

2016 Post-election Audit Observation Project

Beginning in 2010, County Boards of Elections (BOEs) have been required to complete a post-election audit following even-year elections. This post-election audit requirement came about as one of the key provisions of the 2009 Settlement Agreement of the League of Women Voters of Ohio v. Blackwell (and later Brunner) lawsuit. While that settlement agreement expired in 2015, the Secretary of State continues to require BOEs to conduct post-election audits pursuant to Directive 2015-31, which can be found at Chapter 9 “Post Election Activities” of the Election Official Manual. A copy of that directive can be found here:

<http://www.sos.state.oh.us/sos/elections/electionofficials/Rules.aspx>

The League of Women Voters of Ohio, with the assistance of the Lawyers Committee, that served as counsel on the LWVO lawsuit settlement, has asked local Leagues to observe the audits to determine if they are in fact carried out in accordance with the Directive. This audit observer project began in 2010, the first year the settlement was in effect, and continues today. In addition to local League observers, other voter advocacy organizations are encouraged to participate in observing BOE post-election audits in the communities they serve.

Participants in the Audit Observation Program play a key role in ensuring that the elections were conducted in a manner consistent with existing rules and to identify areas of concern to be addressed prior to the next election. And we hope this will be another tool to strengthen relations with your local Board of Elections.

We have shortened and simplified the reporting form (“Audit Observation Checklist” or “Checklist” found below). The Checklist is meant to help you know what to look for in order to determine that a useful audit was conducted that will verify the accuracy of the election and identify any shortcomings so they can be corrected in future elections.

We recognize that different components of each county’s audit may occur on different days. Observers may wish to assign different individuals for the different days as each observer may not be able to be present for the entire audit. We also recognize some local Leagues or partner organizations may not

be able to field observers for all components of the audit. We appreciate whatever you can do.

County Boards of Elections (BOEs) will commence their audit after the official election results are certified on November 29, 2016. The dates for audits will vary from county to county but will generally occur sometime during the month of December for the November 8, 2016 general election. Please note: If a county has a race that goes to a recount, the audit for that county BOE will be postponed until *after* the recount. In the event of a statewide race going to a recount, the audit would be postponed until *after* the recount. Please check with your county BOE for the date of their audit.

In many cases, Leagues and partner organizations may have several observers working together or observing different aspects of the audit. We ask that each observer complete a separate Checklist form.

- The completed Checklist form should be submitted to Carrie Davis at the League of Women Voters of Ohio at cdavis@lwvohio.org.
- For your convenience, a print-friendly version of the Checklist form is available on the LWVO website www.lwvohio.org that observers can print and take with them to the audit.

Please return the Checklist form no later than 10 days after completion of the audit observation.

There will be an Ohio Fair Elections Network (OFEN) coalition phone call for anyone planning to participate in the audit observation process to review procedures and to ask questions. This will be a good opportunity for first-time participants or for League members who participated before but would like a quick refresher course. Please contact Carrie at the League of Women Voters of Ohio (cdavis@lwvohio.org or 614-469-1505) for instructions on how to join the call.

If you have additional questions as you work on the Audit Checklist, please contact the League of Women Voters of Ohio at 614-469-1505.

INSTRUCTIONS FOR OBSERVERS 2016 POST ELECTION AUDIT

Part I - Observers

We are soliciting information about the persons doing the observation and completing each Checklist so that we can contact you if we have any questions.

There are duly appointed Observers (“statutory observers”) who are appointed representatives of the political parties or issues and also observers who are members of the public. We anticipate that most League members will be observing as members of the public. The Directive requires boards to accommodate the public to the extent feasible. Part I of the Checklist is designed to elicit information about such accommodation.

Part II - Selecting Precincts

The presidential race will be audited and one other statewide contest (could be for an office or issue). In addition, each county must **randomly** select one county-wide contest. Your county's Board of Elections may organize its materials and ballots during the period between selecting the other contest and when the audit begins.

It is very important that you contact your Board of Elections promptly after the election to learn when they expect to conduct their audit and, in particular, when and where they will undertake the audit preparation and selection of precincts. If possible, it is recommended that you have an observer present during the audit preparation and selection of precincts.

Part III - Observing and Verifying the Counting

Note: Ohio ballots can be Optical Scan paper ballots or Voter Verified Paper Audit Trail (VVPAT) rolls that record votes cast on a Direct Recording Electronic (DRE) touch screen. Optical Scan ballots should be in a container

sealed with a numbered seal. VVPAT rolls (ballots) should be in a canister sealed with a numbered seal. Whenever these "ballot containers" are sealed, the number should be recorded on a security log.

Before these ballot containers are opened, an election official should check that the seal number on the container matches the number on the security log. When the ballots have been counted and returned to the container, a new seal should be applied and the number entered on the security log. Precincts with incomplete chain of custody are then noted and included in the audit.

Part III of the Audit Observation Checklist is designed to address whether the required chain of custody was followed and whether the counting procedures complied with the Directive.

Part IV – Completing the Observation and Verification

This section addresses the completion of the audit.

Part V – Comments

We are seeking comments detailing any concerns you as an observer had about the audit process. In addition we would like your input as to how we can improve the audit observation process and the reporting process in future years.

***Post-Election Audit Observation Checklist:
Based on Directive 2015-31 from the Secretary of State***

Part 1 –Observers

1. Observer Identification

- 1.1. County being observed _____
- 1.2. Observer Name _____
- 1.3. Email Address _____
- 1.4. Best Phone Number _____
- 1.5. Alternate Phone Number _____
- 1.6. League (or other organization) _____
- 1.7. Audit Observation Date(s) _____
- 1.8. Location of Audit (office or other; if other, please specify) _____

2. Numbers of persons on-site and descriptions

- 2.1. County Board of Elections members, officials and staff _____
- 2.2. Secretary of State Elections Officials _____
- 2.3. Voting System Vendor Personnel _____
- 2.4. Media _____
- 2.5. Public: Citizens and official observers (party, candidate or organization) _____
- 2.6. Other _____

3. Accommodating the Public

- 3.1. Were all procedures explained clearly to the public? Yes ____ No ____
- 3.2. Were members of the public able to ask questions and raise concerns? Yes ___/
No ____ No questions or concerns raised _____
- 3.3. Was there enough room for everyone to observe all activities? Yes ____ No ____
Unsure ____
- 3.4. Were YOU able to observe closely enough to see and confirm
(i) the selection results Yes ____ No _____
(ii) the counting Yes ____ No _____

Additional Comments/Notes _____

4. Types of Ballots

What types of ballots are being audited?

(VVPAT Paper rolls from touchscreens at the polls *and* paper ballots from absentees, provisionals etc. Or all paper ballots including optical scan ballots from the polls?)

DRE-VVPATS & Paper _____ or All Optical scan/All Paper _____

Brand of DREs (if used) and Optical Scan machines used in the election._____

5. NOTE TO OBSERVERS: The Directive requires 3 races be audited, with the inclusion of a minimum of 5% of all votes in that county for each of those races.

5.1. The Secretary of State will select two of the 3 races for this audit. The third race will be a randomly selected local countywide race.

a. Were you able to witness the random selection of the countywide race? Yes___ No___

b. The race_____

5.2. Determining the 5% for each race

Did the auditors have a list available of the total quantity of votes for each of the 3 races in their county?

Could you see or get a copy?

5.3. Did the auditors compute the 5% and demonstrate how many ballots would be necessary for each race in ways you could see? Yes___ No___

How many ballots to be audited for the first race audited?_____

How many ballots to be audited for the second race audited? _____

How many ballots for the third (county) race?_____

Notes:_____

Part II -Selecting Precincts

Note to Observers - The 5% of ballots to audit for each race are to be gathered from a random selection of all "precincts" (the "counting unit"). A few counties may choose a different "counting unit", that is, to gather the 5% from a random selection of all "polling locations," or all "machines".

Because most counties organize their voted ballots around precincts, most use precincts as their audit "counting units." Wherever this checklist refers to "precincts" if your county uses "polling locations" or "machines" substitute that counting unit for the word "precincts".

1. Were Precincts used as the counting unit? Yes ___ No ___
If no, what "counting unit" did they use?
Polling locations? ___ Machines? _____

2. When it came time to determine the 5% audit number of ballots for each of the 3 races:
 - a. For each race did the auditors start with a list of *all* precincts with their total number of voted ballots in each, so as precincts were randomly selected they could keep adding the number of ballots, until they reached their 5%?

 - b. Were you able to see that all-precinct list? Get a copy of it?

 - c. What method was used to randomly select the precincts?
 - a. Casting of multi-sided die _____
 - b. Drawing numbered slips of paper from transparent container _____
 - c. Other ___ Explain _____.

 - d. Were all relevant categories of ballots included in the audit?
 - a. Regular ballots (VVPAT and/or optical scan paper ballots) _Yes ___ No ___ Unable to confirm _____
 - b. Counted absentee ballots Yes _____ No _____ Unable to confirm _____
 - c. Counted provisional ballots Yes _____ No _____ Unable to confirm _____
 - d. Counted UOCAVA ballots Yes ___ No _____ Unable to confirm _____

 - e. Did it appear to you that a "pre-audit" took place? Yes ___ No ___

 - f. Use this space if you had any concerns that random selection was not properly conducted or not well organized.

Part III – Observing and Verifying the Counting

1. Board of Elections (BOE) Officials and Counting Teams

1.1. Number of BOE Counting Teams _____

1.2. Were all BOE Counting Teams comprised of equal numbers of Democrats and Republicans?

Yes ___ No ___

2. Gathering the physical ballots for the selected precincts

1. Were you able to see where/how the voted ballot were stored and secured?

a. Did they appear organized? Yes ___ No ___

b. By precinct? Yes _____ No _____

2.1. If the ballots are stored outside the audit area, were the audit ballots delivered by at least two elections officials of different parties (confirm this with your BOE contact)?

Yes ___ No ___ Unobserved/Don't know _____

2.2. Were the ballots in sealed containers?

Yes ___ No ___ Unobserved/Don't know _____

2.3. Were you able to confirm whether the Auditors checked that the ballot container seals were intact?

Yes ___ No ___ Unobserved/Don't know _____

2.4.

a. For DRE counties - Did the Auditors compare the seal numbers on the VVPAT canisters to the numbers on the Chain of Custody log and confirm that they matched?

Yes ___ No ___ Unobserved/Don't know _____

b. For Op Scan/All Paper Ballot counties- Often the paper ballots from the election are moved into marked storage boxes to be kept securely, so may not have a numbered seal. But, did the boxes appear sealed in some way? _____

Were the precincts inside them clearly marked? _____

2.5. Were the ballots under the observation of at least two elections officials of different parties at all times during the audit? Yes ___ No ___ Unobserved/Don't know _____

Please explain answers above as needed: _____

3. Totality of Ballots. Were you able to **confirm** that all ballots from the precinct/polling location were included in the count (Election Day, Absentee in-person and mail - including ballots from military/overseas citizens, and Provisional ballots)? (In other words, could you CHECK this yourself, rather than taking someone's word for it?)

Yes ___ No ___ If No please explain _____

4. Counting Procedure

4.1. Did the county audit all 3 races simultaneously, or one at a time?

Simultaneously _____ One at a time _____

4.2. Board of Elections (BOE) Officials and Counting Teams

a. Number of BOE Counting Teams _____

b. Were all BOE Counting Teams comprised of equal numbers of Democrats and Republicans?

Yes _____ No _____ Unobserved/Don't know _____

4.3. Did Counting teams use some sort of uniform "counting form", where they recorded the number of votes they found for each candidate, or issue in each precinct?

a. Did each form have a place for the name of the race, the precinct, the candidate's names, and for them to sign and date when they were finished?

Yes _____ No _____ Unobserved/Don't know _____

b. Did the form or some other mechanism guide the counting teams to divide their counts into Election Day, absentee, provisional, UOCAVA?

Yes _____ No _____ Unobserved/Don't know _____

c. Did they use a new counting form for each race and precinct?

Yes _____ No _____ Unobserved/Don't know _____

4.4. For DRE/VVPAT counties - Were counters of VVPAT's from election day instructed to begin by reviewing each entire paper roll, and clearly marking (highlighting) all the ballots/entries that were from one of the selected audit precincts, and were for the race worked on (so they could proceed in hand counting only the highlighted ballots).

Yes _____ No _____ Unobserved/Don't know _____

4.5. Did elections officials find a match between all machine counts and manual counts the first time they tried?

Yes _____ No _____ Unobserved/Don't know _____

4.6. Sometimes, machine counts and manual counts do not match or do not match at first. If this happened, were counting teams kept unaware (blind) as to the difference between machine counts and manual counts as additional work was performed to reconcile the differences?

Yes _____ No _____ Unobserved/Don't know _____

4.7. Did BOE elections officials work so that one team checked the accuracy of the others' work (a two or four person protocol)?

Yes _____ No _____ Unobserved/Don't know _____

4.8. If there were mismatched counts, did elections officials try to resolve mismatched counts by

a. hand counting again _____

b. changing counting teams _____

c. reviewing machine tapes _____

4.9. Did they use a new counting form each new count or continue to change the numbers on the first form?

New form _____ Continued to use first form _____

4.10. Did elections officials resolve mismatched counts by the end of the audit?

Yes _____ No _____ Unobserved/Don't know _____

4.11. Did elections officials record counts, including unresolved discrepancies if any, on official forms by the end of the audit?

Yes _____ No _____ Unobserved/Don't know _____

4.12. Use this space if further explanation is needed.

5. Paper Ballots That Might Not Have Been Read Correctly by the Machine.

5.1. Were ballots - identified as paper ballots that might not have been read correctly by the machine - reviewed and officially ruled upon during the audit process?

Yes _____ No _____ Unobserved/Don't know _____

5.2. Had such ballots been ruled upon prior to the audit process?

Yes _____ No _____ Unobserved/Don't know _____

5.3. Were such ballots that were ruled as having valid votes included in the audit counts?

Yes _____ No _____ Unobserved/Don't know _____

5.4. "Remakes"

Some paper ballots may have portions that the machines cannot read, or the voters' intentions appear unclear (like the voter used a check mark but filled in ovals every place else, or crossed out one selection, in a race, and filled in oval for another. The Secretary of State has a policy as to how those ballots are to be counted or not. The BOE is to have already ruled on such ballots. Ballots they rule to be counted had to be "remade" matching all the voter's intention and put in a form that the machine could read and get into the ballot into its digital tabulation.

a. Did you see any ballots that indicated they were "remakes"?

Yes _____ No _____ Unobserved/Don't know _____

b. Was the original ballot attached to the remake, or made available?

Yes _____ No _____ Unobserved/Don't know _____

c. Some 17-year olds ballots may have needed to be remade if they voted on an issue (not a presidential candidate) for which they were not eligible to vote. Did you see any 17-yr old's remakes?

Yes _____ No _____ Unobserved/Don't know _____

6. Confirming Machine Counts Used in the Audit of Optical Scan Ballots

6.1. Did the BOE election officials confirm identifying information - such as serial number, date and time - on the signed optical scanner tape(s) printed at the end of Election Day?

Yes _____ No _____ Unobserved/Don't know _____

6.2. Did the BOE election officials confirm vote counts of the race(s) being audited, from the signed optical scanner tape(s) printed at the end of Election Day?

Yes _____ No _____ Unobserved/Don't know _____

6.3. Did the BOE election officials confirm the vote counts from the tapes were accurately recorded on the report forms?

Yes _____ No _____ Unobserved/Don't know _____

6.4. Please explain any No answers:

7. Specific issues to watch for the November 8, 2016 General Election

7.1. Were there any ballots that had to be set aside for special processing due to over-voting (voting for more than one choice)?

Yes _____ No _____ Unobserved/Don't know _____

7.2. If the answer to 7.1. is yes, please explain:

7.3. Were there any absentee ballots or provisional ballots that BOE election officials reviewed to determine if the fields were deemed "complete" or "incomplete" due to questions about the fields being properly filled out?

Yes _____ No _____ Unobserved/Don't know _____

7.4. If the answer to 7.3. is yes, were those ballots ultimately counted or rejected?

Counted _____ Rejected _____ Unobserved/Don't know _____

7.5. Were there any provisional ballots that the BOE election officials reviewed to determine if the voter had been wrongly purged by the supplemental process (based on inactivity)?

Yes _____ No _____ Unobserved/Don't know _____

7.6. If the answer to 7.5. is yes, were those ballots ultimately counted or rejected?

Counted _____ Rejected _____ Unobserved/Don't know _____

7.8. Did the BOE election officials provide any explanation as to why the ballots identified in questions 7.3 through 7.6. were counted or rejected? Please describe:

Part IV – Completing the Observation and Verification

1. Closing Chain of Custody

- 1.1. Did the BOE officials confirm that for DRE (paper tapes)
- a. the ballots were returned to their proper containers? Yes____ No____
 - b. the ballot containers were resealed? Yes____ No ____
 - c. the seal numbers were recorded correctly? Yes ____ No ____
 - d. all seal numbers matched Yes ____ No ____

1.2. Please, explain any “No” answers.

2. Official Forms

2.1. Did BOE officials confirm that totals agreed by the counting team(s) were recorded accurately on the report forms?
Yes____ No ____

2.2. Were copies of the official Audit report forms made available to the public immediately (within 15 minutes of the end of the audit)? *Note: this can happen in a variety of ways; please ask your BOE contact how the information will be made available.*

Yes ____ No ____

2.3. Did the copies show the precincts included in the audit, the number of ballots voted, spoiled, unvoted including absentee and provisional ballots, and photocopied ballots and ballot remakes?
Yes ____ No ____ Not sure ____

2.4. Please explain No or Not Sure answers:

Part V-Observer Concerns

- 1.1. Do you have any concerns over the way the room was laid out?
Yes ___ No ___
- 1.2. Do you have any concerns that the auditing was not well organized?
Yes ___ No ___
- 1.3. Do you have any concerns with the integrity of the counting and totaling process?
Yes ___ No ___
- 1.4. Do you have any concerns that the manual count was inaccurate?
Yes ___ No ___
- 1.5. Do you have any concerns that the reported information is inaccurate?
Yes ___ No ___
- 1.6. Do you have any concerns about the transparency/observability of the process?
Yes ___ No ___
- 1.7. Do you have any concerns with the chain-of-custody?
Yes ___ No ___ Unobserved ___
- 1.8. Did BOE election officials maintain good order and prevent interference during the audit process? Yes ___ No ___

1.9. Please use this space if further explanation is needed _____

1.10. Did you have any other concerns about the audit not reflected in your responses to the questions above? If so, please describe. _____

PLEASE TELL US HOW WE CAN MAKE THE AUDIT OBSERVATION PROCESS BETTER IN FUTURE YEARS
