

§ 163A-1174. Ordering recounts.

(a) Discretionary Recounts. – The county board of elections or the State Board may order a recount when necessary to complete the canvass in an election. The county board may not order a recount where the State Board has already denied a recount to the petitioner.

(b) Mandatory Recounts for Ballot Items Within the Jurisdiction of the County Board of Elections. – In a ballot item within the jurisdiction of the county board of elections, a candidate shall have the right to demand a recount of the votes if the difference between the votes for that candidate and the votes for a prevailing candidate is not more than one percent (1%) of the total votes cast in the ballot item, or in the case of a multiseat ballot item not more than one percent (1%) of the votes cast for those two candidates. The demand for a recount must be made in writing and must be received by the county board of elections by 5:00 P.M. on the first business day after the canvass. The recount shall be conducted under the supervision of the county board of elections.

(c) Mandatory Recounts for Ballot Items Within the Jurisdiction of the State Board. – In a ballot item within the jurisdiction of the State Board, a candidate shall have the right to demand a recount of the votes if the difference between the votes for that candidate and the votes for a prevailing candidate are not more than the following:

- (1) For a nonstatewide ballot item, one percent (1%) of the total votes cast in the ballot item, or in the case of a multiseat ballot item, one percent (1%) of the votes cast for those two candidates.
- (2) For a statewide ballot item, one-half of one percent (0.5%) of the votes cast in the ballot item, or 10,000 votes, whichever is less.

The demand for a recount must be in writing and must be received by the State Board by noon on the second business day after the county canvass. If at that time the available returns show a candidate not entitled to a mandatory recount, but the Executive Director determines subsequently that the margin is within the threshold set out in this subsection, the Executive Director shall notify the eligible candidate immediately and that candidate shall be entitled to a recount if that candidate so demands within 48 hours of notice. The recount shall be conducted under the supervision of the State Board.

(d) Rules for Conducting Recounts. – The State Board shall promulgate rules for conducting recounts. Those rules shall be subject to the following guidelines:

- (1) The rules shall specify, with respect to each type of voting system, when and to what extent the recount shall consist of machine recounts and hand-to-eye recounts. Hand-to-eye recounts shall also be ordered as provided by G.S. 163A-1175.
- (2) The rules shall provide guidance in interpretation of the voter's choice.
- (3) The rules shall specify how the goals of multipartisan participation, opportunity for public observation, and good order shall be balanced. (2001-398, s. 3; 2003-278, ss. 10(b), 10(c); 2005-323, s. 6(a); 2005-428, s. 11(b); 2017-6, s. 3.)