

1 Office of the Secretary of State

2

3 Adopted Rules for Administrative and Automatic Election Recounts

4 (1 MCAR SS 2.4001-2.4012); Adopted Amendments to Rules for Voter

5 Registration (1 MCAR SS 2.0101-2.1101); Adopted Amendments to

6 Rules for Preparation of the White Ballot (1 MCAR SS

7 2.2101-2.2115); Adopted Amendments to Rules for Certification

8 and Experimental and General Use of Voting Machines (1 MCAR SS

9 2.3101-2.3907); Adopted Amendments to Rules for Absentee Voting

10 and Delivery Procedures (1 MCAR SS 2.4101-2.4205)

11

12 Rules as Adopted

13 1 MCAR S 2.4001 Automatic and administrative recounts.

14 Rules 1 MCAR S 2.4001-2.4011 establish procedures for the

15 conduct of all automatic and administrative recounts provided

16 for in Minnesota Statutes, sections 204C.35 and 204C.36. The

17 secretary of state or secretary of state's designee is the

18 recount official for recounts conducted by the state canvassing

19 board. The county auditor or auditor's designee is the recount

20 official for recounts conducted by the county canvassing board.

21 The county auditor or auditor's designee shall conduct recounts

22 for county offices. The municipal clerk or clerk's designee is

23 the recount official for recounts conducted by the municipal

24 governing body. "Legal advisor" means counsel to the recount

25 official and the canvassing board for the office being

26 recounted. The scope of an automatic or administrative recount

27 is limited to the recount of the ballots cast and the

28 declaration of the person nominated or elected.

29 1 MCAR S 2.4002 Notice.

30 Within 24 hours after determining that an automatic recount

31 is required or within 48 hours of receipt of a written request

32 for a recount and filing of a bond security deposit if one is

33 required, the official in charge of the recount shall send

34 notice to the candidates for the office to be recounted. The

35 ~~notice may also be posted or published.~~ The notice must include

11-8-83

1 the date, starting time, and location of the recount, the office  
2 to be recounted, and the name of the official performing the  
3 recount. The notice must state that the recount is open to the  
4 public, and in case of an automatic recount, that the losing  
5 candidate may waive the recount.

6 1 MCAR S 2.4003 Securing ballots and materials.

7 The official who has custody of the voted ballots is  
8 responsible for keeping secure and making available to the  
9 recount all election materials. Registration cards of voters  
10 who registered on election day may be processed as required by 1  
11 MCAR S 2.0502. All other election materials must be kept secure  
12 by precinct as returned by the election judges until all  
13 recounts have been completed and until the time for contest of  
14 election has expired.

15 1 MCAR S 2.4004 Securing voting machines.

16 Where lever voting machines or electronic voting systems  
17 are used, the machines and marking devices must remain sealed  
18 and locked under the supervision of the municipal clerk. No  
19 candidate, candidate's representative, or other person, except  
20 an election official carrying out election responsibilities, may  
21 be granted access to the voting machines or marking devices.  
22 The election official having custody of the machines or marking  
23 devices is responsible for security of the machines and  
24 restricting access to them. All counting programs for  
25 electronic voting systems must be preserved in the manner  
26 required for voted ballots, and the official in charge of the  
27 jurisdiction shall certify that the true program used in the  
28 election has not been altered in any way and is available for  
29 the recount.

30 1 MCAR S 2.4005 Facilities and equipment.

31 All recounts must be accessible to the public. In a  
32 multi-county recount the secretary of state may locate the  
33 recount in one or more of the election jurisdictions or at the  
34 site of the canvassing board. Each election jurisdiction where  
35 a recount is conducted shall make available without charge to

1 the recount official or body conducting the recount adequate  
2 accessible space and all necessary equipment and facilities.  
3 Where an electronic voting system is used, the jurisdiction must  
4 make available without charge to the recount official or body  
5 conducting the recount the counting program used in the  
6 election, computers, services of technical personnel, and other  
7 equipment and facilities necessary to conduct the recount.

8 1 MCAR S 2.4006 General procedures.

9 At the opening of a recount the recount official or legal  
10 advisor shall present the procedures contained in this rule for  
11 the recount. The custodian of the ballots shall make available  
12 to the recount official the precinct summary statements, the  
13 precinct boxes or containers containing the sealed envelopes of  
14 voted ballots, and any other election materials requested by the  
15 recount official. No ballots or election materials may be  
16 handled by candidates, their representatives, or members of the  
17 public. The recount official shall arrange the counting of the  
18 ballots so that the candidates ~~or~~ and their representatives may  
19 observe the ballots as they are recounted. If other election  
20 materials are handled or examined by the recount officials, the  
21 candidates and their representatives may observe them. The  
22 recount official shall ensure that public observation does not  
23 interfere with the counting of the ballots. The recount  
24 official shall prepare a summary of the recount vote by precinct.

25 1 MCAR S 2.4007 Paper ballots.

26 Ballots must be recounted by precinct. The recount  
27 official shall open the sealed envelope of ballots and recount  
28 them in accordance with Minnesota Statutes, section 204C.22. If  
29 a candidate or candidate's representative disagrees with the  
30 recount official's determination of ~~how~~ whether and for whom the  
31 ballot should be counted, the ballot may be challenged.  
32 Challenges may not be automatic or frivolous and the challenger  
33 must state the basis for the challenge. The precinct name, the  
34 reason for the challenge, and the name of the candidate  
35 challenging the ballot must be marked on the back of each

1 challenged ballot before it is placed in an envelope marked  
2 "Challenged Ballots." After the count of votes for the precinct  
3 has been determined, all ballots except the challenged ballots  
4 must be resealed in the ballot envelopes and returned with the  
5 other election materials to the ~~precinct-boxes~~ custodian of the  
6 ballots. After the count of votes for all precincts has been  
7 determined, the challenged ballot envelope must be sealed and  
8 kept secure for presentation to the canvassing board.

9 1 MCAR S 2.4008 Lever voting machines.

10 In precincts where lever voting machines are used, the  
11 recount official shall compare the number of votes cast for each  
12 candidate as shown on the voting machine to the number of votes  
13 for each candidate recorded by the election judges from the same  
14 voting machine. Machines must be read by precinct. Only the  
15 recount official and authorized election officials may open,  
16 read, or in any way touch or handle the voting machine. The  
17 recount official shall arrange the counting so that the  
18 candidates and their representatives may observe the recorded  
19 votes on the voting machines. Absentee paper ballots must be  
20 counted in accordance with 1 MCAR S 2.4007. After the count of  
21 votes has been determined for the precinct, the absentee ballots  
22 must be resealed in their envelope and returned with the other  
23 materials to the ~~precinct-box~~ custodian of the ballots. A  
24 statement of recount results must be made for each precinct  
25 showing the machine number for each machine and the number of  
26 votes recorded for each candidate recorded on that machine.

27 1 MCAR S 2.4009 Electronic voting systems.

28 In a precinct where an electronic voting system is used,  
29 the ballot cards must be recounted on the automated equipment.  
30 A test of the program and counting equipment as provided in 1  
31 MCAR S 2.3901 must be made immediately prior to the recount.  
32 Access to the immediate area of the automatic counter or  
33 computer is limited to the recount official and legal advisor,  
34 officials of the election jurisdiction, the candidates and their  
35 representatives, and the technical persons necessary to the

1 operation of the counting equipment. An observation area must  
2 be provided for the public. Ballots must be recounted by  
3 precinct. Paper absentee ballots must be counted in accordance  
4 with 1 MCAR S 2.4007. A machine-produced report of recount  
5 results must be provided for each precinct. After the count of  
6 ballots for a precinct has been determined, all ballot cards and  
7 paper absentee ballots must be resealed in the ballot container  
8 and returned with the other materials to the ~~precinct-box~~  
9 custodian of the ballots.

10 1 MCAR S 2.4010 Canvassing board.

11 The recount official shall present the summary statement of  
12 the recount and any challenged ballots to the canvassing board.  
13 The candidate or candidate representative who made the challenge  
14 may present the basis for the challenge to the canvassing  
15 board. The canvassing board shall rule on the challenged  
16 ballots and incorporate the results into the summary statement.  
17 The canvassing board shall certify the results of the recount.  
18 Challenged ballots must be returned to the election official who  
19 has custody of the ballots.

20 1 MCAR S 2.4011 Security deposit.

21 When a bond, cash, or surety for recount expenses is  
22 required by Minnesota Statutes, section 204C.35 or 204C.36, the  
23 governing body or recount official shall set the amount of  
24 security deposit at an amount which will cover expected recount  
25 expenses. In multi-county districts, the secretary of state  
26 shall set the amount taking into consideration the expenses of  
27 the election jurisdictions in the district and the expenses of  
28 the secretary of state. The security deposit must be filed  
29 during the period for requesting an administrative recount. In  
30 determining the expenses of the recount, only the actual recount  
31 expenditures incurred by the recount official and the election  
32 jurisdiction in conducting the recount may be included. General  
33 office and operating costs may not be taken into account.