

**From:** Ralph Cushnie  
**To:** OE Elections  
**Subject:** [EXTERNAL] FW: Audits/Early Counting  
**Date:** Tuesday, September 13, 2022 5:01:51 PM  
**Attachments:** [image001.png](#)  
[PLACEBASE Place of Deposit Collection v.1.pdf](#)

Please submit for Written Testimony discussions with County of Kauai missing chain of custody documentation.  
Request for documentation regarding county compliance with HRS 16-42

**Ralph Cushnie**

**From:** Ralph Cushnie  
**Sent:** Monday, September 12, 2022 2:51 PM  
**To:** Lyndon Yoshioka <[yoshioka@kauai.gov](mailto:yoshioka@kauai.gov)>  
**Cc:** Jade Tanigawa <[jtanigawa@kauai.gov](mailto:jtanigawa@kauai.gov)>  
**Subject:** RE: Audits/Early Counting

Thank you, Lyndon but I am still confused by this. Per the place of deposit collection procedure 4.1.1 that you sent me, "a place of deposit collection record form shall be completed to document the collections of ballots from each drop box". I would consider these forms to be [the chain of custody documentation]. If you have the chain of custody documentation than you have the exact count from each drop box and receipt of mail in votes that came via mail. What am I missing? This is an important issue. I do not know how you can certify an election without these documents. Why bother following the place of deposit collection procedure and having official observers from both parties drive across the island carefully filling out Place of Deposit Collection Records? How do we know that ballots were not added or removed without these records?

**Ralph Cushnie**

**From:** Lyndon Yoshioka <[yoshioka@kauai.gov](mailto:yoshioka@kauai.gov)>  
**Sent:** Monday, September 12, 2022 7:17 AM  
**To:** Ralph Cushnie <[ralph@cushniecci.com](mailto:ralph@cushniecci.com)>  
**Cc:** Jade Tanigawa <[jtanigawa@kauai.gov](mailto:jtanigawa@kauai.gov)>  
**Subject:** RE: Audits/Early Counting

Per our 8/26/2022 below, the counts for the days in question were taken but were misplaced so could not be recorded. Chain of custody for ballots was not lost.

**From:** Lyndon Yoshioka <[yoshioka@kauai.gov](mailto:yoshioka@kauai.gov)>  
**Sent:** Friday, August 26, 2022 3:31 PM  
**To:** Ralph Cushnie <[ralph@cushniecci.com](mailto:ralph@cushniecci.com)>  
**Cc:** Jade Tanigawa <[jtanigawa@kauai.gov](mailto:jtanigawa@kauai.gov)>  
**Subject:** RE: Daily Auditable Accounting of Ballots Received Via Drop Box and USPS 2022 Primary Election

The updated counts are below. As stated previously these rough manual counts that are only used to gauge work flow and to assist in allocating resources.

Additionally, please note the following:

- The "No, Pulled" column represents the number of envelopes that were pulled for the day because they were unsigned or contained a non-matching signature;
- The "Received Manually" column represents the number of envelopes that were added back into the count because the envelope issue (i.e., missing or non-matching signature) which initially caused the envelope to be pulled was cured by the voter (i.e., signed and signature verified); and
- Individual counts for 7/28/22 and 7/29/22 were misplaced so only the Total is provided for those dates.

**From:** Ralph Cushnie <[ralph@cushniecci.com](mailto:ralph@cushniecci.com)>  
**Sent:** Thursday, September 8, 2022 8:00 PM  
**To:** Jade Tanigawa <[jtanigawa@kauai.gov](mailto:jtanigawa@kauai.gov)>; Lyndon Yoshioka <[yoshioka@kauai.gov](mailto:yoshioka@kauai.gov)>  
**Subject:** RE: Audits/Early Counting

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Hello Jade and Lyndon the information I am asking for regarding HRS 16-42 documentation (email dated sept 6) should be readily available. Please provide it by Monday September 12. Also please include documentation of election certification and how missing chain of custody documents for 1905 ballots is resolved.

**§11-155 Certification of results of election.** On receipt of certified tabulations from the election officials concerned, the chief election officer, or county clerk in a county election, shall compile, certify, and release the election results by district and precinct after the expiration of the time for bringing an election contest. The certification shall be based on a comparison and reconciliation of the following:

- (1) The results of the canvaas of ballots conducted pursuant to chapter 16;
- (2) The audit of records and resultant overage and underage report;
- (3) The audit results of the manual audit team;
- (4) The results of any mandatory recount of votes conducted pursuant to section 11-158; and
- (5) All logs, tally sheets, and other documents generated during the election and in the canvaas of the election results.

A certificate of election or a certificate of results declaring the results of the election as of election day shall be issued pursuant to section 11-156; provided that in the event of an overage or underage, a list of all precincts in which an overage or underage occurred shall be attached to the certificate. The number of candidates to be elected receiving the highest number of votes in any election district shall be declared to be elected. Unless otherwise provided, the term of office shall begin or end as of the close of voter service centers on election day. The position on the question receiving the appropriate majority of the votes cast shall be reflected in a certificate of results issued pursuant to section 11-156. [L 1970, c 26, pt of §2; am L 1980, c 264, §1(b); am L 1986, c 305, §3; am L 1997, c 61, §2; am L 2019, c 135, §2; am L 2021, c 213, §30]

**Ralph Cushnie**

**From:** Ralph Cushnie  
**Sent:** Tuesday, September 6, 2022 10:18 AM  
**To:** Jade Tanigawa <[jtanigawa@kauai.gov](mailto:jtanigawa@kauai.gov)>; Lyndon Yoshioka <[yoshioka@kauai.gov](mailto:yoshioka@kauai.gov)>  
**Subject:** FW: Audits/Early Counting

Good morning, Jade and Lyndon per my email sent prior to the primary election please provide information on how the county complied with HRS 16-42 for using electronic voting machines specifically at the county voting center. As we know the voting machines are only allowed to be used if the chief election officer conducts a post-election, pre-certification audit of a random sample of not less than ten per cent of the precincts employing the electronic voting system, to verify that the electronic tallies generated by the system in those precincts equal hand tallies of the paper ballots generated by the system in those precincts. Please provide all documentation on how the county complied with HRS16-42. Please reference e-mail below.

Sincerely

**Ralph Cushnie**

**From:** Ralph Cushnie  
**Sent:** Thursday, August 4, 2022 7:23 AM  
**To:** OE.Elections <[elections@hawaii.gov](mailto:elections@hawaii.gov)>  
**Cc:** Jade Tanigawa <[jtanigawa@kauai.gov](mailto:jtanigawa@kauai.gov)>; Lyndon Yoshioka <[yoshioka@kauai.gov](mailto:yoshioka@kauai.gov)>; Kataoka, Jaime N <[jaime.n.kataoka@hawaii.gov](mailto:jaime.n.kataoka@hawaii.gov)>  
**Subject:** RE: Audits/Early Counting

Good morning Auli, for the 2022 primaries please keep detailed records of the audits that your office performs that comply with HRS 16-42. This should include a narrative of how the audits were performed.

Please be prepared to answer how your audit complies with HRS 16-42 section (b) (3). The chief election officer conducts a post-election, pre-certification audit of a random sample of not less than ten per cent of the precincts employing the electronic voting system, to verify that the electronic tallies generated by the system in those precincts equal hand tallies of the paper ballots generated by the system in those precincts.

Audits need to contain both highlighted items in each Audit:

Audits need to be random. Preselecting the first ballot batch for an Audit is not random and does not comply with HRS 16-42.

They need to be performed using the original paper ballots. Using ballot images for an audit does not comply with HRS16-42. (Ballot images can be manipulated)

Please ensure that official observers are present and sign audits.

The Election Manual page 247 post-election audit states that "The Manual Audit Team, with Official Observers, review each batch to confirm it was counted as marked." "Election Officials and Official Observers confirm the results reports and certify the audit." Also, on page 247 it says that "Official Observers serve as the "eyes and ears" of the public."

We look forward to a transparent primary election.

Sincerely

**Ralph Cushnie**

**From:** Ralph Cushnie  
**Sent:** Wednesday, August 3, 2022 5:47 AM  
**To:** OE.Elections <[elections@hawaii.gov](mailto:elections@hawaii.gov)>  
**Cc:** Jade Tanigawa <[jtanigawa@kauai.gov](mailto:jtanigawa@kauai.gov)>; Lyndon Yoshioka <[yoshioka@kauai.gov](mailto:yoshioka@kauai.gov)>; Kataoka, Jaime N <[jaime.n.kataoka@hawaii.gov](mailto:jaime.n.kataoka@hawaii.gov)>  
**Subject:** RE: Audits/Early Counting

Auli, thank you for responding. I look forward to having further discussions on this.

**Ralph Cushnie**

**From:** OE.Elections <[elections@hawaii.gov](mailto:elections@hawaii.gov)>  
**Sent:** Wednesday, August 3, 2022 5:43 AM  
**To:** Ralph Cushnie <[ralph@cushniecci.com](mailto:ralph@cushniecci.com)>; OE.Elections <[elections@hawaii.gov](mailto:elections@hawaii.gov)>  
**Cc:** Jade Tanigawa <[jtanigawa@kauai.gov](mailto:jtanigawa@kauai.gov)>; Lyndon Yoshioka <[yoshioka@kauai.gov](mailto:yoshioka@kauai.gov)>; Kataoka, Jaime N <[jaime.n.kataoka@hawaii.gov](mailto:jaime.n.kataoka@hawaii.gov)>  
**Subject:** RE: Audits/Early Counting

Dear Mr. Cushnie,

This is written in response to your email, dated July 31, 2022, concerning the audit of the 2020 General Election. As it relates to your question, the audit on November 19, 2022 was conducted on Kauai. In regard to your thoughts on HRS § 16-42, as we noted in our prior email, any questions or issues you may have involving the interpretation of the law are legal matters that we cannot provide you advice about. In such circumstances, we note that individuals may wish to consult with a private attorney.

Further, we are conducting the 2022 Primary Election and we may not be able to respond to emails. We will return to our desks after the Primary Election operations have concluded, around August 29, 2022.

We appreciate your cooperation and patience.

Aloha,  
Auli Tenn  
Counting Center Operations

State of Hawaii  
Office of Elections  
(808) 453-VOTE (8683)  
[elections@hawaii.gov](mailto:elections@hawaii.gov)

---

**From:** Ralph Cushnie <[ralph@cushniecci.com](mailto:ralph@cushniecci.com)>  
**Sent:** Sunday, July 31, 2022 5:09 PM  
**To:** OE.Elections <[elections@hawaii.gov](mailto:elections@hawaii.gov)>  
**Cc:** Jade Tanigawa <[jtanigawa@kawaii.gov](mailto:jtanigawa@kawaii.gov)>; Lyndon Yoshioka <[lyoshioka@kawaii.gov](mailto:lyoshioka@kawaii.gov)>; Kataoka, Jaime N <[jaime.n.kataoka@hawaii.gov](mailto:jaime.n.kataoka@hawaii.gov)>  
**Subject:** [EXTERNAL] RE: Audits/Early Counting

Auli, after reading HRS 16-42 and your email, I have the following observations and question:

Question:

Was the Audit on November 19, 2020, done on Kauai?

Observations:

The audits spelled out in the election's manual are not designed to catch discrepancies or fraud.

An audit must be random and prove the Machines are tallying the original paper ballots correctly and must be done with official observers (that serve as the eyes and ears of the public). An Audit must contain all these components to catch discrepancies or fraud.

Election day November 3, 2020. Kauai Audit done on November 19, 2020, 9:56 am. Official state results posted November 19, 2020, 10:21am

Official state results posted 25 minutes after Kauai audit.

The Audit done on November 19, 2020, did not comply with HRS 16-42

Background:

**HRS 16-42 section (b)(13)** The chief election officer conducts a post-election, pre-certification audit of a random sample of not less than ten per cent of the precincts employing the electronic voting system, to verify that the electronic tallies generated by the system in those precincts equal hand tallies of the paper ballots generated by the system in those precincts.

The Election Manual page 247 post-election audit states that "The Manual Audit Team, with Official Observers, review each batch to confirm it was counted as marked." "Election Officials and Official Observers confirm the results reports and certify the audit." Also, on page 247 it says that "Official Observers serve as the "eyes and ears" of the public."

Conclusion: November 19, 2020 audit did not comply with HRS 16-42

First: There are 2 requirements per HRS 16-42; (1) they are random and (2) they are done using original paper ballots. There is no documentation for either of these components. The audit documentation is missing the Ballot Review Log, Ballot Audit Log, Batch Audit Tally, and the Results of Votes Cast. Also, it is missing a narrative of how the audit was performed.

Second: Per the elections Manual "Election Officials and Official Observers confirm the results reports and certify the audit." And that "Official Observers serve as the "eyes and ears" of the public". The language is plain, "and" means both parties need to be present. Per your response below only Oahu Election officials performed the audit. No Kauai election officials and no official observers ("eyes and ears of the public") were present at the November 19 audit.

Solution:

**Randomly Audit One Complete District** with official observers (to serve as the eyes and ears of the public) to verify machines are counting original paper ballots correctly. No ballot images should be used in audits. Volunteers from both parties will hand count one randomly selected district using original paper ballots. All races will be tallied and compared to official computer results.

I look forward to your response to these questions. Let's keep in mind that Public trust in Election Integrity is at an all-time low and the public is paying attention to the process. Fair elections require transparency.

Sincerely,

**Ralph Cushnie**  
Board of Registration Kauai and Niihau

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**From:** OE Elections <[elections@hawaii.gov](mailto:elections@hawaii.gov)>  
**Sent:** Friday, July 29, 2022 2:25 PM  
**To:** Ralph Cushnie <[ralph@cushniecci.com](mailto:ralph@cushniecci.com)>; OE.Elections <[elections@hawaii.gov](mailto:elections@hawaii.gov)>  
**Cc:** Jade Tanigawa <[jtanigawa@kawaii.gov](mailto:jtanigawa@kawaii.gov)>; Lyndon Yoshioka <[lyoshioka@kawaii.gov](mailto:lyoshioka@kawaii.gov)>  
**Subject:** RE: Audits/Early Counting

Dear Mr. Cushnie,

This is written in response to your email, dated July 27, 2022, concerning the audit of the 2020 General Election.

As a starting point, we believe the audit that was conducted complied with the law. Any questions or issues you may have involving the interpretation of the law are legal matters that we cannot provide you advice about. In such circumstances, we note that individuals may wish to consult with a private attorney.

However, we can address your general questions about the timing of the audit and who was involved. Specifically, the audit takes place over a period of time, as opposed to solely on election night. The reason for this is that the law provides that election results will not be certified "unless all ballots verified as valid by the clerk within seven days following an election day have been added to the final tabulation." HRS § 11-108. This results in the audit occurring on election night and after these additional ballots are received from the county clerk.

This window of time for the county clerks to verify additional ballots corresponds with the five business day window of time that HRS § 11-106 provides voters to cure issues with their return identification envelopes that were received by the close of voting on election day. The curing process generally involves situations in which the voter did not sign their envelope or their signature did not initially appear to match what was on file.

In terms of the logistics of resuming the audit after verification of the additional ballots, election officials from the Office of Elections on Oahu travel to each of the neighbor island counting centers across the state to participate in the audit. In other words, the audits are completed within these counties, as opposed to on Oahu. Official observers are informed of the dates of the resumption of the audit and can either participate in the audit or observe, consistent with their duties and responsibilities.

The signatures on the various audit forms reflect election officials, counting center officials, or official observers, depending on who participated in the audit. Official observers ultimately have the ability to participate in the audit or simply observe. As it relates to Kauai, assigned counting center officials constituted the audit team on November 3, 2020 and signed, while on November 19, 2020 the election officials from Oahu constituted the audit team and signed.

Finally, as it relates to your recommendations concerning the audit, we will take them into consideration. Please note that if discrepancies are found in an audit, election officials are able to authorize an expanded audit to determine the extent of any misreporting within the system.

Aloha,  
Auli Tenn  
Counting Center Operations

State of Hawaii  
Office of Elections  
(808) 453-VOTE (8683)  
[elections@hawaii.gov](mailto:elections@hawaii.gov)

---

**From:** Ralph Cushnie <[ralph@cushniecci.com](mailto:ralph@cushniecci.com)>  
**Sent:** Wednesday, July 27, 2022 6:13 AM  
**To:** OE.Elections <[elections@hawaii.gov](mailto:elections@hawaii.gov)>  
**Cc:** Jade Tanigawa <[jtanigawa@kawaii.gov](mailto:jtanigawa@kawaii.gov)>; Lyndon Yoshioka <[lyoshioka@kawaii.gov](mailto:lyoshioka@kawaii.gov)>  
**Subject:** [EXTERNAL] RE: Audits/Early Counting

Thank you, Auli, Does this audit comply with HRS section 16-42? It appears that one audit was done on election day the other was done 11/19/20, 2 weeks after the election. What was the reason for the time lapse? Was the second audit done on Kauai or Oahu? Are the signatures from Kauai Poll watchers?

An Audit should be able to check the actual paper ballots and compare them to the machine results. I recommend auditing one complete district after each election.

**Ralph Cushnie**

---

**From:** OE Elections <[elections@hawaii.gov](mailto:elections@hawaii.gov)>  
**Sent:** Tuesday, July 26, 2022 4:23 PM  
**To:** Ralph Cushnie <[ralph@cushniecci.com](mailto:ralph@cushniecci.com)>; OE.Elections <[elections@hawaii.gov](mailto:elections@hawaii.gov)>  
**Cc:** Jade Tanigawa <[jtanigawa@kawaii.gov](mailto:jtanigawa@kawaii.gov)>; Lyndon Yoshioka <[lyoshioka@kawaii.gov](mailto:lyoshioka@kawaii.gov)>  
**Subject:** RE: Audits/Early Counting

Dear Mr. Cushnie,

Please see the attached audit certification from the 2020 General Election.

Aloha,  
Auli Tenn  
Counting Center Operations

---

**From:** Ralph Cushnie <[ralph@cushniecci.com](mailto:ralph@cushniecci.com)>  
**Sent:** Monday, July 25, 2022 6:32 AM  
**To:** OE Elections <[elections@hawaii.gov](mailto:elections@hawaii.gov)>  
**Cc:** Jade Tanigawa <[jtangawa@kawaii.gov](mailto:jtangawa@kawaii.gov)>; Lyndon Yoshioka <[lyoshioka@kawaii.gov](mailto:lyoshioka@kawaii.gov)>  
**Subject:** [EXTERNAL] RE: Audits/Early Counting

Good morning, Auli, I need to make a correction. I would like the documentation for the 2020 general election. Especially "Section 16-42 provides that the voting system be tested to ensure ballots are counted logically and accurately and that a random sample of not less than 10% of precincts be audited" Also please include documentation of the election day audit, and post-election audit.  
Please address my specific points on the audit process. An audit should compare the paper ballots to the machine results and it should be random.

**Ralph Cushnie**

---

**From:** Ralph Cushnie  
**Sent:** Friday, July 22, 2022 4:01 PM  
**To:** OE Elections <[elections@hawaii.gov](mailto:elections@hawaii.gov)>  
**Cc:** Jade Tanigawa <[jtangawa@kawaii.gov](mailto:jtangawa@kawaii.gov)>; Lyndon Yoshioka <[lyoshioka@kawaii.gov](mailto:lyoshioka@kawaii.gov)>  
**Subject:** RE: Audits/Early Counting

Auli, thank you, I will be working on a response to your reply over the weekend. In the meantime, please send me the Documentation for the 2020 primary election audit that you did that complies with Section Hawaii Revised Statutes 16-42. "This provides that the voting system be tested to ensure ballots are counted logically and accurately and that a random sample of not less than 10% of precincts be audited." Also please include the Election Day Audit, Post-Election Audit, documentation.

Sincerely

**Ralph Cushnie**

Board of Registration Kauai and Niihau

---

**From:** OE Elections <[elections@hawaii.gov](mailto:elections@hawaii.gov)>  
**Sent:** Friday, July 22, 2022 2:32 PM  
**To:** Ralph Cushnie <[ralph@cushniecci.com](mailto:ralph@cushniecci.com)>  
**Cc:** Jade Tanigawa <[jtangawa@kawaii.gov](mailto:jtangawa@kawaii.gov)>; Lyndon Yoshioka <[lyoshioka@kawaii.gov](mailto:lyoshioka@kawaii.gov)>; OE Elections <[elections@hawaii.gov](mailto:elections@hawaii.gov)>  
**Subject:** RE: Audits/Early Counting

Aloha Mr. Cushnie,

We received your email from the County of Kauai Elections Division as the State Office of Elections is responsible for the counting of ballots. We appreciate your comments and interest in the counting process. We want to note that the processes serve as checks and balances to ensure that all ballots are counted and counted correctly as well as the security and integrity of the election.

We also want to highlight, Hawaii Revised Statutes, Section 16-42 provides that the voting system be tested to ensure ballots are counted logically and accurately and that a random sample of not less than 10% of precincts be audited. These processes work together to first confirm the voting equipment is working correctly and then confirm the election results.

Mahalo for your participation in the electoral process.

Auli Tenn  
Counting Center Operations

State of Hawaii  
Office of Elections  
(808) 452-1077; (808) 452-1078  
[elections@hawaii.gov](mailto:elections@hawaii.gov)

---

**From:** Lyndon Yoshioka  
**Sent:** Wednesday, July 20, 2022 9:02 PM  
**To:** Ralph Cushnie <[ralph@cushniecci.com](mailto:ralph@cushniecci.com)>  
**Cc:** Jade Tanigawa <[jtangawa@kawaii.gov](mailto:jtangawa@kawaii.gov)>  
**Subject:** RE: Audits/Early Counting

Received.

---

**From:** Ralph Cushnie <[ralph@cushniecci.com](mailto:ralph@cushniecci.com)>  
**Sent:** Tuesday, July 19, 2022 6:22 AM  
**To:** Lyndon Yoshioka <[lyoshioka@kawaii.gov](mailto:lyoshioka@kawaii.gov)>; Jade Tanigawa <[jtangawa@kawaii.gov](mailto:jtangawa@kawaii.gov)>  
**Subject:** Audits/Early Counting

**CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.**

Lyndon, Jade, I have read through the election manual and have the following observations:

Audits:

Background:

CISA has recently put out a report that vulnerabilities exist in election machines.

Traditionally audits are done on the terms of the auditor. The elections manual carefully dictates the terms of election audit. Therefore, the auditee is dictating the terms of the audit to the auditor.

The Election Day audit is done for the first batch of ballots run through the scanners. This is specially planned and is not random. It is possible without County Officials being aware to have different code in the machines after the first batch is run. Also, if machines are online, they can be hacked into. The post-election audit is done on ballot images. The ballot images are not compared to the actual paper ballot. Machines can change ballot images. Neither audit verifies that the votes (paper ballots) were counted correctly. On a national level primary elections were contested from both parties and hand counts of the paper ballots revealed different results from the machine count. Parameters of the machine can be changed or programmed differently without local election officials knowing. It our understanding that the election machines are proprietary and that a private contractor controls the machines themselves. It is our understanding that County officials turn them on and off and can operate different key functions. County officials do not have control of the machine programming.

Solution:

In order to maintain the Public's trust in Elections. Random and comprehensive audit should be done immediately after the election. The audit terms should be made by the auditors. (Representatives of parties involved in the election). No partial or % audits.

Recommendation:

Audit 1 full District.

Kauai has three districts with individual unique ballots. Randomly chose one district (by Auditors) Compare paper ballots (hand count all races) to official machine tally results immediately following all elections.

Early Counting:

Background: Mail in ballots are run through the machine up to a week prior to election day. Results of early tabulation are not released to the public.

Discussion: If ballots are run through the voting machines early someone knows the results. This can give some candidates an unfair advantage over others.

Recommendation: No ballots should be run through scanners until election day.

**Ralph Cushnie**

Board of Registration Kauai and Niihau

# PLACE OF DEPOSIT COLLECTION PROCEDURE



ELECTIONS DIVISION  
OFFICE OF THE COUNTY  
COUNTY OF KAUA'I

Revised June 26, 2022, v1.1

### Disclaimer

This document is intended as a reference source only and should not be construed as the authority for the administration of elections or constituting legal advice.

Readers should consult the Hawai'i Revised Statutes and other sources for a complete and legal basis of the law or seek assistance from a licensed private attorney.

While every effort was made to keep this document up to date, if any item or section is outdated, the outdated material shall not affect other items or sections of this document that can be given effect without the outdated section or item, and to this end the sections of this Manual are severable.

## TABLE OF CONTENTS

<b>1</b>	<b>Overview</b>	
1.1	Terms and Acronyms .....	1
1.2	Authority.....	1
1.3	Organization.....	2
<b>2</b>	<b>Personnel</b>	
2.1	Election Staff.....	2
2.2	Dropbox Lockers.....	2
2.3	Watchers.....	2
<b>3</b>	<b>Places of Deposit</b>	
3.1	Locations.....	3
3.2	Dropbox Deployment.....	3
3.3	Dropbox Maintenance.....	3
3.4	Dropbox Retrieval.....	3
<b>4</b>	<b>Ballot Collection</b>	
4.1	Documentation.....	4
4.2	Collection Process.....	4
4.3	Transport Container Security.....	4
4.4	Processing at Election Division.....	5
<b>5</b>	<b>Election Day</b>	
5.1	Personnel.....	5
5.2	Logistics.....	6
5.3	Close of Polls.....	6
<b>6</b>	<b>Appendix</b>	
6.1	Place of Deposit Locations.....	8
6.2	Place of Deposit Collection Record.....	9
6.3	Late Invalid Envelope.....	10

# 1 OVERVIEW

## 1.1 Terms and Acronyms.

**Americans with Disabilities Act** or **ADA** means the Americans with Disabilities Act of 1990 with amendments.

**Ballot Dropbox** or **Dropbox** means the apparatus set up by the County Clerk for receiving and securing voted ballots pursuant to HRS § 11-109.

**Ballot Envelope** means the envelope containing a voter's voted ballot.

**County** means the County of Kaua'i, State of Hawai'i.

**County Clerk** or **Clerk** means the County Clerk of the County of Kaua'i, State of Hawai'i.

**DOJ** means the U.S. Department of Justice.

**Dropbox Late Invalid Envelope** or **DLIE** means the envelope develop to secure ballots there were left outside a locked Dropbox.

**Dropbox Locker** or **DL** means a volunteer Election Day official whose responsibility is to lock the Dropbox at the close of polls on Election Day.

**Elections Administrator** or **EA** means the Elections Administrator of the Elections Division, Office of the County Clerk, County of Kaua'i, State of Hawai'i.

**HAR** means Hawai'i Administrative Rules.

**HRS** means Hawai'i Revised Statutes.

**Place of Deposit** or **POD** means the location designated by the County Clerk for the placement of a Ballot Dropbox pursuant to HRS § 11-109.

**Staff** means employees of the Office of the County Clerk, County of Kaua'i.

**State** means the State of Hawai'i.

**Volunteer** means an individual from the public assisting with an election process.

**Watcher** means an individual appointed by a political party pursuant to HRS § 11-77 to watch an election process.

## 1.2 Authority.

1.2.1 The Office of the County Clerk through its Elections Division is authorized to administer all official elections conducted in the County of Kaua'i, State of Hawai'i pursuant to:

- (1) U.S. Constitution;

- (2) Help America Vote Act of 2002 (HAVA);
- (3) Hawai'i State Constitution;
- (4) Hawai'i Revised Statutes;
- (5) Hawai'i Administrative Rules;
- (6) Charter of the County of Kaua'i; and
- (7) Kaua'i County Code 1987 as amended.

1.2.2 Specifically, the Office of the County Clerk is responsible for conducting "*...all elections held within the county pursuant to this charter, the laws of the State of Hawai'i or the United States of America.*" Section 5.01 (B) (4) of Article V of the Charter of the Kaua'i County. Emphasis added.

1.2.3 Additional information is available on the State Office of Elections webpage at: <https://elections.hawaii.gov/resources/election-laws/>

### 1.3 Organization.

1.3.1 The County Clerk serves at the department head for the Office of the County Clerk, which is comprised of the Council Services and Elections Divisions.

1.3.2 The County Clerk delegates oversight of all Federal, State, and County elections conducted in the County of Kaua'i to the Elections Administrator.

1.3.3 The EA serves as the division head for the Elections Division and oversees all election Staff and Volunteers in the County. The EA reports directly to the County Clerk.

## 2 PERSONNEL

### 2.1 Staff.

Staff shall be responsible for maintaining, deploying, and retrieving Dropboxes from the field, and shall be the only individuals authorized to collect ballots pursuant to Hawai'i law and procedures described in the document.

### 2.2 Dropbox Lockers.

Dropbox Lockers are members of the public who reside in the general area where a Dropbox is located and are only responsible for locking the Dropbox at the close of polls on Election Day.

### 2.3 Watchers.

A Watcher is a Volunteer from the public who is appointed by a political party to watch an election process. A Watcher shall serve in a purely observational capacity, shall have no authority over the process that they are watching, and shall



serve at no cost to the County or State. The absence of a Watcher shall not be cause for delaying or rescheduling any planned process.

### **3 PLACES OF DEPOSIT**

#### **3.1. Locations.**

3.1.1 Places of Deposit (POD) shall be established in locations which are commonly known to area residents. The list of current PODs is depicted in Appendix 6.1.

3.1.2 The placement of Droboxes shall be in a visible location which is accessible pursuant to the DOJ's Americans with Disabilities Act Checklist for Polling Place.

#### **3.2 Dropbox Deployment.**

3.2.1 Dropboxes shall be deployed at approximately the same time that ballots are initially mailed to voters.

3.2.2 Deployment may be staggered to accommodate logistical or location specific issues.

3.2.3 Dropboxes shall be secured to a fixed object at each Place of Deposit.

#### **3.3 Drobox Maintenance.**

3.3.1 Prior to deployment Dropboxes shall be examined to ensure that the exterior and interior of the unit is clean.

3.3.2 Locks, doors, and the envelope chute shall be examined to ensure that they are clean, clear of obstruction, and functioning properly.

3.3.3 Dropboxes shall be examined and cleaned at every ballot collection.

3.3.4 Damaged Dropboxes shall not be deployed. A Dropbox damaged in the field shall be removed from service and a report shall be filed with the Kaua'i Police Department, if applicable.

3.3.5 A damaged Dropbox shall be replaced as soon as possible if a spare is available and an announcement shall be issued to inform the public of the temporary or permanent unavailability of the POD as applicable.

#### **3.4 Dropbox Retrieval.**

3.4.1 Staff shall retrieve and transport Dropboxes back to the Elections Division as soon after the election as practicable.

- 3.4.2 Retrieval may be staggered to accommodate logistical or location specific issues.

## **4 BALLOT COLLECTION**

### **4.1 Documentation.**

- 4.1.1 A Place of Deposit Collection Record form (Form) shall be completed to document the collection of ballots from each Dropbox. A sample of the Form is depicted in Appendix 6.2.
- 4.1.2 Staff shall be responsible for completing applicable items of the Form in ink. The field count of ballots from each Dropbox shall be recorded in the Note(s) section on the upper portion of the Form.
- 4.1.3 Watchers, if present, may confirm that the information recorded on the Form is correct by initialing in the Note(s) section on the upper portion of the Form.
- 4.1.4 The ballot count recorded in the No. Envelopes field in the lower portion of the Form shall be the official count of ballots collected from the Dropbox.

### **4.2 Collection Process.**

#### **4.2.1 Staff shall be responsible for:**

- (1) Removing all ballots and confirming that the Dropbox is empty;
- (2) Securing ballots in a transport containers per procedure;
- (3) Examining the Dropbox to ensure it remains secured to the fixed object and is in proper working order; and
- (4) Ensuring the ballot bin door is locked after ballots are removed.

- 4.2.2 Prior to Election Day any voter appearing at the Dropbox before the transport container is sealed shall be allowed to place their ballot in the container.

### **4.3 Transport Container Security.**

- 4.3.1 A uniquely numbered wire hasp seal shall be properly affixed to the transport container to prevent it from being opened without cutting the seal or damaging the container.
- 4.3.2 Upon completion of the Form, the white (original) copy shall be placed in the clear pouch affixed to each transport container and the yellow (NCR copy) shall be sealed inside the container with the ballots.

- 4.3.3 When collecting ballots, transport vehicles shall:
- (1) Be locked when occupants exit the vehicle to collect ballots and shall not be left unattended for prolonged periods of time;
  - (2) Proceed directly from one Dropbox to the next using the most direct route of travel possible; and
  - (3) Only stop at Dropbox locations and engage in functions relevant to the secure collection and transport of ballots to the Elections Division.

4.4 Processing at Election Division.

4.4.1 Staff shall document the receipt of transport containers on the White (original) copy of the Form by:

- (1) Recording the container arrival time in the Time ARRIVED field;
- (2) Confirming that the seal no. used to secure the container and seal no. recoded on the White copy of the Form match;
- (3) Cutting and removing the seal and taping it in the designated area;
- (4) Removing and counting the number of envelopes in the container and recording the number in the No. Envelopes field; and
- (5) Initialing in the Staff Initials field.

4.4.2 The number of ballots collected from each Dropbox shall be entered into a spreadsheet or similar document for future reference.

4.4.3 The White (original) and Yellow (NCR copy) of the Form shall be filed together for future reference.

4.4.4 Ballots collected from each Dropboxes shall be kept together until ballots are manually sorted into districts and precincts.

## 5 ELECTION DAY

5.1 Personnel.

5.1.1 Two (2) Election Staff.

5.1.2 Seven (7) Election Day volunteers.

5.1.3 Watchers, if any.

## 5.2 Logistics.

- 5.2.1 Dropboxes on the island shall be divided into two (2) service areas: Kōloa to Waimea and Waipouli to Hanalei. (Office Staff shall be responsible for servicing the Dropbox in the front of the Elections Division.)
- 5.2.2 Staff shall be responsible for collecting ballots from each service area.
- 5.2.3 A Dropbox Locker shall be assigned to each Dropbox.
- 5.2.4 Staff and Dropbox Lockers shall be provided with the keys for their assigned Dropbox ballot chute.
- 5.2.5 Staff shall be provided with the ballot box keys for all Dropboxes in their service area.

## 5.3 Close of Polls.

- 5.3.1 All Staff and Dropbox Lockers shall use the time at <https://time.gov/> and shall be at their assigned Dropbox prior to the close of polls at 7:00 p.m. on Election Day.
  - (1) A Staff person shall be assigned to each of the last Dropboxes at the extreme ends of the island.
  - (2) A Dropbox Locker shall be at all other Dropboxes.
- 5.3.2 At the close of polls, Staff and Dropbox Lockers shall position and lock the Dropbox chute plate into the ballot chute to prevent additional ballots from entering the Dropbox. A voter appearing at the Dropbox before the ballot chute is locked shall be allowed to place their ballot in the Dropbox.
- 5.3.3 After properly installing and locking the ballot chute, Dropbox Lockers shall not under any circumstances reopen the Dropbox and shall immediately leave the area.
- 5.3.4 Staff collecting ballots shall only travel directly between Dropboxes in their assigned service area and shall collect ballot pursuant to Section 4.
- 5.3.5 Ballots left by voters who show up at the Dropbox while ballots are being transferred into the transport container or ballots found outside a locked Dropbox shall be deemed late invalid and shall not be counted.
  - (1) Late invalid ballots shall not be comingled with valid ballots that are placed in the Dropbox prior to the close of polls on Election Day.

- (2) The quantity shall be recorded in the Note(s) field in the upper portion of the Place of Deposit Collection Record form.
- (3) Information on a Dropbox Late Invalid Envelope (DLIE) shall be recorded to document the late ballots and the corresponding late ballots shall be secured inside.
- (4) The DLIE shall be sealed inside the corresponding transport container.

## 6 APPENDIX

### 6.1 Place of Deposit Locations

NO.	LOCATION
1	Hanalei Neighborhood Center
2	Princeville Library
3	Kīlauea Neighborhood Center
4	Waipouli Shopping Center
5	Elections Division
6	Kōloa Neighborhood Center
7	Kalāheo Neighborhood Center
8	Hanapēpē Neighborhood Center
9	Waimea Neighborhood Center

6.2 Place of Deposit Collection Record

PLACE OF DEPOSIT COLLECTION RECORD	
Date	Location
Time ARRIVED	Time DEPARTED
Inspection Check List <input type="checkbox"/> Secured to fixed object with wheels locked. <input type="checkbox"/> Exterior clean. <input type="checkbox"/> Interior clean and dry. <input type="checkbox"/> Collection bin clean and dry. <input type="checkbox"/> Deposit chute unlocked and free of obstruction. <input type="checkbox"/> Doors locked.	
Note(s)	Seal No.
	Staff Initials
Time ARRIVED	Seal No.
Note(s)	<i>Tape seal here on ORIGINAL COPY</i>
No. Envelopes	Staff Initials
Office of the County Clerk, County of Kaua'i <span style="float: right;">WHITE Original / YELLOW Copy</span>	

6.3 Dropbox Late Invalid Envelope.

**DROPBOX LATE INVALID**

YEAR:	ELECTION: <input type="checkbox"/> Primary <input type="checkbox"/> General
LOCATION: <input type="checkbox"/> Hanalei Neighborhood Center <input type="checkbox"/> Princeville Library <input type="checkbox"/> Kilauea Neighborhood Center <input type="checkbox"/> Waipouli Shopping Center <input type="checkbox"/> Elections Division <input type="checkbox"/> Kōloa Neighborhood Center <input type="checkbox"/> Kalāheo Neighborhood Center <input type="checkbox"/> Hanapēpē Neighborhood Center <input type="checkbox"/> Waimea Neighborhood Center	
DATE:	TIME:
NOTE(S):	
INITIAL(S):	



## Document History

Date	Version	Comments
06/15/2020	1.0	Origination v1.0
06/26/2022	1.1	Clarifying language and enhanced documentation