

Election Procedures Review
Of
Kittitas County
State of Washington
2008 General 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 Kittitas County during the 2008 General Election cycle. Tracy Buckles, Elections Program Specialist, represented the Election Certification and Training Program during the review. Jerry Pettit, Kittitas County Auditor, Sue Higginbotham, Elections Supervisor, and other members of the staff participated on behalf of the Kittitas County Auditor's Office.

Both the reviewer and the Kittitas 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 Kittitas 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 Kittitas 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

Kittitas County is located in Central Washington. The county seat is Ellensburg and is the home of Central Washington University. The mobile nature of a college community can make voter registration list maintenance challenging; however, the elections department does a good job of maintaining clean voter registration rolls.

With approximately 21,000 registered voters, Kittitas County votes entirely by mail and utilizes a digital scan vote tallying system.

The elections department lacks sufficient space for ballot processing. Although they did an admirable job under less than ideal circumstances, they would benefit greatly from additional space.

The lack of space also prevents observers from observing all ballot processes adequately, and therefore, makes the election process less transparent.

Voted ballots are accounted for during every step of the process, from the time of receipt through the counting processes. The methods used by the Kittitas County elections staff are thorough, accurate, and efficient.

The elections department has excellent security procedures and employs double security measures utilizing both a dedicated, secure area for ballots, but also numbered seals and seal logs on individual ballot boxes within that area.

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

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.

Confirmation and Verification Notices

The elections department correctly sends Confirmation and Verification Notices when the situation is appropriate. However, neither form is postage prepaid, preaddressed for the voter's response.

RCW 29A.08.030 (1) states, "The verification notice must be designed to include a postage prepaid, preaddressed return form by which the applicant may verify or send information." (3) states, "The confirmation notice must be designed to include a postage prepaid, preaddressed return form by which the registrant may verify the address information."

Recommendation: The elections department staff must redesign both notices to include the postal requirements.

Closing Registration Files

The elections department correctly published a Notice of Closing the Voter Registration files in a timely manner. The notice did not include information for elderly and disabled voters. Additionally, the staff informed the reviewer that even when an election is not county-wide, they close the voter registration files for the entire county.

RCW 29A.08.140 states, "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." (emphasis added)

RCW 29A.04.220 states, "The county auditor shall provide public notice of availability of registration and voting aids, assistance to elderly and disabled persons, and procedures for voting by absentee ballot calculated to reach elderly and disabled persons not later than public notice of the closing of registration for a primary or election."

Recommendation: The elections department staff should only close voter registration files in precincts having an election. Any unaffected precinct should remain open to transfers as long as it does not affect a precinct that is having an election. The staff should publish the notice for assistance to elderly and disabled persons at least 30 days before the election. This notice can be included in the Notice of Closing Voter Registration files or published separately.

Voters Requiring Verification of Identity

The election staff sends a letter to voters whose registration has been flagged as needing to provide identification prior to counting the ballot. The letter indicates the elections department “needs more information on your ID.” The letter does not inform the voter of the acceptable forms of identification and it does not indicate that the ballot may not be counted if the identification is not provided.

WAC 434-250-045(1) indicates, “If the voter registration record of an absentee voter is flagged as requiring verification of identity, a notice must be sent at the time of the election explaining that a photo copy of identification must be provided in order for the ballot to be counted and listing what forms of identification are acceptable.” (2) Provides a sample form letter for this purpose.

Recommendation: The elections department must develop a notice to send to voters who must provide verification of their identity before their ballot can be counted. The notice should be the same as or very similar to the form in the above WAC.

Political Party Observers

The Kittitas County Elections Department sent letters to each major political party informing them of the date and time of the logic and accuracy test and requesting they send observers. That was the only request made for observers.

RCW 29A.40.100 states, “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 the observers will not prevent the processing of absentee ballots if the county auditor has requested their presence.”

WAC 434-250-110 (1) states, “Prior to initial processing of ballots, the county auditor shall notify the county chair of each major political party of the time and date on which absentee processing shall begin, and shall request that each major political party appoint official observers to observe the processing and tabulation of absentee ballots. If any major political party has appointed observers, such observers may be present for initial processing, final processing, or tabulation, if they so choose, but failure to appoint or attend shall not preclude the processing or tabulation of absentee ballots.”

WAC 434-261-020 requires, “Prior to the primary or election, the county auditor shall determine the number of observers required in order to review all aspects of the counting center proceedings and shall request, in writing, that each major political party appoint representatives to fill the requirements.

Recommendation: The elections department must request observers from each major political party for all aspects of ballot processing. The notification should be in writing and should specify the number of observers needed for each phase of ballot processing.

Missing or Mismatched Signatures

The Kittitas County Elections Department correctly sends a notice to voters whose signature was either missing on the mail ballot return envelope or did not match the voter registration record. Both notices indicate the voter must respond by the day prior to certification (11/24/08) by 1:00 p.m., which is earlier than the close of business and therefore, the voter does not have the required amount of time to respond.

WAC 434-261-050 provides the requirements for processing mail ballots with missing or mismatched signatures. In both instances, the voter must rectify the issue with the signature no later than the day before the election is certified.

Recommendation: The elections department must allow the required time for a voter to rectify a missing or mismatched signature, which would be the close of business the day before certification. The reviewer mentioned this to the staff prior to Election Day and they changed the notice the next day.

Voting Centers

Both the County Auditor's Office and the Cle Elum Centennial Center functioned as voting centers. Both locations offered accessible voting units, however, neither location posted instructions for how to vote and did not have signage indicating the location was a place for voting. Only the County Auditor's Office had replacement ballots available. If a replacement ballot was requested at the Centennial Center, the voter was issued a provisional ballot.

Prior to the election, the accessible voting unit at the County Auditor's Office was in the ballot processing room which afforded the voters privacy. However, on Election Day they moved the unit into the hallway in such a place that the public walking behind the voter could potentially see the screen.

WAC 434-250-100(2) requires each voting center must, "(c) Be marked with signage outside the building indicating the location is a place for voting. (n) Provide instructions on how to properly mark the ballot;"

RCW 29A.44.060 states, "The county auditor shall provide in each polling place a sufficient number of voting booths or voting devices along with any supplies necessary to enable the voter to mark or register his or her choices on the ballot and within which the voters may cast their votes in secrecy."

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."

RCW 29A.04.008(5) indicates, "Provisional ballot means a ballot issued at the polling place on election day by the precinct election board to a voter who would otherwise be denied the opportunity to vote a regular ballot..."

Recommendation: The elections department must post signage outside both voting centers indicating they are locations for voting. They must also post instructions for properly marking a ballot at these locations. The accessible voting unit should be repositioned within the voting center to ensure the voter can vote in secrecy.

The staff at the Centennial Center voting center must not issue provisional ballots to voters requesting a replacement ballot. They can allow the voter to vote on the accessible voting unit after they verify the voter has not already returned a mail ballot and immediately credit the voter for casting a ballot. They can also allow the voter to vote on a sample ballot, as long as they provide the proper mail ballot security and outer envelopes.

Resolving Ballots

The Kittitas County Elections Supervisor was responsible for scanning and resolving ballots. She performed the task alone in the ballot processing room with other people present, but not assisting her. Prior to certification a log is printed of the resolutions, however; since the task was performed by one person, there were not two people to sign the log.

WAC 434-261-102 requires, "In counties tabulating ballots on a digital scan vote tallying system, two staff designated by the auditor's office must resolve ballots identified as requiring resolution. A log of the resolutions must be printed and signed by the two staff."

Recommendation: The Auditor's Office must designate two people to resolve ballots. It is imperative that there is oversight to ensure the ballots are resolved according to the voter's intent. While the reviewer recognizes this is problematic due to space issues, the department should take all steps necessary to ensure that two people work together to resolve 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.

Canvassing Board Manual

The Kittitas County Canvassing Board has a written procedures manual which was last amended in 2006. The content in the manual is thorough, however, it should be updated. The number of days after the election is certified is incorrect, the requirements regarding thresholds for recounts only refer to percentages and not the number of votes cast and the manual does not reference the "Statewide Standard for What is a Vote." The manual does not reflect canvassing procedures with regard to the new Top 2 Primary system.

Suggestion: The County Auditor's Office should assist the canvassing board in updating the manual. The manual should be reviewed on an annual basis to ensure it reflects current requirements in the law.

Staffing and Space

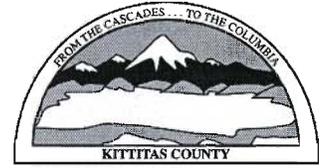
The Kittitas County Elections Department is well staffed for non-election periods. However, because there is insufficient space to accommodate additional help, only two additional temporary staff is added in response to heavier workloads during election time. The two staff they hire do not have adequate space to process ballots.

Suggestion: The County Auditor's Office should hire additional temporary staff to process ballots during the election cycle. They should take time to train workers on the specific tasks they will be performing. This is especially important for inspecting, scanning and resolving ballots. Providing examples and written procedures will be an essential aspect to the training. The County Auditor's Office should also make acquiring more work space a priority.

County's Response to Draft Review Report

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

The County Auditor 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.



2/23/2009

Tracy Buckles
Elections Program Specialist
Office of the Secretary of State
PO Box 40229
Olympia, WA 98504-0229

Tracy:

Kittitas County appreciates the opportunity to work so closely with the Office of the Secretary of State. We all benefit from such a cooperative relationship.

Your recent review of Kittitas County was both fair and helpful. We would like to take the opportunity to address each Recommendation:

Confirmation and Verification Notices:

We are currently working with our vendor and the Post Office to establish a form and purchase the required permit to allow us to be in compliance with RCW 29A.08.030(1), (3).

Closing Registration Files:

We will put procedures in place that will allow for staff to continue adding voters not affected by the closing of the voter registration books for a particular district.

The Notice of Closing of Voter Registration statement has been modified to include the additional information as required by RCW 29A.04.220. This notice will continue to be published at least 30 days before the election.

Voters Requiring Verification of Identity:

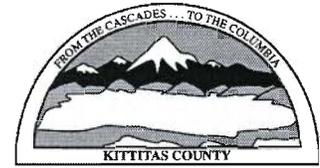
We will use the letter, as provided by WAC 434-250-045(2), to request required information from voters.

Political Party Observers:

We currently send a notice to the chair of each local political party notifying them of when the L & A Test will be conducted, and that their presence is requested to observe the election process. That notice has been modified to include the schedule for processing the incoming ballots, scanning and Election Day activities.

Missing or Mismatched Signatures:

We will continue to utilize our updated letter, as adopted after initial discussion during the review.



Voting Centers:

Steps are now in place to ensure that all signs and material are included with Vote Center supplies, and that all signage be posted.

Staff at the Vote Center located at the Cle Elum Centennial Center will be provided with the ability to issue replacement ballots, as well as directed to offer the use of the accessible voting unit. Staff will also be instructed to ensure that Provisional Ballots will be available only to those persons not listed as a registered voter within the jurisdiction that they are serving.

Resolving Ballots:

There will be 2 staff members to performing the 'Resolve' portion of ballot processing.

Canvassing Board Manual:

The Canvassing Board manual is under review and will be updated prior to the August Primary.

Staffing and Space

One lends way to the other. Without more space, there can be no additional staffing. Generally, as an election department, we don't anticipate this being an issue for another 4 years. 'Normal' election cycles are handled with current staffing levels, undergoing no major concerns.

The placement of the accessible voting unit as well as managing all other Election Day activity will take creativity and cooperation with the county employees and customers. Conduct of the General Election 2012 may need to be considered off-site.

Again, we appreciate the time and effort the State puts in to each and every county in an effort to promote consistency and diligence in carrying out Elections in each county and Washington State.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jerry Pettit", with a long, sweeping horizontal stroke extending to the right.

Jerry Pettit
Kittitas County Auditor

Conclusion

The reviewer commends the Kittitas County Elections Department for their election procedures. They impressed the reviewer with their attention to detail, organization, and dedication to the election process.

The elections department lacks sufficient space for ballot processing. Although they did an admirable job under less than ideal circumstances, they would benefit greatly from additional space. Additionally, while the elections department is adequately staffed during non-election work periods, the lack of space does not allow them to hire the extra temporary staff needed for ballot processing.

The elections department should make changes to some of its voter registration procedures, including updating forms and ensuring the staff is in compliance with responses to confirmation notices and processing name changes.

Political party observers play a critical role in the elections process. The County Auditor's Office should contact the political parties in writing and elicit their participation not only to be in compliance with the law, but also to encourage an open, transparent process.

Resolving ballots on a digital scan system is critical to the elections process. The elections department should ensure that there are always two people processing the ballots.

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 reviewer made a series of recommendations and suggestions for consideration by the Kittitas County Elections Department. These are meant to enhance and improve Kittitas County's procedures.

Review Report Prepared by:

Tracy Buckles
Elections Program Specialist
Office of the Secretary of State

Date: March, 3, 2009



Signature