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Secretary of State

RESOLUTION BOARDS

MISSISSIPPI SECRETARY OF STATE'S OFFICE
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Objectives:

- Explain the role of the Resolution Board in securing the integrity of the election
- Devise a plan to choose and train Resolution Board members

WHAT DOES THE RESOLUTION BOARD DO?

Resolution Boards provide two essential functions after the polls have closed on Election Day:

1. Manually review all damaged, defective, blank, or overvoted ballots that have been rejected by the tabulating equipment and
2. Determine the intent of voters and record their votes as they intended them to be counted.

The Resolution Board manually counts ballots only when the ballots are...

1. Rejected by tabulating equipment because the ballots appear to be damaged, defective, or any other reason; or
2. Rejected due to a malfunction of the tabulating equipment.

The Resolution Board does not consider or count paper ballots unless the paper ballots are (1) damaged, (2) defective, (3) blank, or (4) overvoted.

PAPER BALLOTS: WHAT PAPER BALLOTS?

In counties using optical scanners in each precinct, every ballot is paper.

For all other counties, the following paper ballots will be utilized on Election Day:

- Absentee Ballots
- Affidavit Ballots
- Challenged Ballots
- Emergency Ballots
- Curbside Ballots

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RESOLUTION BOARDS

RESOLUTION BOARD: SELECTION OF MEMBERS

Members of the Resolution Board must be...

- Appointed by the Election Commission,
- Qualified electors of the county in which they serve, and
- Trained in the same manner as poll managers.

Members of the Resolution Board **cannot** be:

- Election Commissioners,
- Candidates whose names appear on the ballot, or
- Parents, siblings, or children of candidates on the ballot.

The Resolution Board must contain an odd number of not less than three (3) members.

If the election is not a primary election (General or Special Election), members of the executive committees cannot be appointed to the Resolution Board unless members of all of the party executive committees who have candidates on the ballot are appointed.

PROCEDURE FOR MANUALLY COUNTING BALLOTS

Step #1:

- During Election Day, poll managers must deposit rejected ballots by a voting machine into an envelope marked "Resolution Board". The "Resolution Board" envelope is to be handled by the Election Commission or the officials in charge of the election.

Step #2:

- The election commissioners, or the officials in charge of the election, must deliver the "Resolution Board" envelope to the judges (members) of the Resolution Board.

Step #3:

- The Resolution Board judges (members) manually review the damaged or defective ballots to determine the intent of the voter and record that vote accordingly.

Step #4: (optional)

- The Election Commission may instruct the Resolution Board to prepare a duplicate ballot to replace the damaged or defective ballot. This duplicate ballot can be processed through the tabulating equipment.



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To prepare a duplicate ballot:

- ◆ The Resolution Board must make a copy of the original damaged or defective ballot.
- ◆ The Resolution Board must mark the first original ballot as “Original #1” and the copy as “Duplicate #1”.
- ◆ The Resolution Board must prepare subsequent originals and duplicates the same with sequential

Problems with Duplicate Ballots

- ◆ Confusing and risky
- ◆ Room for error
- ◆ Double counting ballots

BLANK BALLOTS & OVERVOTES

Blank Ballots

- Blank ballots - ballots that a voting machine rejects because it does not detect a vote on the ballot.
- The Resolution Board must examine a blank ballot carefully to verify whether it is blank or marked with a “nondetectable” marking device.
- If marked with a “nondetectable” marking device, the Secretary of State’s Office recommends that the Resolution Board prepare a duplicate ballot instead of marking over the voter’s mark.
- The Secretary of State’s Office also recommends that the Election Commission put this practice in writing and record it in its minutes.

Overvotes

- Overvotes - ballots that contain more votes for a particular race or measure than the voter is allowed to cast legally.
- The Resolution Board shall inspect all ballots that are rejected by voting machines that contain overvotes.
- If the voter’s intent cannot be determined by the Resolution Board, the officials in charge of the election may use the voting machine to count the votes in the races which are unaffected by the overvote.
- All other ballots which are overvoted shall be counted manually by the Resolution Board, and voter intent shall be determined by following the provisions set forth in the statute.

IMPORTANT!!!

The Election Commission should appoint its members to the Resolution Board well in advance of an election in order to allow time to attend the required training sessions.



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2008 Minnesota Senate Race

The Important Role of the Resolution Board

At the end of Election Day in Minnesota, the race for United States Senator had seemingly been decided by a mere 215 vote margin. However, the number of rejected ballots counted by the Resolution Board changed that result completely, for the loser on Election Day currently serves his state in Congress.

Test your skills by visiting the following website to rule on several sample ballots from the 2008 Senate race in Minnesota.

http://minnesota.publicradio.org/features/2008/11/19_challenged-ballots/round1/

OVERVOTED BALLOTS: STANDARDS FOR EVALUATION

Standard #1: An overvote for any office or measure results in an invalid vote for that entire office or measure, and the voter is deemed to have voted for none. An undervote for a particular office or measure will be valid, but no vote will be counted more than once.

Standard #2: If a voter casts more than one vote for the same candidate, the first vote is valid, and the other votes for that candidate are invalid.

Standard #3: A write-in vote for a candidate will not be considered to be defective if the name is misspelled or identified by an abbreviation so long as the intent of the voter can be ascertained.

Standard #4: When a voter writes in the name of a candidate for President of the United States whose name is printed on the ballot, the failure by the voter to write in the name of a Vice Presidential choice does not invalidate the voter for the slate of electors.

Standard #5: For any ballot measure in which the words "for" or "against" are used, the Resolution Board shall count a vote where a voter marks the ballot by writing the words "for" or "against" so long as it is not written next to the space that is contrary to the preference.

Standard #6: For any ballot measure in which the words "yes" or "no" are used, the Resolution Board shall count a vote where a voter marks the ballot by writing the words "yes" or "no" so long as it is not written next to the space that is contrary to the preference.

OMR BALLOT: ACCEPTABLE MARKS

In reviewing a ballot that a voter fails to fill in the circle, the Resolution Board shall count the vote if...

- The voter marks the circle with an (X) or checkmark and the lines intersect within or on the line of the circle by the ballot measure or candidate.
- The voter blackens the circle and the blackened portion extends beyond the boundaries of the circle.
- The voter marks the ballot with an (X) or checkmark and the lines that form the mark intersect adjacent to the ballot measure or the name of the candidate.
- The voter underlines the ballot measure or the name of the candidate.
- The voter draws a line from the circle to a ballot measure or the name of a candidate.
- The voter draws a circle around the ballot measure or the name of the candidate.
- The voter draws a circle around the circle adjacent to the ballot measure of the name of the candidate.

VOTING EQUIPMENT

- OMR and automatic tabulating equipment shall be programmed, calibrated, adjusted, and setup to reject ballot cards that appear to be damaged or defective.
- Any switch, lever, or feature on the OMR or automatic tabulating equipment that enables or permits the equipment to override the rejection of damaged or defective ballot cards so that such cards will not be reviewed by the Resolution Board, shall not be utilized.

RESOLUTION BOARD STATUTES

§ 23-15-483 - Counting vote.

- (1) All proceedings at the counting center shall be under the direction of the commissioners of elections or officials in charge of the election, and shall be conducted under the observation of the public, but no persons except those authorized for the purpose shall touch any ballot or ballot card or return. All persons who are engaged in processing and counting of the ballots shall be deputized in writing and take an oath that they will faithfully perform their assigned duties. Persons assigned to operate the automatic tabulating equipment shall submit evidence satisfactory to the commissioners of elections or officials in charge of the elections of their qualifications to operate said equipment.
- (2) The commissioners of elections or the officials in charge of the election shall appoint qualified electors of the county to serve as judges on a resolution board in the manner provided in [Section 23-15-523](#) to review all ballots that have been rejected by the electronic voting system tabulating equipment and are damaged or defective. An odd number of members shall be appointed to the resolution board.
- (3) (a) If any ballot is damaged or defective so that it cannot be properly counted by the automatic tabulating equipment, the ballot shall be deposited in an envelope provided for that purpose marked "RESOLUTION BOARD." All such ballots shall be carefully handled so as to avoid disturbing any chad or mark on the ballot.
 - (b) The commissioners of election or officials in charge of the election shall direct the judges or the resolution board to manually count any damaged or defective ballots, who shall determine the intent of the voter and record the vote consistent with this determination.
 - (c) As an alternative to the procedure provided for in paragraph (b) of this subsection, the resolution board may be instructed by the officials in charge of the election to prepare a duplicate to the damaged or defective ballot in the following manner:
 - (i) The resolution board shall prepare a duplicate to the original damaged or defective ballot marked identically to the original.
 - (ii) The resolution board shall mark the first original they examine as "Original #1" and the duplicate of this original as "Duplicate #1." Subsequent originals and duplicates shall be likewise marked and numbered consecutively so the duplicate of each original can be identified. Duplicate ballots may be printed in a different color from the original ballots so that they may be easily distinguished for the originals.
 - (iii) The duplicate ballots prepared pursuant to this paragraph shall be counted by the electronic tabulating equipment.

RESOLUTION BOARD STATUTES

§ 23-15-483 - Counting vote.

- (4) If the resolution board is directed to manually count damaged or defective ballots, the board shall examine each damaged or defective ballot and determine the intent of the voter. A vote on a ballot in which a hole is punched by the voter to indicate a vote shall not be counted unless:
- (a) At least two (2) corners of the chad are detached;
 - (b) Light is visible through the hole;
 - (c) An indentation on the chad from the stylus or other object is clearly present and indicates a clearly ascertainable intent of the voter to vote; or
 - (d) The chad reflects by other means a clearly ascertainable intent of the voter to vote based on the totality of the ballot.
- (5) All ballots that are rejected by the automatic tabulating equipment and which contain overvotes shall be inspected by the resolution board. In cases in which a ballot appearing to contain overvotes is reviewed by the resolution board, the board shall apply the following standards in determining the intent of the voter:
- (a) When an elector casts more votes for any office or measure than the voter is entitled to cast, all the elector's votes for that office or measure are invalid and the voter shall be deemed to have voted for none of them.
 - (b) In an election for President of the United States, if the voter votes for both the candidates for president and vice president of the United States from the same party ticket or independent candidate choices, if such option is available to the voter due to the design of the electronic voting system ballot, then the vote is counted as a single vote for the joint candidates for president and vice president.
- (6) Subsections (2) and (3) of this section shall not super cede any clearly ascertainable intent of the voter.
- (7) If for any reason it becomes impractical to count all or a part of the ballots with the automatic tabulating equipment, the officials in charge of the election may direct that the ballots be counted manually and voter intent shall be determined by following the provisions of subsections (2), (3) and (4) of this section in cases of overvoted ballots or those appearing to be blank.

RESOLUTION BOARD STATUTES

§ 23-15-483 - Counting vote.

- (8) The return printed by the automatic tabulating equipment, to which have been added the ballots that have been manually counted and which has been duly certified by the officials in charge of the election, shall constitute the official return of each voting precinct or supervisors district. Unofficial and incomplete returns may be released during the count. Upon completion of the count, the official returns shall be open to the public.
- (9) Automatic tabulating equipment shall be programmed, calibrated, adjusted and set up to reject ballot cards that appear to be damaged or defective. Any switch, lever or feature on automatic tabulating equipment that enables or permits the automatic tabulating equipment to override the rejection of damaged or defective ballot cards so that such cards will not be reviewed by the resolution board shall not be utilized.
- (10) Ballots shall be manually counted by the resolution board only when the ballots are:
- (a) Properly before the resolution board due to being rejected by the automatic tabulating equipment because the ballots appear to be damaged or defective or are rejected by the automatic tabulating equipment for any other reason; or
 - (b) Properly before the resolution board due to a malfunction in the automatic tabulating equipment.
- (11) The resolution board shall make and keep a record regarding the handling and counting of all ballots inspected under this section.

§ 23-15-523 - Counting vote.

- (1) All proceedings at the counting center shall be under the direction of the commissioners of elections or officials in charge of the election, and shall be conducted under the observations of the public, but no persons except those authorized for the purpose shall touch any ballot. All persons who are engaged in processing and counting of the ballots shall be deputized in writing and take oath that they will faithfully perform their assigned duties.
- (2) The commissioners of elections or the officials in charge of the election shall appoint qualified electors who have received the training required by subsection (1) of this section to serve as judges on the "resolution board." An odd number of not less than three (3) members shall be appointed to the resolution board. The members of the board shall take the oath provided in Section 268, Mississippi Constitution of 1890. All ballots that have been rejected by the OMR tabulating equipment and that are damaged or defective, blank or overvoted will be reviewed by said board. Commissioners of election, candidates who are on the ballot at the election and the parents, siblings or children of such a candidate shall not be appointed to the resolution board. If the election is not a primary election, members of the party executive committees shall not be appointed to the resolution board unless members of all of the party executive committees who have a candidate on the ballot are appointed to the resolution board.

RESOLUTION BOARD STATUTES

§ 23-15-523 - Counting vote.

- (3) (a) If any ballot is damaged or defective so that it cannot be properly counted by the OMR tabulating equipment, the ballot will be deposited in an envelope provided for that purpose marked "RESOLUTION BOARD." All such ballots shall be carefully handled so as to avoid altering, removing or adding any mark on the ballot.
- (b) The commissioners of election or the officials in charge of the election shall have the judges on the resolution board manually count any damaged or defective ballots, who shall determine the intent of the voter and record the vote consistent with this determination.
- (c) As an alternative to the procedure provided for in paragraph (b) of this subsection, the resolution board may be instructed by the officials in charge of the election to prepare a duplicate to the damaged or defective ballot in the following manner:
- (i) The resolution board shall prepare a duplicate to the original damaged or defective ballot marked identically to the original.
 - (ii) The resolution board shall mark the first original they examine as "Original #1" and the duplicate of this original as "Duplicate #1." Subsequent originals and duplicates shall be likewise marked and numbered consecutively so the duplicate of each original can be identified. Duplicate ballots shall be stamped in a different manner from the original ballots so that they may be easily distinguished from the originals.
 - (iii) The duplicate ballots prepared pursuant to this paragraph shall be counted by the OMR tabulating equipment.
- (4) Ballots that have been rejected by the OMR tabulating equipment for appearing to be "blank" shall be examined to verify if they are blank or were marked with a "nondetectable" marking device. If it is determined that the ballot was marked with a nondetectable device, the resolution board may mark over the voter's mark with a detectable marking device.
- (5) All ballots that are rejected by the OMR tabulating equipment and which contain overvotes shall be inspected by the resolution board. Regarding those ballots upon which an overvote appears and voter intent cannot be determined by inspection of the resolution board, the officials in charge of the election may use the OMR tabulating equipment in determining the vote in the races which are unaffected by the overvote. All other ballots which are overvoted shall be counted manually following the provisions of this section at the direction of the officials in charge of the election. If for any reason it becomes impracticable to count all or a part of the ballots with the OMR tabulating equipment, the officials in charge may direct that they be counted manually, and voter intent shall be determined by following the provisions of this section. The return printed by the OMR tabulating equipment to which have been added the manually tallied ballots, which shall be duly certified by the officials in charge of the election, shall constitute the official return of each voting precinct. Unofficial and incomplete returns may be released during the count. Upon the completion of the counting, the official returns shall be open to the public.

RESOLUTION BOARD STATUTES

§ 23-15-523 - Counting vote.

- (6) When the resolution board reviews any OMR ballot in which the voter has failed to fill in the arrow, oval, circle or square for a candidate or a ballot measure in accordance with the ballot instruction, the resolution board shall, if the intent of the voter can be ascertained, count the vote if:
- (a) The voter marks the ballot with a "cross" (X) or "checkmark" and the lines that form the mark intersect within or on the line of the arrow, oval, circle or square by the ballot measure or the name of the candidate.
 - (b) The voter blackens the arrow, oval, circle or square adjacent to the ballot measure or the name of the candidate in pencil or ink and the blackened portion extends beyond the boundaries of the arrow, oval, circle or square.
 - (c) The voter marks the ballot with a "cross" (X) or "checkmark" and the lines that form the mark intersect adjacent to the ballot measure or the name of the candidate.
 - (d) The voter underlines the ballot measure or the name of a candidate.
 - (e) The voter draws a line from the arrow, oval, circle or square to a ballot measure or the name of a candidate.
 - (f) The voter draws a circle or oval around the ballot measure or the name of the candidate.
 - (g) The voter draws a circle or oval around the arrow, oval, circle or square adjacent to the ballot measure or the name of the candidate.
- (7) The resolution board, when inspecting an OMR ballot which contains or appears to contain one or more overvotes, appears to be damaged or defective, or is rejected by the OMR tabulating equipment for any reason or cannot be counted by the OMR tabulating equipment, shall make its determination in accordance with the following:
- (a) When an elector casts more votes for any office or measure than he or she is entitled to cast at an election, all the elector's votes for that office or measure are invalid and the elector is deemed to have voted for none of them except as provided in paragraph (b) of this subsection. If an elector casts less votes for any office or measure than he or she is entitled to cast at an election, all votes cast by the elector shall be counted but no vote shall be counted more than once.
 - (b) If an elector casts more than one (1) vote for the same candidate for the same office, the first vote is valid and the remaining votes are invalid.

§ 23-15-523 - Counting vote.

(c) No write-in vote for a candidate whose name is printed on the ballot shall be regarded as defective due to misspelling a candidate's name, or by abbreviation, addition or omission or use of a wrong initial in the name, as long as the intent of the voter can be ascertained.

(d) In any case where a voter writes in the name of a candidate for President of the United States whose name is printed on the general election ballot, the failure by the voter to write in the name of a candidate for the Office of Vice President of the United States on the general election ballot does not invalidate the elector's vote for the slate of electors for any candidate whose name is written in for the Office of President of the United States.

(e) For any ballot measure in which the words "for" or "against" are printed on a ballot, if the voter shall write the word "for" or the word "against" instead of or in addition to marking the ballot in accordance with the ballot instruction in the space adjacent to the preprinted words "for" or "against," the resolution board shall, in reviewing such ballot, count the vote in accordance with the voter's handwritten preference, unless the voter marks the ballot in the space adjacent to the preprinted words "for" or "against" contrary to the handwritten preference, in which case no vote shall be recorded for such ballot in regard to the ballot measure.

(f) For any ballot measure in which the words "yes" or "no" are printed on a ballot, if the voter shall write the word "yes" or the word "no" instead of or in addition to marking the ballot in accordance with the ballot instructions in the space adjacent to the preprinted words "yes" or "no," the resolution board shall, in reviewing such ballot, count the vote in accordance with the voter's handwritten preference, unless the voter marks the ballot in the space adjacent to the preprinted words "yes" or "no" contrary to the handwritten preference, in which case no vote shall be recorded for such ballot in regard to the ballot measure.

(8) OMR tabulating equipment shall be programmed, calibrated, adjusted and set up to reject ballot cards that appear to be damaged or defective. Any switch, lever or feature on OMR tabulating equipment that enables or permits the OMR tabulating equipment to override the rejection of damaged or defective ballot cards so that such cards will not be reviewed by the resolution board, shall not be utilized.

(9) Ballots shall be manually counted by the resolution board only when the ballots are:

(a) Properly before the resolution board due to being rejected by the OMR tabulating equipment because the ballots appear to be damaged or defective or are rejected by the OMR equipment for any other reason; or

(b) Properly before the resolution board due to a malfunction in the OMR tabulating equipment.

(10) The resolution board shall make and keep a record regarding the handling and counting of all ballots inspected under this section.

(11) Qualified electors who are appointed to serve as members of the resolution board shall be required to have the training required for election managers pursuant to [Section 23-15-239](#).



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