

Election Procedures Review
Of
Cowlitz County
State of Washington
2007 Primary Election



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 2005, the Legislature expanded the Election Certification and Training Program to require that each County Auditor's Office be reviewed at least once every three years. The Legislature also added a requirement that the Program conduct a follow-up visit 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 Cowlitz County during the 2007 Primary Election cycle. Tracy Buckles, Elections Program Specialist, represented the Election Certification and Training Program during the review. Ameer Paxton, Chief Deputy Auditor, Carolyn Myers, Elections Supervisor, and other members of the staff participated on behalf of the Cowlitz County Auditor's Office.

Both the reviewer and the Cowlitz 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 Cowlitz 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 Cowlitz 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

In the course of this review, the reviewer observed pre-election tasks, election procedures, post-election procedures, canvassing, and certification of the election. The election staff verbally explained some tasks the reviewer was unable to observe.

The Cowlitz County Election staff is relatively inexperienced administering elections. This was the first full election for the Supervisor. Additionally, this was a difficult election to administer and made more difficult due to a district's change in boundary lines.

Overall, the elections department has good procedures. The staff is very conscientious and dedicated. The elections department should improve its security procedures. While the procedures were very good in some areas, others need improvement.

Besides changing some procedures as recommended in this report, the election staff should concentrate on updating the written procedures. Administering elections is very complicated and requires great attention to detail. Updating the written procedures is essential for consistency and documenting compliance with election laws.

The following recommendations and suggestions will help improve and enhance Cowlitz County's election policies and procedures.

Recommendations

The following recommendations indicate where the elections department 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 provides a description of the county's procedure, a citation of the applicable law, and a recommendation based on the citation.

Notice of Closing the Voter Registration Files

Cowlitz County published this notice in a timely manner. However, while the notice indicated that all precincts in the county would be closed to new registrations and transfers, only a portion of the county participated in the primary.

RCW 29A.08.140 indicates, "The registration files of all precincts shall be closed against transfers for thirty days immediately preceding every primary, special election and general election to be held in such precincts."

Recommendation: The elections department must revise its notice to inform voters that registration closes only in the precincts that are participating in the election.

Precinct Boundaries

There is one precinct (McGowen) in Cowlitz County that has precinct boundaries drawn so that the precinct is in four separate pieces.

RCW 29A.16.050(2) indicates, "Every voting precinct shall be composed, as nearly as practicable, of contiguous and compact areas."

Recommendation: The elections department should redraw the precinct boundaries to make the McGowen precinct contiguous.

Questionnaire to Cities, Towns, and Districts

Cowlitz County Elections Department staff correctly sent a questionnaire to cities, towns, and districts in a timely manner. However, the questionnaire was only sent to those districts believed to be conducting an election this year.

WAC 434-215-005 requires, "Prior to April first of each year, the county auditor shall send a questionnaire to the administrative authority of each local jurisdiction for which the auditor is the candidate filing officer subject to..."

Recommendation: The department must send the questionnaire to all of the jurisdictions in the county for which the auditor is the filing officer. This is important because there may be changes in a district not normally up for election that year. An example of this is an election to fill an unexpired term.

Notification to Nonpartisan Candidates

The elections department correctly sent a notice to the candidates who filed for office, but who would not appear on the primary ballot pursuant to RCW 29A.52.220. The elections department staff knew by close of filing week, June 11, 2007, which offices would not be on the Primary ballot. They sent the notice August 1, 2007.

RCW 29A.52.220(1) indicates, "The county auditor shall, as soon as possible, notify all the candidates so affected that the office for which they filed will not appear on the primary ballot."

Recommendation: Cowlitz County votes entirely by mail. Ballots were available in the County Auditor's Office August 1, 2007 and were mailed to voters on August 3, 2007. Although RCW 29A.52.220 does not specify a deadline, the intent is that the candidate be notified that his or her name will not appear on the Primary Election ballot. Notifying the candidate at the same time the ballots are mailed does not satisfy the intent of the law.

Ballot Applications

Both the Hospital Ballot Application and the Special Ballot Application include the oath that is required on the mail ballot envelope. Additionally, the Hospital Ballot Application indicates the ballot should be mailed to the voter. The purpose of the application is for someone who is in the hospital and needs to have a messenger pick up a ballot on Election Day. There is no oath required for a hospital ballot.

RCW 29A.40.050(1) requires, "An auditor shall provide a special absentee ballot only to a registered voter who completes an application stating that she or he will be unable to vote and return a regular absentee ballot by normal mail delivery within the period provided for regular absentee ballots."

RCW 29A.40.080(1) requires, "...unless the voter is a resident of a health care facility, as defined by RCW 70.37.020(3), on election day and applies by messenger for an absentee ballot. In this latter case, the messenger may pick up the voter's absentee ballot."

Recommendation: The Cowlitz County Elections Department must change both the Special Ballot Application and the Hospital Ballot Application. The Special Ballot Application must include the statement indicating the voter will be unable to vote and return a regular absentee ballot. An oath is not required on the hospital application. The application should have a place for the messenger to sign indicating that he or she is picking up the ballot for the voter.

Auditor's Office as a Polling Place

Cowlitz County had an Automark disability access unit available to voters 20 days prior to the election. The elections staff displayed the HAVA poster near the machine, but did not display a flag or voting instructions in 16 point type for the visually impaired.

WAC 434-250-330(1) requires, "For elections conducted entirely by mail, services that would have been provided at the polling place must, at a minimum, be provided at the county auditor's office..."

WAC 434-253-025 lists items that must be posted at a polling place, including “(1) United States Flag; (3) Voting instructions printed in at least 16 point bold type;”

Recommendation: The elections department staff must post the required information in or around the Auditor’s Office.

Political Party Observers

The elections department sent letters to the county chairs of both major political parties requesting workers to process mail ballots. The letters also requested party observers for the tabulation and certification of the Primary and General Election, but not the processing of mail ballots.

RCW 29A.40.100 requires, “County auditors must request that observers be appointed by the major political parties to be present during the processing of absentee ballots. The absence of observers will not prevent the processing of absentee ballots if the county requested their presence.”

Recommendation: The elections department staff must request political party observers for all stages of ballot processing. This request should be in writing and may be included with the request for party workers.

Ballot Security

Cowlitz County had five curbside drop-off boxes and one drop off box in the Auditor’s Office. The boxes were not secured with numbered seals and logs. The Auditor’s Office employed four temporary workers to process in-coming ballots. While the workers were opening and inspecting ballots, the ballots were left in open mail trays in the processing room during lunch break.

WAC 434-250-100(3) indicates, “Ballot boxes must be locked and sealed at all times, with seal logs that document each time the box is opened, by whom, and the number of ballots removed.”

WAC 434-250-110(2) indicates, “Following initial processing, all absentee ballots must be kept in secure storage until final processing. Secure storage must employ the use of numbered seals and logs, or other security measures which will detect any inappropriate or unauthorized access to the secured ballot materials when they are not being prepared or processed by authorized personnel.”

Recommendation: The elections department must use numbered seals and logs to secure its unstaffed deposit boxes. When the reviewer mentioned this, the elections department staff purchased numbered seals and adopted procedures for sealing the drop-off boxes and recording the seal number. They must also adopt procedures for placing ballots in secure storage while the workers are not processing the ballots.

Provisional Ballot Envelopes

The elections department staff had provisional ballots available. They did not have the provisional ballot envelopes required by statute and consequently had no procedures for completing the information required on the envelope.

WAC 434-253-045 requires seven pieces of information, including an oath that the voter must sign, on the provisional ballot envelope.

Recommendation: The department must design and acquire provisional ballot envelopes and adopt procedures for correctly recording all of the information and verifying the voter's signature.

Tabulation

The elections department staff was concerned about the reporting software correctly accumulating the data from approximately six different zip disks. At 7:30 p.m. they tabulated the results to check for anomalies. The reviewer clearly saw the results on the Supervisor's computer screen.

WAC 434-250-020(5) defines tabulation as, "Tabulation means the production of returns of votes cast for candidates or ballot measures in a form that can be read by a person, whether as precinct totals, partial cumulative totals, or final cumulative totals."

RCW 29A.40.110(1) requires, "The tabulation of absentee ballots must not commence until after 8:00 p.m. on the day of the primary or election."

Recommendation: The Cowlitz County Elections Department staff must be very conscientious of the statutory requirement that no tabulation commences until after 8:00 p.m. Under no circumstances should results be available in readable format until after that time.

Canvassing Meeting

The Cowlitz County Canvassing Board met on September 5, 2007 to certify the results of the Primary Election. The Board directed the elections staff to tabulate 16 ballots. The supervisor was still in the process of adding those results to the abstract of votes when the Board signed the oath and certificate certifying the election, and left the meeting. At that time, the Board did not have the final results or the reconciliation report.

RCW 29A.60.200 requires, "The county canvassing board shall proceed to verify the results from the precincts and the absentee ballots."

RCW 29A.60.235(1) requires, "The county auditor shall prepare, make publicly available at the auditor's office or on the auditor's web site, and submit at the time of certification an election reconciliation report that discloses..."

Recommendation: The Cowlitz County Canvassing Board should not certify the election without the final results of the election and the reconciliation report.

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.

Ballot Instructions

Both the Sample Ballot and Official Ballot contain language in the instructions to the voter that include a warning saying, "...falsely signing this oath is a felony..." This language is a requirement in the absentee ballot envelope oath.

Suggestion: This language is not required on either the Sample Ballot or Official Ballot. The elections staff should consider removing the language as it could be misleading or confusing to voters. Additionally, because the instructions on the ballot are very lengthy, the elections staff should reconsider the design of the ballot. One option is to place the instructions along the top of the ballot instead of in a column because this will make the ballot less cluttered and make the instructions easier to read.

Ballot Security

The elections department verifies postmarks and checks signatures in the area of the main office. After the staff picks up the ballots from the post office, the ballots are kept in mail trays on tables and desks in this area waiting for processing.

Suggestion: The elections department should develop procedures to keep these ballots secure before the staff begins initial processing.

Written Procedures

The elections department should make updating its procedures manual a high priority. The manual is out-of-date in many areas, including inaccurate information about vacancies, and references to repealed statutes (Title 29). The manual is not only important to new people performing a task, but serves as a reference for infrequently performed tasks. The manual will provide consistency and document the department's compliance with election laws.

Section 2

County's Response to Draft Review Report

The Election Certification and Training Program issued a draft review report to the Cowlitz County Canvassing Board in December 2007. In accordance with WAC 434-260-145, we provided Cowlitz County with a 10-day period in which to respond, in writing, to recommendations listed in the draft report.

The Cowlitz County 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.



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December 21, 2007

Tracy Buckles
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PO Box 40229
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Dear Tracy,

Thank you for your recent observation and review of election administration for the August 21, 2007, Primary in Cowlitz County. The review provided an opportunity for Cowlitz County to demonstrate its commitment towards conducting elections in accordance with all required laws and administrative codes, as well as provided an opportunity for growth and improvement, which our county welcomed.

The County Auditor and Canvassing Board have had an opportunity to review the Preliminary Report of the Secretary of State. Enclosed you will find written responses as to how Cowlitz County will address the recommendations and suggestions of the State.

We appreciate the time and effort you put forth in reviewing our election procedures and processes and thank you for the many kind comments regarding the Elections Department staff. Cowlitz County appreciates the opportunity to improve the process of election administration.

Sincerely,

Kristina K. Swanson (Auditor)

Kathleen Johnson (Chair of the Board of County Commissioners)

Ron Marshall (Deputy Prosecuting Attorney)

Notice of Closing the Voter Registration Files

Response: The Elections Department published a Notice of Closing for all precincts within Cowlitz County.

It is the opinion of the Cowlitz County Auditor that in a large election such as the Primary, listing the 81 precincts and splits in one legal notice would leave room for error, with the possibility of leaving one precinct or split out of the notice. Another concern of the Auditor is that such a notice would be confusing to voters and an unnecessary additional cost to the jurisdictions participating in the election.

As an observation, there is no impact to any voter or election by giving a notice that files will be closed to transfer when there will be no election conducted in that precinct.

In an attempt to alleviate any concerns the state may have, a revised notice has been attached. See attachment K.

Precinct Boundaries

Response: McGowan is comprised of “five separate islands” resulting from various annexations and is mostly industrial area. There are 407 active voters in McGowan with some “islands” having fewer than 5 active voters (see attachment A). The Cowlitz County Auditor’s opinion is that the current boundary lines for McGowan precinct are justified given the nature of McGowan (mostly industrial), the ongoing annexation activity, and the need to protect voter secrecy.

Questionnaire to Cities, Towns, and Districts

Response: The Elections Department sent questionnaires to all districts participating in the 2007 election year. Only one district did not participate and was therefore not sent a questionnaire. In the future, questionnaires will be sent to all districts, every year.

Notification to Nonpartisan Candidates

Response: The Elections Department will notify nonpartisan candidates who file for office and will not appear on the Primary ballot in a timelier manner.

Ballot Applications

Response: The Elections Department has updated their hospital and special ballot applications in accordance with the recommendation. Please see attachments B and C.

Auditor's Office as a Polling Place

Response: The Auditor's Office is operating as a Voting Center in accordance with WAC 434-250-330. For each election, voting instructions in 16 point bold type (see attachment D) are posted next to the ballot box. A United States flag is posted at the entrance to the Auditors Office.

Political Party Observers

Response: The Cowlitz County Opening Board consists of political party members in equal representation. The Elections Department sent letters to the chairs of the major political parties on July 20, 2007 requesting party observers for the Primary and General Election. The letter requested party observers for the Logic and Accuracy test, Tabulation, and Certification/Canvassing (see attachments E and F). Requesting additional political party members to observe seemed unnecessary; however, upon the reviewer's recommendation the Elections Department sent a revised letter to the chair of each major political party and their liaisons. See attachments G and H.

Ballot Security

Response: After initial processing, ballots are moved to a secure ballot processing area. The ballots are moved to this area to keep them separate from ballots in other stages of processing. There are two doors to the ballot processing area; one opening to a hallway, the other to the elections office. The door to the hallway is locked at all times. The only time it is opened is to allow opening board workers to enter at the beginning of their shift and at the end of their lunch hour. The key to the door is held by the elections office and is opened only by elections staff. Security measures have been taken to remove this room from the cleaning schedule, so only the Elections Department has access to this room. The door that opens to the election office is unlocked only while the opening board is processing ballots. The elections office has security measures in place while ballots are being processed. Anyone entering the elections office must sign in. As soon as the opening board processes the ballots, they are placed in sealed ballot boxes and will remain in the sealed ballot boxes until final

processing. A log is maintained for each sealed ballot box that shows the date, seal number, and initials of the persons sealing the box.

Provisional Ballot Envelopes

Response: The Elections Department was in the process of designing a new provisional ballot envelope to reflect current requirements in RCW and WAC, and also updating procedures at the time of the review. The envelopes have been printed and are now up to date.

Tabulation

Response: The Elections Department will find another way to check for anomalies so election results are not available in a readable format until after 8:00 pm on Election Day.

Canvassing Meeting

Response: Cowlitz County provides the Canvassing Board with minutes prior to every Canvass. The minutes provide current numbers of suspended and accepted ballots at the time Canvass commences (see attachment I). The Auditor fills in the appropriate area of the minutes as to the numbers of suspended ballots that were accepted during Canvass (see attachment J). All Canvassing Board Members sign the minutes at the convening of Canvass. The numbers from the minutes are then used to update the numbers on the reconciliation form. The numbers are not changed on the minutes once Canvass convenes, only transferred to other certification documents. Cowlitz County fulfills the requirements of RCW 29A.60.235 (1) as it states, "The county auditor shall prepare, make publicly available at the auditor's office or on the auditor's website, and submit at the time of certification an election reconciliation report ..."

Conclusion

The reviewer commends the Cowlitz Elections Department staff for their organization, attention to detail and dedication to the integrity of the election process.

The areas listed in this report will help keep procedures in compliance with statute and rule. Many require only minor changes in forms, notices, or procedures. However, because elections are so complicated, even minor changes can have a major impact on the election process.

The department has very good daily reconciliation procedures. The department utilizes a log that tracks the ballots during all phases of processing.

The Auditor's Office should work with the County Canvassing Board to meet the statutory requirements for certifying the election. The reviewer was pleased to observe the Canvassing Board utilizing the "Statewide Standards on What is a Vote."

The elections department staff should continue to work on improving security procedures and updating the procedures manual.

During the review, the staff members were professional and cooperative. Following the recommendations and suggestions in this report will further improve the processes of the Cowlitz County Auditor's Office.

Review Report Prepared by:

Tracy Buckles
Elections Program Specialist
Office of the Secretary of State



Date: 12-28-07

Signature