ELECTIONS DIVISION

Directive of the Secretary of State	Subject: 2016 Statutory Hand Count of Ballots	Directive Issued at the Request of: Secretary of State	Date: November 14, 2016	Number: 2016-3

The Secretary of State in carrying out the duties of the office shall issue detailed directives necessary to maintain uniformity in the application, operation and interpretation of Oregon election laws. (ORS 246.110 & 120). The information provided here is an official directive of the Secretary of State.

ORS 254.529 requires County Elections Officials, after each general election, to hand count a percentage of ballots and compare the hand counted tally of votes to the tally produced by the vote tally system for the same ballots.

This directive provides instruction on how to conduct the hand count of ballots cast at the November 8, 2016, General Election.

Information or instruction is provided regarding:

- Hand Count Checklist
- Instructions for Completing Hand Count
- Ballot Exception Examples
- Randomly Selected Contests, Measures and Precincts or Ballot Count Batches

Jeanne P. Atkins
Secretary of State

By:
Brenda Bayes
Interim Elections Director

Hand Count Checklist

   1 Observation – make provision to allow for attendance by observers during all hand count processes.

   2 Appointment of Counting Boards – appoint necessary personnel to conduct the hand count.

   3 Notice of Breaking Seals – Provide notification to the Elections Division of when and where seals are to be broken, including any preliminary preparation that requires breaking seals.

   4 Tally of Ballots – Every cast ballot in the precincts or batches randomly selected must be hand counted and the voter's intent determined.

   5 Completion of *Form SEL 798 Hand Count Tally and Explanation* – an explanation of any difference between the original count and the hand count must be provided.

   6 Returned Results – A second hand count may be necessary if the results are returned as *Not Acceptable*.

   7 Hand Count Certification – Upon completion of hand count process, repackage ballots in container and re-seal, or re-secure in their secured location.

Corrected 11/16/16

Instructions for Completing Hand Count

Observation

The hand count will be conducted as openly and expeditiously as possible. Affected parties and members of the public may be present to observe the preliminary preparation as well as the during the hand count. The County Elections Official shall permit only so many observers as will not interfere with an orderly hand count.

Observers:
- → must follow any *Observer Rules* provided or posted by the County Elections Official
- → shall not interfere with the preliminary preparation or hand tally process
- → have a statutory right to observe the hand count for the purpose of ensuring the integrity of the hand count procedure
- → do not have any other role and do not have the right to address a counting board concerning the board's handling of individual ballots
- → may keep written notes of comments on the handling of individual ballots
- → must direct comments, questions or any observed procedural irregularity or perceived error with the proceedings in progress to elections supervisory personnel, not to counting boards

> If at any time an observer creates a distraction or otherwise impedes the progress of the preliminary preparation or the count, the proceedings will be stopped and corrective action may be taken by the elections official.

Ballot Count Batches

For a county that tallies ballots by batch, the Hand Count Committee randomly selected either 10%, 5% or 3% of an estimated number of ballot count batches. The estimated number of ballot count batches was calculated by dividing the maximum number of ballots in a batch into the number of registered voters reported by the county in the electronic reporting system for unofficial results as of noon on November 9, 2016.

No later than November 28, 2016, the County Elections Official, in a county that tallies ballots by batch, shall provide the Elections Division information identifying all ballot count batches used to produce the official tally of votes. Upon receipt, the Elections Division shall provide the County Elections Official with a complete list of the randomly selected estimated ballot count batches that corresponds to 10%, 5% or 3% of the official number of ballot count batches.

Instructions for Completing Hand Count (cont.)

Appointment of Counting Boards

The County Elections Official shall appoint a bipartisan board to count ballots and determine the voter's intent in a uniform manner in accordance with ORS 254.529, OAR 165-007-0290 and this directive.

> **i** The County Elections Official shall appoint as many counting boards as is necessary to ensure the orderly and timely completion of the hand count.

The members of a counting board:
- → shall not all be affiliated with the same political party
- → shall not have been a candidate for any office voted upon at the election
- → shall be compensated at least the minimum wage required by state or federal law, whichever is higher

Notices and Breaking of Seals or Opening Secured Location

The County Elections Official shall determine the date, time and place of the hand count and must provide notification to the Elections Division at least **one business day prior** to beginning the hand count.

The hand count:
- → may not begin until the election results for the county have been certified to the Secretary of State
- → must be started no later than November 29, 2016
- → must be completed no later than December 8, 2016

> **i** The hand count is considered to have begun upon the breaking of the first seal, or opening the secured location, for any precinct or batch selected to be hand counted. Seals may be broken, or the secured location opened, by the County Elections Official, a designated staff member or by a member of the Counting Board.

If preliminary preparation of the ballots is deemed necessary by the County Elections Official and it requires seals to be broken, or the secured location opened, the Elections Division must be notified at least **one business day prior** to breaking any seals or opening of the secured location.

> **i** The notice shall include the date, time and place at which such preparation will occur.

When **breaking seals** the following process shall be followed:
- → prior to breaking seals the County Elections Official shall assemble all ballot containers holding ballots to be hand counted and any related material
- → each seal shall be examined to ensure they have not been broken or tampered with and
- → be broken in the presence of members of the counting boards and any observers present
- → all ballots must be resealed in ballot containers or locked in a secure location at the close of business each day
- → upon completion of any preparatory procedures or the hand count all materials must be resealed in ballot containers
- → resealing may be done by individual precincts or batch, in groups of precincts or batches contained in one sealable container, or as a county as a whole

Instructions for Completing Hand Count (cont.)

When **opening a secured location** the following process shall be followed:
→ the location shall be opened in the presence of members of the counting boards and any observers present
→ all ballots must be locked in a secured location at the close of business each day
→ upon completion of any preparatory procedures or the hand count all materials must be returned to the secured location
→ returning the ballots to the secured location may be done by individual precincts or batch, in groups of precincts or batches contained in one container, or as a county as a whole

Corrected 11/16/16

Instructions for Completing Hand Count (cont.)

Tally of Ballots

After breaking seals, ballots cast in precincts or batches not selected for hand counting shall be separated from those that were randomly selected and shall be returned to the ballot containers. Every cast ballot in the precincts or batches randomly selected must be hand counted. The ballots to be hand counted shall be separated into the following stacks.

1   **For a measure, stacks will include:**
   → "yes" votes
   → "no" votes
   → overvotes
   → undervotes
   → potential exceptions

2   **For a candidate contest, stacks will include:**
   → a separate stack for each candidate listed on the ballot in the contest
   → write-in votes
   → overvotes
   → undervotes
   → potential exception

> **i**   An exception is defined as any ballot that is marked by the voter in a way that the vote tally system may not have appropriately tallied the vote.

After the ballots have been separated into the appropriate stacks and inspected:
1   counting boards divide into teams and count one precinct or batch at a time
   → Each overvote and undervote ballot must be examined to confirm the voter's intent. An overvote occurs when an elector marks more than the allowable choices for a particular office or measure. An undervote occurs when the elector does not mark any choice for a candidate or a measure.
   → If the counting board determines that a ballot initially determined to be an undervote or an overvote is, instead a vote for a candidate or a measure, the ballot shall be set aside to be accounted for as an *Exception*.
   → The counting board may also find write-in votes for candidates on the ballot that may not have been properly assigned to the candidate by the vote tally system, or which may have been counted as undervotes or overvotes. These should also be set aside and accounted for as an *Exception*.

2   each team shall count each stack of ballots and compare counts
   → if the counts agree, the number shall be reported on the return sheet provided.
   → if the counts do not agree, each stack must be counted again until agreement is reached and the number reported on the return sheet provided.

Instructions for Completing Hand Count (cont.)

3   the County Elections Official will compare the vote count reported by the counting board with the original vote tally system count
   → Any difference in the vote count prepared by the counting board and the original vote tally system count must be reviewed by the County Elections Official before the count of a precinct or batch is considered complete.
   → If the hand count results differ from the vote tally system results, the counting board will analyze the ballots to determine if the reason for the difference can be identified.
   → If any candidate or measure gained votes, it is possible that a ballot that the vote tally system saw as an overvote or an undervote has been counted by the counting board as a valid vote. The stack of votes for that particular response position needs to be reviewed to determine if such a ballot can be identified. If the ballot is identified, it should be set aside and accounted for as an *Exception*.

4   The results of the hand count shall be entered into the form SEL 798 worksheet for the contest.
   → Any difference in the hand count and the vote tally system count must be explained by the elections official.

Completion of Form SEL 798 Hand Count Tally and Explanation

Form SEL 798 is a fillable and savable PDF document that has been programmed to perform calculations to determine if a second hand count must be completed. A separate SEL 798 must be completed for each precinct or batch hand counted. The following fields must be entered and the SEL 798 saved for the calculation command to execute:

   → Original Results – the certified results for each candidate in the contest or each measure response, for the individual precinct or batch being reported
   → Hand Count Results – the results as determined by the counting board and county elections official review, for the individual precinct or batch being reported
   → Difference – the total difference between the certified results and the hand count results, includes any identified exception
   → Exceptions – the difference between the certified results and the hand count results that the counting board identified as votes that the vote tally system could not read accurately because of the way the ballot was marked by the voter
   → Notes and Remarks – explanation of any *Exception*

The indicator of *Acceptable* or *Not Acceptable* will appear after the command is executed to compare the difference between the certified results and the hand count results less any exceptions, to ½ of 1% of the total votes cast for the contest or measure.

ⓘ   A separate SEL 798 must be completed and submitted for each contest and measure hand counted.

Instructions for Completing Hand Count (cont.)

Returned Results – Acceptable
A separate SEL 798 must be filed with the Elections Division for each contest and measure hand counted.

🕐   No later than 5 pm on December 8, 2016.

Submit all copies of form SEL 798 to:

> Elections Division
> 255 Capitol St NE Suite 501
> Salem OR 97310

✉ **elections.sos@state.or.us**

   or

fax 503 373-7414

Returned Results – Not Acceptable
If the formula indicates *Not Acceptable* that means that the difference between the certified results and the hand count results less any exceptions exceeds ½ of 1% of the total votes cast for the contest or measure, and that the same ballots must be hand counted a second time.
If after the second hand count the returned results remain *Not Acceptable*, ORS 254.529 requires a countywide hand count of all ballots for all contests tallied by the vote tally system.

🕐   No later than December 8, 2016.

❗   Contact the Elections Division prior to proceeding with a complete hand count.

Hand Count Certification
The hand count determinations are not considered final until they have been certified to the Secretary of State by the County Elections Official on the SEL 798.

Once all counties have completed the hand count and filed form SEL 798, the Elections Division will compile the results and make them available at www.oregonvotes.gov.

Ballot Exception Examples

The following are some examples of ballots that may fall into the *Exception* category, that is, ballots which have been marked by the voter in a manner that may not have allowed the vote tally system to tally it as the voter intended.

While the final determination is made by the counting board, these standards are adopted in the Vote by Mail Procedures Manual, revised 08/2015.

Examples	Two (or more) voting areas have been marked and one mark has been erased, but enough residue is left that the scanner may read an overvote.

           ⬤   **Yes**

          ⬭   **No** (erasure has been done)

Tally as a **Yes** vote because an attempt at erasure was made.
Vote tally system probably recorded as an overvote.

One response is indicated with a heavy line or dark oval and a second response is marked with a narrow line or pale oval, but no erasure has been attempted.

           ⬤   **Yes**

          ⬭   **No** (erasure has not been done)

Tally as an **overvote** because no attempt at erasure was made.
Vote tally system probably recorded as an overvote.

The voting area has been completed for one response and a dot or partially completed voting area is marked for the other.

           ⬤   **Yes**

          ⊙   **No**

Tally as a **Yes** vote.
Vote tally system probably recorded as an overvote.

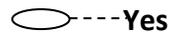The voting area has not been marked, but the response is circled.

          ⬭   **Yes**

       ⬭   **No**

Tally as a **No** vote.
Vote tally system probably recorded as an undervote.

Examples cont.

The voting area has not been marked but there is a connective line between the response and the voting area to indicate the vote.

⬭- - - -**Yes**   ⬭   **Troy McClure**

⬭   **No**   ⬭- - - -**Seymour Skinner**

Tally as a **Yes** vote and a vote for **Seymour Skinner**.
Vote tally system probably recorded as an undervote.

More than one voting area has been completed, but a word or mark is used to Indicate the correct vote.

⬛   **Yes**

not this ⬛⟶   **No**

Tally as a **Yes** vote.
Vote tally system probably recorded as an overvote.

A word has been used to indicate the vote instead of completing the voting area.

⬭   **Yes**

I want that one   **No**

Tally as a **No** vote.
Vote tally system may or may not have recorded as a No vote.

The entire response area for a contest is crossed out.

        Yes

        No

Tally as an **undervote**.
Unclear how vote tally system may have recorded.

Corrections are made with liquid white-out.

        Yes

⬛   **No**

Tally as a **No** vote.
Vote tally system probably recorded as an overvote.

Examples cont.   No candidate name or office written-in, but, voting area is marked and no other candidate is selected

⬭ **Charles Montgomery Burns**

⬭ **Edna Krabappel**

⬭ **Luann Van Houten**

⬬ _____**write-in**

Tally as an **undervote**.

A candidate is selected and no name is written-in, but, voting area is marked.

⬭ **Cecil Terwilliger**

⬬ **Selma Bouvier**

⬭ **Kent Brockman**

⬬ _____**write-in**

Tally as a vote for **Selma Bouvier**.
Vote tally system recorded as an overvote.

A real or fictitious name is written-in.

⬭ **Charles Montgomery Burns**   ⬭ **Charles Montgomery Burns**

⬭ **Edna Krabappel**   ⬭ **Edna Krabappel**

⬭ **Luann Van Houten**   ⬭ **Luann Van Houten**

⬬ _Homer J. Simpson_ **write-in**   ⬬ _Krusty the Clown_ **write-in**

Tally each as a **write in** vote.

Examples cont.   A candidate is selected and a name is written-in.

⬤ **Cecil Terwilliger**   ⬤ **Cecil Terwilliger**

◯ **Selma Bouvier**   ◯ **Selma Bouvier**

◯ **Kent Brockman**   ◯ **Kent Brockman**

⬤ *Patty Bouvier* **write-in**   ◯ *Patty Bouvier* **write-in**

Tally each as an **overvote**.
Vote tally system recorded an overvote and a vote for Cecil Terwilliger.

The write-in line contains a name that is the same as the one that is printed on the ballot for that office.

⬤ **Barney Gumble**

◯ **Timothy Lovejoy**

◯ **Ginger Flanders**

⬤ *Barney Gumble* **write-in**

Tally as a vote for **Barney Gumble**.
Vote tally system recorded as an overvote.

The printed candidate is selected AND the same name is written-in.

⬤ **Barney Gumble**

◯ **Timothy Lovejoy**

◯ **Ginger Flanders**

◯ *Barney Gumble* **write-in**

Tally as a vote for **Barney Gumble**. It is NOT an overvote.

Examples cont.	Comments written-in, including none of the above and no candidate is selected.

      ⬭ **Gil Gunderson**

      ⬭ **Robert Terwilliger**

      ⬭ **Moe Szyslak**

      ⬭ *None of the above* **write-in**

Tally as an **undervote** vote. To be counted as a write in vote must include name.

When a candidate is chosen and a comment is written-in, marking or not marking the corresponding box.

⬬ **Cecil Terwilliger**   ⬬ **Cecil Terwilliger**

⬭ **Selma Bouvier**   ⬭ **Selma Bouvier**

⬭ **Kent Brockman**   ⬭ **Kent Brockman**

⬬ *I don't like any*   **write-in**   ⬭ *Kent is great!* **write-in**

Tally each as a vote for **Cecil Terwilliger**.
Vote tally system recorded an overvote and a vote for Cecil Terwilliger.

Randomly Selected Contests, Measures and Precincts

County	Top Two Contest	Statewide Contest	Measure	Percentage of Precincts	Precincts Randomly Selected
Baker	Governor	Secretary of State	97	3%	Baker#3
Benton	Governor	Secretary of State	100	3%	13 - Monroe
Clackamas	Governor	Secretary of State	95	3%	151 LO – First Addition – North Shore 332 Hubbard Cutoff – Butteville 360 Eagle Creek 420 Milwaukie – Unincorporated NE
Clatsop	Governor	US Senator	99	3%	07 - Astoria
Columbia	Governor	President	95	3%	51 Mist
Coos	Governor	US Senator	99	3%	N/A : by batch
Crook	Governor	US Senator	95	3%	Precinct 02
Curry	President	Secretary of State	98	3%	Prc0008 Ophir
Deschutes	Governor	Attorney General	97	3%	Precinct 02 Precinct 05
Douglas	President	Governor	96	3%	20 SE of Roseburg
Gilliam	Governor	Attorney General	98	3%	Precinct 1
Grant	Governor	President	98	3%	Southfork
Harney	Governor	President	100	3%	N/A : by batch
Hood River	Governor	President	97	3%	Precinct 7
Jackson	Governor	State Treasurer	99	3%	N/A : by batch
Jefferson	Governor	Secretary of State	97	3%	Round Butte (18)
Josephine	President	Attorney General	96	3%	N/A : by batch
Klamath	Governor	President	99	3%	N/A : by batch
Lake	President	Secretary of State	99	3%	Precinct 7
Lane	Governor	Attorney General	100	3%	N/A : by batch

Randomly Selected Contests, Measures and Precincts (cont.)

County	Top Two Contest	Statewide Contest	Measure	Percentage of Precincts	Precincts Randomly Selected
Lincoln	Governor	Secretary of State	98	3%	17 Fogarty Creek
Linn	Governor	President	99	3%	Precinct 019 Precinct 061 Precinct 079
Malheur	Attorney General	President	97	3%	6
Marion	Governor	Attorney General	98	3%	370 584 655 677
Morrow	Governor	Attorney General	100	3%	03 Lexington
Multnomah	Governor	State Treasurer	97	3%	N/A : by batch
Polk	Governor	State Treasurer	95	3%	102
Sherman	Governor	State Treasurer	97	3%	Grass Valley
Tillamook	Governor	State Treasurer	100	3%	Tillamook #2
Umatilla	Governor	State Treasurer	99	3%	116 Athena, Outside City 125C-Weston, City of
Union	Governor	Secretary of State	99	3%	06 Cove City
Wallowa	Governor	President	94	3%	Wallowa #8
Wasco	Governor	President	100	3%	12 Dufur & Petersburg House #57, Senate #29
Washington	Governor	Attorney General	94	3%	N/A : by batch
Wheeler	Governor	US Senator	94	3%	FOS
Yamhill	Governor	President	97	3%	027 Willamina City & Rural

Corrected 11/15/16

Randomly Selected Ballot Batches

The hand count committee randomly selected batch numbers to provide to counties conducting the hand count by batch, as outlined on page 3 of this directive. Once a county certifies its results to the Elections Division and provides the Elections Division with the total number of batches used in the election, the Elections Division will use these lists to provide the county with instructions about which batches to hand count.

The Elections Division will begin with the first batch on the list and select batches in order until the required number of batches is met. It will skip any batch numbers for which the county did not actually generate a batch. This would likely occur because the batch number is higher than the total number of batches generated.

	Coos	Harney	Josephine	Klamath
1	0073	9 (AB – 33, 34, 35, 36)	0061	0011
2	0085	4 (AB – 13, 14, 15, 16)	0101	0004
3	0048	17 (AB – 65, 66, 67, 68)	0059	0119
4	0045	22 (AB – 85, 86, 87, 88)	0135	0106
5	0081	12 (AB – 45, 46, 47, 48)	0039	0122
6	0017		0007	0079
7			0106	0088
8			0010	0033
9			0143	
10			0057	
11			0199	
12			0031	
13			0136	
14			0089	

	Jackson	Lane	Washington
1	0297	0243	0757
2	0687	0277	0320
3	0598	0154	0145
4	0263	0056	0136
5	0273	0568	0313
6	0026	0442	0184
7	0477	0260	0648
8	0395	0492	0806
9	0309	0604	0154
10	0119	0133	0354
11	0447	0445	0213
12	0408	0540	0146
13	0653	0412	0091
14	0547	0225	0816
15	0391	0372	0574
16	0300	0156	0610
17	0006	0113	0533
18	0292	0157	0691
19	0531	0561	0121
20	0337	0361	0016
21	0560	0117	0694
22	0020	0292	0338
23	0505	0174	0628
24	0291	0340	0672
25	0575	0328	0296

	Jackson	Lane	Washington
26	0525	0073	0002
27	0450	0178	0360
28	0295	0432	0349
29	0012	0109	0203
30	0064	0211	0619
31	0481		0841
32	0478		0537
33	0504		0633
34			0276
35			0026
36			0541
37			0139
38			0080
39			0690
40			0573

	Multnomah			Multnomah			Multnomah
1	1340		26	2020		51	2353
2	1857		27	2303		52	1643
3	0692		28	0941		53	1346
4	1774		29	0892		54	0082
5	2035		30	1738		55	1988
6	1159		31	2257		56	2252
7	1745		32	1382		57	1178
8	0823		33	2432		58	2009
9	0373		34	2077		59	1620
10	2345		35	1018		60	2137
11	1120		36	0507		61	0776
12	0080		37	1177		62	2373
13	0646		38	1056		63	1096
14	1780		39	1044		64	1408
15	1386		40	0814		65	0982
16	0636		41	2056		66	0181
17	2001		42	0183		67	2220
18	2258		43	1171		68	0178
19	1445		44	1640		69	0790
20	1996		45	2487		70	0173
21	1735		46	2505		71	0647
22	0596		47	2113		72	1579
23	0576		48	1630		73	0587
24	2299		49	1223		74	1122
25	0207		50	0650		75	2434

	Multnomah		Multnomah
76	1314	101	0304
77	1209	102	1086
78	1687	103	2414
79	1119	104	1269
80	0577	105	0009
81	1601	106	0951
82	1098	107	0371
83	1619	108	0232
84	1404	109	2267
85	2055	110	1926
86	1803	111	1635
87	1017	112	2092
88	1420	113	1641
89	0257	114	1001
90	1499	115	0619
91	0054	116	0778
92	1302	117	1661
93	0191	118	1921
94	1384	119	1263
95	2043	120	1592
96	1212		
97	1026		
98	0959		
99	1282		
100	0656		