

STATE BOARD OF ELECTIONS
(New Administrative Regulation)

31 KAR 4:230. Post-election audit procedures.

RELATES TO: KRS 117.383(8)

STATUTORY AUTHORITY: KRS 117.015(1)(a), 117.383(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1) establishes the State Board of Elections as the independent agency of state government which shall administer the election laws of the state. KRS 117.383(8) directs the State Board of Elections to promulgate an administrative regulation providing for the conducting and review of an election audit through a hand-to-eye recount. This administrative regulation establishes the post-election audit to be performed throughout the Commonwealth.

Section 1. Definitions.

- (1) "Ballot" is defined by KRS 117.001(3).
- (2) "Ballot boxes" is defined by KRS 117.001(4).
- (3) "Ballot scanner" or "scanner" has the same definition as "automatic tabulating equipment" as defined in KRS 117.001(2).
- (4) "Designated marking area" means the area in the near vicinity of the area containing the oval, box, or space designating a candidate on a ballot.
- (5) "Election" is defined in KRS 117.001(6).
- (6) "Electronic or paper sign-in records" means the records contained in the signed voter rosters described in KRS 117.025 and in Form SBE 25, "Supplemental Precinct Signature Roster".
- (7) "Hand-to-eye recount" means the procedures found in KRS 117.383(8).
- (8) "Poll worker" means the same as "precinct election officer" as found in KRS 117.045.
- (9) "Race" means a single decision or set of associated decisions being put before voters for candidates to elected office.
- (10) "Register tape" means the return sheets described in KRS 117.275.
- (11) "Vote tallying equipment" has the same definition as "automatic tabulating equipment" as defined in KRS 117.001(2).
- (12) "Voter intent" is defined through the uniform definition of a vote found in 31 KAR 6:030.

Section 2. Post-election Hand-to-eye Recount.

- (1) Following all elections for office in the Commonwealth there shall be a hand-to-eye recount of ballots, during which poll workers shall hand-tally ballots cast in the election on a Form SBE 90, "Post-election Hand-to-eye Recount Tally Sheet."
- (2) Determinations and findings made by a County Board of Elections following the hand-to-eye recount shall be recorded on a Form SBE 91, "Determinations and Findings Following Hand-to-eye Recount" for reporting to the Attorney General and Secretary of State. Should a term used in KRS 117.383(8) not be defined in this administrative regulation or in the procedures found in KRS 117.383(8), the term is to be defined either through KRS 446.010 or by a vote of the County Board of Elections.

Section 3. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "Supplemental Precinct Signature Roster", Form SBE 25, 09/2020;
 - (b) "Post-election Hand-to-eye Recount Tally Sheet", Form SBE 90, 09/2024;
 - (c) "Determinations and Findings Following Hand-to-eye Recount", Form SBE 91, 09/2024.

(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.

(3) This material may also be obtained on the board's Web site at <https://elect.ky.gov>.

KAREN SELLERS, Executive Director

APPROVED BY AGENCY: September 12, 2024

FILED WITH LRC: September 12, 2024 at 11:15 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this new administrative regulation shall be held on November 21, 2024, at 10:00 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 November 30, 2024. 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.