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# Alameda County admits tallying error in ranked-choice voting, flips one result and raises big questions

By Jill Tucker, Jordan Parker, J.D. Morris, Nami Sumida

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A poll worker cuts out voting stickers at Alameda County’s mail-in ballot drive-thru on Election Day at the county courthouse in Oakland.

Brontë Wittpenn / The Chronicle

More than 50 days after the November

election and days before winners take office, Alameda County election officials announced that a programming error led to a miscount across all ranked-choice contests, including a race in which an Oakland school board candidate was wrongly declared the winner.

The revelation came well after the county certified the results and raised questions not only about what happens next, but whether the mistake could further erode faith in fair elections.

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The registrar of voters announced the error late Wednesday, saying the results in the District Four school board race had changed once the votes were recounted using a corrected algorithm.

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Based on new calculations, Nick Resnick, the CEO of an education company, who was previously declared the winner, lost to Mike Hutchinson, a current board member.

Resnick was expected to be the first LGBTQ person elected to the Oakland school board and the first transgender person to serve on a school board in the state.

The registrar's news release, however, did not declare Hutchinson the winner or correct previous vote counts online. The registrar notified the candidates, the school district and the secretary of state of the change, but did not explain what the process is to correct the error

— or if it can be reversed since the election was already certified.

San Francisco political consultant Jim Ross said he had never seen anything like the vote-count reversal in his three decades of political work in numerous states.

“As somebody who does politics for a living, I’m kind of shocked, outraged and just dismayed about it all,” he said. “You count on the registrar of voters to conduct the election in a way that’s fair and competent.... It really feeds into the distrust that so many people have in our electoral system when this sort of thing happens.”

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The registrar’s office did not

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Resnick, who expected to take office on Jan. 9, said he was still gathering information and was unsure whether he would pursue a legal challenge. The new results offered him little time to call for a recount in what was a very close election.

He told The Chronicle in a text late Wednesday that he had “received a call today with unprecedented information from the county registrar.... I have the same questions as everyone else.”

Hutchinson, reached Wednesday evening, said he was happy and in shock after he got a call from the head of elections at 10:30 a.m. informing him that he won. “I’m happy that the error was corrected and that we have the proper results,” he said.

By Thursday, he was still reeling, but said he planned to talk to lawyers today to get legal advice on what to do.

“As far as I can tell, this is unprecedented,” he said.

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Observers said the error had eroded trust in the election process, with some questioning the ranked-choice results in other races, despite the registrar's assurance that there were no changes in the outcomes for any other contests.

“This whole thing erodes confidence across the board,” said Loren Taylor, a ranked-choice critic who lost the Oakland mayor's race despite receiving the most first-place votes. “All of my residents and others who have reached out to me — so many have lost confidence in the election results. That is not something we can take lightly.”

Alameda County is among several jurisdictions that uses ranked-choice voting, a system that allows voters to rank candidates rather than only choosing one. The counting process rolls lower-ranked votes into candidate tallies as opponents are mathematically eliminated until one reaches more than 50% of the vote.

The system ensures that one candidate gets a majority vote without a costly runoff election.

San Francisco voters adopted ranked-

choice voting in March 2002, and the system has been used in local races since 2004.

Jim Sutton, a San Francisco election lawyer, could not think of any instance in the city’s 18-year history with ranked choice in which a systemwide error like the one in Alameda County had flipped the outcome of a race.

Mistakes are common, he said, but typically they are minor problems with individual ballots. But the situation in Alameda County warrants further scrutiny, Sutton said, including a possible recount and a lawsuit if needed — especially since the race was so close.

“You want to go in there and verify that what they wrong the didn’t get i said.

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Coalition, released, FairVote released issues specifically related to how to count a second- or third-choice vote if the voter did not select a first choice. Ballots with blank spots in ranked-choice races are considered “suspended.”

The Alameda County registrar explained that if a voter didn’t select a candidate as first choice, then the second choice should have been counted as the first choice in the first round. The same would occur in subsequent rounds moving lower choices up into the empty slot.

In other words, voters’ ranked choices are advanced and replace any spots in the ranking left blank.

Instead, the erroneous algorithm didn’t count any vote in a round if a space was blank.

More than 200 ballots were considered suspended and not counted correctly in the Oakland District Four school director race. A majority of these suspended votes, 115, were for Hutchinson.



Without the suspended votes in the first-round results, the ranked-choice voting algorithm incorrectly determined that Hutchinson had the fewest votes and eliminated him in the first round. But with the suspended votes, Hutchinson's vote tally grows to 8,227, making him the second-highest vote-getter in the first round after Resnick. Hutchinson then won by a few hundred votes in the second round.

The new count of suspended ballots resulted in new tallies in all ranked-choice races in Alameda County without affecting the outcome.

"It's not something that I know of happening before in ranked-choice voting elections, but we know registrars are human and mistakes happen," Dugar said. He added that a possible adjustment the registrar could make is opening access to vote tallies earlier so "individuals and organizations" can verify and run tabulations themselves.

"The registrar is going to have to do something to restore trust in our system," Dugar said. "In Oakland, (trust is) even lower because some were confused about the results of the

mayor's race.”

The registrar's news release did not explain why the error occurred or who was responsible. It said the registrar was “currently working with its vendor to provide safeguards so that this does not happen in future elections.”

School district officials said they would abide by the final decision from the registrar of voters.

Local and national LGBTQ organizations supported Resnick's candidacy, and officials said it would be heartbreaking to lose so long after the votes were cast and a winner declared.

“It would be disappointing to learn we made history at a time when it was especially important to elect trans folks and send that message,” said Tom Temprano, political director for Equality California, which advocates for the LGBTQ+ community, adding his organization was ready to support whatever Resnick decides to do next.

The registrar's website still showed the old results Thursday — with Resnick winning with 38% of the first-round

vote (9,954 votes), followed by Pecolia Manigo at 31.1% of the vote (8,153 votes) and Hutchinson in third place at 30.9% of the vote (8,112 votes).

David Haubert, an Alameda County supervisor for District One, said the situation was unfortunate and that he was awaiting more details.

It appeared the board would have to recertify the new election results.

“As I understand, the discrepancy arises when voters don’t follow precise instructions and skip a round of voting,” he said. “This appears to me to be an honest oversight. I’m glad we were able to determine the rightful winner.”

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