STATE BOARD OF ELECTIONS

(Amendment)

31 KAR 5:040. Questions regarding voter eligibility.

RELATES TO: KRS 14.302, 61.826, 117.001, 117.015, 117.025, 117.035, 117.076, 117.085, 117.087, 117.225, 117.227, 117.228, 117.245, 118.025

STATUTORY AUTHORITY: KRS 61.826, 117.015(1)(a)

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 properly administer the election laws of the state. KRS 117.035(4)(c) requires that county boards of election meet and stay in session on primary, regular election, and special election days to correct clerical errors, to rule on questions regarding voter registration, proof of identification, and the curing of signatures relative to mail-in absentee ballots. KRS 117.025(3)(d) requires the State Board of Elections to select the required format for any voter registration list provided to a county clerk. KRS 117.076(2)(f) allows a voter to apply to cast an excused in-person absentee ballot if, due to age, disability, or illness, they are not able to appear at the polls on election day and during the days of no-excuse in-person absentee voting. KRS 117.085(1)(h)(8) allows a voter to apply for a mail-in absentee ballot if, due to age, disability, or illness, they are not able to appear at the polls on election day and during the days of in-person absentee voting. KRS 117.087 provides a process by which a mail-in absentee ballot may be challenged. KRS 117.228 details the procedures for casting a ballot if a voter is unable to provide proof of identification or is otherwise known to an election officer and requires the State Board of Elections to prescribe and furnish forms that voters are required to complete in these circumstances. This administrative regulation establishes procedures for when a voter's eligibility is questioned and the forms that are to be completed if necessary.

Section 1.

(1) A voter unable to provide proof of identification as required under KRS 117.225, and as defined by KRS 117.001(18), shall:

(a) Meet the requirements of KRS 117.228(1)(c) by executing SBE Form 71, Voter Affirmation Form; and

(b) Provide alternative proof of identification as required by KRS 117.228(2).

(2) A voter personally known to an election officer may cast a ballot in accordance with KRS 117.228(4) upon the election officer executing SBE Form 72, Election Officer Affirmation Form.

(3) All completed SBE 71 and SBE 72 forms shall be forwarded to the local Commonwealth's Attorney following the election.

Section 2.

(1) If an individual presents himself or herself to an election officer to vote and is not found on the signature roster provided to the county under KRS 117.025(3)(b) or (3)(c) and is not a participant in the Safe at Home Program authorized under KRS 14.302, the individual may vote upon the following taking place:

(a) The individual shall provide to the election officer proof of identification as required by KRS 117.225, or the individual shall follow the procedures of KRS 117.228 if he or she is unable to provide proof of identification;

(b) The election officer shall contact the county clerk's office and verify that the information provided by the individual establishes that he or she is registered to vote at the location where the individual has presented himself or herself;

(c) The individual shall complete the Form SBE 32, Oath of Voter;
(d) The individual shall complete the Form SBE 01, Commonwealth of Kentucky Voter Registration Application;
(e) The individual shall sign the Form SBE 25, Supplemental Precinct Signature Roster; and
(f) The election officer shall inform the individual that the Form SBE 32, Oath of Voter shall be forwarded to the local Commonwealth's Attorney following the election.

(2) If the election officer is unable to verify through the county clerk's office that the individual is properly registered to vote in the location where the individual has presented himself or herself, the election officer shall:
(a) Inform the individual of the location where he or she is properly registered vote, if known;
(b) Inform the individual of his or her ability to request a hearing before the county board of elections; and
(c)
1. Inform the individual of his or her ability to cast a provisional ballot for the federal elective office of President, Vice President, United States Senator, and United States House of Representative; and
2. If an individual chooses to cast a provisional ballot for an applicable federal elective office, the election officer shall have the individual sign the Form SBE 35, Provisional Ballot Precinct Signature Roster.

(3) All Form SBE 25, Supplemental Precinct Signature Rosters and Form SBE 35, Provisional Ballot Precinct Signature Rosters, if used for the purposes described in this section, shall be completed digitally through an e-poll book unless there is an emergency condition that renders the e-poll book inoperable, in which case paper forms shall be used. If an emergency condition exists, the election officer shall record the circumstances of the emergency condition on the paper forms.

Section 3. During the days that voting may occur during any primary, regular election, and special election, including voting by mail-in absentee ballot, a county board of elections may elect to meet the requirements of KRS 117.035(4)(c) via a video teleconference subject to the mandates of KRS 61.826.
(1) If a county board of elections elects to meet via video teleconference during a day in which voting may occur, the county clerk's office and each voting location in use in the county shall have technology available to every voter so that the voter may appear before the county board at no financial expense to the voter.
(2) If a county board of elections elects not to meet via video teleconference during a day in which voting may occur, a voter desiring to appear before the county board shall be provided with an option so that the voter may appear before the county board via teleconference, provided that the voter can make themselves available via the same teleconferencing technology the county board has chosen to utilize for such hearings, if any.

Section 4. A voter applying to cast an excused in-person absentee ballot pursuant to KRS 117.076(2)(f), or applying to receive a mail-in absentee ballot pursuant to KRS 117.085(1)(h)(8) shall not be required to disclose the age, disability, or illness preventing them from appearing at the polls on any other day available for voting, nor shall any available information regarding the age, disability, or illness of a voter be used to assess the eligibility of a voter's absentee application or be grounds to challenge a ballot under the provisions of KRS 117.087.

Section 5. Incorporation by Reference.
(1) The following material is incorporated by reference:

(a) "Commonwealth of Kentucky Voter Registration Application", Form SBE 01, 04/2024;
(b) "Supplemental Precinct Signature Roster", Form SBE 25, 10/2025;
(c) "Oath of Voter", Form SBE 32, 04/2022;
(d) "Provisional Ballot Precinct Signature Roster", Form SBE 35, 10/2025;
(e) "Voter Affirmation Form", Form SBE 71, 04/2022; and
(f) "Election Officer Affirmation Form", Form SBE 72, 04/2022.

(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. This material is also available on the board's Web site at https://elect.ky.gov.

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.