



OFFICE OF THE SECRETARY OF STATE

ELECTIONS DIVISION

Directive of the Secretary of State	Subject:	Directive Issued at the Request of:	Date:	Number:
	2020 Statutory Hand Count of Ballots	Secretary of State	November 20, 2020	2020-4

The Secretary of State in carrying out the duties of the office shall issue detailed directives necessary to maintain uniformity in the application, operation and interpretation of Oregon election laws (ORS 246.110 and ORS 246.120). The information provided here is an official directive of the Secretary of State.

ORS 254.529 requires County Elections Officials, after each primary, general and special election, to determine whether to hand count a percentage of ballots and compare the hand counted tally of votes to the tally produced by the vote tally system for the same ballots or conduct a risk-limiting audit in the manner described in ORS 254.532 and OAR 165-007-0450.

This directive provides instruction on how to conduct the hand count of ballots cast at the November 3, 2020, General Election.

Information or instruction is provided regarding:

- Hand Count Checklist
- Instructions for Completing Hand Count
- Ballot Exception Examples
- Randomly Selected Contests, Measures and Precincts or Ballot Count Batches

Bev Clarno
Secretary of State

By:

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Hand Count Checklist

- _____ **1 Observation** – make provision to allow for attendance by observers during all hand count processes.
- _____ **2 Appointment of Counting Boards** – appoint necessary personnel to conduct the hand count.
- _____ **3 Notice of Breaking Seals** – Provide notification to the Elections Division of when and where seals are to be broken, including any preliminary preparation that requires breaking seals.
- _____ **4 Tally of Ballots** – Every cast ballot counted by the tally system in the precincts or batches randomly selected must be hand counted and the voter's intent determined.
- _____ **5 Completion of *Form SEL 798 Hand Count Tally and Explanation*** – an explanation of any difference between the original count and the hand count must be provided.
- _____ **6 Returned Results** – A second hand count may be necessary if the results are returned as *Not Acceptable*.
- _____ **7 Hand Count Certification** – Upon completion of hand count process, repackage ballots in container and re-seal, or re-secure in their secured location.

Instructions for Completing Hand Count

Observation

The hand count will be conducted as openly and expeditiously as possible. Affected parties and members of the public may be present to observe the preliminary preparation as well as the during the hand count. The County Elections Official determines the number of observers based on space, security, and staff availability. The County Elections Official shall permit only so many observers as will not interfere with an orderly hand count.

Observers:

- must follow any *Observer Rules* provided or posted by the County Elections Official
- shall not interfere with the preliminary preparation or hand tally process
- do not have any other role and do not have the right to address a counting board concerning the board's handling of individual ballots
- may keep written notes of comments on the handling of individual ballots
- must direct comments, questions or any observed procedural irregularity or perceived error with the proceedings in progress to elections supervisory personnel, not to counting boards



If at any time an observer creates a distraction or otherwise impedes the progress of the preliminary preparation or the count, the proceedings may be stopped and corrective action may be taken by the elections official.

Appointment of Counting Boards

The County Elections Official shall appoint a bipartisan board to count ballots and determine the voter's intent in a uniform manner in accordance with ORS 254.529, OAR 165-007-0290 and this directive.



The County Elections Official shall appoint as many counting boards as is necessary to ensure the orderly and timely completion of the hand count.

The members of a counting board:

- shall not all be affiliated with the same political party
- shall not have been a candidate for any office voted upon at the election
- shall be compensated at least the minimum wage required by state or federal law, whichever is higher

Notices and Breaking of Seals or Opening Secured Location

The County Elections Official shall determine the date, time and place of the hand count and must provide notification to the Elections Division at least **one business day prior** to beginning the hand count.

The hand count:

- may not begin until the election results for the county have been certified to the Secretary of State
- must be started no later than November 27, 2020
- must be completed no later than December 3, 2020

Instructions for Completing Hand Count (cont.)

-  The hand count is considered to have begun upon the breaking of the first seal, or opening the secured location, for any precinct or batch selected to be hand counted. Seals may be broken, or the secured location opened, by the County Elections Official, a designated staff member or by a member of the Counting Board.

If preliminary preparation of the ballots is deemed necessary by the County Elections Official and it requires seals to be broken, or the secured location opened, the Elections Division must be notified at least **one business day prior** to breaking any seals or opening of the secured location.

-  The notice shall include the date, time and place at which such preparation will occur.

When **breaking seals** the following process shall be followed:

- prior to breaking seals the County Elections Official shall assemble all ballot containers holding ballots to be hand counted and any related material
- each seal shall be examined to ensure they have not been broken or tampered with and
- be broken in the presence of members of the counting boards and any observers present
- all ballots must be resealed in ballot containers or locked in a secure location at the close of business each day
- upon completion of any preparatory procedures or the hand count all materials must be resealed in ballot containers
- resealing may be done by individual precincts or batch, in groups of precincts or batches contained in one sealable container, or as a county as a whole

When **opening a secured location** the following process shall be followed:

- the location shall be opened in the presence of members of the counting boards and any observers present
- all ballots must be locked in a secured location at the close of business each day
- upon completion of any preparatory procedures or the hand count all materials must be returned to the secured location
- returning the ballots to the secured location may be done by individual precincts or batch, in groups of precincts or batches contained in one container, or as a county as a whole

Tally of Ballots

After breaking seals, ballots cast in precincts or batches not selected for hand counting shall be separated from those that were randomly selected and shall be returned to the ballot containers. Every cast ballot in the precincts or batches randomly selected must be hand counted. The ballots to be hand counted shall be separated into the following stacks.

1 For a measure, stacks will include:

- "yes" votes
- "no" votes
- overvotes
- undervotes
- potential exceptions

Instructions for Completing Hand Count (cont.)

2 For a candidate contest, stacks will include:

- a separate stack for each candidate listed on the ballot in the contest
- write-in votes
- overvotes
- undervotes
- potential exception



An exception is defined as any ballot that is marked by the voter in a way that the vote tally system may not have appropriately tallied the vote.

After the ballots have been separated into the appropriate stacks and inspected:

- 1 counting boards divide into teams and count one precinct or batch at a time
 - Each overvote and undervote ballot must be examined to confirm the voter's intent. An overvote occurs when an elector marks more than the allowable choices for a particular office or measure. An undervote occurs when the elector does not mark any choice for a candidate or a measure.
 - If the counting board determines that a ballot initially determined to be an undervote or an overvote is, instead a vote for a candidate or a measure, the ballot shall be set aside to be accounted for as an *Exception*.
 - The counting board may also find write-in votes for candidates on the ballot that may not have been properly assigned to the candidate by the vote tally system, or which may have been counted as undervotes or overvotes. These should also be set aside and accounted for as an *Exception*.
- 2 each team shall count each stack of ballots and compare counts
 - if the counts agree, the number shall be reported on the return sheet provided.
 - if the counts do not agree, each stack must be counted again until agreement is reached and the number reported on the return sheet provided.
- 3 the County Elections Official will compare the vote count reported by the counting board with the original vote tally system count
 - Any difference in the vote count prepared by the counting board and the original vote tally system count must be reviewed by the County Elections Official before the count of a precinct or batch is considered complete.
 - If the hand count results differ from the vote tally system results, the counting board will analyze the ballots to determine if the reason for the difference can be identified.
 - If any candidate or measure gained votes the stack of votes for that particular response position needs to be reviewed to determine if such a ballot can be identified. If the ballot is identified, it should be set aside and accounted for as an *Exception*.
- 4 The results of the hand count shall be entered into the form SEL 798 worksheet for the contest.
 - Any difference in the hand count and the vote tally system count must be explained by the elections official.

Instructions for Completing Hand Count (cont.)

Completion of Form SEL 798 Hand Count Tally and Explanation

Form SEL 798 is a fillable and savable PDF document that has been programmed to perform calculations to determine if a second hand count must be completed. A separate SEL 798 must be completed for each precinct or batch hand counted. The following fields must be entered and the SEL 798 saved for the calculation command to execute:

- Original Results – the certified results for each candidate in the contest or each measure response, for the individual precinct or batch being reported
- Hand Count Results – the results as determined by the counting board and county elections official review, for the individual precinct or batch being reported
- Difference – the total difference between the certified results and the hand count results, includes any identified exception
- Exceptions – the difference between the certified results and the hand count results that the counting board identified
- Notes and Remarks – explanation of any *Exception*

The indicator of *Acceptable* or *Not Acceptable* will appear after the command is executed to compare the difference between the certified results and the hand count results less any exceptions, to $\frac{1}{2}$ of 1% of the total votes cast for the contest or measure.



A separate SEL 798 must be completed and submitted for each contest and measure hand counted.

Returned Results – Acceptable

A separate SEL 798 must be filed with the Elections Division for each contest and measure hand counted.



No later than 5 pm on December 3, 2020.

Submit all copies of form SEL 798 to:

Elections Division
255 Capitol St NE Suite 501
Salem OR 97310

✉ elections.sos@state.or.us

or

fax 503 373-7414

Returned Results – Not Acceptable

If the formula indicates *Not Acceptable* that means that the difference between the certified results and the hand count results less any exceptions exceeds $\frac{1}{2}$ of 1% of the total votes cast for the contest or measure, and that the same ballots must be hand counted a second time.

Instructions for Completing Hand Count (cont.)

If after the second hand count the returned results remain *Not Acceptable*, ORS 254.529 requires a countywide hand count of all ballots for all contests tallied by the vote tally system.



No later than December 3, 2020.



Contact the Elections Division prior to proceeding with a complete hand count.

Hand Count Certification

The hand count determinations are not considered final until they have been certified to the Secretary of State by the County Elections Official on the SEL 798.

Once all counties have completed the hand count and filed form SEL 798, the Elections Division will compile the results and make them available at www.oregonvotes.gov.

Ballot Exception Examples

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

While the final determination is made by the counting board, these standards are adopted in the Vote by Mail Procedures Manual, revised 03/2020.

Examples

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



Yes



No (erasure has been done)

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

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



Yes



No (erasure has not been done)

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

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



Yes



No

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

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



Yes



No

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

Examples cont.

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

 **Yes**

 **Troy McClure**

 **No**

 **Seymour Skinner**

Tally as a **Yes** vote and a vote for **Seymour Skinner**.
Vote tally system probably recorded as an undervote.

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

 **Yes**

not this  **No**

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

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

 **Yes**

I want this one  **No**

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

The entire response area for a contest is crossed out.

 **Yes**

No

Tally as an **undervote**.
Unclear how vote tally system may have recorded.

Corrections are made with liquid white-out.

 **Yes**

 **No**

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

Examples cont.

No candidate name or office written-in, but, voting area is marked and no other candidate is selected

☐ Charles Montgomery Burns

☐ Edna Krabappel

☐ Luann Van Houten

☒ _____ write-in

Tally as an **undervote**.

A candidate is selected and no name is written-in, but, voting area is marked.

☐ Cecil Terwilliger

☒ Selma Bouvier

☐ Kent Brockman

☒ _____ write-in

Tally as a vote for **Selma Bouvier**.

Vote tally system recorded as an overvote.

A real or fictitious name is written-in.

☐ Charles Montgomery Burns

☐ Edna Krabappel

☐ Luann Van Houten

☒ Homer J. Simpson write-in

☐ Charles Montgomery Burns

☐ Edna Krabappel

☐ Luann Van Houten

☒ Krusty the Clown write-in

Tally each as a **write in** vote.

Examples cont.

A candidate is selected and a name is written-in.

☒ Cecil Terwilliger

☐ Selma Bouvier

☐ Kent Brockman

☒ Patty Bouvier write-in

☒ Cecil Terwilliger

☐ Selma Bouvier

☐ Kent Brockman

☐ Patty Bouvier write-in

Tally each as an **overvote**.

Vote tally system recorded an overvote and a vote for Cecil Terwilliger.

The write-in line contains a name that is the same as the one that is printed on the ballot for that office.

☒ Barney Gumble

☐ Timothy Lovejoy

☐ Ginger Flanders

☒ Barney Gumble write-in

Tally as a vote for **Barney Gumble**.

Vote tally system recorded as an overvote.

The printed candidate is selected AND the same name is written-in.

☒ Barney Gumble

☐ Timothy Lovejoy

☐ Ginger Flanders

☐ Barney Gumble write-in

Tally as a vote for **Barney Gumble**. It is NOT an overvote.

Examples cont.

Comments written-in, including none of the above and no candidate is selected.

☐ **Gil Gunderson**

☐ **Robert Terwilliger**

☐ **Moe Szyslak**

☐ None of the above **write-in**

Tally as an **undervote** vote. To be counted as a write in vote must include name.

Randomly Selected Contests, Measures and Precincts

County	Top Two Contest	Statewide Contest	Measure	Percentage of Precincts	Precincts Randomly Selected
Baker	President	Attorney General	107	3%	Haines 17
Columbia	President	Judge of the Court of Appeals, Position 9	107	3%	04 N Clatskanie-Marshland
Curry	President	State Treasurer	107	3%	10 N Gold Beach
Gilliam	President	State Treasurer	109	3%	Precinct 6
Grant	President	State Treasurer	107	3%	South Fork
Jefferson	President	Judge of the Court of Appeals, Position 9	109	3%	Metolius (11)
Lake	President	Attorney General	107	3%	Precinct 4
Lincoln	President	Attorney General	109	3%	05 Yachats
Malheur	President	US Senator	110	3%	Precinct 21
Marion	President	Judge of the Court of Appeals, Position 9	108	10%	310; 404; 407; 555; 582; 590; 625; 677; 678; 690; 779; 835
Morrow	President	Judge of the Supreme Court, Position 4	110	3%	03 Lexington
Sherman	President	US Senator	107	3%	Grass Valley
Tillamook	President	US Senator	108	3%	Mapleleaf
Union	President	Judge of the Supreme Court, Position 4	108	3%	10-Imb City
Wallowa	President	Attorney General	107	3%	Wallowa #7
Wheeler	President	Attorney General	110	3%	FOS

Randomly Selected Contests, Measures and Batches

County	Top Two Contest	Statewide Contest	Measure	Percentage of Batches	Batches Randomly Selected
Benton	President	US Senator	108	3%	AB-063; AB-080; AB-156; AB-244; AB-291; AB-312; AB-331; AB-337; AB-345; AB-352; AB-372
Clackamas	President	Judge of the Supreme Court, Position 4	108	3%	Listed separately
Clatsop	President	Secretary of State	110	3%	A0015; A0024; A0076; A0093; A0095; A0151; A0168; A0206
Coos	President	State Treasurer	107	3%	VBM-012; VBM-056; VBM-064
Crook	President	Attorney General	110	3%	VBM-0008; VBM-0042; VBM-0045; VBM-0046; VBM-0069
Deschutes	President	Secretary of State	107	3%	AB-026; AB-034; AB-070; AB-075; AB-101; AB-109; AB-145; AB-162; AB-224; AB-292
Douglas	President	US Senator	109	3%	46; 78; 99; 108; 112; 132; 165
Harney	President	US Senator	109	3%	AB-060; AB-068; AB-088
Hood River	President	Secretary of State	109	3%	VBM-0025; VBM-0035; VBM-0042
Jackson	President	Secretary of State	107	3%	Listed Separately
Josephine	President	Judge of the Supreme Court, Position 4	110	3%	EV-072; EV-073; EV-079; EV-105; EV-124; EV-129;
Klamath	President	US Senator	110	3%	ED-018; ED-039; ED-040; ED-058
Lane	President	State Treasurer	107	3%	Listed Separately
Linn	President	Secretary of State	110	3%	ED-031; ED-032; ED-039; ED-073; ED-076; ED-120; ED-172
Multnomah	President	Judge of the Supreme Court, Position 4	108	3%	Listed Separately
Polk	President	Secretary of State	110	5%	A0016; A0028; A0034; A0051; A0079; A0094; A0137; A0150; A0156; A0178; A0201; A0208; A0222
Umatilla	President	US Senator	107	3%	A0039; A0046; A0071
Wasco	President	US Senator	109	3%	AB-022; AB-029; AB-031; AB-096; AB-119; AB-128
Washington	President	Attorney General	107	3%	Listed Separately
Yamhill	President	Judge of the Supreme Court, Position 4	107	3%	Listed Separately

Separately Listed Batches

Clackamas

Scanner 1 - 62	Scanner 4 - 41
Scanner 1 - 66	Scanner 4 - 131
Scanner 1 - 77	Scanner 4 - 144
Scanner 1 - 133	Scanner 4 - 187
Scanner 1 - 185	Scanner 4 - 268
Scanner 1 - 196	Scanner 4 - 274
Scanner 1 - 207	Scanner 4 - 281
Scanner 1 - 211	Scanner 5 - 6
Scanner 1 - 286	Scanner 5 - 16
Scanner 1 - 387	Scanner 5 - 37
Scanner 1 - 434	Scanner 5 - 82
Scanner 1 - 454	Scanner 5 - 99
Scanner 1 - 474	Scanner 5 - 123
Scanner 1 - 479	Scanner 5 - 222
Scanner 2 - 4	Scanner 5 - 268
Scanner 2 - 45	Scanner 5 - 272
Scanner 2 - 79	Scanner 5 - 299
Scanner 2 - 82	Scanner 5 - 352
Scanner 2 - 131	Scanner 5 - 355
Scanner 2 - 219	Scanner 5 - 377
Scanner 2 - 243	Scanner 6 - 64
Scanner 2 - 276	Scanner 6 - 67
Scanner 2 - 302	Scanner 6 - 88
Scanner 3 - 28	Scanner 6 - 93
Scanner 3 - 91	Scanner 6 - 123
Scanner 3 - 102	
Scanner 3 - 138	
Scanner 3 - 191	
Scanner 3 - 237	
Scanner 3 - 285	
Scanner 3 - 305	
Scanner 3 - 330	
Scanner 3 - 386	
Scanner 3 - 420	
Scanner 3 - 421	
Scanner 3 - 469	
Scanner 3 - 471	
Scanner 3 - 475	
Scanner 3 - 504	
Scanner 3 - 518	
Scanner 3 - 526	

Jackson

ED-089
ED-134
ED-150
ED-169
ED-230
ED-256
ED-305
ED-307
ED-324
ED-342
ED-366
ED-377
ED-401
ED-402
ED-412
ED-447
ED-496
ED-536
ED-553
ED-638
ED-677

Lane

AB-007
AB-030
AB-070
AB-081
AB-099
AB-138
AB-212
AB-254
AB-262
AB-265
AB-267
AB-268
AB-342
AB-391
AB-393
AB-512
AB-520

Separately Listed Batches (cont.)

Multnomah

AB-0056
 AB-0077
 AB-0136
 AB-0166
 AB-0217
 AB-0235
 AB-0254
 AB-0276
 AB-0306
 AB-0320
 AB-0350
 AB-0365
 AB-0370
 AB-0457
 AB-0491
 AB-0494
 AB-0512
 AB-0515
 AB-0530
 AB-0540
 AB-0610
 AB-0706
 AB-0713
 AB-0723
 AB-0763
 AB-0797
 AB-0817
 AB-0875
 AB-0917
 AB-0929
 AB-0935
 AB-1032
 AB-1052
 AB-1055
 AB-1128
 AB-1154
 AB-1171
 AB-1177
 AB-1181

Washington

AB-010
 AB-051
 AB-148
 AB-178
 AB-180
 AB-197
 AB-237
 AB-352
 AB-356
 AB-369
 AB-388
 AB-392
 AB-439
 AB-441
 AB-524
 AB-536
 AB-539
 AB-569
 AB-676
 AB-696
 AB-710
 AB-722
 AB-756
 AB-781
 AB-807
 AB-953

Yamhill

20	1327
40	1352
50	1367
61	1394
83	1436
93	1446
107	1448
181	1509
182	1553
187	1562
196	1591
239	1783
286	1792
297	1809
334	1844
345	1934
368	1943
371	1994
375	2011
482	2021
515	2038
552	2051
588	
776	
780	
812	
849	
913	
918	
944	
960	
992	
1041	
1043	
1047	
1115	
1178	
1222	
1238	
1294	
1322	