

Effective 5/4/2022

Superseded 5/3/2023

20A-4-104 Counting ballots electronically.

- (1)
 - (a) Before beginning to count ballots using automatic tabulating equipment, the election officer shall test the automatic tabulating equipment to ensure that it will accurately count the votes cast for all offices and all measures.
 - (b) The election officer shall provide public notice of the time and place of the test:
 - (i)
 - (A) by publishing notice at least 48 hours before the test in a newspaper of general circulation in the county, municipality, or jurisdiction where the equipment is used;
 - (B) at least 10 days before the day of the test, by posting one notice, and at least one additional notice per 2,000 population of the county, municipality, or jurisdiction, in places within the county, municipality, or jurisdiction that are most likely to give notice to the voters in the county, municipality, or jurisdiction, subject to a maximum of 10 notices; or
 - (C) at least 10 days before the day of the test, by mailing notice to each registered voter in the county, municipality, or jurisdiction where the equipment is used;
 - (ii) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for four weeks before the day of the test; and
 - (iii) if the county, municipality, or jurisdiction has a website, by posting notice on the website for four weeks before the day of the test.
 - (c) The election officer shall conduct the test by processing a preaudited group of ballots.
 - (d) The election officer shall ensure that:
 - (i) a predetermined number of valid votes for each candidate and measure are recorded on the ballots;
 - (ii) for each office, one or more ballots have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes; and
 - (iii) a different number of valid votes are assigned to each candidate for an office, and for and against each measure.
 - (e) If any error is detected, the election officer shall determine the cause of the error and correct it.
 - (f) The election officer shall ensure that:
 - (i) the automatic tabulating equipment produces an errorless count before beginning the actual counting; and
 - (ii) the automatic tabulating equipment passes the same test at the end of the count before the election returns are approved as official.
- (2)
 - (a) The election officer or the election officer's designee shall supervise and direct all proceedings at the counting center.
 - (b)
 - (i) Proceedings at the counting center are public and may be observed by interested persons.
 - (ii) Only those persons authorized to participate in the count may touch any ballot or return.
 - (c) The election officer shall deputize and administer an oath or affirmation to all persons who are engaged in processing and counting the ballots that they will faithfully perform their assigned duties.
- (3)
 - (a) If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, the election officer shall ensure that two counting judges jointly :

- (i) make a true replication of the ballot with an identifying serial number;
 - (ii) substitute the replicated ballot for the damaged or defective ballot;
 - (iii) label the replicated ballot "replicated"; and
 - (iv) record the replicated ballot's serial number on the damaged or defective ballot.
- (b) The lieutenant governor shall provide to each election officer a standard form on which the election officer shall maintain a log of all replicated ballots, that includes, for each ballot:
- (i) the serial number described in Subsection (3)(a);
 - (ii) the identification of the individuals who replicated the ballot;
 - (iii) the reason for the replication; and
 - (iv) any other information required by the lieutenant governor.
- (c) An election officer shall:
- (i) maintain the log described in Subsection (3)(b) in a complete and legible manner, as ballots are replicated;
 - (ii) at the end of each day during which one or more ballots are replicated, make an electronic copy of the log; and
 - (iii) keep each electronic copy made under Subsection (3)(c)(ii) for at least 22 months.
- (4) The election officer may:
- (a) conduct an unofficial count before conducting the official count in order to provide early unofficial returns to the public;
 - (b) release unofficial returns from time to time after the polls close; and
 - (c) report the progress of the count for each candidate during the actual counting of ballots.
- (5) Beginning on the day after the date of the election, if an election officer releases early unofficial returns or reports the progress of the count for each candidate under Subsection (4), the election officer shall, with each release or report, disclose an estimate of the total number of voted ballots in the election officer's custody that have not yet been counted.
- (6) The election officer shall review and evaluate the provisional ballot envelopes and prepare any valid provisional ballots for counting as provided in Section 20A-4-107.
- (7)
- (a) The election officer or the election officer's designee shall:
 - (i) separate, count, and tabulate any ballots containing valid write-in votes; and
 - (ii) complete the standard form provided by the clerk for recording valid write-in votes.
 - (b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the poll workers shall count the valid write-in vote as being the obvious intent of the voter.
- (8)
- (a) The election officer shall certify the return printed by the automatic tabulating equipment, to which have been added write-in and absentee votes, as the official return of each voting precinct.
 - (b) Upon completion of the count, the election officer shall make official returns open to the public.
- (9) If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the election officer may direct that they be counted manually according to the procedures and requirements of this part.
- (10) After the count is completed, the election officer shall seal and retain the programs, test materials, and ballots as provided in Section 20A-4-202.