

# Pierce Conservation District Election Issue



**CONSERVATION DISTRICTS  
OF WASHINGTON STATE**

*your window to healthy lands*



**Washington State  
Conservation  
Commission**

**Bill Eller**  
Commission Election Officer  
March 17, 2022

# AGENDA

- Pierce Conservation District election issue
- CD election investigation process
- Election rules involved
- Analysis of the issue and the rules
- Conclusion of staff and SCC Executive Director
- SCC Commissioner action
- Next steps

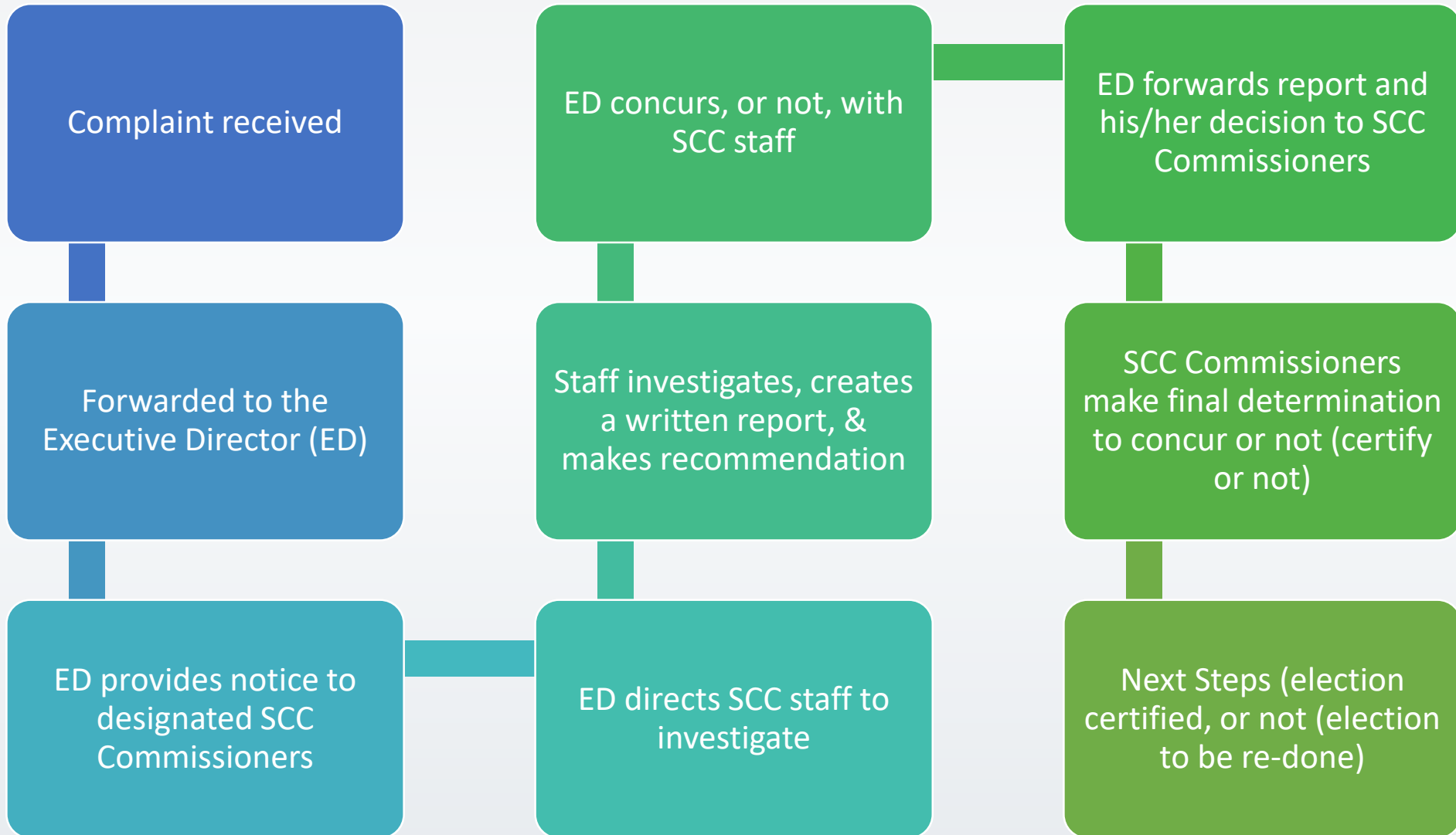
# Pierce CD Election Issue

- March 2, 2022 - Commission received a complaint from Ms. Monika Warner, a declared candidate for the PCD election about the upcoming March 23, 2022 PCD election through its online Election Feedback Form.
- Ms. Warner, filed the candidate required information (“PF-A” form) and the candidate optional information (a biography and candidate statement) by email, on February 18, 2022 at 2 pm, before the filing deadline.
- However, her email was apparently caught in the PCD’s email spam program that day. Her candidate optional information was not posted by PCD staff at that time.

# Pierce CD Election Issue Continued

- The only other declared candidate, Mr. John Hopkins, filed his candidate required information (“PF-A” form) and the candidate optional information (a biography and candidate statement) by the deadline.
- His candidate optional information (biography and statement) was posted by PCD staff on the PCD web page on February 22, 2022 at 4 pm.
- PCD staff confirmed that Ms. Warner’s candidate optional information was received by the candidate filing deadline, but not discovered by the PCD until March 1, 2022 and then posted to the PCD web page, resulting in a delay of eight days between receipt and publication.

# Election Investigation Process - WAC 135-110-790



# Election Rules Involved

- The Revised Code of Washington (RCW) Title 29A generally governs elections in Washington
  - Exception in RCW 29A.04.216 and RCW 29A.04.330 for CDs
- RCW Chapter 89.08 is the SCC's basis for CD election rules
  - *RCW 89.08.190*
- WAC Title 135-110
  - *WAC 135-110-430 Conservation district may publish candidate-provided optional information*

# CD Election Timeline

ELECTION TRAINING, REVIEW PROCEDURES, ADOPT POLICIES	PREPARE ELECTION – ADOPT ELECTION RESOLUTION, NOTICE TO PUBLIC	BY STATUTE, ELECTIONS MUST BE HELD DURING THIS TIME, CD REPORTS RESULTS TO COMMISSION	CD REPORTS RESULTS TO THE COMMISSION, COMMISSION CANVASES RETURNS	ELECTION WINNERS CERTIFIED AND ANNOUNCED
August – October	October – December	January – March	April	3 <sup>rd</sup> Thursday in May

RCW 89.08.190

***“The Commission shall establish procedures for elections, canvass the returns and announce the official results thereof.”***



**RCW 89.08.190**



# Basis for Election Rules in WAC

“The Commission shall establish procedures for elections, canvass the returns and announce the official results thereof.”

- RCW 89.08.190

## Chapter 135-110 WAC

### Election and replacement of conservation district supervisors

[Complete Chapter](#)

#### WAC Sections

##### GENERAL

- [135-110-100](#) Purpose and authority.
- [135-110-110](#) Definitions.
- [135-110-120](#) Compliance.
- [135-110-130](#) Documents provided to conservation commission to be copies.
- [135-110-140](#) Records retention.
- [135-110-150](#) Conservation district must remain impartial.
- [135-110-160](#) Legal boundaries of conservation district to be available.
- [135-110-170](#) Only one ballot per voter may be counted.
- [135-110-180](#) Disruptive acts prohibited.

##### ESTABLISHING ELECTION, PROVIDING NOTICE

- [135-110-200](#) Conservation district must hold election.
- [135-110-210](#) Conservation district must adopt election resolution.
- [135-110-220](#) Due notice required before and after election resolution.
- [135-110-230](#) Conservation district appoints election supervisor.
- [135-110-240](#) Election may be on-site, remote, or both.
- [135-110-250](#) Voting must be accessible.

##### CANDIDATE ELIGIBILITY, FILING, NOMINATION, VERIFICATION, WITHDRAWAL

- [135-110-300](#) Every candidate must be a qualified district elector.
- [135-110-310](#) Some candidates must be landowners or farm operators.
- [135-110-320](#) Submission of candidate information required to be elected.

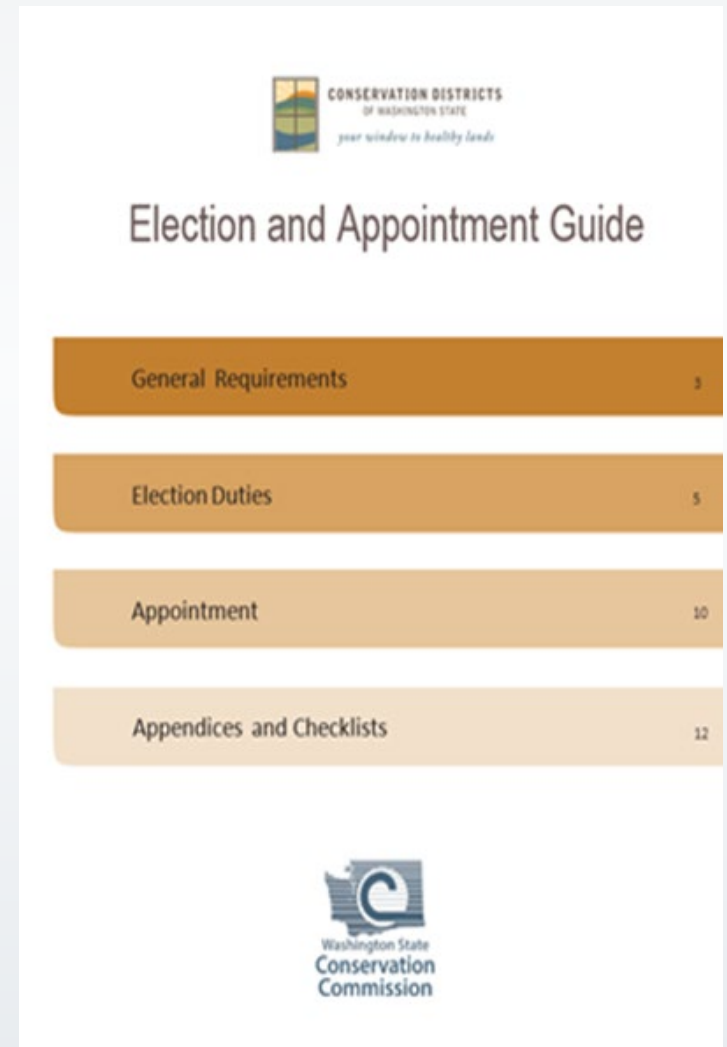
# WAC 135-110-430

Conservation district may publish candidate-provided information.

1. *To assist voters in the selection of a candidate during voting, a conservation district may publish information provided by nominated and declared write-in candidates.*
2. *If a conservation district chooses to publish information about candidates, it **must provide equal opportunity for publication and equivalent space to each nominated and declared write-in candidate.***

# Election & Appointment Guide

- “To assist voters in the selection of a candidate during voting, a conservation district may publish candidate optional information provided by candidates. Conservation districts should **adopt a policy** to set the parameters for publishing such candidate optional information.”
  - Election and Appointment Guide, page 6, *Conservation District Duties*



# PCD Candidate Biography & Statement Policy

The PCD board adopted a candidate optional information policy on April 4, 2013 and that policy was in effect at the time of this incident.

That policy reads, in part, as follows:

*The Pierce Conservation District will include a biography and statement for each declared candidate on the District's website and Facebook page.*

# Analysis of Issue and Rules

- If a district chooses to publish information provided by the candidate, it must provide equal opportunity for publication and equivalent space to each candidate.
  - WAC 135-110-430, Election Guide
  - PCD's own Biography & Candidate Statement policy
- This was not done in this case.
  - Ms. Warner was denied equal opportunity and equivalent space since her candidate biography and statement were not posted to the PCD web page for eight days.
  - The PCD failed to follow its own candidate information format and content policy.
- The eight day period between the receipt of Ms. Warner's candidate optional information and its publication by the Pierce CD to their web page was a significant noncompliance with conservation district election procedures and rules, such that it "may affect the outcome of an election....".

# Conclusion of SCC Staff & Executive Director

- SCC staff memo recommends not certifying – error may affect election outcome
- Executive Director concurred with staff recommendation in a letter to the Pierce CD, dated March 9, 2022.

# SCC Commissioner Action

- *“The conservation commission may decline to certify an election found in significant noncompliance.” WAC 135-110-795.*
  - *““Significant noncompliance” means the failure to follow the requirements in this rule that **may affect the outcome of an election** or deny voters their right of privacy in voting.” WAC 135-110-110.*
1. If the complaint does not rise to the level of significant noncompliance with election procedure, the election may be certified and announced.
  2. If the complaint does rise to the level of significant noncompliance with election procedure, the Commission should decline to certify and announce the election.
    - Request that the district hold another election as per the procedure in WAC 135-110-780.
    - After the Commission declines to certify and announce the results of the PCD election, the PCD take further action.

# Next Steps

- Certification and announcement of CD elections routinely occurs at the May Commission meeting.
- WAC 135-110-760 allows for the Commission to take action before the May Commission meeting.
- The SCC staff, Executive Director, and Pierce CD support taking action at this meeting so that the Pierce CD can start the election process from scratch sooner, rather than waiting until after the May Commission meeting.
  - Pursue in Superior Court getting another election ordered.
    - WAC 135-110-780.



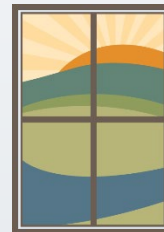


- Decision of the Commissioners  
(proposed motion in the memo,  
page I)

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