

Yakima County

2009 General Election

State of Washington



Conducted by:
The Office of the Secretary of State
Election Certification and Training Program

INTRODUCTION

The Washington State Legislature enacted legislation in 1992 mandating that the Office of the Secretary of State review county election procedures and practices. The Election Certification and Training Program was established within the Elections Division of the Office of the Secretary of State to conduct reviews and to provide for the certification of election administrators. In 2009, the Legislature altered the Election Certification and Training Program to require that each County Auditor's Office be reviewed at least once every five years. The Legislature also added a requirement that the Program conduct follow-up contact to verify that the County Auditor's Office has taken steps to correct the problems noted in the report.

The election review process is governed by RCW 29A.04.510 through 29A.04.590 and Chapter 434-260 of the Washington Administrative Code.

Pursuant to RCW 29A.04.570(1)(b), the Election Certification and Training Program conducted an election review in Yakima County during the 2009 General Election cycle. Sheryl Moss, Elections Program Manager, represented the Election Certification and Training Program during the review. Corky Mattingly, Yakima County Auditor, Kathy Fisher, Elections Supervisor, and other members of the staff participated on behalf of the Yakima County Auditor's Office.

Both the reviewer and the Yakima County Elections Department approached the review in a spirit of cooperation. The department allowed the reviewer to thoroughly review and examine all aspects of the election processes. The staff provided documentation and materials during the review which greatly contributed to a successful examination process.

The purpose of this review report is to provide the Yakima County Elections Department with a useful evaluation of its election procedures and policies and to encourage procedural consistency in the administration of elections throughout the state. This review report includes a series of recommendations and/or suggestions that are intended to assist the Yakima County Elections Department in improving and enhancing its election processes.

The reviewer is statutorily prohibited from making any evaluation, finding, or recommendation regarding the validity of any primary or election, or of any canvass of the election returns. Consequently, this review report should not be interpreted as affecting the validity of the outcome of any election or of any canvass of election returns.

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OVERVIEW

Named after the Yakama tribe, Yakima County is the second largest county geographically in the state of Washington. The Yakama Indian Reservation, the 15th largest reservation in America, comprises 36% of the county's total area.

Yakima County was formed out of Ferguson County in 1865. No longer in existence, Ferguson County was created from Walla Walla County in 1863. The fertile Yakima River Valley has made agriculture, along with food manufacturing and fruit warehousing, major industries in Yakima County.

The Yakima County Elections Department must respond to a culturally diverse population. Voter outreach programs must communicate across many cultural lines including large Spanish and Indian communities. Yakima County produces all election materials in both English and Spanish as required by federal law. In addition to providing translated materials, Yakima County employs a full-time Spanish translation staff.

The staff is experienced and very knowledgeable. They have successfully managed the multitude of changes in election law.

Some of the following recommendations are relatively minor, however; administering elections is very complicated and requires great attention to detail.

RECOMMENDATIONS

The following recommendations identify areas in which the county is out of compliance with the Revised Code of Washington (RCW), the Washington Administrative Code (WAC), the Washington State Constitution, or Federal election law. The reviewer obtained information based on actual observation of a procedure, verbal explanation or written procedures. The reviewer provides a description of the county's procedure, a citation of the applicable law, and a recommendation based on the citation.

VOTER REGISTRATION

When an official document is returned as undeliverable by the United States Postal Service, the elections department sends a confirmation notice to the voter's most recent address received. However, the notice was not sent to other known addresses.

RCW29A.08.030 defines a Confirmation Notice as, "...a notice sent to a registered voter by first-class forwardable mail at the address indicated on the voter's permanent registration record and to any other address at which the county auditor or secretary of state could reasonably expect mail to be received by the voter in order to confirm the voter's residence address."

Recommendation: Yakima County Elections must send confirmation notices to any address at which the voter may reasonably receive mail. For instance, the notice should be sent to the address indicated by the US Postal Service as well as the residence and mailing addresses found in the voter's record.

BALLOT SECURITY

When ballots are sealed in boxes, a form containing the seal number is inserted into the box before sealing. When ballot boxes are opened, the seal numbers are verified with the form and the box checked for tampering. The form is torn and discarded after determining the box has not been improperly accessed. Seal logs are retained for all other secured areas.

*RCW 42.56.070 states, "(1) Each agency, in accordance with published rules, shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of *subsection (6) of this section, this chapter, or other statute which exempts or prohibits disclosure of specific information or records."*

State Retention Schedule requires “Records that document the organization, operations, inspections of and challenges to the voting process” to be retained for 22 months in federal elections and 60 days for non-federal elections.

Recommendation: All documents used in administering the election need to be kept for the required retention period.

VOTING CENTER

Yakima County has three voting centers, two of which are open on Election Day only.

While the Accessible Voting Units (AVUs) had good access for wheelchairs, the AVUs were facing toward the public area and did not provide adequate privacy for voters.

Logs for both provisional and AVU ballots require voters to sign an oath.

Yakima County’s policy is to allow voters who need a replacement ballot to use a DRE. If the voter does not want to use the DRE, they may go to the Auditor’s Office or vote a provisional ballot. Staff did not seem to understand this procedure and issued provisional ballots instead of replacement ballots.

Washington State Constitution Article VI, Section 6 mandates, “All elections shall be by ballot. The legislature shall provide for such method of voting as will secure to every elector absolute secrecy in preparing and depositing his ballot.”

WAC 434-250-100(2)(f) for voters using an AVU, the statute requires, “Record the name, signature and other relevant information for each voter who votes on a direct recording electronic voting device in such a manner that the ballot cannot be traced back to the voter;”

RCW 29A.04.008 (5) defines provisional ballots as “...a ballot issued at the polling place on election day by the precinct election board to a voter who would otherwise be denied an opportunity to vote a regular ballot, for any reason authorized by the Help America Vote Act...”

Recommendation: AVUs should be arranged with enough space for wheelchair access, but with the screens not visible to other voters in the voting center. Since the 2009 General Election, WAC 434-250-100(2)(d) has been amended to required voting centers to “Offer disability access voting in a location or manner that provides for voter privacy.”

There is no requirement in law or rule that provisional ballot voters or AVU voters must sign an oath on a log. Provisional ballot envelopes contain the oath that requires the voter’s signature. AVU voters are not required to sign any oath. Oaths should be removed from the logs.

Voting center staff should understand the difference between provisional and replacement ballots. Additional training or instructional material may be needed for remote voting center staff

SUGGESTIONS

The following are suggestions for increasing efficiency and improving operations within the County Auditor's Office. Although these suggestions do not address issues involving compliance with state laws or administrative rules, the reviewer identified the tasks as areas of election administration in which the County Auditor might improve the efficiency and operation of the office.

VOTER REGISTRATION

Voters are placed on inactive status when mail is received indicating a new PO Box mailing address. A new mailing address does not necessarily indicate a problem with the residence address. State law is unclear about how to handle this situation.

Suggestion: There are two possible interpretations of RCW 29A.08.620 and 29A.08.030. Yakima places these voters on inactive status, which triggers a confirmation notice to verify the voter's residence address. The drawback of this interpretation is the voter may not have changed residences, just the mailing address, and may eventually be cancelled without actually moving.

The other interpretation, recommended by the Secretary of State, would simply require the county to change the voter's mailing address and not place them on inactive status. A notice or letter may also be sent to verify the voter's resident address. The county would not need to send the notice to all addresses as required by an official confirmation notice.

BALLOT RECONCILIATION

Yakima has exceptional ballot reconciliation procedures. The ballots are counted and signature checked by mail tray batch. The ballots are then sorted into precinct order for opening and tabulation. While they are able to make this system work well, the switch from batch to precinct midstream causes more work and is harder to track than other methods of reconciliation. If a problem occurred during the processing, tracking the individual ballots is more difficult when the ballot grouping has changed.

Suggestion: Yakima may want to consider using either a batch or precinct system throughout all processing. If using a precinct system, after the mail trays have been counted, the ballots would be sorted by precinct before signature checking. Using the batch method, the mail tray batch would be maintained throughout ballot processing. Most counties use a batch method with batch slips documenting each step of processing.

VOTING CENTER

As ballots are deposited into the ballot box at the two remote voting centers, the depositor is required to fill out a log. At the end of the day, the ballot box is emptied and the number of ballots compared to the log. This procedure is only used at the remote sites on Election Day.

Suggestion: State law does not require those depositing ballots to sign a log. To the reviewer's knowledge, Yakima County is the only county using this practice. If ballots are removed from the ballot box before transporting, only the number of ballots removed from the box need to be documented. It is not necessary to compare the number to a log. Alternatively, the sealed ballot box may be transported to the County Auditor's office for opening.

COMMENDATIONS

The following commendations are to acknowledge the county election department's especially creative, effective procedures or solutions that go above and beyond what the law requires.

Yakima County obviously strives toward excellence in every task they perform. They go above and beyond in communications with voters and stakeholders, providing information to the public and services to the Spanish community. The reviewer was especially impressed with the commitment of the Election staff.

The Yakima County Auditor produces a local voter pamphlet, which is an invaluable service to the community. Funding for the voter pamphlet is in jeopardy. Hopefully the pamphlet will continue to be published, providing voters with important election information.

The Yakima Elections Procedures Manual is one of the best the reviewer has seen. The manual is extremely thorough providing clear explanations, pictorial examples, and samples of every document. The reviewer hopes the manual will be available to other counties to use as an example.

The Election Supervisor, Kathy Fisher, is a key to the success of Yakima County Elections. She is extremely efficient and knowledgeable. She sets high standards for the department that have been successfully met.

COUNTY'S RESPONSE TO DRAFT REVIEW REPORT

The Election Certification and Training Program issued a Draft Review Report to the Yakima County Canvassing Board in March 2010. In accordance with WAC 434-260-145, we provided Yakima County 15 business days to respond, in writing, to recommendations listed in the draft report.

The Canvassing Board provided the following response to the Draft Review Report. The signed original of their response is on file in the Office of the Secretary of State.

Yakima County Auditor

Corky Mattingly, Auditor
Diana Soules, Assistant Auditor

April 21, 2010

Election Certification and Training Program
Office of the Secretary of State
PO Box 40229
Olympia WA 98504-0229

RE: 2009 Election Procedure Review

Yakima County Elections Division appreciates the opportunity for professional growth through this review process and would like to compliment the Secretary of State, Elections Division for maintaining an environment of teamwork and cooperation with the counties.

Following are our responses to the recommendations made by the reviewer. We have implemented all the recommendations.

Voter Registration:

While Yakima County's voter registration management system does not currently have an automated process for generating a confirmation notice to "any address at which the voter may reasonably receive mail", a manual process has been implemented for this recommendation.

Ballot Security:

Per this recommendation, Yakima County plans to retain any and all seal logs for the prescribed timeframe. We will, however, be looking at options to more efficiently address this recommendation.

Voting Center:

- a. Accessible Voting Units at Yakima County's remote voting centers will be arranged in a manner to provide for adequate voter privacy. This will be emphasized in training and we will visit our remote locations to ensure compliance.
- b. All oaths have been removed from Yakima County's AVU Roster of Voters and Provisional Ballot log.
- c. Training materials for voting center staff have been updated to distinguish the differences between a replacement ballot and a provisional ballot.

We appreciate the reviewer's suggestions and would like to take the opportunity to address them.

Voter Registration:

Yakima County Elections concurs with the reviewer's suggestion for not placing voters on inactive status when only updated mailing address information is received from the Post Office. The voter will remain on active status with the updated mailing address provided by the post office.

In an effort to ensure the voter receives the proper ballot style, a separate notice will be mailed to the voter to verify their residence address.

Ballot Reconciliation:

The method Yakima County uses for reconciliation of the number of ballots received to the number of ballots counted may not procedurally be the same as other counties with the same voter registration and vote tally systems. However, it has worked flawlessly and we have found researching discrepancies to be a simple task. Yakima County employs a batch method, as suggested, which documents each step of processing.

To explain, ballot envelopes received for the day are immediately "checked in" to the voter registration system by mail tray which automatically assigns each tray a batch number. This batch (or tray) number remains with the tray. After signatures are verified a range of batches/trays are precinct sorted in preparation for bi-partisan processing boards. This batch range is then assigned a group number and the "group" of ballots are opened, inspected, and scanned.

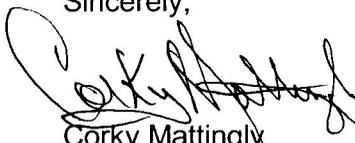
Because signatures must be verified in the exact order that the ballot envelopes are checked in to the voter registration system, if a precinct method was used as suggested, this would delay the accountability that the immediate check-in provides. Additionally, it is important for us to continue the timely release of daily ballot return statistics for our constituents and friends in the media.

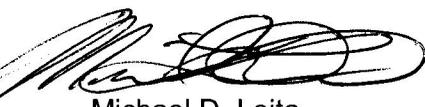
Voting Center:

Yakima County Elections agrees with the reviewer's suggestion regarding the elimination of ballot deposit logs.

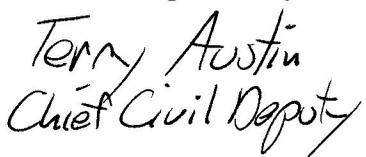
We are pleased with the positive review experience Sheryl provided and find her recommendations and suggestions reasonable and thought provoking.

Sincerely,


Corky Mattingly
Yakima County Auditor


Michael D. Leita
Chairman
Board of County Commissioners


James P. Hagarty
Prosecuting Attorney


Terry Austin
Chief Civil Deputy

CONCLUSION

Yakima County has an excellent elections department. In most cases, staff goes above and beyond what is minimally required by law.

Even though recommendations were made regarding voter registration and voting centers, the issues described did not affect the validity of voter registration records or the results of the election. Confirmation notices should be sent to all possible addresses. Minor adjustments to voting center procedures are needed. These changes are all relatively minor.

The County Auditor's Office has met the challenge of providing bilingual materials and assistance throughout the county. By doing so, they are serving all parts of the community thereby improving quality of elections in Yakima County.

Their procedures manual is one of the best in the state. Written procedures are important to provide consistency and direction for staff administering elections. The election department's manual is thorough and provides information by example.

The Yakima County Elections Department is doing a remarkable job. The staff works well as a team; each member performs his or her duties efficiently, professionally, and with a positive attitude. It is readily apparent that the whole department strives for perfection. The recommendations in this report are relatively minor and will make this already fine operation even better.

The reviewer appreciates the openness of the Yakima County Auditor and staff participating in this review. Their friendliness and professionalism made the review a pleasant experience.

Review Report Prepared by Sheryl Moss.



Signature:

Date: May 17, 2010