

2018 FLORIDA MANUAL RECOUNT

INSTRUCTIONS FOR REPRESENTATIVES

Overview

Florida Law (Fla. Admin. Code R. § 1S-2.031(3)(d)) authorizes candidates and political parties to appoint representatives to observe the conduct of the manual recount, as follows:¹

Each candidate in the recount may appoint:

- One representative to observe the County Canvassing Board; and
- One representative to observe each counting team.

Each political party with a candidate in the recount may appoint:

- One representative to observe the County Canvassing Board; and
- One representative to observe each counting team.

As a manual recount representative, you are the eyes, ears and voice of your candidate/party. Thus, **it is important for you to be an active observer**, not a passive one. You should have two goals: (1) to ensure that the recount is conducted openly, fairly and honestly, in accordance with all Florida laws and regulations, and (2) to ensure that every lawful vote is counted accurately.

To this end, it is critically important that **you must be given a full opportunity to see and hear the recount officials as they work, to object if/when they fail to follow procedures, and to object to the counting of individual ballots**. Florida law requires the recount to be conducted in a room that is "large enough to accommodate . . . the necessary number of counting teams, the canvassing board members and representatives of each candidate [and] political party." Fla. Admin. Code R. § 1S-2.031(2)(f). If the recount facilities are unsuitable, or if the recount officials or another candidate's/party's representative attempts to deny your observational rights, you should politely but firmly object and assert your rights as a representative under Fla. Admin. Code R. §§ 1S-2.031(2)(f) & (3)(d). If they do not immediately fix the situation, contact the recount hotline for further assistance.

As a representative, you should politely but firmly **inquire if you think recount officials are not following procedures, and object to the counting of any ballot on which, in your opinion and according to the valid/invalid examples provided by law, a voter has not made a definite choice**. Beyond that, you may not interfere or disturb the recount in any way. Moreover, any other member of the public may observe the recount, but may not participate in it in any way—such as by questioning recount officials, arguing with you or attempting to object to a vote. If a representative of another candidate or party, or any other member of the public, attempts to interfere or disturb the recount, request the Canvassing Board to have that individual removed from the premises. Fl. Admin. Code R. 1S-2.031(3)(g).

Manual Recount Instructions

¹ A candidate whose ultimate success or failure could not be favorably or adversely impacted by the recount, and a political party whose candidate's ultimate success or failure could not be favorably or adversely impacted by the recount, are not entitled to representation in the recount.

❶ Recount officials should present boxes of ballots with an unbroken, numbered seal. (This may be done digitally in the “Category B” states listed below.)

❷ As each precinct’s container of ballots is brought forward for recounting, the seal number from the container should be read aloud *as they are broken* to ensure that it matches the previously-recorded seal number for that precinct’s ballots. This may not occur in the “Category B” states listed below.

From there, the procedure will differ based on the type of machine used in each county. We believe that the procedures will break down roughly as follows:

<u>COUNTY TYPE</u>	<u>COUNTIES</u>
<p>Type A</p> <ul style="list-style-type: none"> • Over/undervoted ballots in more than one race were physically outstacked in the machine recount • Manual recount limited to those ballots physically outstacked in the machine recount • Those ballots physically outstacked in the machine recount will be <u>rescanned to create a new outstack containing only over/undervoted ballots in the race being recounted</u> • Recount officials will <u>review physical ballots</u> 	<p>Baker, Bay, Bradford, Brevard, Broward, Calhoun, Charlotte, Citrus, Clay, Collier, DeSoto, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Highlands, Hillsborough, Holmes, Indian River, Jackson, Jefferson, Lafayette, Lake, Lee, Levy, Liberty, Manatee, Marion, Martin, Miami-Dade, Nassau, Okaloosa, Okeechobee, Orange, Osceola, Pasco, Pinellas, Polk, Santa Rosa, Sarasota, Seminole, St. Johns, Sumter, Suwanee, Taylor, Union, Volusia, Wakulla, Walton, Washington</p>
<p>Type B</p> <ul style="list-style-type: none"> • Over/undervoted ballots in more than once race were digitally outstacked in the machine recount • Manual recount limited to those ballots digitally outstacked in the machine recount • Those ballots digitally outstacked in the machine recount are already sorted by race, so <u>no rescan is necessary</u> • Recount officials will <u>review digital ballots</u> 	<p>Alachua, Columbia, Hernando, Leon, Madison, Monroe, Putnam, St. Lucie</p>
<p>Type C</p> <ul style="list-style-type: none"> • No ballots were outstacked in the machine recount • All ballots will be rescanned in the manual recount 	<p>Palm Beach</p>

<ul style="list-style-type: none"> • The machines will be programmed to count only the race being recounted, and will <u>outstack over/undervotes in that race</u> • Recount officials will <u>review physical ballots</u> 	
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③ Outstacked ballots should be delivered, either physically or digitally, to the counting team. The counting team will review and sort the ballots into three stacks (either physical or digital):

- Ballots on which the counting team agrees that the voter **made a definite choice** in the first recounted race.
- Ballots on which the counting team agrees that the voter **did not make a definite choice** in the first recounted race.
- Ballots as to which the counting team **cannot agree** whether the voter made a definite choice—*or* any ballot to which a candidate/party **representative objects** to.

Important Notes:

- In making these determinations, **the counting team should be consulting and adhering to Florida’s Standards for Determining Voter’s Choice on a Ballot**, Fl. Admin. Code R. 1S-2.027.
- For ballots receiving an objection, the counting team must indicate objecting representative’s name and affiliation on each.
- **If the counting team refuses to count a vote according to the standards, or counts a vote in violation of the standards, you should object to the team’s determination.** The ballot will be sent to the County Canvassing Board for a determination.
- Under no circumstances should you or another candidate/party representative ever touch or handle a ballot.
- If a representative of another candidate/party is objecting to votes in bad faith, without any basis in the Standards, request the Canvassing Board to have the representative removed for interfering with the recount.

④ For those ballots as to which the counting team agrees that the voter made a clear choice in the first recounted race, the votes on those ballots are tallied and recorded. (The ballots as to which the team agreed the voter did not make a clear choice are, obviously, not counted.)

⑤ For those ballots as to which the counting team could not agree, those ballots should be placed in a container for delivery to the County Canvassing Board.

- The “container” may be an envelope, folder, basket, bin, tub, etc.
- More than one ballot may be placed in a container, but if the precinct number is not on the ballot itself, then the precinct number must be written on the container or a paper slip attached to the ballot.
- If a representative objected to the counting of a ballot, the representative’s name and affiliation must be written on the ballot container or slip.

⑥ The County Canvassing Board will review the undetermined/objected ballots and, by majority vote, decide whether or not to count those ballots’ marks as votes. Their review is under the same standard: is there a **clear indication** the voter made a **definite** choice, using the

descriptions and examples provided by law. If a majority of the Canvassing Board votes to count a ballot, the vote from that ballot is recorded.

⑦ Once the Canvassing Board has reviewed and determined all of the undetermined/objected ballots from a precinct, that precinct's ballots shall be reassembled for the next recount—combining (1) the ballots tabulated by the machines, (2) the ballots decided by the counting team and (3) the undetermined/objected ballots that were sent to the Canvassing Board. The result of this process should be a deck of ballots that matches the deck that was unsealed in Step Two, above—i.e., the full set of outstacked ballots from the machine recount in that precinct.

⑧ In Category A and C counties, when all precincts have been recounted in the first recounted race, recount officials should re-program the scanning machines to count only the votes in the second recounted race, and repeat steps one through nine, above, until all races subject to recount have been recounted.

Tips for Representatives

- Prepare for a long day or several days. Wear comfortable clothing and shoes. Bring water, snacks and food—but do not bring them into the recount area. Bring your phone, a charger and an external battery pack if you have one, as well as any necessary medications.
 - Do not use your phone to make phone calls inside the recount area, and do not take any pictures or videos of individual ballots. You *may* take photos inside the recount area if others are, or if you receive specific authority to do so. You may use your phone to send messages and take notes, subject to the authority of the County Canvassing Board to direct you to cease.
- Abide by all instructions from the County Canvassing Board and its designees. If you do not understand or agree with the Board's instructions or directions, you may inquire or object—but do so politely and concisely. If they disagree with your concern or are not responsive, do not argue or threaten them. Remember, you can be removed by law enforcement if you disturb the recount or are otherwise disruptive. **Instead, contact the recount hotline for further assistance.**
- You will be receiving multiple pieces of material you should take with you into the room: 1) your representative/attorney credential; 2) a pamphlet depicting valid/invalid vote examples under Florida law; and 3) this guide. You should take all of those into the recount room with you.
 - Note: It is not a requirement for you to present a credential. If for some reason you do not have one, you should still report to your shift.
- Your local contact or site lead will be in touch with you regarding scheduling.
- Using pen and paper, take notes of the following:
 - Any material departures from the manual recount procedures, particularly if they are unresolved or recurring.
 - What precinct was being recounted? What day/time did the issue arise? What was the nature of the issue? Who were the members of the counting team? What other representatives were present, and on behalf of what other candidate/party? How was the issue resolved or not resolved?
 - Your and others' objections to ballots—describing as best you can (including by sketching, if possible) the voter's mark, and the arguments made for/against counting that mark as a vote.
- When the recount of your precinct is complete, please snap pictures of your notes or scan them, and send them to the recount headquarters, either by texting them to the recount line at 850-756-0738, or email edo@scottforflorida.com.
- **Do not blog, live tweet or otherwise make internet postings about your experiences as a representative, and do not speak to reporters (whether on-the-record, off-the-record or on background) about the recount or the election. You are not an authorized spokesperson of any campaign or party. Please refer press inquiries to Taryn Fenske, tfenske@gop.com**