



## **Benton County Elections Division Observer Guide**

### **Introduction**

Observers are a vital part of the Election process. This program is governed by State law and is a working relationship between the political parties and the Benton County Auditor (RCW 29A.40.100). We have requested the political parties appoint observers. The Auditor has the authority to review the appointments (RCW 29A.60.170, WAC 434-250-110, WAC 434-261-020). This guide is not comprehensive and is subject to occasional review and update by the Elections Division.

### **Observer Processes and Duties**

- Observers begin observing when initial ballot processing, signature verification and opening begins for each election. Parties will be notified of the planned schedule in advance of ballots returning. (WAC 434-261-020).
- Political parties are contacted prior to each election and provided the work schedule of ballot processing (WAC 434-250-110).
- Coordinators, or appointed observers, may observe the tabulation system logic and accuracy testing before each election (RCW 29A.12.130, WAC 434-335-290).

Observers enter the Elections Division in Richland and sign in at the Contact Center. Observer will be issued a name badge and be escorted to the secure ballot processing area.

### **Do Not:**

- Talk to workers while work is in progress
- Discuss election procedures with staff other than:
  - Amanda Hatfield – Elections Manager
  - Grace Davidson - Election Systems Supervisor
  - Jerry Torres – Election Specialist
  - Lorene Roe – Chief Deputy Auditor
  - Brenda Chilton – Auditor
- Touch ballots or equipment
- Sit on tables or equipment

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- Use cell phones, take notes, photos/videos, or record audio. Please use the designated clipboard to report concerns. Cell phones are not permitted inside the ballot processing center.
- Participate in campaign or political conversations or distribute materials.
- Firearms are not permitted inside the ballot processing center.
- Electioneering is not permitted within 100 feet of a voting center, and within 25 feet of a ballot drop box.

### **Related RCW's and WAC's**

#### **RCW 29A.40.100**

##### **Observers.**

County auditors must request that observers be appointed by the major political parties to be present during the processing of ballots at the counting center. County auditors have discretion to also request that observers be appointed by any campaigns or organizations. The absence of the observers will not prevent the processing of ballots if the county auditor has requested their presence.

#### **RCW 29A.60.170**

##### **List of observers---Counting center, direction and observation of proceedings - Manual count of certain precincts.**

(1) At least twenty-eight days prior to any special election, general election, or primary, the county auditor shall request from the chair of the county central committee of each major political party a list of individuals who are willing to serve as observers. The county auditor has discretion to also request observers from any campaign or organization. The county auditor may delete from the lists names of those persons who indicate to the county auditor that they cannot or do not wish to serve as observers, and names of those persons who, in the judgment of the county auditor, lack the ability to properly serve as observers after training has been made available to them by the auditor.

(2) The counting center is under the direction of the county auditor and must be open to observation by one representative from each major political party, if representatives have been appointed by the respective major political parties and these representatives are present while the counting center is operating. The proceedings must be open to the public, but no persons except those employed and authorized by the county auditor may touch any ballot or ballot container or operate a vote tallying system.

(3) A random check of the ballot counting equipment may be conducted upon mutual agreement of the political party observers or at the discretion of the county auditor. The random check procedures must be adopted by the county canvassing board prior to the processing of ballots. The random check process shall involve a comparison of a manual count to the machine count and may involve up to either three precincts or six batches depending on the ballot counting procedures in place in the county. The random check will be limited to one office or issue on the

ballots in the precincts or batches that are selected for the check. The selection of the precincts or batches to be checked must be selected according to procedures established by the county canvassing board and the check must be completed no later than forty-eight hours after election day.

### **RCW 29A.84.420**

#### **Unauthorized examination of ballots, election materials - Revealing information.**

(1) It is a gross misdemeanor for a person to examine, or assist another to examine, any voter record, ballot, or any other state or local government official election material if the person, without lawful authority, conducts the examination:

- (a) For the purpose of identifying the name of a voter and how the voter voted; or
- (b) For the purpose of determining how a voter, whose name is known to the person, voted; or
- (c) For the purpose of identifying the name of the voter who voted in a manner known to the person.

(2) Any person who reveals to another information which the person ascertained in violation of subsection (1) of this section is guilty of a gross misdemeanor.

(3) A gross misdemeanor under this section is punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

### **WAC 434-250-110**

#### **Processing ballots.**

(1) "Initial processing" means all steps taken to prepare ballots for tabulation. Initial processing includes, but is not limited to:

- (a) Verification of the signature and postmark on the ballot declaration;
- (b) Removal of the security envelope from the return envelope;
- (c) Removal of the ballot from the security envelope;
- (d) Manual inspection for damage, write-in votes, and incorrect or incomplete marks;
- (e) Duplication of damaged and write-in ballots;
- (f) Scanning and resolution of ballots on a digital scan voting system; and
- (g) Other preparation of ballots for final processing.

(2) "Final processing" means the reading of ballots by an optical scan voting system for the purpose of producing returns of votes cast, but does not include tabulation.

(3) "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.

(4) 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 processing shall begin, and shall request that each major political party appoint official observers to observe the processing and tabulation of 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 ballots.

(5) Initial processing of voted ballots, which may include scanning and resolving ballots on a digital scan voting system, may begin as soon as voted ballots are received. All 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. The county auditor must ensure that all security envelopes and return envelopes are empty, either by a visual inspection of the punched hole to confirm that no ballots or other materials are still in the envelopes, or by storing the envelopes with a tie, string, or other object through the holes.

(6) Final processing of voted ballots, which may include scanning ballots on an optical scan voting system, may begin after 7:00 a.m. on the day of the election. Final processing may begin after 7:00 a.m. the day before the election if the county auditor follows a security plan that has been submitted by the county auditor and approved by the secretary of state to prevent tabulation until after 8:00 p.m. on the day of the election.

131Page

(7) Tabulation may begin after 8:00 p.m. on the day of the election.

(8) In counties tabulating ballots on an optical scan vote tallying system, the vote tallying system must reject all overvotes and blank ballots.

(a) All rejected ballots shall be outstacked for additional manual inspection.

(b) The outstacked ballots shall be inspected in a manner similar to the original inspection with special attention given to stray marks, erasures, and other conditions that may have caused the vote-tallying device to misread and reject the ballot.

(c) If inspection reveals that a ballot must be duplicated in order to be read correctly by the vote tallying system, the ballot must be duplicated.

## **WAC 434-261-020**

### **Observers.**

Counting center operations shall be observed by at least one representative from each political party, if representatives have been appointed by the respective political parties and those representatives are present while the counting center is in operation.

Prior to processing ballots for a primary or election, the county auditor shall notify the major political parties in writing of the maximum number of official observers allowed to observe ballot processing and the date ballot processing begins. Where more than one observer is appointed, the political party shall designate one of the observers as supervisor. The county auditor may require observers to receive training with respect to ballot processing procedures and the vote tallying system.

Before final assignment as observers, major political party representatives so appointed shall be reviewed by the county auditor, who may refuse to approve any person so appointed. In the event the auditor rejects a person designated, he or she shall promptly notify the political party concerned and request that a substitute observer be appointed, and shall ensure that the substitute observer is trained.

Representatives of the major political parties appointed as observers shall be identified by roster, including assigned observer stations if more than one in the counting center, and by identification tags which will indicate the observer's name and the party represented.

The counting center is under the direction of the county auditor. All observers are authorized

to observe the processing of ballots for the current election as defined by WAC ~34-250-110. Observers may not touch or record images of voted ballots, challenge signature check decisions, object to decisions to count or not count votes or ballots, or disrupt ballot processing. The county auditor shall provide written rules for observers. The county auditor may require an observer who does not follow the established rules to leave the counting center.

**WAC 434-335-290**

**Logic and accuracy test observers.**

The official logic and accuracy test must be observed by at least one representative of each major political party, if representatives have been appointed by the parties and are present at the test. The party observers must be instructed as election observers by the county auditor. The official logic and accuracy test must be open to candidates, the press, and the public. If any observer hinders or disturbs the logic and accuracy test process, the observer may be removed from the test area. An observer who has been removed from a logic and accuracy test may also be barred from future tests. The absence of observers may not delay or stop the test from being conducted.

**ESB 1630 – RCW 9.41**

NEW SECTION Sec. 3 A new section is added to chapter 9.41 RCW to read as follows:

- (1) Except as provided in subsections (3) and (4) of this section, it is unlawful for a person to knowingly carry onto, or to possess in, a ballot counting center, a voting center, a student engagement hub, or the county elections and voter registration office, or areas of facilities while being used as a ballot counting center, a student engagement hub, or the county elections and voter registration office

**RCW 29A.84.510**

**Acts prohibited in voting center—Prohibited practices.**

\*\*\* CHANGE IN 2022 \*\*\* (SEE 1716-S.SL) \*\*\*

- (1) During the voting period that begins eighteen days before and ends the day of a special election, general election, or primary, no person may:
  - (a) Within a voting center:
    - (i) Suggest or persuade or attempt to suggest or persuade any voter to vote for or against any candidate or ballot measure;
    - (ii) Circulate cards or handbills of any kind;
    - (iii) Solicit signatures to any kind of petition; or
    - (iv) Engage in any practice which interferes with the freedom of voters to exercise their franchise or disrupts the administration of the voting center;
  - (b) Obstruct the doors or entries to a building in which a voting center or ballot drop location is located or prevent free access to and from any voting center or ballot drop location.
- (2) Any sheriff, deputy sheriff, or municipal law enforcement officer shall stop the prohibited activity, and may arrest any person engaging in the prohibited activity.

(3) Any violation of this section is a gross misdemeanor, punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021, and the person convicted may be ordered to pay the costs of prosecution.