

**OFFICE OF THE ATTORNEY GENERAL**  
**Department of Criminal Investigations**  
**(New Administrative Regulation)**

**40 KAR 10:010. Uniform procedure and timeline for conducting independent election inquiries.**

RELATES TO: KRS 15.243, 15.180, 15.242, 117.035, 119.005

STATUTORY AUTHORITY: KRS 15.243

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.243(3)(b) authorizes the Attorney General to promulgate administrative regulations in accordance with KRS Chapter 13A to establish a uniform procedure and timeline for his or her agents to follow when conducting independent election inquiries. This administrative regulation establishes election inquiry requirements including the data and forms that shall be requested from each county that is chosen for a random independent election inquiry pursuant to KRS 15.243(3)(a).

Section 1. Definitions.

- (1) "Agent" means an Investigator with the Department of Criminal Investigations, Office of Attorney General.
- (2) "Ballot" or "official ballot" is defined by KRS 117.001(3).
- (3) "Ballot box" is defined by KRS 117.001(4).
- (4) "County" means the county clerk's office that has been randomly chosen for an independent inquiry pursuant to KRS 15.243(3)(a).
- (5) "Election" or "elections" is defined by KRS 117.001(6).
- (6) "Election officer"(s) is defined by KRS 118.015(5).
- (7) "Federal provisional voter" is defined by KRS 117.001(9)
- (8) "Independent Inquiry" means an audit of specified data and forms from the subject county clerk's office as well as interviews with associated personnel and citizens in order to ensure the integrity of election procedures within that county for the applicable election.
- (9) "Office" means the Office of Attorney General.
- (10) "Voter" is defined by KRS 116.013.

Section 2. Uniform procedure for conducting a post-election independent inquiry includes the following:

- (1) Notification to the county of randomly drawn post-election independent inquiry;
- (2) Notification to county officials, workers, and voters of status of county as randomly drawn for independent inquiry;
- (3) Request to the county and the election officers of that county for copies of designated county election documents and data;
- (4) If a request of county election documents and data would yield a potentially large number of documents, a random sample size of said materials may be requested by the office in lieu of all documents; and
- (5) If circumstances dictate, and at discretion of the office:
  - (a) The County Board of Elections ("CBE") may be requested to conduct a recount of a chosen precinct; and
  - (b) The agent may request any other materials, documents, data, or interviews bearing upon any issues that may or may not arise during an independent inquiry.

Section 3. Uniform Timeline for Conducting a Post-election Independent Inquiry.

- (1) The office shall conduct a random public drawing of no fewer than twelve (12) Kentucky counties within twenty (20) days following each primary or regular election

pursuant to KRS 15.243(3)(a).

(2) Letters of notification to each county of the randomly selected Kentucky counties shall be mailed out within ten (10) working days from the random drawing date.

(3) The agent shall make the request in writing to the county.

(4) The county shall provide all requested materials, papers, forms, interviews, and documents to the agent no later than twenty (20) days after the request.

(5) If the county requires more than twenty (20) days to provide all requested materials, papers, forms, interviews, and documents to the office, the county shall notify the office in writing of the need for more time in which to fulfill the request. The county shall state the reason for the needed extra time within the request.

(6) The office shall have a reasonable time in which to complete a thorough and complete independent inquiry for each randomly selected county, but said time shall not exceed 120 working days.

(7) If an independent inquiry exceeds 120 working days, excluding weekends and holidays, then the office shall indicate in its investigation file the specific reasons for which more than 120 working days was required for a full and complete investigative inquiry.

(8) The original 120 working day investigative timeframe absent any extensions of time, shall be separate and apart from time to present the independent inquiries to the grand juries in each respective county as required by KRS 15.243(3)(c).

Section 4. Required materials, papers, forms, interviews, and documents includes but is not limited to the following:

(1) Copy of the county's voluntary election planning report previously submitted to the State Board of Elections ("SBE") including confirmation or proof of SBE approval;

(2) Details of the election plan's implementations;

(3) All necessary modifications made to the election plan made after its approval by SBE;

(4) Copy of SBE form 74 titled "Petition to Consolidate Precinct and Precinct Election Officers";

(5) Confirmation and proof of advertising and posting of absentee voting information per KRS 117.076(4) pursuant to KRS 424.130;

(6) Confirmation of advertising and posting for the CBE to examine election equipment per KRS 117.165 pursuant to KRS 424.130(1)(d);

(7) Contact information for all CBE members for each randomly drawn county;

(8) SBE form 31, the "Voter Assistance Form" for each randomly drawn county;

(9) SBE form 33A, "List of Voters Issued Absentee Ballots" for each randomly drawn county;

(10) SBE form 33B, "Rejected Ballots" for each randomly drawn county;

(11) List and address of all voting centers or precinct locations for each randomly drawn county;

(12) An accounting of the total number of voters checked in and the total number of ballots cast, which shall include:

(a) Supplemental rosters;

(b) In-person excused absentee ballots;

(c) In-person machine absentee ballots;

(d) Early day voting ballots;

(e) Election day ballots; and

(f) Federal provisional voter ballots, if applicable, from all early voting days as well as election day;

(13) A copy of all SBE 44A forms, and/or a list of all voters who have been issued a mail-in absentee ballot under SBE 44A, with any applications for such ballot to be produced to the office at the discretion of the agent;

- (14) The total number of all mail-in absentee ballot applications received, ballots thereafter printed, ballots sent to voters, ballots returned to the county via United States Post Office (USPS) or by drop-box, and all ballots rejected by county;
- (15) An absentee ballot grand total report;
- (16) "Oath of Voter" forms (SBE 32);
- (17) "Precinct Election Sheriff's Postelection Report" (SBE 53 form);
- (18) "Precinct Election Sheriff's Postelection Statistical Report" (SBE 54A form);
- (19) The "County Board of Elections Postelection Report" (SBE 54 form);
- (20) The CBE Elections Totals Report;
- (21) Copies of the CBE annual meeting minutes;
- (22) Voter registration and election turnout statistics;
- (23) The county clerk grand jury report; and
- (24) Any other materials, papers, forms, interviews, and documents as requested by the office shall be forwarded to the agent.

*RUSSELL COLEMAN, Attorney General*

APPROVED BY AGENCY: March 13, 2024

FILED WITH LRC: March 14, 2024 at 1:35 p.m.

**PUBLIC HEARING AND COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on May 22, 2024, at 9:00 a.m. at the Office of Attorney General 1024 Capital Center Drive, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until May 31, 2024. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

**CONTACT PERSON:** Heather Wagers, Office of the Attorney General, Department of Criminal Investigations, 1024 Capital Center Drive, Frankfort, Kentucky 40601; phone 502-696-5320; fax 502-573-8319; email [HeatherC.Wagers@ky.gov](mailto:HeatherC.Wagers@ky.gov).