

31 KAR 4:050. Removal procedure for precinct election officers.

RELATES TO: KRS 117.045(6)

STATUTORY AUTHORITY: KRS 117.015

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation exists to provide a hearing procedure for the removal of an election officer.

Section 1. KRS 117.045(6) provides that the State Board of Elections may require the county board of elections to submit its list of precinct officers for review. The State Board of Elections may, after a hearing, direct the removal of any election officer who the state board finds, based upon clear and convincing evidence, would not fairly administer the state election laws. The state board shall replace any officer so removed upon the sworn complaint of any person, or on its own initiative, the State Board of Elections shall investigate alleged violations of the election laws, or the failure to properly carry out the election laws by any precinct election officer. When the State Board of Elections concludes that there is evidence to believe an election officer, or officers, has not or would not fairly administer the election laws, it may hold a hearing to determine if such officer has not, or would not fairly administer the election laws. In such event, the State Board of Elections shall notify the complainant, if any, and the person complained against that a hearing shall be conducted of the specific offenses alleged not less than thirty (30) days prior to the date of the hearing. At the hearing the person complained against shall have all of the protections of due process, including, but not limited to, the right to be represented by counsel, the right to call and examine witnesses, the right to the production of evidence by subpoena, the right to introduce exhibits and the right to cross examine opposing witnesses. When the registry determines that the preponderance of the evidence shows that the election officer has failed to fairly administer the election laws of the state, or has taken such action as to constitute a violation of the election laws, it shall issue an order removing that election officer.

Section 2. Upon the issuance of any order requiring the removal of an election officer, the county board of elections in the county in which the officer served shall within ten (10) days from the date of issuance of the order by the State Board of Elections submit to the State Board of Elections a new list of officers for that precinct, or precincts. The State Board of Elections shall then appoint from that list a new officer or officers to serve during the remaining term.

Section 3. If the State Board of Elections conclude that there is probable cause to believe that an election officer has willfully violated the election laws, it shall refer such violation to the attorney general for prosecution. The attorney general may request the appropriate county or Commonwealth's attorney to prosecute the matter and may request from the State Board of Elections all evidence collected in its investigation. (17 Ky.R. 1232; eff. 12-7-1990; Crt eff. 3-6-2019.)