

117.087 Challenge of a mail-in absentee ballot -- Processing and review of absentee ballots -- Counting procedure -- Limitation on publicizing partial results.

- (1) The challenge of a mail-in absentee ballot shall be in writing and in the hands of the county clerk before 8 a.m. on the day preceding any primary, regular election, or special election day.
- (2) The county board of elections may appoint a central ballot counting board of not less than three (3) members, who shall be qualified voters and no more than two-thirds (2/3) of whom shall be members of the same political party, to process, review, and count the ballots at the direction of the county board of elections.
- (3)
 - (a) Beginning at 8 a.m. on any primary, regular election, or special election day, the county board of elections or central ballot counting board shall meet at the county clerk's office or other place designated by the county board of elections to process and review the mail-in absentee ballots returned. Candidates or their representatives shall be permitted to be present. The county board of elections or central ballot counting board may meet up to fourteen (14) days prior to the day of a primary or election to review and process the mail-in absentee ballots cast in the county. The county board of elections or central ballot counting board shall meet as often as necessary during these fourteen (14) days to process and review returned mail-in absentee ballots, including expediting any signature cures.
 - (b) The county board of elections or counting board chair or the chair's designee shall provide each board member with a list of all voters who have returned a mail-in absentee ballot by mail. If a list of all voters who have returned a mail-in absentee ballot by mail is not provided to the board, the name of each voter who cast an absentee ballot by mail shall be read aloud. The county board of elections shall authorize representatives of the news media to observe the processing and review of the ballots to determine their acceptance or rejection.
 - (c) Acceptance or rejection of the mail-in absentee ballots shall be determined as follows:
 1. The county board of elections or the central ballot counting board shall open the boxes containing absentee ballots returned by mail, hand delivered, or deposited in a drop-box or receptacle, and remove the envelopes one (1) at a time. All mail-in absentee ballots returned shall have their barcode or unique label scanned to note official receipt;
 2. As each envelope is removed, it shall be examined to ascertain whether the outer envelope and the detachable flap are in proper order and have been signed by the voter, except if:
 - a. The detachable flap and outer envelope for the voter have been signed by a person having power of attorney for the voter, and that person has completed the voter assistance form required by KRS 117.255; or

- b. The voter has signed the detachable flap and outer envelope with the use of a mark instead of the voter's signature, the county board of elections or the central ballot counting board shall verify that the mark was made in the presence of two (2) witnesses;
3. Ballots with unsigned detachable flaps or outer envelopes shall be rejected automatically;
4. Ballots that have not been sent by the county clerk to a qualified voter, but are received by the county board of elections or the central ballot counting board shall be rejected automatically;
5. The members of the county board of elections, or the members of the central ballot counting board, shall compare the signatures on the outer envelope and the detachable flap with the signature of the voter that appears on the voter's signature of record, which record shall include the signature on the voter's identity document as defined in KRS 186.010, the voter's mail-in absentee ballot application, or the voter's registration card. If a signature match cannot be made, the county board of elections, central ballot counting board, or the county clerk shall make a reasonable effort to contact the voter and provide notice to the voter with a timeframe and manner in which the voter may cure his or her signature relative to the mail-in absentee ballot signature. All signature cures shall be completed before the closing of the polls on the day of a primary or an election;
6. If the outer envelope and the detachable flap are found to be in order, the members of the county board of elections or the members of the central ballot counting board shall verify the voter's name from the list of persons who were sent mail-in absentee ballots, but if a list has not been provided to the board, the name of the voter shall be read aloud;
7. If the vote of the voter is not rejected on a challenge as provided in subparagraph 8. of this paragraph or as otherwise provided in this subsection, the members of the county board of elections or the members of the central ballot counting board shall remove the detachable flap and place the secrecy envelope unopened in a ballot box which has been provided for the purpose;
8. When the name of a voter who cast a mail-in absentee ballot is processed and reviewed by the members of the county board of elections or the members of the central ballot counting board, the vote of the voter may be challenged by any board member or by the written challenge provided in subsection (1) of this section and the challenge may be determined and the vote accepted or rejected by the board as if the voter was present and voting in person; but if the outer envelope and the detachable flap are regular, and each substantially comply with the provisions of this chapter, they shall be considered as showing that the voter is prima facie entitled to vote. If the vote of a voter is rejected pursuant to the challenge, the secrecy

envelope shall not be opened, but returned to the outer envelope upon which the chair or member shall write on the envelope the word "rejected";

9. If irregularities are discovered in the review and processing of the mail-in absentee ballot, the county board of elections or the central ballot counting board shall immediately report to the county attorney or the Office of the Attorney General; and
 10. The ballot box into which all accepted mail-in absentee ballots are placed shall be locked with at least two (2) locks and the keys to the box shall be retained by at least two (2) members of the county board of elections who are not of the same political affiliation or two (2) members of the central ballot counting board, who are not of the same political affiliation. The box shall remain locked until the ballots are counted.
- (d) The State Board of Elections shall promulgate administrative regulations under KRS Chapter 13A establishing the form of the notice required under this subsection for the curing of signatures.
- (4) (a) Beginning at 8 a.m. local time on any primary, regular election, or special election day, the county board of elections or a central ballot counting board shall meet in the county clerk's office or other place designated by the county board of elections to:
1. Review and process any mail-in absentee ballots returned using the procedures in subsection (3) of this section; and
 2. Count, or the county board of elections may oversee the count by the central ballot counting board, the accepted mail-in absentee ballots and total and record the in-person absentee votes cast.
- (b) During the review, processing, and counting of the absentee ballots and votes, candidates or their representatives shall be permitted to be present, and the county board of elections shall authorize representatives of the news media to observe.
- (5) After the challenges have been made and all the blank secrecy envelopes have been placed in a ballot box, the box shall be thoroughly shaken or shuffled to redistribute the absentee ballots in the box to ensure secrecy of the vote. The board shall open the ballot box, remove the absentee ballots from the secrecy envelopes, and count the ballots.
- (6) The board shall unlock and break the tamper-resistant seal to any voting equipment used to cast in-person absentee ballots, as provided for in KRS 117.076, and a total of all in-person absentee ballots shall be made and recorded on the form provided by the State Board of Elections.
- (7) No person shall transmit or publicize any tallies or counts of the absentee ballot results or any partial results as provided in this section to any person except those persons, election officials, or entities authorized by law to receive it, until 6 p.m. prevailing time on the day of a primary or an election.

Effective: April 7, 2022

History: Amended 2022 Ky. Acts ch. 87, sec. 10, effective April 7, 2022. -- Amended 2021 Ky. Acts ch. 197, sec. 14, effective June 29, 2021. -- Amended 2020 Ky. Acts ch. 89, sec. 10, effective July 15, 2020. -- Amended 2016 Ky.

Acts ch. 62, sec. 8, effective July 15, 2016. -- Amended 2003 Ky. Acts ch. 184, sec. 1, effective June 24, 2003. -- Amended 2002 Ky. Acts ch. 3, sec. 4, effective February 15, 2002. -- Amended 1998 Ky. Acts ch. 243, sec. 9, effective April 1, 1998. -- Amended 1994 Ky. Acts ch. 394, sec. 14, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 48, sec. 22, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 341, sec. 29, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 287, sec. 7, effective July 15, 1986; and ch. 470, sec. 11, effective July 15, 1986. -- Amended 1982 Ky. Acts ch. 394, sec. 12, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 316, sec. 2, effective July 15, 1980. -- Repealed and reenacted 1980 Ky. Acts ch. 73, sec. 3, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 71, sec. 3, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 130, sec. 3, effective June 19, 1976. -- Created 1974 Ky. Acts ch. 130, sec. 47, effective June 21, 1974.

Formerly codified as KRS 117.335