STATE BOARD OF ELECTIONS

(Amendment)

31 KAR 2:020. Accuracy test and setting of voting systems prior to election day.

RELATES TO: KRS 117.155, 117.165, 117.215, 117.275, 117.379, 117.381, 117.383, 117.389, 118.215(1), 118.770 ~~[KRS 116.025, 116.065, 117.075, 117.125, 117.145, 117.155, 117.165, 117.175, 117.195, 117.205, 117.215, 117.255, 117.275, 117.285, 117.375, 117.377, 117.379, 117.381, 117.383, 117.385, 117.387, 117.389, 117.391, 117.393, 118.015, 118.215(1), 118.770, 118A.010, 119.005, 424.290]~~

STATUTORY AUTHORITY: KRS 117.015(1)(a), 117.383~~[, 117.389]~~

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the requirements of 2025 RS HB6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to administer the election laws of the state. KRS 117.383~~[(1)]~~ requires the State Board of Elections to promulgate rules and administrative regulations to achieve and maintain the maximum degree of correctness, impartiality, and efficiency of the procedures of voting. KRS 117.383(5)~~[(6)]~~ requires the State Board of Elections to promulgate rules and administrative regulations to provide for checking the accuracy of the voting system~~[equipment]~~. KRS 117.389 requires the State Board of Elections to prescribe the manner by which the county clerk shall have the automatic tabulating equipment tested on any day after ballots have been certified by the Secretary of State as provided in KRS 118.215, and petitions to allow consolidation of precincts have been approved by the State Board of Elections as provided in KRS 117.066, but not less than five (5) days prior to the election day. This administrative regulation establishes the procedures for checking the accuracy of the voting equipment and testing the automatic tabulating equipment prior to each election to achieve and maintain the maximum degree of correctness, impartiality, and efficiency of the procedures of voting and setting the voting equipment prior to the public examination performed according to KRS 117.165.

Section 1. Definitions.

(1) "Accuracy Board" means the county board of elections or at least two (2) individuals appointed by the county board of elections in accordance with this administrative regulation.

(2) "Accuracy test" means the checking of the accuracy of the voting system~~[equipment]~~ required by KRS 117.383(5)~~[(6)]~~ and the testing of the automatic tabulating equipment and voting systems required by KRS 117.389.

(3) "Accuracy test checklist" means a checklist prepared by the county board of elections for each voting machine and voting system in accordance with Section 4 of this administrative regulation.

(4) "Ballot style" means the ballot unique to a specific precinct listing the federal, state, county, and local candidates, offices, and ballot questions for which a voter in the precinct may cast a vote.

(5) "Certificate" means the County Board of Elections Certificate of Completion of Accuracy Test, SBE 16.

(6) "Certification" means the information provided by the county clerk to the program administrator that includes an accurate listing of all federal, state, county, and local candidates; offices; and ballot questions to be placed on the ballot for each voting machine or voting system for each precinct within five (5) days of receiving the certification of candidates by the Secretary of State, pursuant to KRS 118.215(1), or

immediately after receiving the Secretary of State's certification pursuant to KRS 118.770.

(7) "Program administrator" means the county clerk or authorized assistant designated to configure the voting machines and voting systems as required by 31 KAR 2:010.

(8) "Public examination" means the examination conducted by the county board of elections prior to election day pursuant to KRS 117.165.

(9) "Tally sheet" means a listing of the results from the test deck to be compared to the results printout from each voting machine or voting system after an accuracy test.

(10) "Test deck" means a set of example ballots marked with predetermined results or a set of predetermined votes prepared by the Accuracy Board used to perform an accuracy test on each voting machine or voting system in accordance with Section 3 of this administrative regulation.

(11) "Verification sheet" means the sheet approved by the county board of elections for each voting machine and voting system in accordance with Section 6 of this administrative regulation.

(12) "Voting machine" is defined by KRS 117.001(19)~~[means hardware, which is a component of the voting system, used or relied upon by a voter in casting and recording his or her votes in a precinct in an election, which has been approved by the State Board of Elections for use in elections in the Commonwealth of Kentucky, pursuant to KRS 117.379 and 117.381]~~.

(13) "Voting system" is defined by KRS 117.001(20)~~[means a system of components of hardware and software, including the voting machine, used by a voter to cast a ballot and by the election officials to tabulate the votes on election day, which has been approved by the State Board of Elections for use in elections in the Commonwealth of Kentucky, pursuant to KRS 117.379 and 117.381]~~.

Section 2. Accuracy Board.

(1) The Accuracy Board shall oversee the conduct of an accuracy test on each voting machine or voting system and the completion of an accuracy test checklist on each voting machine and voting system prior to the public examination.

(2) The Accuracy Board shall consist of the members of the county board elections, or the county board of elections may designate at least two (2) individuals to perform the duties of the Accuracy Board. The appointed Accuracy Board shall include not more than one (1) employee of a ~~[voting machine]~~vendor or manufacturer of a voting machine or system.

(3) The Accuracy Board shall sign the certificate upon completion of the accuracy tests on all voting machines or voting systems and the completion of an accuracy test checklist on each voting machine and voting system.

(4) The Accuracy Board shall provide the certificate and all accuracy test materials to the chair of the county board of elections not later than the date established for the public examination.

Section 3. Preparation of the Test Deck.

(1) The Accuracy Board shall approve a test deck prior to an accuracy test.

(2) A test deck shall consist of all ballot styles to be used in the election or a predetermined series of votes for each ballot style to be used in the election.

(3) Multiple test desks may be approved by the county board of elections or Accuracy Board to complete an accuracy test on each voting machine or voting system.

(4) The test deck created shall include the following:

(a) One (1) or more ballots with a vote for each candidate for office and each option of a ballot question, if applicable;

(b) One (1) or more ballots that contain votes in excess of the total number of votes allowed by law to be cast by a voter;

(c) One (1) or more ballots that contain fewer votes than the total number of votes allowed by law to be cast by a voter;

(d) One (1) or more ballots that contain a straight-party vote, if applicable; and

(e) One (1) or more ballots that contain a write-in vote, if applicable.

(5) The Accuracy Board shall approve a tally sheet showing the results of each test deck.

Section 4. Accuracy Test Checklist.

(1) The county board of elections shall create an accuracy test checklist for each voting machine and voting system to be used in the election to be reviewed by the Accuracy Board after each accuracy test is performed on the voting machines or voting systems.

(2) An accuracy test checklist shall include the following:

(a) The date; assigned precinct, if applicable; description of device; serial number; firmware version identification; confirmation that the firmware version has been certified by the Kentucky State Board of Elections, pursuant to KRS 117.379 and 117.381; and the name of the person completing the accuracy test checklist;

(b) Boxes to be checked to confirm the following shall be performed during an accuracy test:

1. Visual inspection of the voting machine or voting system and all working parts to check for damage or defects;

2. Visual inspection of all power sources, cables, card slots, and locking devices, including an accounting for all cables, batteries, power cords, and locking devices; and

3. Completion of the processing of the test desk through the voting machine or voting system with a printout showing an errorless test upon comparison with the tally sheet. If the accuracy test may be performed on the voting system, then the checklist for each voting machine shall provide a space to indicate that an accuracy test was not performed on the individual voting machine because it was performed on the voting system; and

(c) A signature line for the person completing the accuracy test checklist.

Section 5. Conducting the Accuracy Test.

(1) The Accuracy Board shall supervise the completion of an accuracy test checklist for each voting machine and voting system and an accuracy test of each voting machine or voting system and the automatic tabulation equipment prior to the public examination.

(2) The Accuracy Board shall supervise the accuracy tests with the use of the test deck in the following manner:

(a) If the voting system to be used in the county on election day may be configured, in accordance with 31 KAR 2:010, with all possible ballot styles for every precinct to be used in the county during the election, the accuracy test shall be conducted by setting up at least one (1) voting machine connected to the voting system and testing each ballot style upon which voters may cast a ballot in the county during the election; or

(b) If the voting system to be used in the county during the election may only be prepared, in accordance with 31 KAR 2:010, with one (1) ballot style for each precinct, the accuracy test shall be conducted on each voting machine used in the county during the election.

(3) The Accuracy Board shall indicate whether the accuracy tests were performed on the voting system or on each voting machine on the accuracy test checklist for each voting system and each voting machine.

(4) An accuracy test shall be conducted by processing each test deck prepared under the direction of the county board of elections or the Accuracy Board for each voting machine or voting system to be used in the election.

(5) If an error in a voting machine or voting system is detected during an accuracy test, the cause shall be ascertained, the error shall be corrected, and the accuracy test shall be

performed until an errorless count is ascertained.

(6) The Accuracy Board shall ensure that all sections of the accuracy test checklist shall be completed on each voting machine and voting system.

(7) A printout from each voting machine or voting system from the accuracy test shall be created, signed, and dated by the person conducting the test. The printout shall be attached to the accuracy test checklist for that voting machine or voting system.

(8) After reviewing all accuracy test checklists and applicable printouts, and after verifying that an errorless accuracy test was performed on each voting system or voting machine, the Accuracy Board shall sign the certificate.

(9) The accuracy test checklists, test decks, tally sheets, and signed printouts from the voting machines and voting systems shall be retained in a secure location until presentation to the county board of elections prior to the public examination.

Section 6. Setting of the Voting Systems After the Accuracy Test.

(1) The Accuracy Board shall supervise the setting of the voting machines and voting systems after the completion of an errorless accuracy test to prepare the voting machines and the voting systems to be turned over to the county board of elections before the public examination.

(2) The county clerk shall prepare or approve a verification sheet for each voting machine and voting system, containing the following:

(a) The assigned precinct name and number, if applicable;

(b) The serial numbers of the voting system components;

(c) The seal numbers;

(d) Counter number at the beginning of the election, if applicable;

(e) Counter number at the end of the election, if applicable;

(f) Signature line for the program administrator who sealed the voting system after the accuracy test; and

(g) Signature lines for the precinct judges to be signed on the election day.

(3) A voting machine shall be identified with the precinct number in which it shall be used during the election on the verification sheet, unless the voting machine is designated to be held in reserve for use pursuant to KRS 117.20[1]5. If a voting machine is held in reserve, the precinct number and name shall be assigned on the verification sheet when delivered to the precinct.

(4) The serial numbers of the voting machine and the seal numbers used to seal the voting machine shall be recorded on the verification sheet for the precinct in which the voting machine is to be used. The program administrator who sealed the voting machine shall sign the verification sheet.

(5) The program administrator shall set the voting machine counters to zero, in accordance with KRS 117.155, creating a printout showing that the voting machine has been set to zero or by verifying and recording that the counter is set to zero on the verification sheet.

(6) Copies of the verification sheet shall remain with the program administrator, the voting machine, and the county clerk.

Section 7. The County Board of Elections Review of the Accuracy Test.

(1) After the Accuracy Board has completed the accuracy tests, signed the certificate, and provided the accuracy test materials to the chair of the county board of elections, the county board of elections shall review the accuracy test materials.

(2) After ascertaining that an errorless accuracy test has been performed on each voting machine or voting system and the completion of an accuracy test checklist on each voting machine and voting system, the county board of elections shall verify that the voting machines and the voting systems are prepared for the public examination and shall sign the certificate.

(3) The county board of elections shall secure all test decks, tally sheets, printouts, accuracy test checklists, and the county board of elections' certificate with the election materials to be retained with the county clerk for the retention period prescribed by KRS 117.275(16)[(8)]. A copy of the county board of elections' certificate shall be attached to the minutes of the county board of elections' meeting in which the public examination occurs.

Section 8. Public Examination.

(1) When the voting machines and voting systems have been prepared for the election, the county board of elections shall review the verification sheets for each voting machine and voting system at the public examination conducted pursuant to KRS 117.165.

(2) The verification sheet that remains with the voting machine shall be signed by the precinct election judges on the election day.

(3) At the end of the election day the verification sheets shall be returned to the county clerk along with the election supplies and retained by the county clerk for the retention period prescribed by KRS 117.275(16)[(8)].

Section 9. Incorporation by Reference.

(1) "County Board of Elections Certificate of Completion of Accuracy Test", Form SBE 16,(10/2025)[September 2009], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

KAREN SELLERS, Executive Director

APPROVED BY AGENCY: October 13, 2025

FILED WITH LRC: October 14, 2025 AT 11:55 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on December 22, 2025, at 11:00 a.m. ET, at the Office of the State Board of Elections. Individuals interested in being heard at 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 the hearing was received by that date, the hearing may be cancelled. This 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 the proposed administrative regulation. Written comments shall be accepted until December 31, 2025. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, Phone: (502) 782-9499, Email: TaylorA.Brown@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Taylor Brown

Subject Headings:Elections and Voting; County Clerks; Local Governments

(1) Provide a brief summary of:

(a) What this administrative regulation does:
This administrative regulation establishes the procedures for checking the accuracy of the voting equipment and testing the automatic tabulating equipment prior to setting the voting equipment prior to the public examination performed according to KRS 117.165.

(b) The necessity of this administrative regulation:
This administrative regulation is necessary to maintain the maximum degree of correctness, impartiality, and efficiency in the procedures of voting.

(c) How this administrative regulation conforms to the content of the authorizing statutes:
KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to properly carry out its duties.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:
This administrative regulation assists in maintaining the maximum degree of correctness, impartiality, and efficiency in the procedures of voting. (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:
This amendment provides updates to statutory citations throughout and to the definitions section by citing statutory language used to define terms. The amendment also updates Form SBE 16.

(b) The necessity of the amendment to this administrative regulation:
This amendment is necessary given changes to the law since the regulation's previous effective date.

(c) How the amendment conforms to the content of the authorizing statutes:
KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to properly carry out its duties.

(d) How the amendment will assist in the effective administration of the statutes:
This amendment will assist in maintaining the maximum degree of correctness, impartiality, and efficiency in the procedures of voting.

(3) Does this administrative regulation or amendment implement legislation from the previous five years?This amendment does not implement legislation from the previous five years.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:
This administrative regulation will affect voters of the Commonwealth, county boards of election, and the State Board of Elections.

(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment:

. To comply with this amendment, county board of elections will need to continue their current election administrative practices and use the new Form SBE 16.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4):

The State Board of Elections estimates that the implementation of this administrative regulation will have minimal costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4):

Compliance with this new administrative regulation will benefit all by assisting in maintaining the maximum degree of correctness, impartiality, and efficiency in the procedures of voting.

(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

The cost of the implementation of this administrative regulation for the State Board of Elections will be minimal.

(b) On a continuing basis:

The continuing costs of this administrative regulation for the State Board of Elections will be minimal.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment:

Funds from the State Board of Elections' administrative budget will be used in the implementation and enforcement of this administrative regulation.

(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

Implementation of this administrative regulation can be achieved without an increase in fees or funding by the General Assembly.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

No fees are associated with this administrative regulation.

(10) TIERING: Is tiering applied?

Tiering is not used in this administrative regulation, as a desired result of the promulgation of this administrative regulation is uniform procedures for the administration of elections throughout all of the counties in the Commonwealth.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation:

KRS 117.015(1)(a), KRS 117.383, KRS 117.383(5), and KRS 117.389 require and authorize the actions taken by this administrative regulation.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act:

This administrative regulation is expressly authorized by the creation of KRS 117.015(a), 2005 Ky. Acts ch. 91, sec. 2.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions:

This administrative regulation will affect the promulgating agency, the State Board of Elections.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year:The State Board of Elections expects that this administrative regulation amendment will cost no more to administer than is currently expended.

For subsequent years:The State Board of Elections expects that this administrative regulation amendment will cost no more to administer than is currently expended.

2. Revenues:

For the first year:It is not expected or intended that this administrative regulation will generate any revenue.

For subsequent years:It is not expected or intended that this administrative regulation will generate any revenue.

3. Cost Savings:

For the first year:The State Board of Elections expects that this administrative regulation will not generate any specific cost savings.

For subsequent years:The State Board of Elections expects that this administrative regulation will not generate any specific cost savings.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts):

This administrative regulation will affect county boards of election. (b) Estimate the following for the first year:

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year:The State Board of Elections expects that this administrative regulation amendment will cost no more to administer than is currently expended.

For subsequent years:The State Board of Elections expects that this administrative regulation amendment will cost no more to administer than is currently expended.

2. Revenues:

For the first year:It is not expected or intended that this administrative regulation will generate any revenue.

For subsequent years:It is not expected or intended that this administrative regulation will generate any revenue.

3. Cost Savings:

For the first year:The State Board of Elections expects that this administrative regulation will not generate any specific cost savings for the regulated entities.

For subsequent years:The State Board of Elections expects that this administrative regulation will not generate any specific cost savings for the regulated entities.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a):
This administrative regulation will affect voters of the Commonwealth.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year:The State Board of Elections expects that this administrative regulation amendment will cost no more to administer than is currently expended.

For subsequent years:The State Board of Elections expects that this administrative regulation amendment will cost no more to administer than is currently expended.

2. Revenues:

For the first year:It is not expected or intended that this administrative regulation will generate any revenue.

For subsequent years:It is not expected or intended that this administrative regulation will generate any revenue.

3. Cost Savings:

For the first year:The State Board of Elections expects that this administrative regulation will not generate any specific cost savings for the regulated entities.

For subsequent years:The State Board of Elections expects that this administrative regulation will not generate any specific cost savings for the regulated entities.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation:
The State Board of Elections expects that this administrative regulation will have little to no fiscal impact on the regulated entities, outside those expenditures already undertaken.

(b) Methodology and resources used to reach this conclusion:

This determination of this administrative regulation’s fiscal impact is made by the listed contact person and other agency staff based on their collective experience with the subject matter.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14):

The State Board of Elections does not expect that this administrative regulation will result in a "major economic impact" as the combined implementation and compliance costs of an administrative regulation are not expected no rise to at least five hundred thousand dollars ($500,000) over any two (2) year period.

(b) The methodology and resources used to reach this conclusion:

This conclusion is made by the listed contact person and other agency staff based on their collective experience with the subject matter.