

OFFICE OF THE ATTORNEY GENERAL
Department of Criminal Investigations
(Amended at ARRS Committee)

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

RELATES TO: KRS 15.180, 15.242, 15.243, 16.013, 117.001, 117.035, 117.076, 117.165, 118.015, 119.005, 424.130

STATUTORY AUTHORITY: KRS 15.243

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.243(3)(b) requires 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" 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 the 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 the 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 items such as 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, Petition to Consolidate Precincts and Precinct Election Officers, as incorporated by reference in 31 KAR 4:196;
- (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, Voter Assistance Form, as incorporated by reference in 31 KAR 4:131 for each randomly drawn county;
- (9) SBE form 33A, Absentee Ballot Report, as incorporated by reference in 31 KAR 4:031 for each randomly drawn county;
- (10) SBE form 33B, Number of Rejected Absentee Ballots and Reasons for Rejected Ballots, as incorporated by reference in 31 KAR 4:031 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) No-excuse in-person absentee ballots;
 - (c) Excused in-person absentee ballots;
 - (d) Early voting day 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 list of all voters who have been issued a mail-in absentee ballot with any applications for the 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 ballot box, and all ballots rejected by county;
 - (15) An absentee ballot grand total report;
 - (16) Oath of Voter forms (SBE 32), as incorporated by reference in 31 KAR 5:026 and 5:040;
 - (17) Precinct Election Sheriff's Post-election Report (SBE 53 form), as incorporated by reference in 31 KAR 4:031;
 - (18) County Board of Elections Post-election Statistical Report (SBE 54A form), as incorporated by reference in 31 KAR 4:031;
 - (19) The County Board of Elections Post-election Report (SBE 54 form), as incorporated by reference in 31 KAR 4:031;
 - (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.
- (50 Ky.R. 2111; 51 Ky.R. 246, 494; eff. 12-31-2024.)

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