

LWME Recommendations for Recount Procedures in Ranked Choice contests.

These procedures were designed to be consistent with current Maine statutes and rules regarding recounts to the degree possible.

Under Maine Statute (§737-A. Recount), any losing candidate has standing to request a recount with deposit schedules set to deter frivolous requests. In a ranked choice contest, a candidate defeated by a close margin in any round could possibly see a path to victory should a recount overturn their defeat. Such a candidate might reasonably request a recount of the election results beginning in the round where they were defeated or in a prior round. The current statute sets deposits based on the percentage difference between the leading candidate and the requesting candidate, which may deter candidates eliminated prior to the final round from requesting recounts. However it remains possible that an individual or organization will fund a recount request in this circumstance. For the future, we recommend amending the deposit schedules to base them on the smallest number of ballots in any round that could alter the results in the final round rather than distance from the winner. We recognize that this is not possible in at this time.¹

Rule 29-250, Chapter 502 - Rules Governing the Conduct and Procedures for Election Recounts, describes a process of carrying the ballots from a municipality to a recount table where they will be formed into lots of 50. This document provides protocols for counting and recording the vote totals from each lot of ballots. Subsection 4.H should be modified to allow for the details required on a Recount Tabulation Form for a Ranked Choice Contest. It is assumed that “municipal tallies” and a “final recount tabulation” will be completed as described in rule 29-250, although forms and spreadsheets for central tabulation will need to be adjusted. Any disputed ballots will be addressed through the procedures detailed in subsection 5.

Any ranked choice recount can be addressed through a hand recount of the complete consolidated CVR, as described in Option C below. This process is complex, time consuming, and therefore expensive. The cost of a recount is borne by the state when the percentage difference between the requesting candidate and the presumed winner is less than 1% for statewide races (1.5% for legislative races). For recounts in other statewide races, the requesting candidate is required to pay the full cost of a recount that doesn't overturn the election results. Procedures that unnecessarily increase the cost of a recount serve to place additional financial risk on requesting candidates. To balance these interests, we include recommendations for more targeted recounts in Options A and B.

In the most likely case, when a recount is requested only by the second-place candidate, the requesting candidate and the apparent winner are the only designated recount candidates. Vote totals for other candidates are to “remain as indicated in the official results” and should not

¹ It is possible for a defeated candidate to see an advantage in requesting a recount of a round before the one where they were eliminated if the order of elimination could change the distribution of ballots to them.

be recounted. This can be accomplished using the procedures in “Option A - Two Candidate Recount.”

The situation is somewhat more complex, but also much less likely, when a recount is requested by the third-place candidate. The requesting candidate and the apparent winner will be designated recount candidates. The second-place candidate may or may not choose to sign on as a designated recount candidate, but aspects of their totals will be required to resolve the recount in some cases. Vote totals for other candidates defeated in prior rounds are to “remain as indicated in the official results” and should not be recounted. Procedures in “Option B - Three Candidate Recount” are designed to capture necessary data without unnecessarily increasing the estimated cost of the recount - and with it the financial risk to the requesting candidate.

Recounts requested by candidates finishing lower than third place are expected to be very rare but may occur if a candidate who lost by a tight margin sees a path to victory should a recount overturn his or her defeat. Initial tests of a four-candidate recount indicate that it is likely more efficient and accurate to conduct a full hand recount of ballots that produces a corrected version of the complete consolidated CVR than to recount only for the final four candidates. If a hand recount that produces a corrected version of the complete consolidated CVR is necessary, and we expect this to be very rare, we recommend an evaluation of the official consolidated CVR in order to plan an efficient sort process. We recommend a detailed checklist that each recount team will follow. We provide an overview in “Option C - Recount of the Complete Consolidated CVR,” with an example sort and checklist offered in Appendices D and E.²

All of these procedures are designed such that the recount can be conducted one jurisdiction at a time without commingling ballots from different jurisdictions..

It should be noted that a risk-limiting audit is dynamically responsive to the data and able to confirm the result when appropriate and also to escalate to a full recount when sufficient errors are identified. An audit does not ask candidates or their supporters to take on financial risk in order to determine whether or not the data is sound. An audit does not require up-front decisions to add steps to a recount “just in case.” The League of Women Voters of Maine continues to recommend risk-limiting audits of all Maine elections, including ranked choice elections. Such audits may decrease the number of recount requests.

² Note that batch elimination may allow a group of candidates to be defeated in a single round. If that happens, their ballots will be redistributed in order until only two candidates remain, so that the resulting tally will indicate the finishing order of the two strongest candidates and their margin of victory.

Option A - Two Candidate Recount: If the recount is requested by the second place candidate, we recommend a hand recount only of the final round.

Definition: "Recount Candidate A" refers to the apparent winner. "Recount Candidate B" refers to the requesting candidate.

Definition: "Preferred" refers to a candidate who is ranked higher than the other recount candidate on a specific ballot, but who was not selected first choice.

Note: The recount tabulation form should have separate spaces for "first choice" and "preferred" tallies for each recount candidate with a clear indication that "first choice" and "preferred" will be added together. There should be separate lines for exhausted and disputed ballots. See appendix A.

1. Examine all ballots in the lot for irregularities, including undervotes, overvotes, or duplicate rankings for the same candidate. Clip each irregular ballot to a "Nonconforming Ballot Form" (see Appendix E for an example). Before closing the lot, call for the Recount Supervisor or designated Recount Assistant. The Recount Supervisor or designated Recount Assistant will determine whether the ballot should count for Candidate A, count for Candidate B, or count as exhausted. If the recount team agrees, this rank will be recorded in the Nonconforming Ballot section of the Recount Tally form. If the recount team does not agree, the ballot and the Nonconforming Ballot form should be attached to a Disputed Ballot form and processed under the Disputed Ballot procedure.
2. Sort the conforming ballots into three piles: first choice A, first choice B, no recount candidate selected as first choice. Verify ballots in each stack. Count and record first choice votes.

Rationale: Identifying preference though first choice is a cognitively distinct activity and significantly easier when isolated from other assessments of preference. A separate recording of first choice votes allows verification of first round tallies.

3. Examine the ballots on which no recount candidate was selected as first choice to determine which, if either, of the two recount candidates is preferred. Sort ballots into three piles: prefer A, prefer B, exhausted. Verify ballots in each stack. Count and record preferred votes and exhausted ballots.

Note: Speed and accuracy are improved through the use of a template cut to focus attention on just the lines for candidates in question.

4. Confirm that all ballots in the lot have been accounted for and sign the Recount Tally form.

Option B - Three candidate recount: Recounts requested by the candidate in third place will require an analysis of votes cast for the final three candidates. The second place finisher may or may not also be a designated recount candidate.

Definition: Candidates A, B and C refer to the final three candidates in order by descending vote total at the start of the penultimate round. The apparent winner is either Candidate A or B.

In RCV contests, votes are only transferred when a preferred candidate is defeated. An RCV recount will be conducted one jurisdiction at a time and tallied only at the end of the process, so decisions about which information to collect from recounted ballots will need to be made without knowing the order of elimination.

There are three possibilities in a three-candidate recount:

- Candidate C is defeated first; his or her votes are distributed to Candidates A and B.

Note: Recounts rarely overturn election results, so this is the most likely scenario. If the second-place finisher is not a designated recount candidate, the official results will likely stand without reexamining the final round and in this case only, Candidate C could be offered the option of reducing the cost of the recount by skipping Step 6.

- Candidate B is defeated first; his or her votes are distributed to Candidates A and C.
- Candidate A is defeated first; his or her votes are distributed to Candidates B and C.

Note: This is the least likely scenario. Candidates B and C could be offered the option of reducing the cost of the recount by skipping Step 4 and agreeing to accept the distribution of Candidate A's ballots according to the official CVRs in the unlikely event that Candidate A is defeated first.

Definition: "Preferred" refers to a candidate who is ranked higher than other recount candidates on a specific ballot but who was not selected first choice.

Note: The recount tabulation form should have separate spaces for "first choice" and "preferred" for each recount candidate with a clear indication that "first choice" and "preferred" will be added together. There should be separate lines for exhausted and disputed ballots. Tallies for rankings on ballots assigned to each candidate should be recorded separately. See Appendix B.

1. Examine all the ballots in the lot for irregularities, including undervotes, overvotes, or duplicate rankings for the same candidate. Clip each irregular ballot to a "Nonconforming Ballot Form" (see Appendix E for an example). Before closing the lot, call for the Recount Supervisor

or designated Recount Assistant. The Recount Supervisor or designated Recount Assistant will determine the rank pattern of the three recount candidates for the ballot. The If the recount team agrees, this rank will be recorded in the Nonconforming Ballot section of the Recount Tally form. If the recount team does not agree, the ballot and the Nonconforming Ballot form should be attached to a Disputed Ballot form and processed under the Disputed Ballot procedure.

2. Sort the ballots into four piles examining only the first choice column: first choice A, first choice B, first choice C, no recount candidate marked as first choice. Verify ballots in each stack. Count and record first choice ballots. Set first choice ballots aside.

Rationale: Identifying preference though first choice is a cognitively distinct activity and significantly easier when isolated from other assessments of preference. A separate recording of first choice votes allows verification of municipal first round tallies.

3. Examine the ballots with no recount candidate marked as first choice to determine which of the recount candidates, if any, is preferred. Sort ballots into four piles: prefer A, prefer B, prefer C, exhausted ballots. Verify ballots in each stack. Count and record. Confirm that all ballots in the lot are accounted for.

Note: Speed and accuracy are improved through the use of a template cut to focus attention on just the lines for candidates in question.

4. Sort ballots assigned to Candidate A (either by first choice or by preference) based on the relative rank of Candidates B and C:

- Neither B nor C ranked
- Prefer B over C, including B ranked but not C
- Prefer C over B, including C ranked but not B

Note: Speed and accuracy are improved through the use of a template cut to focus attention on just the lines for candidates in question.

Verify ballots in each stack. Count and record tallies. Confirm that the total number of ranked ballots matches the total number of ballots assigned to Candidate A.

5. Sort ballots assigned to Candidate B (either by first choice or by preference) based on the relative rank of Candidates A and C.

- Neither A nor C ranked
- Prefer A over C, including A ranked but not C
- Prefer C over A, including C ranked but not A

Note: Speed and accuracy are improved through the use of a template cut to focus attention on just the lines for candidates in question.

Verify ballots in each stack. Count and record tallies. Confirm that the total number of ranked ballots matches the total number of ballots assigned to Candidate B.

6. Sort ballots assigned to Candidate C (either by first choice or by preference) based on the relative rank of Candidates A and B.

- Neither A nor B ranked
- Prefer A over B, including A ranked but not B
- Prefer B over A, including B ranked by not A

Note: Speed and accuracy are improved through the use of a template cut to focus attention on just the lines for candidates in question.

Verify ballots in each stack. Count and record tallies. Confirm that the total number of ranked ballots matches the total number of ballots assigned to Candidate C.

7. Confirm that all ballots in the lot have been accounted for and sign the Recount Tally form.

Option C - Recount of the Complete Consolidated CVR: If the recount is requested by any candidate other than one of the top three finishers³, we recommend a process to review all the paper ballots and validate the complete consolidated CVR one jurisdiction at a time. Procedures for a full recount should follow general principles, but process details will depend on the number of candidates in the race and the distribution of ranking patterns. We provide here a description of the general principles as well as a sample procedure drawn from a simulated nine candidate race.

Definition: Recount candidates A, B, C, D, etc. refer to all of the candidates in the race in descending order of first choice vote totals.

Definition: "Ranking pattern" refers to the ranked order of candidates on a ballot.

Note: See appendix C for a sample recount tabulation form based on a simulated nine-candidate race. The Recount Tabulation Form should provide a space to record the number of first choice votes for each candidate as well as a list all observed ranking patterns for the race. Observed ranking patterns will vary from one election to the next, and possibly from one jurisdiction to the next, so this form will need to be redesigned for each recount of a complete consolidated CVR. The list should be clustered to guide an

³ Or, if one of the top finishers requests a recount of a prior round as noted above.

efficient sort. If observed ranking patterns differ by jurisdiction, it may be useful to generate observed ranking lists for each jurisdiction independently.

Note: Recount teams should work from a detailed checklist designed to guide an accurate and efficient sort of the ballots. The checklist should be designed to isolate ranking patterns in the order in which they are presented on the Recount Tally Form. See appendix D for a sample checklist based on the simulated nine-candidate race.

Note: Efficiency and accuracy are improved by limiting each sort step to 3 or 4 candidates, setting aside ballots to be sorted in a further phase. In order to limit the number of piles on the table, recount teams should complete tallies for any partially sorted ballots before returning to unsorted ballots. Begin all sorts with the largest groups.

1. Examine all the ballots in the lot for irregularities, including undervotes, overvotes, or duplicate rankings for the same candidate. Clip each irregular ballot to a “Nonconforming Ballot Form” (see Appendix E for an example). Before closing the lot, call for the Recount Supervisor or designated Recount Assistant. The Recount Supervisor or designated Recount Assistant will determine the rank pattern for the ballot. If the recount team agrees, this rank will be recorded in the Nonconforming Ballot section of the Recount Tally form. If the recount team does not agree, the ballot and the Nonconforming Ballot form should be attached to a Disputed Ballot form and processed under the Disputed Ballot procedure.

2. Sort the ballots by first choice for the top three or four candidates. Return all other ballots to the “unsorted” ballots area of the table. Verify ballots in each stack. (DO NOT continue sorting by first choice at this stage. First choice sorts for remaining candidates will resume in step 5.)⁴

Note: The recount table should have marked areas for “unsorted” ballots and “completed” ballots as well as an area to stage partially counted ballots. Post-it notes should be supplied to label partially sorted ballots.

Note: Appendices C and D are based on a simulated nine-candidate race, so the first choice sort has been chunked into three batches of three candidates each. A seven candidate sort might be done in two batches, one with three candidates and another with four.

3. Count and record the number ballots marked first choice A. Use the detailed checklist (See appendix D for a sample) to sort down to unique rank patterns. As each pattern is isolated, verify, count, and record tallies on the Recount Tally Form. Once all ballots marked first choice A have been accounted for, these ballots can be moved to the ‘completed’ pile.

⁴ Our limited testing indicated that the error rate jumped when more than 3 or 4 piles were active at the same time.

Note: If a ballot is later found that matches a pattern which has already been recorded, the recount team should write "+1" next to the previously recorded tally and the ballot added to the 'completed' pile.

Note: A ballot which doesn't match a pattern on the Recount Tally Form should be treated as a nonconforming ballot.⁵

4. Repeat Step 2 for ballots each stack of ballots sorted by first choice.

Note: At this point there should be only two piles on the table; the 'completed' pile and a second with unsorted ballots from Step 1.)

5. Return to the stack of unsorted ballots. Sort by first choice for the next batch of three or four candidates, as directed by the detailed checklist. Repeat Step 2 for ballots marked first choice for each candidate in turn.

6. Continue until all ballots in the lot have been sorted and recorded. Confirm that all ballots in the lot have been accounted for and sign the Recount Tally form.

⁵ The Recount Tally Form will include all the observed ranking patterns seen on the consolidated CVR from the jurisdiction. If an additional pattern does emerge from the examination of paper ballots, that should be added manually to the Recount Tally Form.

Appendix A: Sample Recount Form for two candidate recount requested by the second place candidate.

	1st Choice	Preferred	Nonconforming	Total
Candidate A	_____	+ _____	+ _____	= _____
Candidate B	_____	+ _____	+ _____	= _____
Exhausted Ballots				_____
Disputed Ballots				_____
Lot total				_____

Appendix B: Sample Recount Form for three candidate recount.

	1st Choice	Preferred	Total
Candidate A	_____	+ _____	= _____ [A Total]
Candidate B	_____	+ _____	= _____ [B Total]
Candidate C	_____	+ _____	= _____ [C total]
Nonconforming ballots			_____
Exhausted Ballots			_____
Disputed Ballots			_____
Lot total			_____

Nonconforming Ballots

Rankings for ballots assigned to A

A X _____
A B _____
A C _____

Total _____ [Should match "A Total"]

Rankings for ballots assigned to B

B X _____
B A _____
B C _____

Rankings for ballots assigned to C

C X _____
C A _____
C B _____

Total _____ [Should match "B Total"]

Total _____ [Should match "C Total"]

Appendix C: Sample Recount Tabulation Form, recount requested by a candidate eliminated prior to the penultimate round. This sample recount tabulation form on the next page is based on a simulated data set for a 9 candidate race. Only patterns observed in the consolidated CVR should be listed on the Recount Form. For example, in this simulated race Candidates A, E and H are similar -- voters who ranked one of them first invariably ranked one of the others second and third. Candidate A was very different from Candidates B & C. Patterns which begin A, B or A, C were not observed and are not listed on the form.

First Choice Candidate A	_____
First Choice Candidate B	_____
First Choice Candidate C	_____
First Choice Candidate D	_____
First Choice Candidate E	_____
First Choice Candidate F	_____
First Choice Candidate G	_____
First Choice Candidate H	_____
First Choice Candidate I	_____
Nonconforming Ballots	_____
Blank Ballots	_____
Disputed Ballots	_____
Lot total	_____

Patterns assigned to all nonconforming ballots should be recorded here and NOT added to pattern tallies on the reverse of this form. The number of patterns listed here should match the number of nonconforming ballots above:

Ballot number:	Pattern:
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Patterns identified in the official tabulation are listed here. Ballots that do not match one of these patterns should be treated as nonconforming ballots. Ballots which match one of these patterns, but are recorded on a Nonconforming Ballot Form should NOT be tallied here and instead should be listed "Patterns assigned to nonconforming ballots" section on the front of this form.

- | | | |
|-----------------|-----------------|-------------------|
| _____ A | _____ B | _____ D |
| _____ A E | _____ B C | _____ D A |
| _____ A E D H I | _____ B C F G | _____ D A E D H I |
| _____ A E D I H | _____ B C G F | _____ D C |
| _____ A E H I | _____ B C D F G | _____ D C F B G |
| _____ A E I H | _____ B C D G F | _____ D B C F G |
| _____ A H | _____ B F C D G | |
| _____ A H E I D | _____ B G C F | _____ E |
| _____ A H D E | | _____ E A |
| _____ A H I D E | _____ C | _____ E A D H |
| _____ A I | _____ C B | _____ E H A I |
| _____ A I E H D | _____ C B F G | |
| _____ A I H E | _____ C B G F | _____ F B C G |
| _____ A I D H E | _____ C B D F G | _____ F C B G D |
| _____ A I D E H | _____ C B D G F | |
| | _____ C F B G | _____ G B C F D |
| | _____ C G B F D | _____ G C B D F |
| | | |
| | | _____ H A C E |
| | | _____ H A I E D |
| | | |
| | | _____ I H A D E |

Appendix D: A partial sample checklist for a recount requested in a round with more than three candidates in a nine-candidate field. This sample checklist is based on the patterns listed for the sample dataset in Appendix C and serves as a guide for developing an appropriate checklist for a given race

Check off each step as completed:

Note: The recount table should have marked areas for “unsorted” ballots, “completed ballots” and “partially sorted ballots” as well as a working area for active ballots.

Note: If a ballot is found with a pattern not listed on the recount form, fill out a Nonconforming Ballot Form and alert the Recount Supervisor. Cross through any affected tally and reduce by 1.

- ___ 1. Examine all ballots in the lot for irregularities, including undervotes, overvotes, or duplicate rankings for the same candidate.
Clip each irregular ballot to a “Nonconforming Ballot Form”.
Alert the Recount Supervisor.
- ___ 2. Four pile sort by marked first choice: Candidate A, Candidate B, Candidate C, other.
- ___ 3. Move unsorted ballots to the area of the table reserved for “unsorted” ballots.
- ___ 4. Use a post-it note to label ballots marked “first choice B” and “first choice C”.
Move them to the “partially sorted” area.
- ___ 5. Sort ballots marked “first choice A” by second choice.
Four pile sort: No second choice, A/E, A/H, A/I.
- ___ 6. Verify, count and record ballots with no marked second choice.
Stack in “completed” area.
- ___ 7. Use a post-it note to label ballots ranked A/H and A/I.
Move them to the “partially sorted” area.
- ___ 8. Sort ballots ranked A/E by third choice.
Four pile sort: No third choice, A/E/D, A/E/H, A/E/I.
- ___ 9. Verify, count and record ballots with no recorded third choice.
Stack in “completed” area.

_____ 10. Check that all ballots sorted A/E/H list Candidate I as fourth choice with no further rankings.

Verify, count and record. Stack in “completed” area.

_____ 11. Check that all ballots marked A/E/I list Candidate H as fourth choice with no further rankings.

Verify, count and record. Stack in “completed” area.

_____ 12. Sort ballots marked A/E/D by fourth choice. Two pile sort: A/E/D/H, A/E/D/I

_____ 13. Check that all ballots sorted A/E/D/H list Candidate I as fifth choice with no further rankings.

Verify, count and record. Stack in “completed” area.

_____ 14. Check that all ballots sorted A/E/D/I list Candidate H as a fifth choice with no further rankings.

Verify, count and record. Stack in “completed” area.

The working area should be clear. Examine any remaining ballots and either record, add to an existing tally or complete a disputed ballot form.

Bring ballots marked A/H from the “partially sorted” area.

(Detailed steps.)

The working area should be clear. Examine any remaining ballots and either record, add to an existing tally or complete a disputed ballot form.

Bring ballots marked A/I from the “partially sorted” area.

(Detailed steps)

The working area should be clear. Examine any remaining ballots and either record, add to an existing tally or complete a disputed ballot form.

Bring ballots marked “first choice B” from the “partially sorted” area.

(Detailed steps - clear working area notation as appropriate.)

Bring ballots marked “first choice C” from the “partially sorted” area.

(Detailed steps - clear working area notation as appropriate.)

Both the working area and the “partially sorted” area should be clear. Examine any remaining ballots and either record, add to an existing tally or complete a disputed ballot form.

Bring ballots from the “unsorted” area.

Four pile sort: Candidate D, Candidate E, Candidate F, other.

(Detailed steps - clear working area notation as appropriate.)

Both the working area and the “partially sorted” area should be clear. Examine any remaining ballots and either record, add to an existing tally or complete a disputed ballot form.

Bring ballots from the “unsorted” area.

Five pile sort: Candidate G, Candidate H, Candidate I, blank, other.

Any ballots in the “other” pile are either missorted or have an unlisted pattern. Examine each ballot and either record, add to an existing tally or complete a disputed ballot form.

Count and record blank ballots.

(Detailed steps - clear working area notation as appropriate.)

All undisputed ballots from the lot should be in the “completed” pile.

Appendix E: Nonconforming Ballot Form

Each nonconforming ballot should be given a unique ballot number, which should be recorded on this form and written on the front of the ballot. The Nonconforming Ballot Form should be completed and signed by the Recount Supervisor or an identified Recount Assistant.

If the recount team agrees with the pattern identified by the Recount Supervisor or Recount Assistant, the recount team should sign the Nonconforming Ballot Form, list the pattern on the in the Recount Tally form in the section marked for nonconforming ballots and attach the Nonconforming Ballot Form to the Recount Tally Form.

If the recount team does not agree with the pattern identified by the Recount Supervisor or Recount Assistant, attach the ballot and the Nonconforming Ballot Form to a Disputed Ballot form and proceed with the Disputed Ballot procedure.

Ballot number: _____

This ballot includes a(n):

_____ Overvote at rank(s) _____

Note: An overvote invalidates the overvoted rankings and all subsequent rankings marked for that contest on the ballot.

_____ Single undervote at rank(s) _____

Note: "A single skipped ranking is ignored, and the subsequent ranking is counted in the current round, as long as that ranking is for a continuing candidate."

_____ Consecutive undervotes at ranks _____

Note: When a voter does not mark (i.e., skips or leaves blank) two or more consecutive rankings, then ~~any the ballot is deemed exhausted for that contest, and no~~ subsequent candidate rankings marked on that ballot are ~~ignored~~ counted.

_____ Duplicate ranks for the same candidate

Note: If a voter marks a duplicate ranking for one candidate and ranks no other candidates, then the ballot will be counted for the highest ranking of that candidate. If the candidate with the duplicate ranking is defeated ~~and is the only candidate that has been ranked on the ballot~~, the ballot is deemed exhausted for that contest and no subsequent candidate rankings marked on that ballot are counted. If a voter marks a duplicate ranking for one candidate but also ranks other candidates, and if the candidate with the

duplicate ranking is defeated, then the vote for the next continuing candidate ranked by that voter will be counted in the next round.

_____ Pattern not listed on the Recount Tally Form

Note: This option is only applicable to a Recount of the Complete Consolidated CVR and should not be listed on Nonconforming Ballot Forms for two or three-candidate recounts.

The ranking pattern for this ballot should be recorded as:
