

King County

2009 Primary 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 King County during the 2009 Primary Election cycle. Sheryl Moss, Program Manager, Tracy Buckles, Elections Program Specialist, and Libby Nieland, Elections Program Specialist represented the Election Certification and Training Program during the review. Sherril Huff, Director of Elections and her staff participated on behalf of the King County Elections Department.

Both the reviewer and the King 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 King 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 King 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.

TABLE OF CONTENTS

Overview	3
Recommendations	4
Suggestions	9
Commendations	10
County's Response to Review Report	11
Conclusion	19

OVERVIEW

Conducting elections for King County presents large geographic, cultural, and economic challenges.

As the most populated county in the state with approximately 1,875,000 people, King County is ranked the 14th largest county in the nation. With the conversion to voting entirely by mail, the King County Elections Department now mails the largest number of ballots in the United States.

King County consists of two geographical extremes: a densely-populated urban western portion and a rural, agriculturally-supported population in the eastern portion of the county. The County is bound on the east by the Cascade Mountains and on the west side by Puget Sound. Several additional geographic features affect the dispersal of population such as large tracks of government owned open space including the Alpine Lakes Wilderness, seven identified flood plains, and major travel corridors transecting and paralleling the Cascade Mountains.

This diversity extends to the large number of jurisdictions for which the King County Elections Department conducts elections. Seattle, the best known city in King County, is only one of 39 incorporated cities in the County. Elections are conducted for more than 18 school districts, 29 fire protection districts and a number of special purpose districts.

The King County Elections Department must respond to a culturally diverse population. Voter outreach programs must communicate across many cultural lines including large Pan-Asian American communities. King County produces all election materials in both English and Chinese. In addition to providing translated materials, King County employs a full-time Chinese translation staff.

In the past year, staff has responded to the challenges presented by conversion to all mail balloting, adoption of a technologically advanced vote tabulation system, and most recently, the emergency relocation of the elections department.

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.

INCOMPLETE VOTER REGISTRATION APPLICATIONS

Whenever a voter registration application lacks required information a verification notice is sent to the applicant. The verification notice correctly indicates the voter registration cannot be processed without the missing information. The applicant is requested to complete an entire new voter registration application. Verification notices do not include an explanation that the application will be nullified if the applicant fails to respond within 45 days.

RCW 29A.08.220 restricts the use of voter registration applications as verification notices. "An applicant for voter registration shall be required to complete only one application and to provide the required information other than his or her signature no more than one time."

RCW 29A.08.110(2) "If the applicant provides the required information within forty-five days, the applicant shall be registered to vote as of the original date of application. The applicant shall not be placed on the official list of registered voters until the application is complete."

Recommendation: Verification notices must be changed to specifically request only the missing information required of the applicant. It would be helpful if verification notices explain to the applicant the consequences of missing the 45 day deadline.

BALLOT APPLICATIONS

Applications for hospital ballots, special absentee ballots, and accessible voting at a voting service center include the same oath required on all mail ballot return envelopes. The oath currently appearing on these applications is required only when a voter is returning a voted mail or absentee ballot.

Applicants wishing to request a regular ballot in addition to a special absentee ballot are not provided the opportunity on the special absentee ballot applications. Information should also be included regarding the procedure followed if a voter casts both a regular and special ballot.

The hospital ballot requests used by the elections department contain the following statement "You will be mailed an English ballot unless you request a Chinese ballot. " Hospital absentee ballots by definition may only be issued on Election Day; delivery by mail is not an option.

RCW 29A.40.050(4) mandates “ A voter who requests a special absentee ballot under this section may also request an absentee ballot under RCW [29A.40.020\(4\)](#). If the regular absentee ballot is properly voted and returned, the special absentee ballot is void, and the county auditor shall reject it in whole when special absentee ballots are canvassed.” WAC 434-250-040(b) requires “Notice that the voter may request and subsequently vote a regular absentee ballot, and that if the regular absentee ballot is received by the county auditor prior to certification of the election, it will be tabulated and the special absentee ballot will be voided.”

RCW 29A.40.080(1) states” The delivery of an absentee ballot for any primary or election shall be subject to the following qualifications: 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: Applications for ballots must be revised as follows:

- The oath required of a voted mail or absentee ballot must not be applied to ballot application forms.
- Special absentee ballot applications must provide applicants the opportunity to request a regular ballot. The applicant must be informed about voting both the special absentee and regular ballot in the same election.
- Hospital ballot applications must not infer that the ballot will be mailed to the applicant.

NOTICE OF ELECTION

The King County Elections Department staff published the notice of election within the allotted time frame. The notice contained all but one of the required elements.

WAC 434-250-310 (c) requires the notice of election include, “The location where voters may obtain replacement ballots.”

Recommendation: The elections department should add information about where to obtain replacements ballots in its notice of election.

RECEIVING FAXED OR EMAILED VOTED BALLOTS

Several procedures, including instructions for hospitalized voters and the procedures and instructions for issuing a fax or email ballot, state that voted ballot may not be returned through email or fax except for service ballots.

WAC 434-208-060 states, “The county auditor shall accept and file in his or her office electronic transmissions of the following documents: (4) Voted ballots, provided the voter agrees to waive the secrecy of his or her ballot.”

WAC 434-208-070(2) mandates “If the original document must be signed, acceptance of an electronic filing is conditional until receipt of the original document. If a voted ballot is submitted electronically, the ballot and the envelope bearing the original signature of the voter must be received on or before the date on which the election is certified pursuant to RCW 29A.60.190.”

Recommendation: Submission and acceptance of an electronically submitted ballot is often done to meet a deadline. Faxed or email voted ballots must be conditionally accepted as long as the original documentation is received on or prior to the certification of the election.

VOTING CENTERS

In addition to the main Elections Division office, King County has two voting centers that provide accessible voting units, provisional ballots, and a ballot deposit box. The voting centers, open several days before an election, are located at Union Station in Seattle and the Bellevue City Hall.

Both locations are considered accessible for disabled voters by providing disabled parking spaces, accessible entrances, etc. The Bellevue City Hall is a very large building with the voting center in a conference room at the end of a very long hallway. The distance from disabled parking was extremely long, making it difficult for some disabled voters. Other conference rooms in the building are closer to the entrance and more accessible.

Bellevue City Hall did not have signs on the outside of the building either directing voters or indicating that it was a voting center. Union Station had good signage at the front entrance, but no signage at other entrances.

WAC 434-250-100(2) requires voting centers to:

“(b) Be an accessible location consistent with chapters 29A.16 RCW and 434-257 WAC;

(c) Be marked with signage outside the building indicating the location as a place for voting;”

Recommendation: King County should request the City of Bellevue provide a more accessible room for the voting center. Signs should be posted on the outside of the Bellevue location and at other Union Station entrances.

PROVISIONAL BALLOT ENVELOPES

The King County Elections Department is the only county in the state that has the ability to have voters cast provisional ballots on an accessible voting unit (AVU). The AVU prints out the votes entered by the voter and the votes are placed in the provisional ballot envelope for processing later by the elections department.

The oath on the provisional ballot envelope used by the King County Elections Department is not the same as that listed in the administrative rule. Additionally, in order to comply with dual

language requirements, the affidavit is in very small print so that both languages fit on the envelope.

WAC 434-253-045 lists the information that is required on the provisional ballot envelope. Among the requirements is the specific affidavit for the voter to sign.

Recommendation: The elections department must print new provisional ballot envelopes with the exact affidavit required by administrative rule. They should also investigate different design layouts to allow for larger, more readable print.

BALLOT DUPLICATION

The King County Elections Division has very good, thorough procedures for duplicating ballots.

When the staff left to take a lunch break, the ballots were placed in unsecured boxes at each work station. One staff person was left on site to attend the work area during breaks. Security cameras were not focused on the duplication area.

WAC 434-250-110(2) requires, "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."

WAC 434-261-045 requires, "Received ballots and ballot images must be maintained in secure storage except during processing, duplication, inspection by the canvassing board, or tabulation."

Recommendation: The elections division must adopt procedures to secure ballots during duplication when they are not directly being processed by the staff. Any kind of numbered seal will be sufficient. Staff assigned to opening ballots secures all boxes at lunch time with a paper seal. This same procedure must be adopted by the staff in duplication. A log must be kept to document access to the ballots.

PROOFING/TESTING OF BALLOTS

With the new tabulation system, King County switched to black ink outlining the ovals printed on the ballots, as requested by the Secretary of State. These ovals outline the response area for each voting choice on the ballot.

With the digitizing of ballot images, these outlines play an important role in determining the validity of votes in the adjudication process. Seeing where the mark is located in relation to the printed oval is necessary in determining if the mark is a valid vote. While the each oval was printed the same, some ovals consistently did not appear on the adjudication screen.

WAC 434-261-086(1)(a) states, "Target area. Any marks made in the target area shall be counted as valid votes..."

WAC 434-261-086 (1) (b) states, “Consistent pattern. Marks made outside of the target area shall only be counted as valid votes if a consistent pattern of marks is used throughout the whole ballot...”

Recommendation: The scanning of ballots should be tested prior to each election to ensure the printed ovals appear for every race.

BALLOT TABULATION SECURITY

King County seals ballot containers with numbered seals whenever moving ballots from one processing area to another. When sealing ballot boxes, two staff members initialed the seal logs; however no record was kept of those breaking the seals on the boxes prior to scanning or adjudication. WAC 434-261-045 states, “Received ballots and ballot images must be maintained in secure storage except during processing, duplication, inspection by the canvassing board, or tabulation. Secure storage must employ the use of numbered seals and logs, or other security measures that will detect any inappropriate access to the secured materials”

Recommendation: The purpose of seal logs is to document who had access to the ballots and to demonstrate unauthorized access has not occurred. A record of both the application of the seal and breaking the seal provides evidence of appropriate access. . Initials of two staff members sealing or unsealing a box, the date, and the seal number should be recorded. Using one runner and the scanner or two adjudicators to initial the sealing and unsealing of the boxes will fulfill the requirements of WAC 434-261-045. This will also serve as an additional record of those performing the scanning and adjudication of each batch of ballots.

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.

CANDIDATE FILING

When a candidate filed for office using a traditional paper Declarations of Candidacy, the candidate first had to show the election worker their identification. This procedure did not apply to candidates who filed electronically.

King County had one office on the ballot that required they send filing information to the Office of the Secretary of State (OSOS). They did not share this information in a timely manner requiring the OSOS to contact the elections office to obtain the information.

Suggestion: The elections department should not ask candidates for their identification. State Laws does not require identification when filing for office. Additionally, the elections department must develop procedures to ensure candidate filing information is sent to the OSOS electronically within one business day.

PROCEDURES MANUAL

King County Elections has had many changes in office processes in the last year due to the conversion from poll based voting to all mail, installation of a new tabulation system, and changes in statute enacted by the 2009 State Legislature. All of these changes required amending written office procedures. However, some procedures are more than three years out of date.

Suggestion: A schedule should be adopted that establishes yearly review of all office procedures.

VERIFICATION OF IDENTIFICATION

Whenever a voter did not provide verifiable identification at the time of registering to vote, a request is sent to the voter requesting additional information. Although the letter correctly requests the required information, the letter is in an older format.

Suggestion: The letter sent to such voters should be updated to be substantially the same form as that required by the February 2009 amendment of WAC 434-250-045.

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. While this report contains recommendations and suggestions for improvement, King County deserves to be recognized in a number of areas.

The design of the Renton facility has been a large factor in the ability of King County to run accurate, transparent elections. Providing the space to physically separate each stage of processing is the best way to prevent ballot processing errors. All areas for ballot processing are open and easily observed, increasing the transparency of the election process. The Renton facility is designed to provide maximum security. All these contribute to voter confidence in the election process.

Under new leadership and in a new working environment, election staff has become a highly innovative, cohesive group. All share a goal of 100% accuracy and go to extraordinary lengths to ensure the accuracy of elections and voter registration.

Several years ago, a position was created to improve quality control in all aspects of elections and voter registration. The result has been the addition of quality control checks throughout ballot processing and voter registration, contributing to the improvements seen during the review.

The ballot reconciliation process used by King County is now the best in the state. Ballots are reconciled at each stage of ballot processing, resulting in extremely accurate elections. Out of 353,239 ballots received in the Primary, all but one was accounted for—an accuracy rate of 99.9997%.

The Primary was the first election to use the new Premier digital tabulation system. Acceptance testing of the new system was exceptional using more than one million ballots and a mock election.

Other counties could benefit from the innovative ideas implemented by the King County Elections Department.

COUNTY'S RESPONSE TO DRAFT REVIEW REPORT

The Election Certification and Training Program issued a Draft Review Report to the King County Canvassing Board in December 2009. In accordance with WAC 434-260-145, we provided King County 10 days to respond, in writing, to recommendations listed in the draft report.

The 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.



King County

Department of Elections

Sherril Huff, *Director*

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January 6, 2010

Office of the Secretary of State
Certification and Training Program
Attn: Tracy Buckles, Elections Program Specialist
P.O. Box 40229
Olympia, WA 98504-0229

RE: 2009 Primary Election Procedures Review

Ms Buckles:

As has been stated in the Elections Procedures Review of King County conducted by your office, the review process of the 2009 Primary Election was approached in a spirit of cooperation.

The thorough evaluation of King County Elections and the high level of expertise and insight applied to the examination of processes, policies and procedures are sincerely appreciated by King County Election's staff and the King County Canvass Board.

The recommendations and suggestions for improvements are constructive in assisting the department with ongoing efforts toward excellence in election administration. The commendations included in the review acknowledging among other things, the design of the Renton facility for operational efficiency and transparency, effective procedures that go beyond legal requirements, the goal of 100% accuracy and ballot reconciliation processes referenced as "the best in the state" make up a rewarding addition to the review.

Enclosed with this communication, as a separate document, are three copies of the responses to the recommendations and suggestions.

Tracy Buckles
January 6, 2010
Page 2 of 2

We wish to express our appreciation to OSOS reviewers Libby Nieland, Tracy Buckles and Sheryl Moss for the constructive, professional manner in which the review was conducted and the support that has been available consistently to King County Department of Elections from the Office of the Secretary of State.

Sincerely,

King County Elections Canvass Board Members

Kevin Wright, Chief Civil Deputy Prosecuting Attorney
Anne Noris, Clerk to the King County Council
Sherril Huff, Director, Department of Elections

Enclosures (3)

cc: File

Office of the Secretary of State

Election Procedures Review
King County 2009 Primary Election

King County's Department of Election
Canvass Board Responses to Recommendations

January 6, 2010



King County

Department of Elections

RNT-EL-0100

9010 E. Marginal Way S.

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www.kingcounty.gov/elections

1. Incomplete Voter Registration Applications:

Recommendation: Verification notices must be changed to specifically request only the missing information required of the applicant. It would be helpful if verification notices explain to the applicant the consequences of missing the 45 day deadline.

Response: (1) The voter registration form on the back of the voter verification notice letter as been removed. (2) The verification notice letter has been updated to ask the voter to provide only the information that was missing from the voter registration form. (3) The 45-day explanation that the application will be nullified is included in the verification notice letter.

2. Ballot Applications:

Recommendation: Applications for ballots must be revised as follows:

- The oath required of a voted mail or absentee ballot must not be applied to ballot application forms.
- Special absentee ballot applications must provide applicants the opportunity to request a regular ballot. The applicant must be informed about voting both the special absentee and regular ballot in the same election.
- Hospital ballot applications must not infer that the ballot will be mailed to the applicant.

Response: (1) The oath on the mail ballot request form has been removed. (2) The information according to WAC 434.250.040(b) and RCW 29A.40.050(4) informing the voter about voting both the special and regular ballots in the same election is included on the special ballot request form. (3) The statement that a ballot will be mailed to the applicant has been removed from the hospital ballot request form

3. Notice of Election

Recommendation: The elections department should add information about where to obtain replacements ballots in its notice of election.

Response: This will be added to the February Notice of Election and all notices in the future.

4. Receiving Faxed or Emailed Voted Ballots

Recommendation: Submission and acceptance of an electronically submitted ballot is often done to meet a deadline. Faxed or email voted ballots must be conditionally accepted as long as the original documentation is received on or prior to the certification of the election.

Response: Written instructions stating that voted ballots may be returned by fax or email have been updated to comply with WAC 434-208-060 and WAC 434-208-070 (2).

5. **Voting Centers**

Recommendation: King County should request the City of Bellevue provide a more accessible room for the voting center. Signs should be posted on the outside of the Bellevue location and at other Union Station entrances.

Response: We have made requests to move the location of the AVC located at the Bellevue City Hall. The facility coordinator has explained that rooms located closer to the front door of the building are not available to outside organizations to rent due to limited meeting rooms which must be available for city employees. The large rooms in the building have conference tables that cannot be disassembled, therefore we could not use the space for an AVC. We have carefully selected AVC based on public transportation availability. Another selection criterion is to have rooms that are locked and sealed where only King County Elections employees have access to the room when the AVC is not open. We will continue to explore other options for an AVC location that best meets the needs.

As for signage, we can increase the signage but have 2 large (42" x 24") signs placed at each location. We can place an addition sign to direct voters to the best door to use.

6. **Provisional Ballot Envelopes**

Recommendation: The elections department must print new provisional ballot envelopes with the exact affidavit required by administrative rule. They should also investigate different design layouts to allow for larger, more readable print.

Response: New envelopes have been printed and will be implemented with the February 2010 Election.

7. **Ballot Duplication**

Recommendation: The elections division must adopt procedures to secure ballots during duplication when they are not directly being processed by the staff. Any kind of numbered seal will be sufficient. Staff assigned to opening ballots secures all boxes at lunch time with a paper seal. This same procedure must be adopted by the staff in duplication. A log must be kept to document access to the ballots.

Response: Although only a single staff member may have been in the immediate vicinity, we have a "two persons on the floor" rule as well as Observers with full access to the work areas. Given the large size of our secure processing space, we do not disagree with the finding that this may be insufficient. The duplication staff will follow the same

procedures, using numbered paper seals, the opening staff follows when at lunch or on similarly long breaks.

8. **Proofing/Testing of Ballots**

Recommendation: The scanning of ballots should be tested prior to each election to ensure the printed ovals appear for every race.

Response: Performing a visual check of every oval on every ballot type prior to our most complicated election would be administratively time-consuming and we're not confident would capture the spirit of this recommendation. Our largest ballot type election contains over 2,000 ballot styles, we print and mail over 1M ballots. We are confident that procedures developed, and described below, will accommodate any fluctuations in the weight of the printed oval line.

Two distinct processes occur with our new system.

1. Adjudication Batches – These batches are comprised of ballots that all require adjudication. Currently, this work is performed with the actual ballots at the table to ensure voter intent is properly recorded. The weight of the printed oval is not of consequence.
2. Opening “Regular” Batches – These batches are comprised of ballots where voter intent was deemed clearly discernable after visual inspection. Typically, these batches will contain a few ballots that, after being scanned, require adjudication. At this point, if the adjudication team cannot clearly discern voter intent via the scanned image for any reason, including the weight of the printed oval, that ballot is pulled for review.

9. **Ballot Tabulation Security**

Recommendation: The purpose of seal logs is to document who had access to the ballots and to demonstrate unauthorized access has not occurred. A record of both the application of the seal and breaking the seal provides evidence of appropriate access. Initials of two staff members sealing or unsealing a box, the date, and the seal number should be recorded. Using one runner and the scanner or two adjudicators to initial the sealing and unsealing of the boxes will fulfill the requirements of WAC 434-261-045. This will also serve as an additional record of those performing the scanning and adjudication of each batch of ballots.

Response: The recommendation of recording unsealing will be implemented moving forward. The current seal log has space for two initials when sealing, and we will add space for two initials when unsealing.

10. Candidate Filing

Suggestion: The elections department should not ask candidates for their identification. State Laws does not require identification when filing for office. Additionally, the elections department must develop procedures to ensure candidate filing information is sent to the OSOS electronically within one business day.

Response: King County Elections will meet this need.

11. Procedures Manual

Suggestion: A schedule should be adopted that establishes yearly review of all office procedures.

Response: Ballot Processing procedures are updated as changes are made to statutes, procedures, technology, and facilities. All procedures are reviewed, and updated if necessary, prior to each election. For this next year, a plan is already in place to formalize the entire procedures process for the group.

12. Verification of Identification

Suggestion: The letter sent to such voters should be updated to be substantially the same form as that required by the February 2009 amendment of WAC 434-250-045.

Response: The letter will be updated to meet the February 2009 amendment of WAC 434-250-045.

CONCLUSION

King County has been reviewed by the Secretary of State's Office a number of times in previous years. The strides made by King County Elections Department have been impressive. Most of the recommendations generated by the review pertain to procedures or materials that need updating or modification.

The working environment has significantly improved election administration with the move to the Renton facility. In 2006, voter registration and provisional ballot processing were located downtown at the King County Courthouse while other ballot processing occurred at the temporary elections annex in Tukwila. The Renton facility allows for all election processes to be housed at one location. Ballot processing occurs in a single, open room providing a smooth transition between areas. Adequate space to conduct elections improved security and increased opportunities for observers have all contributed to highly accurate and transparent conduct of elections.

During the review it became apparent access to voting service centers and staffed ballot deposit sites needs to be improved. Staff should focus on providing visible street side signage and reducing travel distance to voters with mobility issues.

Staff commitment to accuracy, security, and adherence to election law has made possible the transformation of the election division. Innovative approaches are encouraged and, as a result, King County has become a leader in many areas of election administration. Only one recommendation is made regarding ballot security—a big improvement over the past three years.

King County has the most extensive quality control and ballot accountability procedures of any county in the state. These procedures consistently ensure the accuracy of elections and voter registration in an extremely complex environment.

The purchase of key equipment and extensive planning paid off in the successful conversion to all mail elections. Because the Primary is the first major all mail election for King County, there are a few areas needing adjustment to make the change complete. These are outlined in this review report.

The recommendations and suggestions for improvement contained in this report are relatively minor. Addressing the items in this report will help to refine an already successful department.

Prepared by Libby Nieland, Tracy Buckles, and Sheryl Moss; Election Certification and Training Program



January 25, 2010