



KATIE HOBBS
SECRETARY OF STATE
State of Arizona

Electronic Adjudication Addendum to the 2019 Elections Procedures Manual

**Arizona Secretary of State's Office
February 28, 2020**

Pursuant to A.R.S. § 16-452 and in accordance with Senate Bill 1135, Fifty-fourth Legislature, Second Regular Session, 2020, the Secretary of State's Office, in consultation with County Recorders and Election Officials, developed the procedures in the enclosed Electronic Addendum to the 2019 Elections Procedures Manual. This Electronic Adjudication Addendum was approved by the Attorney General's Office on February 27, 2020 and approved by the Governor's Office on February 28, 2020 and is now in effect.

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MARK BRNOVICH
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

February 27, 2020

Honorable Katie Hobbs
Arizona Secretary of State
1700 E. Washington Street
Phoenix, Arizona 85007

Re: Approval of the Electronic Adjudication Addendum to the 2019 Elections
Procedures Manual

Dear Secretary Hobbs:

On February 3, 2020, emergency measure Senate Bill 1135, Fifty-fourth Legislature, Second Regular Session, 2020, was signed into law by Governor Ducey, which amended A.R.S. §§ 16-602 and 16-621 in order to establish the requirements for utilizing electronic adjudication features of ballot tabulation equipment. In response to those legislative changes, your office prepared and drafted uniform procedures to be added to the recently approved and adopted 2019 Elections Procedures Manual.

Pursuant to A.R.S. § 16-452(B), the Attorney General's Office has reviewed the Electronic Adjudication Addendum to the 2019 Elections Procedures Manual ("Addendum"). Based upon our review, we believe the Addendum complies with Arizona election statutes, and, in particular, the amendments to A.R.S. § 16-621. Accordingly, I approve the Addendum.

Sincerely,

A handwritten signature in blue ink that reads "Mark Brnovich". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Mark Brnovich
Attorney General
State of Arizona

cc: Governor Doug Ducey



STATE OF ARIZONA
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY
GOVERNOR

EXECUTIVE OFFICE

February 28, 2020

The Honorable Katie Hobbs
Arizona Secretary of State
1700 West Washington Street, 7th Floor
Phoenix, AZ 85007

Dear Secretary Hobbs:

On February 3, 2020, I signed into law Senate Bill 1135, Fifty-fourth Legislature, 2nd Regular Session, which amended A.R.S. §§ 16-602 and 16-621 to provide for electronic vote adjudication.

My office has reviewed the Electronic Adjudication Addendum to the 2019 Elections Procedures Manual ("Addendum") that you drafted in response to the recent amendments and submitted for approval on February 26, 2020.

Based upon review and approval submitted on February 27, 2020 by the Attorney General's Office that the Addendum complies with the Arizona election laws, including the amendments to A.R.S. § 16-621, and my office's review, I hereby approve the Addendum in accordance with A.R.S. § 16-452(B).

Sincerely,

Douglas A. Ducey
Governor
State of Arizona

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As an alternative to manual duplication of ballots performed by the Ballot Duplication Board, the board of supervisors or officer in charge of elections may appoint Electronic Vote Adjudication Boards and utilize a certified electronic adjudication program to process specific votes requiring adjudication. Any electronic vote adjudication shall be done in compliance with [A.R.S. § 16-621](#). Further, procedures must comply with the requirements in this Section, unless the Secretary of State has granted a jurisdiction written approval to use alternate procedures. A jurisdiction wishing to deviate from the procedures in this Section must make a request in writing no later than 90 days prior to the election for which the exception is requested. To be approved, the deviation must be compliant with [A.R.S. § 16-621](#).

The following types of votes may be adjudicated using electronic adjudication:

- Over-votes: The Electronic Vote Adjudication Board may evaluate over-vote conditions to determine the voter's intent and make corresponding adjustments to the record if the voter's intent is clear. If the voter's choice for a specific race or ballot measure cannot be positively determined, no selection shall be counted for that race or ballot measure. [A.R.S. § 16-610](#); [A.R.S. § 16-611](#).
- Votes on ballots read as blank or unclear: The Electronic Vote Adjudication Board may review ballots read by the tabulation machine as blank or unclear, determine if voter intent is clear on some or all races or ballot measures, and make corresponding adjustments to the record. If the voter's choice for a specific race or ballot measure cannot be positively determined, no selection shall be counted for that race or ballot measure. [A.R.S. § 16-610](#); [A.R.S. § 16-611](#).

Votes that do not meet the above criteria shall not be electronically adjudicated.¹ Ballots that are damaged or defective such that they cannot be read or scanned by the tabulation equipment must be manually duplicated and shall not be electronically adjudicated. [A.R.S. § 16-621\(A\)](#).

A. EMS Requirements

To utilize electronic adjudication, the following minimum system and application requirements must be met:

1. The electronic adjudication application must be part of an election management system (EMS) that has received federal and state certification and is authorized for use in elections in Arizona.
 - The application must be installed with the EMS on a secure, isolated, closed network and shall not be connected to the internet or an external network.

¹ The Write-In Tally Board may also use a certified electronic adjudication program to electronically tally write-in votes for qualified write-in candidates (in lieu of manual tallying of write-in votes). See 2019 Elections Procedures Manual, Chapter 10, Section II(G)(2).

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2. The application shall provide distinct security roles, with separate usernames and secure passwords for each user or station. These security roles must have different functions. Each election worker shall be given access to only the components of the application necessary to perform their duties. If a secured username and password are used for each station rather than each user, a detailed log of who utilized each station and at what time(s) shall be maintained.
3. Users (and, if applicable, stations) shall have unique usernames and secure passwords. Vendor-supplied generic passwords may not be used.
4. Log-in must be required each time the electronic adjudication application is started. The application and/or tabulation system shall be capable of identifying ballots that contain over-votes or that are read as blank or unclear.
5. The application shall provide comprehensive logging of any changes to the ballot record for audit purposes, as well as validation of all changes through the use of multiple electronic “signatures” before committing any changes to the EMS results.
6. The application shall allow election officials to review, evaluate, and adjudicate votes, based on the voter’s intent, through the application without physical duplication of the ballot and record those changes and any modified totals in the results report.
7. The application shall allow for each transaction to be reviewed and approved by at least two election officials of different political party affiliation.
8. There must be an efficient and reliable means of identifying and locating the physical ballots that have been electronically adjudicated if needed for auditing. For example, the tabulation machine may be programmed to out-stack and/or print an identifying mark on the ballots to be electronically adjudicated.

Even if electronic adjudication is not utilized, the tabulation equipment may be programmed to stop on, sort, or flag write-in votes for races with official write-in candidates. Official write-in candidates may be entered into the EMS after the write-in filing deadline to facilitate this process as long as doing so does not modify the election programming if L&A testing has been completed.

B. L&A Testing Requirements

If electronic adjudication will be utilized for an election, that functionality of the tabulation system will also be tested during the L&A test for that election to ensure proper and secure functioning. [A.R.S. § 16-621\(B\)\(1\)](#); see 2019 Elections Procedures Manual, Chapter 4, Section II. In addition, a paper audit log must be produced, verified, and signed off on by the Electronic Vote Adjudication Board members *before* committing their selections to the EMS for the purpose of updating results. See Section D, below.

C. Electronic Vote Adjudication Board Composition

If the officer in charge of elections elects to use electronic adjudication, they must appoint an Electronic Vote Adjudication Board consisting of two judges, overseen by an inspector. The two

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judges shall be divided as equally as practicable between the two largest political parties as required by [A.R.S. § 16-531\(D\)](#). [A.R.S. § 16-621\(B\)\(2\)](#).

D. Electronic Vote Adjudication Procedures

Prior to electronically adjudicating any ballots, the Electronic Vote Adjudication Board must be trained in their duties and application functionality.

1. The electronic adjudication of votes must be performed in a secure location, preferably in the same location as the EMS system, but open to public viewing.
2. The officer in charge of elections shall make a back-up of the election from the EMS prior to the start of electronic adjudication and again after electronic adjudication is complete in order to have a record of the results as initially read by the tabulator and after electronic adjudication.
3. The Electronic Vote Adjudication Board shall use the electronic adjudication application to: (a) review votes on ballots read as over-voted, blank, or unclear; (b) determine voter intent; and (c) electronically attribute votes according to the clear intent of the voter.
 - The general guidelines for determining voter intent in the 2019 Elections Procedures Manual, Chapter 11, Section IX should be followed to the extent they do not conflict with any requirements in this Section.
 - The Electronic Vote Adjudication Board may decide to: (i) approve the ballot with no changes to any races; or (ii) approve the ballot with changes based on the board's adjudication of voter intent.
 - The Electronic Vote Adjudication Board shall only adjudicate votes that are marked by the voter in a manner that prevents the tabulation machine from accurately counting the race as the voter intended. If it is not possible to positively determine the voter's choice for a particular race or ballot measure, the Electronic Vote Adjudication Board shall not designate a choice for that race or ballot measure. [A.R.S. § 16-610](#); [A.R.S. § 16-611](#).
4. Electronic adjudication of voter intent should generally be performed separate and apart from the electronic tallying of official write-in votes and by separate boards, and the results of adjudication of voter intent and tallying of official write-in votes shall be reported and verified on separate paper audit logs.
 - If electronic adjudication of voter intent and tallying of official write-in votes is done together for each ballot requiring such action, the board performing the joint electronic adjudication of voter intent and electronic tallying of official write-in votes shall meet all the requirements applicable to both the Electronic Vote Adjudication Board, as described in this Addendum, and the Electronic Write-In Tally Board, *see* 2019 Elections Procedures Manual, Chapter 10, Section II(G)(2). In this case, the board's actions on the adjudication of voter intent and tallying of official write-in votes may be reported and verified on the same paper audit log.

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5. The EMS and/or electronic adjudication application shall provide a report on the ballots and votes electronically adjudicated by each Electronic Vote Adjudication Board, the selections made by the Electronic Vote Adjudication Board, the names of the members of the Electronic Vote Adjudication Board that processed the votes on the report, and the date of processing.
6. The electronic adjudication process shall include production of a paper audit log of the Electronic Vote Adjudication Board's dispositions as to each ballot/vote electronically adjudicated. The paper audit log must be verified and signed off on by the board members, who shall verify that the paper audit log accurately reflects the board's selections and that those selections are accurately reflected in the electronic adjudication application *prior to* committing the selections to the EMS for the purpose of updating results. The paper audit log shall be maintained in case resolution of any discrepancy or audit of the electronic adjudication process is needed. [A.R.S. § 16-621\(B\)\(3\)\(b\)](#).
7. To meet the requirement of a board-verified paper audit log, the Electronic Vote Adjudication Board shall either:
 - Maintain a manual, hard-copy log of its selections for each ballot/vote electronically adjudicated by the board; or
 - Print from the application a log of the ballots and votes electronically adjudicated the board and the selections made by the board for each ballot and vote, verify that the printed log accurately reflects the board's selections, and confirm that those selections are accurately reflected in the electronic adjudication application *prior to* committing the selections to the EMS for the purpose of updating results.
8. The officer in charge of elections shall provide for a method to retain, track, and account for the original ballot and the digital duplicate of the ballot created by the electronic adjudication application that includes a serial number on the digital image, which can be used to track Electronic Vote Adjudication Board actions. [A.R.S. § 16-621\(B\)\(3\)\(a\), \(c\)](#).
9. After adjudication is complete, and the board has verified that the paper audit log of its selections are accurate and verified that those selections are accurately reflected in the application, the results shall be committed to the EMS and the election results will be updated with new totals.