§ 9-108. Canvass; ballots, verifying number cast. 1. For all election day paper ballots cast when a ballot scanner is not available, ballots abandoned by a voter at the ballot scanner, as defined in 9 NYCRR 6210.13(a)(11)(a) or ballots submitted by the voter which are otherwise non-machine processable, as defined in 9 NYCRR 6210.13(a)(8), the board of inspectors, at the beginning of the canvass, shall count the number of unscanned ballots found in each emergency box or other secure storage container provided by the board of elections, ascertaining that each ballot is single, and shall compare the number of ballots found in such box or container with the remainder number of ballots, as determined pursuant to section 9-106 of this title.

2. If the ballots found in any box shall be more than the number of ballots so shown to have been deposited therein, such ballots shall all be replaced, without being unfolded, in the box from which they were taken, and shall be thoroughly mingled therein, and one of the inspectors shall, with his or her back to the box, publicly draw out as many ballots as shall be equal to such excess and, without unfolding them forthwith shall enclose them in an envelope which he or she shall then and there seal and endorse "excess ballots for the general election, presidential electors, or party ballots or otherwise", as the case may be, and shall sign his or her name thereto, and place such envelope in the box for defective or spoiled ballots.

3. If two or more ballots shall be found in a ballot box so folded together as to present the appearance of a single ballot, and if the whole number of ballots in such box exceeds the whole number of ballots so shown to have been deposited therein, those ballots, or enough of them to reduce the ballots to the proper number, selected without examination of any voting mark thereon, shall be similarly removed as excess ballots.

4. If, however, there lawfully be more than one ballot box for the reception of ballots, no ballot found in the wrong ballot box shall for that reason be rejected, but it shall be placed in its proper box by the inspectors upon the count of the ballots before the canvass, and counted in the same manner as if it was found in the proper ballot box, if such

ballot shall not, together with the ballots found in the proper ballot box, make a total of more ballots than are shown to have been deposited in such box.

5. No ballot that is not an official ballot prepared for the election shall be counted except for those ballots voted in accordance with the provisions for emergency ballots.