



## OKLAHOMA STATE ELECTION BOARD

January 10, 2024

Jenni White



Cheryl Williams



Ms. White and Ms. Williams,

I have conducted a review of your similarly-worded complaints emailed to this office on December 8, 2023 (Ms. Williams) and December 11, 2023 (Ms. White), as well as the additional emails sent on December 11, 2023 (Ms. Williams) and December 13, 2023 (Ms. White). Following is a summary of my findings.

### **I. CLOSED-CIRCUIT TELEVISION SYSTEM**

A. My understanding is that the use of the closed-circuit television system that allows the Oklahoma County Election Board members who are present at the board meetings to observe various activities occurring in nearby rooms has been reviewed and approved by the Oklahoma County District Attorney's office. Based on your own description, the board members were present at the public board meeting(s) in question and the various activities occurring in nearby rooms were displayed on video in the board meeting room.

B. If you have questions about the closed-circuit television system that is in use for county election board meetings I encourage you to contact the assistant district attorney who is assigned as legal counsel to the county election board to discuss this matter. My understanding is that State Election Board Assistant Secretary Rusty Clark also suggested this to Ms. White in their December 11 telephone conversation.

C. In addition, the Oklahoma County Election Board was one of those offices personally observed by the Oklahoma Legislature's Legislative Office of Fiscal Transparency (LOFT) during their [independent review of absentee processes](#) in Oklahoma. LOFT's report included findings that Oklahoma's absentee voting processes enable election integrity and that local level compliance with effective processes yield a secure and accurate vote count. The Oklahoma County Election Board's video system was observed by LOFT and is referenced in its report. LOFT did not find that the video system violated state law or the administrative code. However, LOFT did recommend that the Legislature enact a law "requiring county election boards to count absentee ballots in a single room that is accessible to the public." In the State

Election Board's response to this recommendation, we replied, "If the Legislature implements this policy, the agency recommends including a mandate that the county government must provide sufficient space within the county election board office to accommodate this requirement."

D. A reference to the "county election board" in a statute or administrative rule does not necessarily refer to the board members themselves. For example, 26 O.S. § 14-125 states that "the county election board shall meet... to *count* absentee ballots...", yet 26 O.S. § 14-124 states that the "secretary of the county election board shall *appoint absentee counters*..." Clearly, § 14-125 does not envision the board members personally counting absentee ballots in light of the provisions of § 14-124. It is important for laws or procedures to be viewed in context.

E. It should be noted that the Oklahoma Supreme Court (for example, see *Jackson v. Maley*, 1991 OK 7, 806 P.2d 610) has held that "in the absence of fraud or corruption and in the presence of merely statutory informalities, the results of an election will not be invalidated." In short, even if an administrative mistake or issue were to occur, that alone is not sufficient to invalidate an election.

F. In Ms. White's December 13 email, she noted that the at the December 12, 2023 board meeting the board recessed and that chair and alternate board member were able to move from room to room to observe various processes that are also viewable by video in the board room. My understanding is that members were also provided other materials related to the election, such as voting device tapes and unofficial results to review.

G. In short, there is no evidence that the closed-circuit television is in violation of the law or election procedures.

## II. "DISRESPECTFUL" BEHAVIOR

A. In both complaints, you say that Secretary Sanderson and Assistant Secretary Sanders were "disrespectful" to you during county election board meetings. On a December 7, 2023 phone call with both Assistant Secretary Rusty Clark and me, Ms. Williams also claimed that Secretary Doug Sanderson called her "stupid" and "an imbecile" during the November 17, 2023 board meeting and that Assistant Secretary Sanders "screamed" at Ms. Williams and Ms. White following the board meeting. Ms. Williams indicated that a recording of the meeting exists that supports these claims. A recording of a portion of the November 17, 2023 board meeting was provided to us by Ms. White, after multiple requests for it. However, after reviewing your recording, it does not appear to provide evidence to support these claims.

B. Further, a review of electronic communications between Assistant Secretary Sanders, Ms. Williams and Ms. White, appears to show that both Ms. Williams and Ms. White have been disrespectful or condescending toward Ms. Sanders.

C. Absent further information, there is no indication that there is pervasive disrespectfulness toward the board member or alternate member on the part of the county election board secretary or staff.

D. There does appear to be tension among the secretary, board members and staff. As the state officer with general supervisory authority over the secretary and members of the county election board, I would encourage all of you to exercise civility and comity toward one another.

### III. QUESTIONS FROM THE PUBLIC

A. Ms. Williams stated that Mr. Sanderson "cut her off" during the November 14, 2023 county election board meeting when Ms. Williams tried to explain procedures to Ms. White, who was in attendance as a member of the public. Ms. Williams further stated that "a board member should be able to explain a process to a member of the public without interference" from the secretary or the staff.

B. However, my understanding is that there was no "public comments" or "questions" provided on the agenda for the meeting in question. This is a normal practice for county election boards across the state, given the ministerial nature of the board's duties.

C. Board members should not engage in conversations with members of the public while the board meeting is convened. If a board member wishes to converse with a member of the public, it is recommended that the board member wait until after the meeting, or leave the board room and have such a conversation outside, to ensure that no violations of the Open Meetings Act occur.

### IV. USE OF TERMS "ILLEGAL" AND "FRAUDULENT"

A. In both your complaints, the words "illegal" and "fraudulent" were used to describe alleged procedural issues. You both claim that "Mr. Sanderson is not following Oklahoma Election Law." Ms. White also claimed that the county election board secretary, Doug Sanderson, "...was often seen holding ballots and then moving out of range of the television..." – implying, without evidence, that Secretary Sanderson may have been engaged in improprieties.

B. As noted above, there is no evidence provided that illegality or fraud has occurred in the matters raised in your complaints, and, in my opinion, it was improper for you to describe these issues in this manner. Additionally, even if the claims made in your complaints were entirely true, there is nothing that casts doubt upon the accuracy or validity of the elections in question.

### CONCLUSION

While this concludes my review of your above-mentioned complaints, other complaints related to personnel matters regarding the members, alternate members, and/or secretary of the Oklahoma County Election Board continue to be reviewed. It is likely that one or more of these other matters will be referred to the members of the State Election Board for review. Keep in mind that pursuant to state law the State Election Board appoints all members, alternate members and secretaries of county election boards, and also has the statutory authority to remove these officials at any time.

Sincerely,



PAUL ZIRIAX

Secretary

Oklahoma State Election Board