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FAQs: Appointment of Election Inspectors from Party Lists Updated November 10, 2015

In response to recent questions received by the Government Accountability Board related to the nomination and appointment of election inspectors, Board staff has compiled the following questions and responses. The FAQ's refer to the guidance contained in the September 15, 2015 clerk communication regarding this topic. If you have any questions or need assistance addressing specific circumstances involving the appointment process, please contact the G.A.B. Help Desk at (608) 261-2028, or gabhhelpdesk@wi.gov. Thank you.

Q: The clerk memo dated September 15, 2015 states that the current list of election inspectors is subject to open records law. Is there a specific form or format in which the request for the list is made that will improve the probability of compliance?

A: The public records law does not mandate the use of any specific form when a request is made. If a municipal clerk does not comply with a request for the list of current election inspectors, the requestor may contact the Government Accountability Board office or seek compliance under the public records law.

Q: Is it reasonable to expect the information of current election inspectors provided by clerks to be complete? Such as containing contact information and including all names, whether they are political party appointees or not?

A: If you request the names of all current election inspectors, you should get the names of everyone who was appointed an inspector in December 2013 or subsequently, whether or not they were political appointees. The public records law states that a public authority shall not provide access to information concerning the home address, email address, or home telephone number of an employee unless the employee authorizes release of such information, so it is possible the list may not contain that contact information.

Q: How should political party nominees for special voting deputies and absentee ballot canvassers be submitted in order to have them included in the appointments?

A: These lists should be separate from the list of inspectors. Or, if one list is submitted, it should identify the nominees under the categories for which they are being nominated. The submission process is the same. Nominees for the board of absentee ballot canvassers must be qualified electors of the municipality but nominees for SVDs may reside in the same county. The party whose candidate for governor or president prevailed at the last general election in the municipality is entitled to the extra canvasser. Wis. Stat. § 7.52(1)(b).

Q: How will party balance for Election Day special registration deputies who also handle ballots and for specialized poll workers who exclusively process absent ballots at polling sites be handled?

A: Election-day SRDs have one job, which is to register voters. However, the SRD could also be appointed as an alternate inspector (provided the municipality has an ordinance that allows for alternates) who would take over when another inspector takes a break. During that time, he or she is no longer serving as an SRD. When the absent inspector returns, the alternate inspector resumes the duties of the SRD.

“Specialized Poll workers” are simply election inspectors who have been assigned to a particular duty. They are part of the odd number of inspectors assigned to the polling place. Whenever a task is required to be conducted by more than 1 inspector, party imbalance must be considered. If there are 7 polling workers (example: 4 Republicans and 3 Democrats) and 1 Republican and 1 Democrat process absentee ballots, 1 Republican and 1 Democrat handle the poll lists, that leaves 2 Republicans and 1 Democrat to issue ballots, monitor the voting equipment and register voters—tasks that do not require more than 1 person.

Q: With nominees allowed to come from the county of residency, can the same person be nominated on multiple municipal lists?

A: Yes, and one person can be appointed by more than one municipality. The party representative submitting the list must certify on the list that they have contacted each nominee and that each nominee has agreed to serve as an election official. This means that the nominee must agree to have their name submitted to multiple municipalities.

Q: Can SVDs and absentee ballot canvassers be nominated from the county of residence as well?

A: Nominees for a Board of Absentee Ballot Canvassers (BOABC) must be qualified electors of the municipality. Special voting deputies may reside in the same county.

Q: Since the political parties are allowed to add names to their original lists at any time, will the supplemented names to the original list of nominees be given priority in making assignments for the remaining vacant designated party positions, or for any vacant position, regardless of party affiliation?

A: Whether an inspector position is considered Republican, Democratic or Unaffiliated is determined at the December meeting of the governing body when appointments are made. If there are insufficient names on the list received on November 30th to fill the number of positions to which the party is entitled, the remaining positions are filled by unaffiliated inspectors.

If there is a vacancy in a position that had been filled by a party appointee, the position is filled from any additional names the party may have submitted after November 30th. A vacancy in a position that was filled with an unaffiliated inspector due to a lack of names on the original should be filled from the list of additional names submitted by the party, if that will maintain the partisan imbalance. Supplemental lists submitted prior to Nov.

30th are treated as part of the original list of nominees. Names submitted after that date are only used to fill vacancies.

Q: What is the procedure when submitting additional names to a party's original list? To who is the list submitted?

A: To the same authority to which the original list was submitted. See the chart posted at <http://www.gab.wi.gov/node/3705> . The G.A.B. also advises that a copy of the list should be provided to the municipal clerk or Municipal Board of Election Commissioners.

Q: Is there a difference in procedure when a political party supplements its list before vs. after the initial appointment by the municipal governing body in December?

A: Supplemental lists submitted prior to Nov. 30th are treated as part of the original list of nominees. Names submitted after that date are only used to fill vacancies.

Q: If some positions remain vacant after the initial appointment by the municipal governing body, will the supplemented names to the political party lists receive priority for assignment by the clerk?

If by "vacant" you mean that the governing body had insufficient names from the party and also had insufficient unaffiliated people to fill the positions so that there is nobody in the position, then the answer is "Yes."

If you mean that due to lack of names on the party list, unaffiliated inspectors were appointed to the positions which then became vacant, the answer is also "yes," if it is a position to which the party was entitled. The position should be filled from the names on the supplemental list.

Q: If all the names on a political party list are to be assigned to positions, what impact does the designation of "first choice nominee" have on the process?

A: If there are 5 positions to which a party is entitled and the party submits 10 names, the governing body can choose whichever 5 they wish from the list. If first-choice nominees are indicated, the governing body must select those names first.

Q: If there are more names on a list than "positions available" and the clerk has permission through an ordinance to establish different working hours for different officials, does the clerk have the authority to arbitrarily divide an election official position between all the nominees/appointees from a party list, giving each person "a shift" to work, sometimes for only 1 -2 hours during election day?

A: The intent of the law that provides for shifts of election inspectors is intended to lessen the hours the inspectors must work, not to give everyone whose name was submitted a chance to work. Most ordinances specify the duration and time of each shift. If shifts are used, each shift should reflect the proper party imbalance if inspectors from each party are available.

Q: In the letters to the political parties and in the statutes, it states that appointment without regard to party affiliation may be made if not enough names were submitted by the political parties, but the clerk memo states “all appointments are made without regard to party affiliation”. Which is correct?

A: The statements were intended to be synonymous, in that an appointment made without regard to party affiliation may or may not result in an appointee with a party affiliation. The more clear phrase is that appointments to fill vacancies “may be made without regard to party affiliation.” A vacancy caused by lack of names on the list submitted by November 30th should be filled with a name that was added later, if the party is entitled to the position.

Q: Is there any difference in the process when nominating election officials to municipalities located on Native American Reservations?

A: No.

Q: It has been reported that some municipal clerks plan to have training sessions this fall, before election inspectors have been appointed to their positions. How can this happen?

A: Municipal clerks may conduct training at any time. The current inspectors’ terms don’t end until December 31st. However, the governing body or clerk cannot use non-attendance at a training held before appointment as a reason to not appoint a political party nominee.

Q: With inspectors being nominated from the county of residence, is there reciprocity in training between municipalities?

A: A municipal clerk can choose to accept training attended by an inspector while serving in another municipality.

Q: May a municipality require election inspector nominees and applicants to complete an application and pass a background check?

A: Yes, election inspectors are considered employees of the municipality and the municipality may request information necessary to employ the individual, confirm that the individual is qualified to serve as an election inspector, and determine the best polling place assignment and responsibilities.

In addition to the qualifications described in Wis. Stat. s. 7.30(2), an individual may not serve as an election inspector if he or she has been convicted of a felony unless a pardon has been issued, even if the criminal sentence and supervision have been completed. In addition, Wisconsin employment law permits employers to consider arrest and conviction records in hiring decisions if the circumstances of a pending criminal charge or of a conviction for a felony, misdemeanor or other offense substantially relate to the circumstances of the particular job.

If an application is used, it may also request basic information about the individual's experience with elections and skills such as speaking a second language. These inquiries may not be relevant to whether the individual is appointed as an inspector, but may be helpful in identifying candidates for chief inspector positions or other responsibilities. However, the application process should not be unnecessarily rigorous or complicated so as to discourage qualified individuals from applying to be election inspectors or to avoid the appointment of qualified individuals who are nominated by the political parties.

Because of deadlines related to the inspector nomination and appointment process, it may not be possible to obtain and review completed applications for all nominees before the governing body makes its appointments. The clerk may either advise the governing body of any nominee whose application or background check requires nonappointment, or the governing body may make its appointments contingent upon successful completion of any required application and background check.

Q: What is the procedure for addressing problems that may arise during this process?

A: Document any problems encountered and contact the G.A.B. Help Desk at (608) 261-2028 or GABHelpDesk@wi.gov.