

## **Checks and Balances in California: The Post-Election Day Process**

American elections are run by local and state officials alongside tens of thousands of our friends and neighbors from both political parties. These bipartisan teams count, canvass, and audit ballots — whether in person or by mail — verifying identities, inspecting ballots, and ensuring each is counted as intended. This rigorous process leads to the final step: certification. This is the straightforward phase of the process, in which election officials declare the winners.

This memo outlines the checks and balances in California that ensure all state and local rules are followed. Importantly, this is nonpartisan educational research intended for 501(c)(3)-compliant purposes only. It is not to be used for any partisan, political, or electioneering activities by any organization.

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### **Counting: Technology, Public Observation, and Testing for Accuracy**

California requires all counties to use state-approved technology and equipment to conduct its elections.<sup>1</sup> The state authorizes public observation of the election process, including by representatives of each political party.<sup>2</sup> The state also provides accessible ballot marking devices for voters with disabilities to vote privately and independently.<sup>3</sup>

#### **Quality-Tested Technology Leads to Trustworthy Results**

All voting systems in California must be approved by the secretary of state, the state's chief election official.<sup>4</sup> At the state level, the voting system certification process can require months of evaluations, including: software source code review, hardware and software security penetration testing, and operational testing.<sup>5</sup> The secretary of state also requires

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<sup>1</sup> Cal. Elec. Code § 15000

<sup>2</sup> Cal. Elec. Code § 15004

<sup>3</sup> [Voting Machines](#), California State Board of Elections

<sup>4</sup> Cal. Elec. Code § 19202

<sup>5</sup> [Security](#), Secretary of State Office of Voting System Technology Assessment (OVSTA)

systems to have dual-installation architecture ("air-gapping"), a cybersecurity technique that protects against virus threats.<sup>6</sup>

At the county level, the exact systems used may vary by county because each county is authorized to select its own voting machines from an approved list.<sup>7</sup> Those machines undergo strict testing before use. No later than seven days before the election, county officials must conduct logic and accuracy testing to verify that every device used to tabulate ballots accurately records each vote.<sup>8</sup> The public must be given notice of the testing so there is an opportunity to observe the testing.<sup>9</sup> Additionally, all electronic voting devices must produce a Voter-Verifiable Paper Audit Trail (VVPAT).<sup>10</sup>

Local boards conduct system checks before each election to guarantee that all system hardware, memory, and report printers are fully integrated and functioning.<sup>11</sup> All hardware must be tested to confirm it is capable of withstanding exposure to various environmental conditions that are incidental to storage, maintenance, and transportation.<sup>12</sup>

## Transparent Processes Instill Confidence

California law requires all voting systems to allow each voter to privately and independently verify the votes they select before their ballot is counted.<sup>13</sup> Voters will have the opportunity to correct any error. Depending on the county, voters mark a paper ballot by hand or use a ballot-marking device. Officials begin tabulating Election Day ballots immediately after the close of polls as part of the semifinal official canvass. Early voting and mail ballots can be processed starting 29 days before Election Day, but tallies cannot be shared until polls close.<sup>14</sup>

Once voting concludes, precinct boards account for all physical ballots and count them to verify that the physical count matches the number of signatures recorded on the electronic poll books or physical rosters.

## Audits Verify Accuracy of Results

California uses two methods to verify election results, and counties must select one or both audit options. Local officials may conduct a 1% manual tally, which requires officials to randomly select 1 % of precincts and do a manual vote tally that is open to the public.<sup>15</sup> State

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<sup>6</sup> Id.

<sup>7</sup> [Certified Voting Technologies Used by Counties](#), Secretary of State

<sup>8</sup> Cal. Elec. Code § 15000

<sup>9</sup> Cal. Code Regs. Tit. 2, § 20876

<sup>10</sup> Cal. Elec. Code § 19270

<sup>11</sup> [California Voting System Standards](#), p. 69, Secretary of State

<sup>12</sup> [California Voting System Standards](#), p. 10, Secretary of State

<sup>13</sup> [California Voting System Standards](#), p. 4, Secretary of State

<sup>14</sup> Cal. Elec. Code § 15101

<sup>15</sup> Cal. Elec. Code § 15360

law requires the manual tally to take place "during the canvass."<sup>16</sup> Officials must report results of the tally to the secretary of state after each election, and the result must identify any discrepancies and a description of how each was resolved.<sup>17</sup>

A county may conduct a risk-limiting audit during the canvass, and must report the results in the certification of the official canvass of the vote.<sup>18</sup> The risk-limiting audit uses statistical sampling techniques to confirm that the reported tabulated results are accurate.

## **Canvassing: Elected Officials Ensure Totals Are Correct**

### **County Canvass: Public meeting of the Board of Canvassers**

The semifinal official canvass begins after polls close on Election Day, and county officials send report totals to the secretary of state at least every two hours until the process is complete.<sup>19</sup> The official canvass must begin by the Thursday after the election, and it must be conducted for at least six hours per day.<sup>20</sup> Statutory law requires the canvass to be open to the public, but only county officials can touch ballot containers. Canvassing may take place either in the precinct or at a central counting place.

### **State Canvass: State Officials Confirm and Compile County Results**

For the state canvass, the secretary of state is responsible for conducting the process. Officials must compile certified election results from each of California's 58 counties for candidates for statewide offices, state legislative offices, Congress, and judicial offices.<sup>21</sup>

## **Certification: The Voters Have Spoken**

Once local canvassing is complete, the board must certify the results and send a certified copy to the state board of elections. Under California law, certifying results is a "ministerial and nondiscretionary" duty.<sup>22</sup> If a county board fails to deliver the certified results, the secretary must call the violation to the attention of the district attorney or the attorney general and may assist local officials in discharging their duties.<sup>23</sup>

Upon completion of the state canvass, the secretary of state formally certifies and files the statement of the vote from the compiled returns and issues formal certificates of elections

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<sup>16</sup> Id.

<sup>17</sup> [1% Manual Tally](#), Secretary of State

<sup>18</sup> Cal. Code Regs. tit. 2, § 20125

<sup>19</sup> Cal. Elec. Code § 15150

<sup>20</sup> Cal. Elec. Code § 15301

<sup>21</sup> Cal. Elec. Code § 15501

<sup>22</sup> Cal. Elec. Code § 15372

<sup>23</sup> Id.

for all candidates.<sup>24</sup> The secretary of state must complete certification no later than the 38th day after the election.<sup>25</sup>

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<sup>24</sup> Cal. Elec. Code § 15501

<sup>25</sup> Id.