

Board of Elections
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**REPEAL OF THE
RULES & REGULATIONS ADOPTED BY THE
RHODE ISLAND BOARD OF ELECTIONS ON AUGUST 29, 2002
ESTABLISHING RECOUNT ELIGIBILITY REQUIREMENTS,
STANDARDS & PROCEDURES**

The Rhode Island Board of Elections hereby repeals the within rules and regulations relating to election recounts which were adopted on August 29, 2002. Said rules and regulations are repealed pursuant to the Administrative Procedures Act (R.I.G.L. 45-3-1, et seq.) and are available for public inspection at the offices of the Rhode Island Board of Elections, 50 Branch Avenue, Providence, Rhode Island.

Section 1. Purpose

The following rules and regulations are adopted by the Board of Elections for the purpose of addressing ambiguities in the Rhode Island General Laws regarding recounts and for incorporating into the existing recount procedure a process which shall include a manual re-feeding of ballots cast in a primary election or election for public office subject to the eligibility requirements, standards and procedures set forth herein.

Section 2. Definitions

For the purpose of the within rules and regulations the following definitions are adopted and included herein:

(1) “Candidate” shall mean a person who has qualified under law to have his or her name appear on the ballot for nomination for election or election to office.

(2) “Write-in candidate” shall mean a person receiving votes or seeking election to office by virtue of having irregular ballots cast for his/her candidacy pursuant to §17-19-31.

(3) “Public office” shall mean any federal, state, municipal, school, or district office or other position that is filled by popular election, except political party offices which shall mean any state, city, town, ward, or representative or senatorial district committee office of a political party or delegate to a political party convention, or any similar office.

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Section 2 (cont.)

(4) A “Vote” shall be any mark made within the optech ballot voting area next to the party, candidate or question, as is applicable, for whom the voter casts his or her ballot.

Section 3. Application

A candidate or “write-in candidate” seeking a recount of the votes cast in his or her race and meeting the eligibility requirements set forth in these rules and regulations must make a written application to the Board of Elections to request a recount in the manner prescribed herein. Said application shall include the following:

- the name, address and daytime & evening telephone numbers of the candidate (if applicable, the application should also include the name, address and telephone numbers of an attorney or person who the candidate designates to represent him or her);
- the office for which the recount is being sought (including district number, if applicable);
- the date on which the application is made; and
- the signature of the candidate which shall be attested to by a notary public.

Applications must be delivered or mailed to the Board’s offices, 50 Branch Avenue, Providence, RI within the time frame prescribed below and will be considered to have been filed only when the signed original application is received at the Board of Elections. Applications not received within the time frame prescribed or not executed pursuant to the requirements stated herein shall be rejected.

As soon as possible after the filing of an application filed in conformance with the requirements of this section the Executive Director of the Board shall examine the results of the race for which the recount is sought and determine whether the applicant meets the eligibility requirements for a recount in the manner prescribed in these rules and regulations. Upon making said determination the Director shall proceed to notify the applicant of the disposition of his or her application and, if required, schedule a recount and notify the other candidates in the race.

<u>Deadlines for filing applications:</u>	For a primary	By 4:00 p.m. the day after the primary
	For an election	By 4:00 p.m. on the seventh (7 th) day following the election

Section 4. Eligibility Requirements - Candidates

A candidate for election or nomination for election to public office, as defined in section 2 above, shall be eligible to request a manual re-feeding of the computer ballots cast at each precinct in his or her race pursuant to the following:

- 1) In those races in which *a single candidate is elected* a candidate who trails the winning candidate may request a recount of the votes cast at each precinct by a manual re-feeding of the computer ballots cast in said race into the optical scan voting equipment provided that the candidate shall trail the winning candidate by less than the following number of votes:

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Section 4 (cont.)

- a) In those races where 20,000 or less votes are cast the candidate requesting the recount shall trail the winning candidate by two (2%) percent or 200 votes, whichever is less; in those races where the number of votes cast is between 20,001 and 100,000 the candidate requesting the recount shall trail the winning candidate by one percent (1%) or 500 votes, whichever is less; and, in those races where more than 100,000 votes are cast the candidate requesting the recount shall trail the winning candidate by one-half of one percent (1/2%) or 1,500 votes, whichever is less.
 - b) For the purpose of determining recount eligibility, as prescribed in subsection (1)(a) of this section, the number of votes cast in a race shall include the votes cast for candidates and “write-in candidates,” as defined herein, only.
- 2) In those races in which *more than one candidate is elected* a candidate who trails the winning candidate may request a recount of the votes cast at each precinct by a manual re-feeding of the computer ballots cast in said race into the optical scan voting equipment provided that the candidate shall trail the winning candidate by less than the following number of votes:
 - a) In those races where 5,000 or less votes are cast the candidate requesting the recount shall trail the winning candidate by two percent (2%) or 50 votes, whichever is less; in those races where the number of votes cast is between 5,001 and 20,000 the candidate requesting the recount shall trail the winning candidate by one percent (1%) or 100 votes, whichever is less; and, in those races where more than 20,000 votes are cast the candidate requesting the recount shall trail the winning candidate by one-half of one percent (1/2%) or 150 votes, whichever is less.
 - (b) For the purpose of determining recount eligibility, as prescribed in subsection (2)(a) of this section, the total number of votes cast in a race shall be determined by dividing the total number of votes eligible to be cast in the race by the number of candidates for whom each voter was eligible to cast votes.
 - 3) It shall be understood that a candidate for whom a recount is conducted pursuant to these rules and regulations shall be ineligible to request a recount pursuant to §17-19-37.1.
 - 4) Notwithstanding the requirements set forth herein, a candidate who trails the winning candidate by more than the minimum percentage or number of votes as required in subsections (1)(a) or (2)(a) of this section, as applicable, may petition the state board to conduct a recount of the votes cast pursuant to §17-19-37.1.

Section 5. Eligibility Requirements - “Write-In Candidates”

A “write-in candidate” for public office, as defined in section 2 above, shall not be eligible for a recount pursuant to §17-19-37.1. However, a “write-in candidate” for public office shall be eligible to request a manual recounting of the computer ballots cast at each precinct in his or her race pursuant to the following:

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Section 5 (cont.)

- a) if, following the initial manual count of all irregular ballots, the “write-in candidate” shall have received a minimum of ten (10) votes or one percent (1%) of the votes cast in the race, whichever is greater; provided, however, that if no candidates appear on the ballot in said race and only “write-in candidates” receive votes a “write-in candidate” shall be required to receive at least 10 votes in the race;

and

- b) the “write-in candidate” shall trail the winning candidate by less than the number of votes required pursuant section 4(1)(a) or 4(2)(a) above, as the case may be.

Section 6. Eligibility Requirements – Ballot Questions

In the case of ballot questions, a person, group or organization of “recognized standing,” as determined by the Board of Elections, may request a re-reading of the memory packs and having the results compared to those obtained on election night if the difference between “Approve” and “Reject” is as follows:

-if *less than 100,000* total votes* were cast, the difference is *2% or less*; or

-if *100,000 or more* total votes* were cast, the difference is *1% or less*.

The party seeking a recount of a ballot question shall be required to adhere to the deadlines and application requirements set forth in section 3 above. As part of the recount application, the party shall identify the ballot question for which the recount is being sought as well as provide evidence as to the party’s claim of “recognized standing” vis-a-vis the ballot question.

* The Total Votes cast shall be determined by adding the total number of votes cast for “Approve” and “Reject;” it shall not include over/undervoted ballots.

Section 7. Procedures For Tabulation Of Ballots

The Board of Elections shall establish the policies and procedures to be used in conducting election recounts. The Board shall implement the measures necessary to secure the ballots to be recounted and to protect and ensure the integrity of the election and recount process. With the resources available, the Board shall take the steps necessary to conduct an efficient, orderly and accurate recounting of the ballots cast in elections qualifying for recounts pursuant to §17-19-37.1 and these rules and regulations. **The results of recounts conducted pursuant to these rules and regulations shall be final.**

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Section 8. Suspension Of These Rules & Regulations

The Board of Elections shall retain the authority to suspend these rules and regulations and conduct election recounts pursuant solely to the requirements of §17-19-37.1 if it is determined that the staff and resources available to the Board are inadequate to conduct an accurate, timely recounting of the ballots cast in the manner prescribed in these rules and regulations.

These rules and regulations are repealed this 20th day of August 2004 pursuant to the Administrative Procedures Act (R.I.G.L. 42-35-1, et seq.).

By Order of the
Rhode Island Board of Elections

Roger N. Begin, Chairman