

1 STATE BOARD OF ELECTIONS

2 (Amendment)

3 31 KAR 4:220. Recount procedures.

4 RELATES TO: 62.020, 117.035, 118.025, 120.095, 120.157, 120.185, 120.260, 120.290

5 STATUTORY AUTHORITY: KRS 117.015(1)(a)

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

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1) requires the State
9 Board of Elections, as an independent agency of state government, to administer the
10 election laws of the state. KRS 120.095, 120.157, 120.185, 120.260, and 120.290 all
11 authorize the post-election recounting of ballots cast, but are all largely without
12 procedures for how the event is required to occur. This administrative regulation
13 establishes procedures for the recounting of ballots for an established standard
14 throughout the Commonwealth.

15 Section 1. Definition. "Recount" means a post-election retallying of ballots cast in
16 a primary, general, or special election, as authorized under KRS 120.095, 120.157, 120.185,
17 120.260, or 120.290.

1 Section 2. Locations. Upon identifying that a recount will be taking place, an
2 affected county board of elections shall identify a suitable location, within the county,
3 where the recount can take place.

4 (1) A suitable location shall be one (1) where all of the voting equipment and ballot
5 boxes required for the recount can be housed in one (1) location and there is ample space
6 for the personnel required for the task and all authorized observers, who shall have a
7 dedicated area within the location to witness the recount.

8 (2) If a recount is to occur pursuant to KRS 120.290, the Franklin County Clerk shall
9 assist the Franklin Circuit Court in finding a location for the commencing of the recount if
10 the Court finds the courthouse at Frankfort unsuitable for the event.

11 Section 3. Recount Personnel.

12 (1) Pursuant to KRS 117.035(5), an affected county board of elections may employ
13 a bipartisan staff sufficient to carry out the duties of the recount. Once a county board
14 identifies that a recount will be taking place, the board shall immediately seek out citizens
15 of the county who may wish to work for the county board on a temporary basis as recount
16 officials.

17 (2) County boards shall recruit enough citizens of the county to work as recount
18 officials so that the recount may be completed before any statutory deadline.

19 (a) Citizens hired to work as recount officials shall be registered voters of the county
20 in which they desire to work.

1 (b) Recount officials shall be paid an hourly wage for their work during the entirety
2 of the recount process. The hourly wage shall be set uniformly for all recount officials by
3 the county board of elections at a rate that is both prevailing in the jurisdiction at the time
4 for the type of work to be done and that is high enough to entice applicants qualified for
5 a short-term, temporary assignment.

6 (c) Before any recount official shall be allowed to work, the individual shall take the
7 oath found in Section 228 of the Kentucky Constitution, which shall be administered by
8 any officer authorized under KRS 62.020.

9 Section 4. Procedures as to Election Vendors.

10 (1) Upon identifying that a recount will be taking place, county clerks shall work
11 with their voting equipment vendors to begin programming, distributing, and setting the
12 voting equipment necessary for the recount.

13 (2) Election equipment shall be set to isolate the race or question subject to the
14 recount and the straight-party option, if applicable.

15 Section 5. Initiating the Recount.

16 (1) Before recount proceedings may begin, on the day fixed for the recount, the
17 county board of elections shall meet to confirm the integrity of the ballots subject to the
18 recount.

19 (2) The confirmation of the integrity of the ballots shall be reflected in the recorded
20 minutes of the meeting of the county board of elections.

1 (3) Absent a showing of clear and convincing evidence that the ballots have been
2 purposefully disturbed and tampered with, the integrity of the ballots shall be proven.

3 Section 6. Securing the Integrity of the Recount.

4 (1) Before members of the recount teams shall be allowed to handle individual
5 ballots, each member shall present their hands and fingernails to the members of the
6 county board of elections for visual inspection. Before proceeding to handle ballots,
7 county board of elections members shall confirm that each recount official's hands and
8 fingernails are clean enough so as to not transfer any ink, lead, or other markings onto
9 the ballots.

10 (2) Only red ink pens, a blank pad of paper, and manilla envelopes large enough
11 to contain multiple ballots shall be allowed in any area in the direct proximity of voting
12 equipment or ballots during the counting of ballots.

13 (3) The use of cell phones or other electronic devices shall not be permitted within
14 the direct proximity of voting equipment or ballots. Any capturing of photographic or
15 video images of ballots shall be prohibited.

16 (4) Food or drink shall not be permitted in any area in the direct proximity of voting
17 equipment or ballots without prior authorization from the county board of elections.

18 Section 7. Before Voting Equipment is Opened.

(1) The county board of elections or the county clerk shall split the recount officials into recount teams of two (2) so that each team contains individuals registered of differing political party affiliations.

(2) Each recount team shall be assigned to only one (1) piece of voting equipment at any one (1) time, and a piece of voting equipment shall not have more than one (1) recount team operating it at any one (1) time.

(3) Before a piece of voting equipment is opened by a recount team, the information from the voting equipment's Machine Verification Form shall be transposed onto the Form SBE 82, Recount Tabulation Form.

Section 8. Opening the Voting Equipment.

(1) Once a recount team opens a piece of voting equipment, the seal number, beginning counter number, and lifetime counter number shall be checked to match the Machine Verification Form.

(2) Once the ballot box or tub containing the ballots is opened, the seal number shall be recorded on the Form SBE 82, Recount Tabulation Form.

(3) Each ballot from the ballot box or tub shall be removed and placed on a segregated table next to the voting equipment, and the broken seal shall be placed inside the ballot box or tub. Ballots from one (1) ballot box or tub shall not be comingled with any other materials, including ballots from another ballot box or tub. Ballots shall not be left outside of a ballot box or tub unattended.

1 Section 9. Procedure to Recount Ballots.

2 (1) Each ballot removed from a ballot box or tub for a recount shall be scanned
3 back through the piece of voting equipment from which the ballot box or tub was
4 originally associated, one (1) ballot at a time. If a county is in possession of a separate
5 piece of voting equipment designed and regularly used to count larger amounts of
6 ballots, the use of the voting equipment shall be authorized.

7 (2) Scanned ballots shall be counted by the electronic voting equipment in
8 accordance with 31 KAR 6:030, Section 4(1), and the cumulative totals for each slate of
9 candidates shall be recorded on the Form SBE 82, Recount Tabulation Form.

10 (3) If a ballot does not scan through the piece of voting equipment on the first
11 attempt, each member of the associated recount team shall attempt to scan the ballot
12 one (1) additional time each. If, after three (3) unsuccessful attempts, a ballot does not
13 scan, it shall be set aside for later adjudication.

14 (4) Once only those ballots set aside remain, they shall be adjudicated as one (1)
15 of three (3) types:

16 (a) An overvote, meaning that upon visual inspection of the ballot, more than one
17 (1) slate of candidates appears to have been selected by the voter;

18 (b) An undervote, meaning that upon visual inspection, no slate of candidates
19 appears to have been selected by the voter on the ballot; or

1 (c) A damaged ballot, no longer capable of being scanned into the voting
2 equipment because of damage sustained to the physical ballot, but clearly having a
3 selection for only one (1) slate of candidates or that slate's straight-party option.

4 (5) The number of undervotes, overvotes, and damaged ballots shall be recorded
5 on the Form SBE 82, Recount Tabulation Form.

6 (6) The recount officials shall place the cumulative number of undervotes in a
7 manilla envelope, seal the envelope with tape, label it with the word "undervotes," and
8 then sign it alongside the date and time of their signature. This procedure shall then be
9 followed for envelopes labeled "overvotes" and "damaged ballots." If the cumulative
10 number of undervotes, overvotes, or damaged ballots will not fit inside one (1) manilla
11 envelope, multiple envelopes may be used.

12 (7) Once the undervotes, overvotes, and damaged ballots are placed in envelopes,
13 the envelopes shall be placed back in the ballot box or tub on top of the ballots already
14 recounted by the electronic voting equipment.

15 (8) Once a conclusive accounting has been reached for all ballots removed from
16 the ballot box or tub, the voting equipment shall be secured with a seal of a color not
17 previously used in the election, and the serial number of the seal shall be recorded on the
18 Form SBE 82, Recount Tabulation Form.

19 (9) The Form SBE 82, Recount Tabulation Form shall be signed by the recount team
20 members and all members of the county board of elections.

1 (10) Once this process is complete for one (1) piece of voting equipment, a recount
2 team may move on to a new piece of voting equipment and begin the process of
3 recounting the ballots found within.

4 (11)

5 (a) Once all ballots have been counted by the electronic voting equipment and all
6 Form SBE 82, Recount Tabulation Forms have been completed, the county clerk shall scan
7 and email all Form SBE 82, Recount Tabulation Forms to the State Board of Elections.

8 (b) For a recount conducted under KRS 120.157, the State Board of Elections shall
9 examine the statewide Form SBE 82, Recount Tabulation Forms and tally the results
10 submitted.

11 1. If the tally of results submitted shows that the count of ballots by the electronic
12 voting equipment did not result in a margin of victory of 0.25% or less, the State Board of
13 Elections shall notify each county that their recount is complete.

14 2. If the tally of results submitted shows that the count of ballots by the electronic
15 voting equipment did result in a margin of victory of 0.25% or less, the State Board of
16 Elections shall tally the total number of overvotes and damaged ballots reported on the
17 submitted Form SBE 82, Recount Tabulation Forms.

18 3. If the cumulative number of overvotes and damaged ballots is large enough to
19 overcome the machine-established margin of victory, the State Board of Elections shall

1 notify the counties that they are to meet immediately to count the overvotes and
2 damaged ballots.

3 4. If the cumulative number of overvotes and damaged ballots is not large enough
4 to overcome the machine-established margin of victory, the State Board of Elections shall
5 notify the counties that their recount is complete.

6 (12) Upon the need for a count of overvotes and damaged ballots, the county
7 board of elections shall meet to remove all manila folders containing overvotes and
8 damaged ballots. Overvotes and damaged ballots shall be adjudicated by the full county
9 board of elections using the procedures described in 31 KAR 6:030, Section 4(2) and (3).
10 Overvotes shall also be subject to the allowances of 31 KAR 6:030, Section 4(4).

11 (a) Each adjudicated ballot, shall, by majority vote of the county board of elections,
12 result in a vote for either:

13 1. One (1) valid candidate, one (1) valid slate of candidates, or valid answer to a
14 question;

15 2. One (1) valid write-in candidate or slate of candidates; or

16 3. No candidate, slate of candidates, or answer to a question.

17 (b) The adjudication of each ballot shall be recorded onto the Form SBE 82, Recount
18 Tabulation Form.

19 (c) After overvotes and undervotes are adjudicated, they shall be placed, along with
20 the original manila envelope, in a new manila envelope. The county board of elections

1 shall seal the envelope with tape, label it as "overvotes," or "damaged ballots,"
2 accordingly, and then sign it alongside the date and time of their signature.

3 Section 10. Reporting of Recount Totals.

4 (1) Once every piece of voting equipment has been opened, all ballots have been
5 recounted, and a conclusive recount total for each piece of equipment has been
6 established, the county board of elections shall transfer the totals for each candidate or
7 question from each Form SBE 82, Recount Tabulation Form onto a Form SBE 49, Official
8 Count and Record of Election Totals.

9 (2) The same totals recorded onto the Form SBE 49, Official Count and Record of
10 Election Totals shall also concurrently be input into an online portal belonging to the
11 Secretary of State if available.

12 (3) The members of the county board of elections shall affix their signatures to the
13 completed Form SBE 49, Official Count and Record of Election Totals, which shall mark
14 the completion of the recount.

15 (4) Once the Form SBE 49, Official Count and Record of Election Totals is signed,
16 the county board of elections shall fax a copy the document to the office of the Secretary
17 of State, no later than 4:00 p.m., local time, on the day following the completion of the
18 county's recount. Each county clerk shall retain a copy of the completed Form SBE 49,
19 Official Count and Record of Election Totals for their records and mail the original signed
20 copy to the office of the Secretary of State.

1 Section 11. Reimbursement of Recount Costs. All costs associated with the recount
2 proceedings, including items such as personnel expenses and vendor charges, shall be
3 recorded and documented by the county clerk.

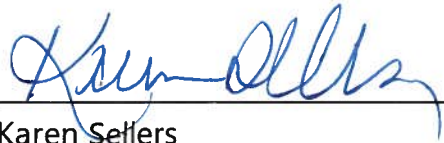
4 Section 12. Incorporation by Reference.

5 (1) The following material is incorporated by reference:

6 (a) "Recount Tabulation Form", Form SBE 82, 04/2024; and

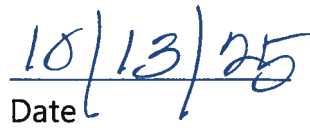
7 (b) "Official Count and Record of Election Totals", Form SBE 49, 10/2025~~[04/2024]~~.

8 (2) This material may be inspected, copied, or obtained, subject to applicable
9 copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky
10 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the
11 board's Web site at <https://elect.ky.gov>.

A handwritten signature in blue ink, appearing to read "Karen Sellers", written over a horizontal line.

Karen Sellers

Executive Director, State Board of Elections

A handwritten date "10/13/25" in blue ink, written over a horizontal line.

Date

PUBLIC HEARING AND PUBLIC 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

31 KAR 4:220

Contact Person: Taylor Brown, phone: 502-782-9499, email: TaylorA.Brown@ky.gov

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 procedures for the recounting of ballots so that there may be an established standard throughout the Commonwealth.

(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:

(a) How the amendment will change this existing administrative regulation: This amendment updates Form SBE 49.

(b) The necessity of the amendment to this administrative regulation: This amendment updates Form SBE 49 to be more user friendly.

(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, vendors serving as program administrators, 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 boards of election will need to use the new Form SBE 49.

(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: 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 established any fees or directly or indirectly increased any fees: No fees are associated with this administrative regulation.

(10) TIERING: Is tiering applied? Explain why or why not. 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

31 KAR 4:220

Contact Person: Taylor Brown, phone: 502-782-9499, email: TaylorA.Brown@ky.gov

(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 120.095, KRS 120.157, KRS 120.185, KRS 120.260, and KRS 120.290 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:

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 determine the fiscal impact: 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.

SUMMARY OF MATERIAL INCORPORATED BY REFERENCE

The "Recount Tabulation Form," Form SBE 82, 04/2024, is the form used in a recount to track the origin and process of ballots throughout the process and record unofficial vote totals as they are counted.

The "Official Count and Record of Election Totals," Form SBE 49, 10/2025, is the form with vote totals attested to by a county board of elections following a recount, sent to the Secretary of State.

SUMMARY OF CHANGES TO MATERIAL INCORPORATED BY REFERENCE

The "Official Count and Record of Election Totals," Form SBE 49, 10/2025, is the form with vote totals attested to by a county board of elections following a recount, sent to the Secretary of State. The form was amended to add a heading and to give the fillable fields more area.



Commonwealth of Kentucky

Recount Tabulation Form

DATE /COUNTY	MACHINE SERIAL NUMBER
VOTING LOCATION OF MACHINE	BEGINNING COUNTER NUMBER
SEAL ON MACHINE	PRE-RECOUNT LIFETIME COUNTER NUMBER
NUMBER: ☐ SEALED ☐ BROKEN	
NUMBER OF BALLOTS RECOUNTED	POST-RECOUNT LIFETIME COUNTER NUMBER
NUMBER OF BALLOTS NOT COUNTED (OVERVOTE)	NUMBER OF BALLOTS NOT COUNTED (UNDERVOTE)

POST-RECOUNT VOTE TOTALS	
CANDIDATE/SLATE/QUESTION	TOTAL NUMBER OF VOTES

ADDITIONAL NOTES

Verified by: Print _____ Signature _____
Recount Team Member 1

Print _____ Signature _____
Recount Team Member 2

Attested by: Signature _____ Signature _____
Democrat Member County Board of Elections Republican Member County Board of Elections

Signature _____ Signature _____
Sheriff/Sheriff's Replacement Chair County Board of Elections

COMMONWEALTH OF KENTUCKY
STATE BOARD OF ELECTIONS

CERTIFICATION
OFFICIAL COUNT AND RECORD OF ELECTION TOTALS

We, the _____ County Board of Elections, do certify that an election was held in said county, on the ____ day of _____, 20____.

We further certify that following a ☐ canvass ☐ recanvass ☐ recount (select one) of vote totals, conducted on the ____ day of _____, 20____, the following votes were cast for the Office or on the Question indicated:

Office or Question	Name	Election Day Votes	In-Person Excused Absentee Votes	In-Person No-excuse Absentee Votes	Mail-in Absentee Votes	Provisional Votes	Total Votes

County Board of Elections (Democrat) _____

County Board of Elections (Republican) _____

County Board of Elections (Sheriff) _____

County Board of Elections (County Clerk) _____

We further certify that following a ☐ canvass ☐ recanvass ☐ recount (select one)

of vote totals, conducted on the _____ day of _____, 20____, the following votes were cast

for the Office or on the Question indicated: