



SHIRLEY N. WEBER, Ph.D.

CALIFORNIA SECRETARY OF STATE

Elections Division | 1500 11th Street, 5th Floor | Sacramento, CA 95814
Tel 916.657.2166 | Fax 916.653.3214 | www.sos.ca.gov

February 14, 2022

County Clerk/Registrar of Voters (CC/ROV) Memorandum #22029

TO: All County Clerks/Registrars of Voters

FROM: /s/ Reina Miller
Voter Accessibility Coordinator

RE: Ballot Design Advisory Committee: February 24, 2022, Meeting

Attached is the notice and agenda for the next Ballot Design Advisory Committee (BDAC) meeting to be held on Thursday, February 24, 2022, at 2:30 p.m. via videoconference.

County elections officials and members of the public are welcome to attend by calling in to the conference number listed on the agenda.

Please feel free to contact Reina Miller with any questions at (916) 695-1557 or rmiller@sos.ca.gov.

Thank you.



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February 14, 2022

Public Meeting Notice and Agenda

Ballot Design Advisory Committee
(BDAC)

Due to the ongoing concerns related to COVID-19, and permissible by Government Code section 11133, there will not be a public meeting location for this meeting. This meeting will be available to the public via videoconference.

Date and time: Thursday, February 24, 2022, 2:30 p.m.

Conference call number: +1-404-443-6396

Conference Code: 3922221

Videoconference Link: <https://sos-ca-gov.zoom.us/j/82618440925?pwd=a0ErZkVPbXhrcHk4dIVWQTZIRUpzQT09>

Videoconference Password: t*?U0jMt

AGENDA

Ballot Design Advisory Committee
(BDAC)

Thursday, February 24, 2022, 2:30 p.m.

1. Welcome, Call to Order, Roll Call, and Declaration of Quorum
2. Proposed Elections Code Changes by Working Group
3. Public Comments and Future Agenda Items

Public comment period and opportunity to suggest future agenda items

4. Adjournment

IMPORTANT NOTICES TO THE PUBLIC:

- This meeting is open to the public and is accessible to the physically disabled.
- In accordance with Title II of the Americans with Disabilities Act of 1990, reasonable accommodations are available. Providing accommodation requests at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.
- Any person who needs a disability-related accommodation or modification in order to participate in the meeting, or any person wanting to subscribe to future meeting notices and agendas, may make a request by contacting Reina Miller at (916) 695-1557, by emailing BDAC@sos.ca.gov or RMiller@sos.ca.gov, or by sending a written request to Reina Miller, 1500 11th Street, 5th Floor, Sacramento, CA 95814.
- Discussion and action may be taken on any item on the agenda. The time and order of agenda items are subject to change at the discretion of the committee and may be taken out of order.
- Persons interested in addressing the committee on any agenda item will be given an opportunity to speak. The committee may limit the time for each individual speaker.
- The committee may not discuss or take action on any matter raised that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. (Government Code sections 11125, 11125.7(a).)

Round 2 - Markup of Election Code to be recommended for update

1/25/2022 First edits of sections suggested by the committee
2/4/2022 Completed working group review
2/7/2022 Updates for full committee

In the markup text:

- ~~Text to be removed~~ and text to be added.
- Specified or recommended text is indented for clarity.

This document is organized to group sections of code on similar topics. The table is included for convenience.

[Definitions and legal rules](#)

Section	Group	Notes	Status / Notes
EC 301	Definitions	Ballot	
EC302	Definitions	Ballot card	Question for committee.
EC 303	Definitions	Ballot Label	Question for committee
EC 344	Definitions	Punch card	Keep
EC 14284	Marking	Marking devices	
EC 15210	Marking	Duplication	Question for committee
EC 14285	Marking	Marking the ballot	
EC 14286	Marking	Marking devices	
EC 14287	Marking	Identifying marks	

[Text and instructions cleanup](#)

Section	Topic	Notes	Status / Notes
EC 11320-11323	Instructions	Recall ballots: Change language for how to mark a choice to be flexible for all voting systems	
EC 10704	Instructions	Instructions on special elections	
EC 13220	Instructions	Short Term / Full Term	Question for committee
EC 6821	Peace & Freedom	How to mark	

Visual layout instructions and requirements for boxes and rules

Section	Topic	Notes	Status / Notes
13206.5	Layout and visual	Presidential: match text in 13206	WQ: FIX
13207	Layout and visual	Columns	WQ: ILLUSTRATION
13208	Layout and visual	Voting target	Question for committee
13211.5	Layout and visual	Column rules	
13212	Visual and layout	Shall be printed light lines	No change - restoring omitted text
13216	Layout and visual	VBM ballots - Stubs, Columns, lines rules	
13233	Layout and visual	Municipal - Allowable changes in ballot forms	WQ: FIX

Punch cards

Article 4 - Punch Cards -13260-13267	Punch cards	Punchcard and stubs	Recommend removal
14443	Punch cards	Counting	
15211	Punch cards	duplication for canvas	Recommend removal
15360	Punch cards	In 1% manual tally	

Definitions and legal rules

EC 301 - Ballot

A ballot is the presentation of the contests consisting of offices and measures, and the candidates and options to be voted on. The contents may be rendered using various methods of presentation (visual or audio), language, or graphics.

The ballot presentations may include:

A “ballot” means any of the following:

(a) ~~The combination of a card with number positions that is marked by the voter and the accompanying reference page or pages containing the names of candidates and the ballot titles of measures to be voted on with numbered positions corresponding to the numbers on the card.~~

(b) ~~One or more cards upon which are printed the names of the candidates and the ballot titles of measures to be voted on by punching or marking in the designated area.~~

(c) ~~One or more sheets of paper upon which are printed the names of candidates for each contest and the ballot titles of measures to be voted on by marking the designated area and that are tabulated manually or by optical scanning equipment.~~

~~(d) (1) An electronic touchscreen upon which appears the names of candidates and ballot titles of measures to be voted on by touching the designated area on the screen for systems that do not contain a paper ballot.~~

(d) (1) An electronic device on which the names of the candidates for each contest and the ballot titles of measures to be voted on are selected by touching the screen or using other physical controls.

(2) The printed ballot produced by a ballot marking may be a list of voter selections or may be a facsimile of a marked pre-printed ballot.

~~(2) An electronic touchscreen may qualify as a ballot even for systems that contain paper ballots if the votes are tabulated manually or by optical scanning equipment.~~

Justification: Section (a) and (b) are descriptions of punchcards. Update the definition of ballot to separate content and presentation

EC302 - Ballot Card

For comparison: From Risk Limiting Audits regulations:

“Ballot card” means a card or paper upon which is printed, or identified by reference to the ballot, the names of candidates for nomination or election to one or more offices or the ballot titles of one or more measures. A ballot may be comprised of multiple ballot cards. (2 CCR 20111(b))

“Ballot card” means a card or a number of cards upon which are printed, or identified by reference to the ballot, the names of candidates for nomination or election to one or more offices or the ballot titles of one or more measures.

The ballot card shall also contain ~~proper~~ blank spaces to allow the voter to write in names not printed on the ballot ~~unless a separate write-in ballot is used. The separate write-in ballot may be a paper ballot, a card, or the envelope used to enclose a ballot card. Determination of the format of a separate write-in ballot shall be within the discretion of the elections board. The separate write-in ballot shall provide a blank space followed by the word “office” and a second blank space followed by the word “name” for purposes of facilitating write-in votes for offices for which write-in votes may be cast, or may provide a space for writing in the name followed by a space for punching or slotting in order that the vote may be tabulated. All separate write-in ballots may, in the discretion of the elections board, have attached thereto two stubs that comply with Section 13261 regarding the stubs attached to a ballot card, except that the information required under subparagraphs (C) to (G), inclusive, of paragraph (2) of subdivision (b) of Section 13261 and instructions to voters on how to vote for persons whose names do not appear on the ballot may be printed on the write-in ballot and not upon a stub. Any serial numbers appearing on the write-in ballot stubs need not be identical to the serial numbers appearing on the stubs attached to the ballot card or cards handed to the voter. Sections 13002 to 13006, inclusive, shall not apply to the preparation and composition of separate write-in ballots authorized by this section. Sections 14403 and 14404 shall not apply to separate write-in ballots used in an election in which a punchcard voting system is used.~~

[Justification: Clarification. Possibly: remove section on write-in cards as no longer part of current election practice.](#)

[EC 303](#) - Ballot Label

“Ballot label” means that portion of the ballot containing the names of the candidates or a statement of a measure.

(a) For statewide measures, the ballot label shall contain no more than 75 words and shall be a condensed version of the ballot title and summary including the fiscal impact summary prepared pursuant to Section 9087 of this code and Section 88003 of the Government Code.

[EC 303.5](#) - Ballot Measure Title

(a) “Ballot measure title” is the name of a statewide measure included in the ballot label and the ballot title and summary.

(b) “Ballot title and summary” means the summary of the chief purpose and points including the fiscal impact summary of any measure that appears in the state voter information guide. The ballot title and summary shall include a statement of the measure’s fiscal impact. The ballot title and summary shall not exceed 100 words, not including the fiscal impact statement.

(rest of section unchanged)

[Justification: Clarification that it is the title of a measure](#)

[344](#) - definition

“Punchcard” means a tabulating card on which the voter may record his or her vote by punching, marking, or slotting.

Ballot marking

[EC 14284](#) - Marking devices

(a) All ballots, ~~except vote by mail voter ballots,~~ shall be marked only with the marking device provided or recommended for vote-by-mail ballots by the local election official. ~~Law:~~

(b) If a ballot cannot be tabulated because of the marking device used, it shall be processed as specified in EC 15210.

~~(b) To prevent voters from marking their ballots with a pen or pencil, at the time of delivering a ballot to a voter, the precinct officer shall distinctly state that the voter shall mark the ballot with the device provided by law or the ballot will not be counted.~~

Justification: Clarification and simplification of the text.

[EC 15210](#) - reviewed for reference

In preparing the voted ballots for processing, any ballot that is torn, bent, or otherwise defective shall be corrected so that every vote cast by the voter shall be counted by the automatic tabulating equipment. If necessary, a true duplicate copy of the defective ballot shall be made and substituted therefor, following the intention of the voter insofar as it can be ascertained from the defective ballot. All duplicate ballots shall be clearly labeled “duplicate,” and shall bear a serial number that shall be recorded on the damaged or defective ballot.

[EC 14285](#) - marking vote for n

~~Where two or more candidates for the same office are to be elected, and the voter desires to vote for candidates for that office, the voter shall, by using the provided marking device, place a mark in the voting square, rectangle, or other specific voting space following the names of the candidates for that office for whom the voter intends to vote, not exceeding, however, the number of candidates to be elected.~~

To vote in a contest where two or more candidates for the same office are to be elected, a voter shall mark the voting targets next to the names of the candidates of their choice, up to the number of candidates to be elected.

Justification: Clarification so the text works for all voting systems

[EC 14286](#)- marking devices

When a measure is submitted to the voters, the voter shall place a mark on the ballot in the appropriate space ~~opposite~~ next to the answer the voter desires to give as to that measure. The voter, in marking the ballot, shall use the marking device provided.

Justification: Clarification so the text works for all voting systems

Text and instructions cleanup

[EC 11320](#) - Recall - text update

The following shall appear on the ballots at every recall election, except in the case of a landowner voting district, with respect to each officer sought to be recalled:

(a) ...(no change)

(b) ~~To the right of the foregoing~~ Next to the question, the words “Yes” and “No” on separate lines with an enclosed voting space to the right a [voting target] next to each.

Justification: Consistency across code sections - see 13206

[EC 11322](#)

(b) Following each list of candidates, the ballot shall provide one blank line for the voter to write in a name not printed on the ballot with a [voting target] next to it ~~voting space to the right of it.~~

Justification: Consistency across code sections - see 13206

[EC 11323](#)

A voter shall indicate, ~~by using the stamp or other marking device to place a mark in the voting space opposite either~~ by completely filling in the [voting target] next to either “Yes” or “No”, his vote for or against the recall proposal, respectively.

Justification: Consistency across code sections - see 13206

[EC 10704](#) - Special elections Nominations of candidates for legislative

(e) On the ballot for a special election, immediately ~~below the instructions to voters, there shall be a box not less than one-half inch high enclosed by a heavy ruled line the same as the borderline. This box shall be as long as there are columns for the ballot and shall be set directly above these columns. before or above the first voter-nominated contest~~ the following words shall be printed:

“Voter-Nominated Offices

All voters may vote in these contests.

Candidates display a party preference (or None) for the information of voters. This is not a party endorsement or approval.”

Within the box shall be printed the words “Voter-Nominated Office.” Immediately below that phrase within the same box shall be printed the following:

“All voters, regardless of the party preference they disclosed upon registration, or refusal to disclose a party preference, may vote for any candidate for a voter-nominated office. The party preference, if any, designated by a candidate is selected by the candidate and is shown for the information of the voters only. It does not imply that the candidate is nominated or endorsed by the party or that the party approves of the candidate.”

Justification: Consistency across code sections - see 13206

[EC 13220](#) - short and long term

If two or more officers are to be elected for the same office for different terms, the terms for which each candidate for the office is nominated shall be printed on the ballot as a part of the title of the office.

If at a general election an office is to be filled for a full term and also for a vacancy in another term, the list of candidates for the full term shall be placed on the ballot under the designation of the office with the words "Full Term" printed immediately after that designation, and the list of candidates to fill the vacancy shall be placed on the ballot under the designation of the office with the words "Short Term" printed immediately after that designation.

[EC 6821](#) - Peace & Freedom marking instructions

For the presidential primary election, the format of the Peace and Freedom Party ballot shall be governed by Chapter 2 (commencing with Section 13100) of Division 13, with the following exceptions:

(skipping (a) - (d))

(e) The instructions to voters shall be the same as provided for in Chapter 2 (commencing with Section 13100) of Division 13, except that they shall begin with the words,

"To express your preference for a candidate for nomination for President, completely fill in the [voting target] next to their name ~~stamp a cross (+) in the square opposite the name of the candidate.~~ Your vote in this portion of the ballot is advisory only. Delegates to the national convention will be elected in the delegate selection portion of the ballot."

[Justification: Consistency across code sections - see 13206](#)

Visual layout instructions and requirements for boxes and rules

[13206.5](#) - Presidential

(a) (1) On the ballot used in a statewide general election in each year evenly divisible by the number four, immediately before or above the contest for President, the following words shall be printed:

"Party-Nominated Offices

Candidates for these offices are the official nominee of the party displayed with their name"

~~below the instructions to voters, there shall be a box. Within the box shall be printed the words "Party-Nominated Offices." Immediately below that phrase within the same box shall be printed the following: "The party label accompanying the name of a candidate for party-nominated office on the general election ballot means that the candidate is the official nominee of the party shown."~~

(2) On the ballot used in a statewide general election in each year evenly divisible by the number four, following the portion of the ballot for party-nominated offices, the following words shall be printed:

“Voter-Nominated and Nonpartisan Offices

Candidates display a party preference (or None) for the information of voters. This is not a party endorsement or approval.”

the same style of box described in paragraph (1) shall appear and within the box in the same style and point size of type shall be printed “Voter Nominated and Nonpartisan Offices.” Immediately below that phrase within the same box shall be printed the following: “All voters, regardless of the party preference they disclosed upon registration, or refusal to disclose a party preference, may vote for any candidate for a voter-nominated or nonpartisan office. The party preference, if any, designated by a candidate for a voter-nominated office is selected by the candidate and is shown for the information of the voters only. It does not imply that the candidate is nominated or endorsed by the party or that the party approves of the candidate. The party preference, if any, of a candidate for a nonpartisan office does not appear on the ballot.”

(b) On the ballot used in a statewide general election in each even-numbered year that is not evenly divisible by the number four, immediately below the instructions to voters, the following words shall be printed:

“Voter-Nominated and Nonpartisan Offices

Candidates display a party preference (or None) for the information of voters. This is not a party endorsement or approval.”

~~there shall be a box. Within the box shall be printed the words “Voter Nominated and Nonpartisan Offices.” Immediately below that phrase within the same box shall be printed the following: “All voters, regardless of the party preference they disclosed upon registration, or refusal to disclose a party preference, may vote for any candidate for a voter-nominated or nonpartisan office. The party preference, if any, designated by a candidate for a voter-nominated office is selected by the candidate and is shown for the information of the voters only. It does not imply that the candidate is nominated or endorsed by the party or that the party approves of the candidate. The party preference, if any, of a candidate for a nonpartisan office does not appear on the ballot.”~~

[Justification: Consistency across code sections - see 13206](#)

13207 - Columns

(a) There shall be printed on the ballot in parallel columns all of the following:

- (1) The respective offices.
- (2) The names of candidates with sufficient blank spaces to allow the voters to write in names not printed on the ballot, except that no spaces shall be printed for voter-nominated offices at a general election.
- (3) Whatever measures have been submitted to the voters.

(b) In the case of a ballot which is intended for use in a party primary and which carries partisan offices, voter-nominated offices, and nonpartisan offices, a vertical solid black line shall divide the columns containing partisan offices, on the left, from the columns containing nonpartisan offices and voter-nominated offices, on the right.

(c) The standard width of columns containing partisan offices, nonpartisan offices, and voter-nominated offices, shall be three inches except that an elections official may vary the width of these columns by up to one inch. The column containing presidential and vice presidential candidates may be as wide as four inches.

(d) A measure that is to be submitted to the voters shall be printed in one or more parallel columns to the right of the columns containing the names of candidates and shall be of sufficient width to contain the title and summary of the measure. To the right of or below the title and summary shall be printed, on separate lines, the words “Yes” and “No.”

Justification: No change in text, but working group recommends an illustration for clarity

13208 - Voting targets

~~a) In the right hand margin of each column light vertical lines shall be printed in such a way as to create a voting target next to the name of each candidate for partisan office, voter-nominated office, nonpartisan office (except for Justice of the Supreme Court or justice of a court of appeal), or for chairperson of a group of candidates for delegate to a national convention who express no preference for a presidential candidate. In the case of Supreme Court or appellate justices and in the case of measures submitted to the voters, the lines shall be printed so as to create voting targets to the right of the words “Yes” and “No.”~~

A voting target shall be printed next to the name of each voting option. The voting targets shall be used by the voters to express their choices as provided for in the instruction to voters.

~~(b) The standard voting target must be at least 0.12 inches across in either dimension. may be up to one half inch wide. Voting targets for measures may be as tall as is required by the space occupied by the title and summary.~~

(c) As used in this section, “target” means an object designated as the aim for a voter to make a vote selection.

Justification: Remove outdated description of a marking target and replace with simpler language. Adjust size to refer to the minimum size in VSG 2.0 7.2-J

13211.5 - columns and visual indicators

(a) Each group of names of candidates for a particular office shall be printed in immediate succession to another group of names of candidates for a particular office so as to avoid unnecessary spacing or gaps in the sequence in which each series of groups of names are listed on the ballot.

(b) It is acceptable to leave spaces on the ballot in order to keep an entire contest together in a single column or page, or to manage the arrangement of contests on the ballot.

(c) When a ballot has multiple pages or cards, an instruction shall be printed to direct the voter to continue to the next page or card.

(b) If it is necessary to leave spaces on the ballot in order to provide for the most efficient and least costly process of printing ballots, the spaces shall be located at the end of a column, page, or ballot card wherever possible.

(c) If due to voting system constraints it is necessary to leave a space between offices on a column, page, or ballot card, and the space exceeds one inch, written instructions and a downward arrow or other visual indicator shall be printed on the ballot to direct the voter to the next voting space.

Justification: simplification and clarification

13212 - incomplete??

Except for a voter-nominated office at a general election, under the designation of each office shall be printed as many blank spaces, defined by light lines as there are candidates to be nominated or elected to the office.

Justification: restore omitted text

13216 - Stubs and instructions for vote-by-mail ballots

(a) If the voting system includes stubs on vote-by-mail ballots, on each ballot a horizontal non-solid-ruled line shall extend across the top of the ballot below the horizontal perforated line. The same number appearing on the stub shall be printed above the horizontal, non-solid-ruled line on the left side of the ballot. Above this number shall be printed in parentheses in small type as follows: “(This number shall be torn off by a precinct board member and handed to the voter.)”. The words “I have voted - have you?” “I HAVE VOTED — HAVE YOU?” may also be printed immediately above or below the number.

(b) ~~(1) Next to the ballot number there shall be a short vertical perforated rule or line extending upward from the horizontal non-solid-ruled line to the horizontal perforated line. Immediately above this horizontal non-solid-ruled line shall be printed in boldface lowercase type, at least 12-point in size, enclosed in parentheses, the following: “Fold ballot to this line leaving top margin exposed.”~~

~~(2) Above this printed direction and midway between it and the top edge of the ballot shall be printed in boldface uppercase type, at least 12-point in size, the following: “Mark the ballot with pen or pencil.”~~

~~(3) Below this direction and midway between it and the next line shall be printed in boldface uppercase type, at least 12-point in size, enclosed in parentheses and with the first four and last five words underlined or otherwise made prominent, the following: “(VOTE BY MAIL BALLOTS MAY BE MARKED WITH PEN AND INK OR PENCIL.)”~~

(c) A ballot stub is not required if the information listed in subdivisions (a) ~~and (b)~~ is presented to the voter on a separate form accompanying the ballot.

Justification: remove text referring to punch card systems

13233 - Municipal elections

In a municipal election, if the number of candidates for an office is such that all of the names will not fit in one column of reasonable length, a double column may be used, and all of the following provisions shall apply:

(a) The space between the two halves of the double column shall be less than that between the double column and any other columns on the ballot, and the lines separating the columns and the two halves of the double column shall be printed so as to emphasize the fact that the candidates in the double column are running for the same office.

(b) The designation of the office and any other words required to be at the top of the contest of a single column shall be printed across the top of the entire double column with no dividing line. The words "Vote for one," "Vote for two," or more, as the case may be, shall be centered over the entire double column and shall be printed below any other words at the top of the double column.

(c) The names of the candidates, including the blank space or spaces necessary to permit the voter to write in the names of persons not printed on the ballot, shall be apportioned as equally as possible between the two columns. The odd space, if any, shall be included in the left-hand column.

(d) The double column shall be used for no more than one office and for no more than one term for any office.

(e) The order of names and blank spaces in the double column shall be the same as would apply to a single column with the left-hand side of the double column taken first.

Punchcards

~~Article 4 - Punchcards~~ ~~13260-13267~~

~~13261 - Ballot stubs required, content listed~~

~~13262 - Printing, space for write-ins, measures may be abbreviated~~

~~13263 - County voter information guide~~

~~13263 - Tinted cards for sorting~~

~~13265 - More than one card allowed~~

~~13266 - Punchcards used for mail voting~~

~~13267 - Stubs for vote by mail~~

14443 - counting

If ballots are counted by means of electronic or electromechanical, ~~or punchcard~~ device, the elections official may provide for early tabulation and announcement of the returns in a manner consistent with the use of the tabulating devices.

15211 - duplication for canvass

~~If paper ballots are used for vote by mail voting, the canvass may be conducted in accordance with Chapter 1 (commencing with Section 15000), or the elections official may have a true duplicate copy of~~

~~vote by mail voter paper ballots made on punchcard ballots that shall be verified in the presence of witnesses. After verification the punchcard ballots shall be counted in the same manner as other punchcard ballots.~~

[15360](#) - 1% manual tally

(a) During the official canvass of every election in which a voting system is used, the official conducting the election shall conduct a public manual tally of the ballots tabulated by those devices, including vote by mail ballots, using either of the following methods:

(omitted)

(b) If vote by mail ballots are cast on a direct recording electronic voting system at the office of an elections official or at a satellite location of the office of an elections official pursuant to Section 3018, the official conducting the election shall either include those ballots in the manual tally conducted pursuant to paragraph (1) or (2) of subdivision (a), or conduct a public manual tally of those ballots cast on no fewer than 1 percent of all the direct recording electronic voting machines used in that election chosen at random by the elections official.

(omitted)

(f) The official conducting the election shall include a report on the results of the 1 percent manual tally in the certification of the official canvass of the vote. This report shall identify any discrepancies between the machine count and the manual tally and a description of how each of these discrepancies was resolved. In resolving a discrepancy involving a vote recorded by ~~means of a punchcard voting system or by~~ electronic or electromechanical vote tabulating devices, the voter verified paper audit trail shall govern if there is a discrepancy between it and the electronic record.