The rights of all principals are clearly delineated in the statute.

*Massachusetts General Laws*, chapter 54, section 135, and section 135A are the principal references for the procedures in this publication. Sections 134, 135B, 136, and 137 of chapter 54 also contain relevant information.

The following procedures apply to all offices and questions decided in all local and state preliminaries, state primaries, and general elections. Districtwide (including statewide) recounts after state primaries and elections (including presidential primaries, except for ward and town committees) have additional requirements which are specified in Part Four of this publication.

### Part One: Before the Recount

#### Petitioning for a Recount

Candidates may initiate a recount by petitioning their city or town clerk. Only candidates for an office to be recounted may petition for a recount. Any registered voter of the city or town may petition for a recount of a ballot question. The chart below ([see fig.1](#)) shows petition filing deadlines and signature requirements for different kinds of recounts. In every case, it is wise to secure more signatures than required.

#### Where to Get Petition Forms

Recount petition forms are available from the Elections Division of the Office of the Secretary of the Commonwealth, from city and town clerks, or election commissioners. The petitioner must file a separate recount petition in each ward of a city or precinct of a town in which he desires a recount.

#### The Petition Form

Candidates who request a recount must specify on the petition form the office to be recounted, not the names of the candidates for that office. The form already contains a statement that the signers have reason to believe that the election records are erroneous and that a recount will affect the results of that election. However, the petitioner must also specify the particular reasons for the recount

request. Care should be taken in wording the petition, because no other count may be made or other information taken from the ballots than what is specified in the petition.

In communities voting by punchcard, optical scanner, and AccuVote should the petitioners want a hand count of the ballots they must state this on the form.

Voters signing a recount petition must sign in person as registered, or substantially as registered, listing their current address and their address on the preceding January 1st, if different.

Voters signing petitions for recounts of political party primaries must have been enrolled in that party on or before the last day to register to vote in that primary. (G.L. Ch. 53, § 40A)

The petition for each ward of a city or precinct of a town must be sworn to by one of the signers before a notary public and must be accompanied by a written request for a recount signed by the candidate in whose behalf it is being conducted. The candidate's request is now printed on the petition form in the upper right hand corner. The candidate need only sign each petition in the proper place.

### Filing Procedure

Recount petitions must be filed with city or town clerks except in communities with election commissions. In such cases, the petitions should be filed with the election commission.

**Note:** When filing any recount petition for a special state election, it is also essential to file with the Secretary of the Commonwealth, no later than 5:00 p.m. on the sixth day after the election, a written statement of your intention to seek a recount. (G.L. Ch. 54, § 116 )

### Certification

When they receive the recount petitions, the city or town clerk will deliver them to the registrars of voters along with the following materials from the election: sealed envelopes containing the ballots cast including absentee and challenged ballots, original tally sheets, envelopes containing spoiled and unused ballots, voting lists used at the election, certificates issued to voters omitted from the voting list, written "Affirmation of Continuous Residence", the precinct clerks' election records, applications for absentee ballots and absentee ballot envelopes, the list of voters who were sent absentee ballots indicating whether the ballots were cast or rejected as defective or whether such person voted in person, and the sealed envelopes containing the ballots rejected as defective.

After examining the petition and statement and certifying the registration of the signers, the registrars shall schedule the recount. A recount may not be held before the deadline for filing petitions.

**Fig. 1 - Filing Deadlines and Signature Requirements**

Recount Area*	Local filing deadline after a primary or preliminary election	Local deadline after election	Number of registered voter signatures required

<b>City ward(s) (except Boston)</b>	5 p.m. on the 6th day after	5 p.m. on the 10th day after	10 or more from each ward
<b>Boston ward(s)</b>	5 p.m. on the 6th day after	5 p.m. on the 10th day after	50 or more from each ward
<b>Towns with under 2500 voters or without precincts</b>	5 p.m. on the 6th day after	5 p.m. on the 10th day after	10 or more from each town
<b>Towns with over 2500 voters and precincts</b>	5 p.m. on the 6th day after	5 p.m. on the 10th day after	10 or more from each precinct

\*See [\*District-wide Recounts\*](#) for special requirements after state primaries and elections.

### Setting the Date for the Recount

After they receive the recount petition, the registrars must set the recount time and place and give at least three days written notice of this to each candidate for the office for which the recount was petitioned. In the case of a recount on a ballot question, they shall give notice to the person designated by the petitioners and to the appropriate committee organized on the other side. For a recount of any office or question appearing on a state primary or state election ballot, they shall schedule the recount to be held within six days of the filing deadline for a primary recount petition and within ten days of the filing deadline for an election recount petition. The registrars may decide when the recount will be held as soon as they receive the petition, but it may be advisable to wait until after the petition filing deadline if other recounts are possible.

Upon setting the date and time of a recount for an office or question appearing on a state primary or state election ballot, the registrars shall notify the Secretary of the Commonwealth in writing of what office or question is to be recounted, the time and place of the recount, and the number of observers (agents) to which each candidate is entitled.

### Discontinuing a Recount Filing Procedure

If the candidate who filed the petition for a recount files a written request with the city or town clerk that the recount be discontinued, the clerk shall immediately order the recount discontinued and shall notify each candidate that unless a written objection is received within 72 hours after the notice was sent, the recount shall be discontinued.

### Preparation for the Recount

Responsibility for the good order and smooth functioning of the recount proceedings lies with the registrars or election commissioners. It is preferable to have all four registrars or election commissioners at the recount, but a minimum of three is required. If necessary, a temporary registrar may be appointed by the mayor or selectmen. (G.L. Ch. 51, §20)

The registrars or election commissioners sit as "judges" of the protested ballots; they do **not** tally the vote, but may appoint the number of clerks considered necessary to do the actual recounting. In addition to clerks who read the ballot (ballot readers) and clerks who record the vote on the tally sheet (tally clerks), there should be "runners" to bring the protested ballots to the registrars for examination and decision, and if desired, a stenographer to record the protested ballots. Designated "agents" or legal counsel should make arguments respecting the protested ballots **only** to the registrars, not to the ballot readers.

Once a recount begins, all candidates (or ballot question representatives) have exactly the same rights, regardless of whether or not they requested the recount.

Each candidate for the office in question or person representing each side of a ballot question is allowed to witness the recount, accompanied by one or more counsel if desired. Each candidate or representative may also be represented by "agents", up to one "agent" for each officer or clerk reading the ballots or recording the votes. **These agents must be appointed by the candidate or counsel in writing and have the right, along with the candidate and counsel, "to watch and inspect the ballots, tally sheets and all other papers used in the recount, and to watch every individual act performed in connection therewith."**

### **The general public may also witness the recount.**

Candidates or their counsels should, prior to the recount, consult with the registrars or election commissioners regarding procedures and, in turn, instruct their agents. In some communities the registrars or commissioners instruct all parties before the recount begins. Some send out instructions to the candidates or "agents" in advance of the recount.

Physical arrangements and non-statutory procedures will vary, depending on the size of the city or town, the number of ballots to be counted, the space available and other factors. The required number of counting tables should be set up. The table for the registrars, with places for the candidates' counsels or representatives, should be separate from the tables where the counting takes place.

All candidates for the office in question may, upon request, obtain and examine the record books and the precinct clerk's book, where used; and may require that a count be made of the number of persons checked on the voting lists as having voted and that the figures on each ballot box register be examined.

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## **Part Two: The Recount**

After the registrars and their clerks are in place, the candidates' representatives and agents are admitted to the recount area upon presentation of their written authorization. Only those people directly involved in the recount should be present within the recount area. However, the public and the press must be admitted into the room where the recount is being conducted, outside the recount area, to observe the proceedings. In some communities badges are provided identifying the people present and their different capacities.

The registrars must supervise the taking of the ballots from the vault, checking for proper seals and markings. The candidates' counsels may accompany the registrars and ascertain to their satisfaction that all is in order.

## Ballots to be Counted

While all ballots are to be recounted, only the office being recounted is to be read and tallied. Those ballots protested during the recount are counted in accordance with the decision of the majority of the board of registrars. If there is a 2 - 2 vote by the board of registrars, the ballot is counted as called by the ballot reader. The recount includes counting all ballots cast for all the candidates for the office, blanks cast, all spoiled and unused ballots, and absentee ballot envelopes and applications.

## Paper Ballot Recount Procedures

Also see [Voting Machine Recount Procedures](#) and [Punchcard Voting Recount Procedures](#).

Where paper ballots are used, the boxes should be brought into the room one at a time and an envelope containing a block of 50 ballots with its tally sheet should be delivered to each counting team one at a time.

There should be two clerks on each team, facing each other across the table, one reading the ballot and one marking the tally sheet. An agent for each candidate may stand behind each clerk to watch and may keep a tally, or make notes.

Each ballot should be spread fully on the table in front of the ballot reader so that first all of the outside and then, all of the inside of the ballot is visible to everyone at the table. Only the registrars and their clerks are permitted to handle the ballots. No marks, whatsoever, are to be made on the ballots. A red pen or pencil is the only writing instrument to be used at the table by the tally clerk, who enters the ballot count on new tally sheets. Conversation should be kept at a minimum.

The recount is tallied block by block within each precinct, one precinct at a time. The final total is the result of the tally of all the precinct (and ward) totals. Usually in recounts involving more than one precinct a tabulator is stationed at a separate table. As each block is completed, the tally sheet is taken to the tabulator who records it on a blank form prepared for this purpose. The tabulator figures the precinct (and ward) totals and the final total when all the precincts (and wards) have been counted.

The candidates' counsels should try to maintain tallies also.

## The Will of the Voters

All parties to a recount should keep in mind in their examination of the ballots that the will of the voters, if it can be determined with reasonable certainty, must be given effect. If the marks on the ballot fairly indicate the voter's intent, the vote should be counted in accordance with that intent, as long as the voter has essentially complied with the election law. The voter is not to be disenfranchised because of minor irregularities. Where, however, the ballot is marked in a way that leaves the intent of the voter unclear, the vote should not be counted ([see Examples of Contested Ballot Marks](#)). Kane v. Registrars of Voters, 328 Mass. 511, 518, 105 N.E. 2d 212, 216 (1952); Munn v. Dabrowski, 335 Mass. 41, 138 N.E. 2d 570, 573 (1956).

## Protested Ballots

When a ballot is protested by any agent, the tally clerk should not record the vote. The tally clerk

should call the runner to take the ballot to the registrars' table where they make their determination in the presence of the candidates' counsels. If all the counsels agree with the registrars' ruling, the runner returns the ballot to the table where it was originally protested and reports how the registrars ruled. The tally clerk records the vote as ruled and the ballot is resealed with the remainder of the ballots from that block. If any counsel protests the ruling of the registrars, one registrar signs the back of the protested ballot and above his signature puts the block number, the office for which the vote was protested, and the name of the candidate for whom the vote was counted. This ballot is returned to the table for counting according to the registrars' ruling, and then brought back to the registrars to be segregated with other protested ballots.

If the clerks finish counting the block before the runner returns with the protested ballot, they should wait for its return before tabulating the block total or opening a new block envelope.

### **Absentee Ballots Rejected as Defective**

During a recount, the registrars examine the sealed inner ballot envelopes of absentee ballots which have previously been rejected as defective to determine whether each such ballot should have been rejected or accepted. The ballot should be rejected if the envelope is not in fact signed by the voter. The envelope should not be rejected merely because a signature is difficult to read.

The registrars make a statement on the back of each of these inner ballot envelopes giving their reason for rejecting or accepting these ballots during the recount. The statement must be signed by a majority of the registrars. This redetermination is subject to protest as each envelope is examined at the recount. If the registrars determine to accept an inner envelope originally rejected as defective, they open the envelope, count the ballot, and attach the envelope to the ballot.

### **Write-in and Sticker Voters**

Chapter 54, section 77 of the General Laws instructs a voter intending to write-in a candidate on the ballot to insert "the name and residence of such candidate in the space provided". The court has recognized the address requirement as a direction to the voter rather than a mandatory requirement. In *O'Brien v. Board of Election Commissioners*, 257 Mass. 332, 338-339, 153 N.E. 553, 556 (1926) the court said "that if the intent of the voter can be determined with reasonable certainty from an inspection of the ballot, in the light of the generally known conditions attendant upon the election, effect must be given to that intent... The omission of the residence ... on some ballots on which the name had been written by the voters rightly was found not to invalidate such votes." *Maiewski v. Board of Registrars of Voters*, 347 Mass. 681, 199 N.E. 2d 680 (1964).

An "X" placed to the right of the candidate's name is permitted but not required on a write-in or sticker vote.

For the offices of governor and lieutenant governor in a general election, a write-in or sticker vote should not be counted if it is the name of a candidate whose name is already printed on the ballot as a candidate for governor or lieutenant governor. (G.L. Ch. 54, § 78)

### **Challenged and Escrow Ballots**

If any challenged or escrow ballots were voted on election day, the registrars must also decide whether to count or reject each such ballot. Challenged ballots result when a voter whose name

appears on a voting list is challenged at the polls for some legal reason (see G.L. Ch. 54, § 85). Escrow ballots are used when a person is not allowed to vote for any reason (see G.L. Ch. 51, § 59A). Challenged ballots will have been cast in the ballot box and counted on election day; escrow ballots are kept in a separate envelope and not counted unless the original total tally was close enough for them to make a difference. Both challenged and escrow ballots are identified with the name and address of the voter, and challenged ballots also contain that of the challenger and the reason for the challenge.

The registrars should hold a hearing at the recount on whether or not to count each challenged or escrow ballot. This will usually require deciding whether the voter in question was eligible to vote. For this purpose, the registrars may issue summonses for witnesses or documents, and may administer oaths (see G.L. Ch. 51, § 59A; Ch. 233, § 8). The registrars should also notify counsel for all candidates (or for committees concerning a ballot question) of the time and place of these hearings, and give these counsel an opportunity to examine and cross-examine witnesses, present evidence, and make arguments of law. The registrars should then vote whether to count each ballot; a tie vote results in counting a challenged ballot, but in not counting an escrow ballot. The registrars should indicate on the back of each ballot their decision, signed by those registrars who agree. If they decide to count it, they should add the vote to the proper total.

## Voting Machine Recount Procedures

For recounts in communities using voting machines, the city or town clerk, or election commissioners transmit all the records of the election to the registrars. The records include the following; voting lists used in the election, the certificates issued to voters omitted from the voting lists, the original tally sheets, the precinct clerk's election record, the sealed envelopes containing challenged ballots and absentee ballots cast, the absentee ballot envelopes and applications for the absentee ballots cast at the election, the lists of voters who were sent absentee ballots with the notation as to whether such ballots were cast or rejected, or whether the voter voted in person, and the sealed envelopes containing ballots rejected as defective.

To recount votes from a printer pack voting machine, the clearest copy taken from the machine at the election should be used in the recount. The portion of the write-in roll containing any write-in or sticker votes, which was removed from the machines when the election results were tabulated, should be included with the printer packs in the election materials from each precinct transmitted to the registrars.

If the candidates and/or their representatives wish to, they may examine the voting machines, either at the precincts or a central storage facility. The machines may be examined as the first or last step in the recount proceedings, but before the results are announced.

At the recount, the office to be recounted is read from the printer pack by a team of clerks, one reading the number, one observing the numbers as read, and one recording the numbers on a new tally sheet. The printer packs are read precinct by precinct, completing the printer packs from all the machines in one precinct before starting the printer packs of the next precinct.

In a local recount, the team handling the printer pack may be able to count all the paper ballots (absentee and challenged ballots) and write-in votes as well. If a large scale recount is being held, **teams** of clerks can be set up to simultaneously tally the printer packs, absentee ballots, challenged ballots, and the write-in votes. An additional team can serve as total tabulators, adding up tallies as received from each team.

If printer packs are **not** used, the machines must be reread. Again, the candidates and/or their representatives may examine the machines either at the precincts or a central storage facility. The machines must be read by teams of clerks, one reading the results of the recounted office from the machine, one observing the numbers as read, while another clerk enters the notes on a new tally sheet. Any write-in votes on the roll are recorded ([see Write-in and Sticker Votes](#)). The results are tabulated from all machines and a recount total reached.

Recounts in all voting machine communities include examination of election records; checking the voting lists against the tally sheets containing the results of the votes counted including any paper ballots used such as absentee or challenged ballots; and examination of absentee ballot envelopes rejected as defective ([see Preparation for the Recount](#)). The registrars' determinations are subject to protest by counsel as the envelopes are examined at the recount ([see Protested Ballots](#)). The results are then re-tabulated and the corrected results certified and sent to the city or town clerk.

## **Punchcard Voting Recount Procedures**

In communities using the punchcard voting system, unless the recount petition specifies a hand count of the punchcard ballots, the recount consists of inserting the punchcard ballots, including punchcard absentee ballots, in a computer or tabulating mechanism which has been programmed and tested according to statute (G.L. Ch. 54, § 33F). Challenged ballots are examined and if ruled acceptable, are included in the tabulation. Any punchcard ballot which is rejected by the computer or counting unit, or which was mutilated so that it could not be inserted in the computer or counting unit should be counted by hand.

When hand counting the punchcards, it is helpful to prepare a mask to expose only the area with the office to be recounted on each card. The card should be placed on a different color surface to make it easier to see where the hole is punched.

The vote is tallied as called. Tally clerks read the vote by reading the number only or reading a blank if there is no vote for that office. The tally sheet should contain the name of the candidate and the punchcard number which appears next to that name.

When hand counting punchcards, the general rule about giving effect to the will of the voters ([see The Will of the Voters](#)) must be followed. There are no other firm rules which can be followed such as counting every pinprick or every punch through which any light can be seen. Instead, each punchcard ballot should be examined for any pattern followed by the particular voter. See *McCavitt v. Registrars of Voters*, 385 Mass. 833, 836-39, 434 N.E. 2d 620, 623-25 (1982).

Write-in votes on the punchcard envelopes are counted by hand ([see Write-in and Sticker Voters](#)). These are then added to the machine tabulated totals ([see also Protested Ballots](#)). Sealed envelopes containing any absentee ballots rejected as defective are examined by the registrars ([see Absentee Ballots Rejected as Defective](#)). Any recount shall be in conformity with the provisions of G.L. Ch. 54, § 135.

## **Optical Scanner Recount Procedures**

Unless the recount petition specifies a hand count of the optical scanner ballots, the recount consists of inserting the optical scanner ballots including absentee ballots, into the vote tabulator which has been programmed and tested according to statute. Challenged ballots are examined and if ruled acceptable, are included in the tabulation. Any optical scanner ballot which is rejected by the vote

tabulator or which was mutilated so that it could not be inserted in the vote tabulator should be counted by hand.

Hand counting optical scanner ballots is similar to counting paper ballots ([see Paper Ballot Recount Procedures](#)). The general rule about giving effect to the will of the voter must be followed ([see The Will of the Voters](#)). Write-in votes are counted whether or not the voter has omitted the address or failed to mark the vote indicator for the write-in or sticker candidate. Sealed envelopes containing any absentee ballots rejected as defective are examined by the registrars ([see Protested Ballots](#)).

### **When the Recount is Complete**

When the recount is complete, and with the candidates' counsels present if they wish, paper ballots and punchcard ballots must be properly sealed in their containers, certified and returned to the vault. The protested ballots must be placed in the vault in a separate, sealed and certified envelope. Only one recount of the ballots is permitted. The registrars may not order a "re-recount" unless the number of ballots in a block does not add up to the block count (e.g. there is a block of fifty ballots and the count shows 24 votes for "X", 24 for "Y", and 1 blank).

The registrars then make and sign a statement of their determination of the results of the recount. All the materials and the statement are returned to the city or town clerk or election commissioners, who must amend all records that have been found in error. The amended records stand as the true record of the election.

The results of any recount of votes cast at a primary or state election, whether or not the tally amends the record, must be reported immediately to the Secretary of the Commonwealth.

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## **Part Three: After the Recount**

The Board of Registrars' rulings are binding and any appeal must be directed to the Superior Court in a civil action. Any such appeal should be pursued as quickly as possible. Only the ballots recorded as protested at the recount are required to be produced except by express order of the court.

No officer recounting ballots may, except as required by law, make any statement or give any information regarding the ballots cast.

**In cities**, if a recount petition has been filed, the results of that election are not declared until the ballots are recounted and the results amended.

**In towns**, the results of an election are declared, even if a recount petition is filed. If it appears as a result of a recount that a different person was elected than the one declared to be elected, the registrars will sign a certificate of that fact, including the number of votes for each candidate, and file it with the town clerk. The town clerk will record the certificate and, within 24 hours, deliver a copy of the certificate both to the candidate originally declared to be elected and to the candidate who by the recount certificate appears to be elected.

The ballots and other materials are preserved for 30 days only. Ballots and other materials resulting from biennial state primaries and elections (on which ballots federal candidates appear) must be

preserved for 22 months (42 U.S.C. § 1974). To preserve materials longer than this, a candidate (or the supporters or opponents of a ballot question) should file with the city or town clerk or election commission a written claim to the office or declaration of intention to contest the election (G.L. Ch. 54, § 134).

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## Part Four: District-Wide Recounts (Including Statewide)

While basic recount procedures also apply to district-wide (including statewide) recounts of offices or questions voted on at a state primary or election (including a presidential primary, except for ward and town committees), there are some additional procedures. **These procedures may be used only if the margin of victory is not more than one-half percent of the votes cast for an office or question.**

### Petitioning

Only signers from a single city or town may sign each sheet of a district-wide recount petition. The petition must first be submitted for certification of signatures to the registrars of voters in the signers' city or town, and then filed with the Secretary of the Commonwealth no later than 5 p.m. on the day as stated in the following table.

The petition must be signed by one-fourth the number of voters required to sign a state primary nomination paper for a candidate in this district, but 1,000 for the entire state. For example, to recount a state representative office or a public policy question on the ballot in a state representative district, petitioners need 38 signatures or one-fourth of 150, the number of signatures to run as state representative in a state primary. **Check with the Elections Division for the exact number.** There is no limitation on where signatures may be obtained in the district. They may all be obtained in the same city or town. At least one signature on the entire petition must be sworn to before a notary public. Again, for a state primary district-wide recount petition, signers must have been enrolled in the proper party as of the last day to register to vote for the primary.

Activity	After a State Primary	After a State Election
Submit to local registrars	Third day	Tenth day
File with Secretary of the Commonwealth	Seventh day	Fifteenth day

After a state primary, the Secretary of the Commonwealth will order the district-wide recount conducted as soon as it appears to him that the difference in votes is within the required margin.

After a state general election, the Secretary of the Commonwealth must hold the recount petitions until after the official tabulation of votes is made by the Governor and Council. If the difference in the number of votes cast is **more** than one-half of one percent of the total votes cast, the district-wide recount will not be held. If the difference is one-half of one percent or **less** of the total vote cast, the Secretary of the Commonwealth must order the registrars of each city and town to proceed with the

recount.

**Note:** When filing any recount petition for a special state election, it is also essential to file with the Secretary of the Commonwealth, no later than 5:00 p.m. on the sixth day after the election, a written statement of your intention to seek a recount (G.L. Ch. 54, § 116).

### **Retaining the Ballots**

If a district-wide recount petition has been filed, all ballots must be retained by the city and town clerks for at least 60 days after the election.

### **Discontinuing a Recount**

If, after a district-wide recount petition for an office has been filed, the leading candidate and every other candidate whose number of votes do not differ from his by more than one-half of one percent of the total number of votes cast for the office, all request in writing that the recount be discontinued, the Secretary of the Commonwealth must transmit a "notice of discontinuance" to all registrars, who must then discontinue the recount.

### **Notice to Observers**

Three days' written notice must be given by the local registrars to the principals in a district-wide recount of an office or a question of the time and location of the recount. In the case of a recount on a question, committees that favor and oppose the question are treated as candidates and as such are entitled to receive notice of the recount and have counsels and observers attend.

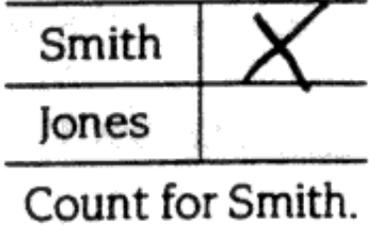
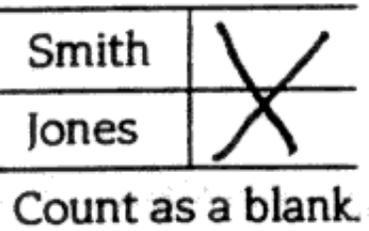
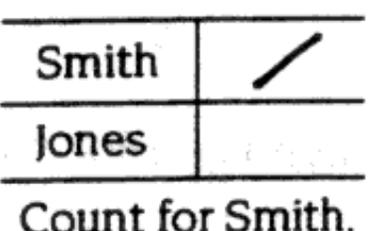
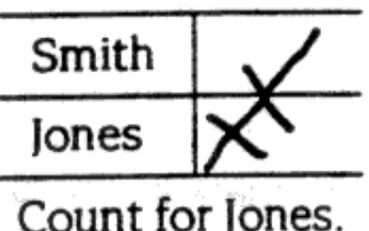
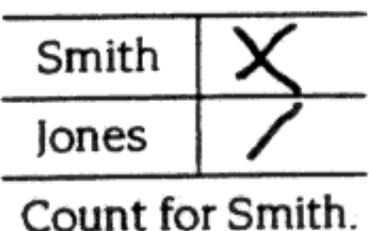
### **When the Recount is Complete**

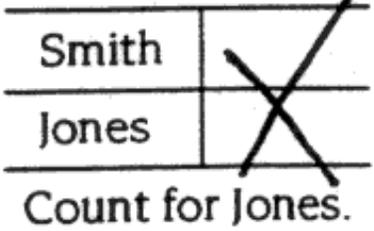
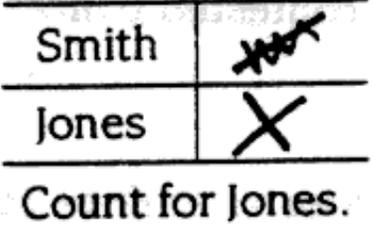
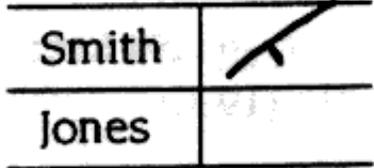
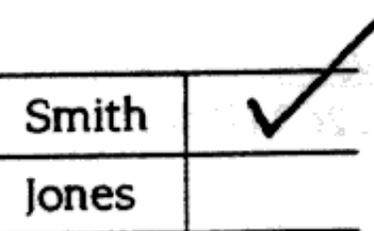
When the recount is complete, the registrars enclose and seal the ballots in envelopes or containers, keeping all protested ballots in a separate envelope; make and sign a statement of their determination of the questions raised; and return all materials to the city or town clerk. The city or town clerk amends the records, which stand as the true record of the election, and sends copies immediately to the Secretary of the Commonwealth.

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## **Part Five: Examples of Contested Ballot Marks**

These votes are examples of court rulings on contested ballots in election cases.

 <p>Smith</p> <p>Jones</p> <p>Count for Smith.</p>	<p><b>Example 1</b></p> <p><b>Cross or check within parallel lines containing name of candidate.</b></p> <p><b>Legal References:</b>  <i>Beauchemin v. Flagg</i>,                  229 Mass. 23, 118 N.E. 2d 251 (1918).   <i>Coughlin v. LeClair</i>,                  294 Mass. 434, 2 N.E. 2d 461 (1936).</p>
 <p>Smith</p> <p>Jones</p> <p>Count as a blank.</p>	<p><b>Example 2</b></p> <p><b>Apex of cross on line.</b></p> <p><b>Legal Reference:</b>  <i>Coughlin v. LeClair</i>,                  294 Mass. 434, 2 N.E. 2d 461 (1936).</p>
 <p>Smith</p> <p>Jones</p> <p>Count for Smith.</p>	<p><b>Example 3</b></p> <p><b>Diagonal marks used with some consistency.</b></p> <p><b>Legal Reference:</b>  <i>Gilligan v. Registrars of Voters</i>,                  323 Mass. 346, 82 N.E. 2d 3 (1948).</p>
 <p>Smith</p> <p>Jones</p> <p>Count for Jones.</p>	<p><b>Example 4</b></p> <p><b>More than one line intersecting diagonal, if distinguishable from attempt to obliterate.</b></p> <p><b>Legal Reference:</b>  <i>Gilligan v. Registrars of Voters</i>,                  323 Mass. 346, 82 N.E. 2d 3 (1948).</p>
 <p>Smith</p> <p>Jones</p> <p>Count for Smith.</p>	<p><b>Example 5</b></p> <p><b>"X" clearly appears in Smith box; diagonal line in Jones box inferred to be error.</b></p> <p><b>Legal Reference:</b>  <i>Gilligan v. Registrars of Voters</i>,                  323 Mass. 346, 82 N.E. 2d 3 (1948).</p>

	<p><b>Example 6</b></p> <p><b>Apex of cross within Jones box.</b></p> <p><b>Legal Reference:</b>  <i>Kane v. Registrars of Voters,</i>  <i>328 Mass. 511, 105 N.E. 2d 212 (1952).</i></p>
	<p><b>Example 7</b></p> <p><b>Obliteration or erasure.</b></p> <p><b>Legal References:</b>  <i>Kane v. Registrars of Voters,</i>  <i>328 Mass. 511, 105 N.E. 2d 212 (1952).</i></p> <p><i>Munn v. Dabrowski,</i>  <i>335 Mass. 41, 138 N.E. 2d 570 (1956).</i></p> <p><i>DePetrillo v. Registrars of Voters,</i>  <i>342 Mass. 13, 171 N.E. 2d 843 (1961).</i></p> <p><i>Desjourdy v. Board of Registrars of Voters,</i>  <i>358 Mass. 644, 266 N.E. 2d 672 (1971).</i></p> <p><i>Morris v. Board of Registrars of Voters,</i>  <i>362 Mass. 48, 283 N.E. 2d 854 (1972).</i></p>
	<p><b>Example 8</b></p> <p><b>Imperfect cross.</b></p> <p><b>Legal References:</b>  <i>Kane v. Registrars of Voters,</i>  <i>328 Mass. 511, 105 N.E. 2d 212 (1952).</i></p> <p><i>Munn v. Dabrowski,</i>  <i>335 Mass. 41, 138 N.E. 2d 570 (1956).</i></p>
	<p><b>Example 9</b></p> <p><b>Checks and crosses intermingled on ballot, or all checks.</b></p> <p><b>Legal Reference:</b>  <i>Munn v. Dabrowski,</i>  <i>335 Mass. 41, 138 N.E. 2d 570 (1956).</i></p>

<table border="1"> <tr> <td>Smith</td> <td>✓</td> </tr> <tr> <td>Jones</td> <td></td> </tr> </table> <p>Count for Smith.</p>	Smith	✓	Jones		<p><b>Example 10</b></p> <p>"V" within Smith box; no mark in Jones.</p> <p><b>Legal Reference:</b>  <i>Munn v. Dabrowski</i>,                      335 Mass. 41, 138 N.E. 2d 570 (1956).</p>
Smith	✓				
Jones					
<table border="1"> <tr> <td>Smith</td> <td>X</td> </tr> <tr> <td>Jones</td> <td>○</td> </tr> </table> <p>Count for Smith.</p>	Smith	X	Jones	○	<p><b>Example 11</b></p> <p>Consistent pattern of zeros for candidates not voted for.</p> <p><b>Legal Reference:</b>  <i>Munn v. Dabrowski</i>,                      335 Mass. 41, 138 N.E. 2d 570 (1956).</p>
Smith	X				
Jones	○				
<table border="1"> <tr> <td>Smith</td> <td></td> </tr> <tr> <td>Jones</td> <td>3</td> </tr> </table> <p>Count for Jones.</p>	Smith		Jones	3	<p><b>Example 12</b></p> <p>Use of numeral instead of cross.</p> <p><b>Legal Reference:</b>  <i>Munn v. Dabrowski</i>,                      335 Mass. 41, 138 N.E. 2d 570 (1956).</p>
Smith					
Jones	3				
<table border="1"> <tr> <td>Smith</td> <td>✓</td> </tr> <tr> <td>Jones</td> <td></td> </tr> </table> <p>Count for Smith.</p>	Smith	✓	Jones		<p><b>Example 13</b></p> <p>Clear impression of cross on paper, but only one leg pencilled.</p> <p><b>Legal Reference:</b>  <i>Desjourdy v. Board of Registrars of Voters</i>,                      358 Mass. 644, 266 N.E. 2d 672 (1971).</p>
Smith	✓				
Jones					
<table border="1"> <tr> <td>Smith</td> <td>✓</td> </tr> <tr> <td>Jones</td> <td></td> </tr> </table> <p>Count for Smith.</p>	Smith	✓	Jones		<p><b>Example 14</b></p> <p>Check mark for Smith which dips slightly into Jones' box.</p> <p><b>Legal Reference:</b>  <i>Desjourdy v. Board of Registrars of Voters</i>,                      358 Mass. 644, 266 N.E. 2d 672 (1971).</p>
Smith	✓				
Jones					

**Note:** According to court decision, all parties to a recount should keep in mind in their examination of the ballots that the will of the voter, if it can be determined with reasonable certainty, must be given effect.