

1 STATE BOARD OF ELECTIONS

2 (Amendment)

3 31 KAR 6:010. State-based administrative complaint procedure.

4 RELATES TO: KRS Chapter 13B, 117.015(1)(a), 52 USC 21112~~[42 U.S.C. 15512]~~

5 STATUTORY AUTHORITY: KRS 117.015(1)(a), 52 USC 21112~~[42 U.S.C. 15512(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)(a) authorizes the
9 Kentucky State Board of Elections to promulgate administrative regulations necessary to
10 properly carry out its duties in the administration of the election laws. The Help America
11 Vote Act of 2002, 52 USC 21112~~[42 U.S.C. 15512, Section 402(a)]~~, requires the
12 establishment of a state-based administrative complaint procedure to remedy grievances
13 in elections for federal offices. This administrative regulation establishes an administrative
14 complaint procedure to remedy grievances in elections for federal offices.

15 Section 1. Definitions.

16 (1) "Board" means the State Board of Elections or their designee as defined in KRS
17 117.015 and 117.025.

1 (2) "Complainant" means the person who files a complaint under this
2 administrative regulation.

3 (3) "Federal election" means a primary, general, or special election at which a
4 federal office appears on the ballot.

5 (4) "Presiding officer" means the person appointed by the executive director of the
6 board to conduct a hearing on a complaint.

7 (5) "Respondent" means any state or local election official whose actions are
8 alleged, in a written complaint, to be in violation of Title III of the Help America Vote Act
9 of 2002, 52 USC §§ 21081 – 21102~~[42 U.S.C. 15481]~~.

10 (6) "State or local election official" means the Secretary of State, the State Board of
11 Elections, a county clerk, a county board of elections, or any officer, agent, or appointee
12 thereof.

13 (7) "Title III" means Title III of the Help America Vote Act of 2002, Pub.L. 107-252,
14 codified at 52 USC §§ 21081 – 21102~~[42 U.S.C. 15481]~~.

15 Section 2. Applicability. This administrative regulation shall be applicable to
16 elections for federal office.

17 Section 3. Complaint Process.

18 (1) Any person who believes there has been a violation of any provision of Title III
19 by any election official may file a written complaint with the executive director of the
20 board.

1 (2) All complaints shall:

2 (a) Be limited to violations of the requirements placed upon the states by Title III,
3 which are limited to claims for violations of the following:

4 1. Standards for voting systems;

5 2. Requirements for provisional voting and voting information; and

6 3. Requirements for computerized statewide voter registration lists and for voters
7 who register by mail.

8 (b) Be submitted in writing on the Complaint and Affidavit for Violation of Title III
9 of the Help America Vote Act of 2002, and signed by the complainant under oath or
10 affirmation before an officer authorized to administer oaths.

11 (c) Include the full name, address, and telephone number of the complainant.

12 (d) Include a description of the alleged violation sufficient to apprise the board and
13 the respondent of the nature and specific allegations of the complaint.

14 (e) Be sent by mail or by delivery to the Offices of the State Board of Elections at
15 140 Walnut Street, Frankfort, Kentucky 40601.

16 (f) Be filed within ninety (90) days of the alleged violation of Title III.

17 Section 4. Processing the Complaint and Response.

18 (1) The executive director of the board may refuse to accept a complaint if the
19 complaint does not comply with the requirements of Section 3 of this administrative
20 regulation.

1 (2) If a complaint does not comply with Section 3 of this administrative regulation,
2 the executive director of the board shall, within three (3) days of receipt of the complaint,
3 send the complainant a notice explaining the areas of noncompliance in the complaint.

4 (3) The complainant shall correct a deficiency within seven (7) working days of
5 receipt of notice of the deficiency. If the complainant fails to correct a deficiency or fails
6 to state a violation of Title III, the board shall dismiss the complaint.

7 (4) If a complaint complies with Section 3 of this administrative regulation and
8 states on its face a Title III violation, the board shall accept the complaint and the
9 complaint shall be deemed filed on the date of receipt at the offices of the board.

10 (5) Upon receipt of a complaint, the board shall send a copy to the respondent
11 along with a request for a response.

12 (6) The respondent shall send a response to the board within ten (10) days of the
13 date the respondent received notice from the board of the filed complaint.

14 (7) Upon receipt of the respondent's response, the board shall within three (3) days,
15 send the complainant a copy of the respondent's response and a notice explaining the
16 complaint may be resolved informally by agreement of the parties or the complainant
17 may request a hearing. The complainant shall have ten (10) days from the date the notice
18 is received to request an informal resolution or a hearing.

1 (8) The executive director of the board shall be responsible for arranging the date,
2 time, and place for hearings, and appoint a qualified individual to serve as the presiding
3 officer.

4 (9) If at any time during the proceedings, the board believes that the person
5 appointed by the executive director of the board is not performing his or her duties as
6 presiding officer in the interest of justice and to ensure the fair administration of Title III,
7 the board may withdraw the appointment of the presiding officer and appoint another
8 qualified individual to serve as presiding officer.

9 (10) The executive director shall send a notice of the identity of the presiding
10 officer, time, date, and location of the hearing to the parties at least seven (7) days before
11 the date scheduled for the hearing.

12 (11) The board shall make a final determination of the complaint within ninety (90)
13 days of the receipt of the complaint, unless the complainant agrees in writing to an
14 extension.

15 Section 5. Consolidation. Upon its own motion, or upon motion of any party, the
16 board or presiding officer may consolidate multiple complaints into a single proceeding
17 if there exist common parties, common questions of law or fact, or both, or other
18 circumstances as justice and the administration of the Act require.

1 Section 6. Severance. Upon its own motion, or upon motion of any party, the board
2 or the presiding officer may, for good cause, order any proceeding severed with respect
3 to some or all issues or parties.

4 Section 7. Hearings.

5 (1) Hearings shall be conducted in accordance with KRS Chapter 13B.

6 (2) Hearings shall be recorded. A transcript of the hearing shall not be made except
7 upon request of a party who shall bear the cost of transcription. Any other party may
8 request a copy of the transcript at his or her own expense.

9 (3) Hearings may be held and testimony taken by teleconference or video
10 conference with notice to the parties.

11 (4) If any party fails, without good cause, to attend the hearing, they may be held
12 in default and have a determination made against them.

13 (5) All testimony shall be taken under oath or affirmation.

14 (6) The complainant shall have the burden of proof.

15 Section 8. Presiding Officer's Findings of Fact, Conclusions of Law, and
16 Recommended Order.

17 (1) Within fourteen (14) days of the completion of the hearing, the presiding officer
18 shall issue a findings of fact, conclusions of law, and recommended order to the board
19 setting forth any findings of a past, present, or potential violation of Title III, if supported
20 by the evidence presented, and a recommended remedy.

1 (2) The recommended remedy shall be directed at the improvement of processes
2 or procedures governed by Title III, consistent with federal and state law.

3 (3) The recommended remedy shall not include money damages, costs, or attorney
4 fees and shall be limited to bringing the election practice or election system referred to
5 in the complaint into compliance with Title III.

6 Section 9. Final Determination.

7 (1) The board shall review the presiding officer's findings of fact, conclusions of
8 law, and recommended order at the next scheduled meeting of the board.

9 (2) The board may adopt the presiding officer's findings of fact, conclusions of law,
10 and recommended order as its final determination or issue its own findings of fact,
11 conclusions of law, and final determination based on the evidence presented.

12 (3) The board shall issue a final determination within thirty (30) days of receipt of
13 the recommended order or within ninety (90) days of receipt of the complaint, whichever
14 is shorter, unless the complainant agrees in writing to an extension of time.

15 Section 10. Alternative Dispute Resolution.

16 (1) If a final determination of a complaint is not made within ninety (90) days of the
17 filing of the complaint, and the complainant did not agree to an extension, then the
18 complaint shall be referred to a review panel comprised of three (3) members of the
19 board.

1 (2) The review panel shall issue a final determination on the complaint within sixty
2 (60) days of the referral.

3 (3) The review panel shall make its determination on the record of the hearing
4 conducted under this administrative regulation and shall not conduct any further
5 proceedings.

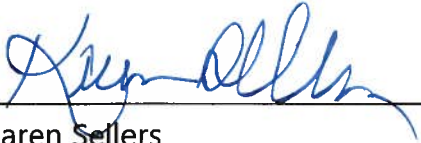
6 (4) If the hearing was not conducted or completed, then the review panel shall
7 conduct a hearing under this administrative regulation.

8 Section 11. Publication of Final Determinations. All final determinations shall be
9 posted on the internet homepage of the board, <http://www.elect.ky.gov>, and retained in
10 the permanent archival records of the board by attaching to the minutes of the monthly
11 meeting of the board for the month the final determination was issued.

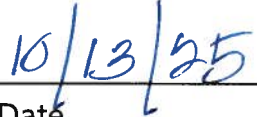
12 Section 12. Incorporation by Reference.

13 (1) "Complaint and Affidavit for Violation of Title III of the Help America Vote Act
14 of 2002," SBE 21, 10/2025~~[December 2003]~~, is incorporated by reference.

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



Karen Sellers
Executive Director, State Board of Elections



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 6:010

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 an administrative complaint procedure to remedy grievances in elections for federal offices.

(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 incorrect statutory citations and updates Form SBE 21.

(b) The necessity of the amendment to this administrative regulation: This amendment updates Form SBE 21 for the first time since 2003.

(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, those filing complaints will need to use the new Form SBE 21.

(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 6:010

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) and 52 USC 21112 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 to 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 "Complaint and Affidavit for Violation of Title III of the Help America Vote Act of 2002," SBE 21, 10/2025, is the 1-page form that an individual who believes there has been a violation of any provision of Title III of the Help America Vote Act by any election official may file a written complaint with the Executive Director of the State Board of Elections.

SUMMARY OF CHANGES TO MATERIAL INCORPORATED BY REFERENCE

The "Complaint and Affidavit for Violation of Title III of the Help America Vote Act of 2002," SBE 21, 10/2025, is the 1-page form that an individual who believes there has been a violation of any provision of Title III of the Help America Vote Act by any election official may file a written complaint with the Executive Director of the State Board of Elections. The form was amended to insert a larger heading and delete references to carbon copies.

COMMONWEALTH OF KENTUCKY
STATE BOARD OF ELECTIONS
140 WALNUT STREET * FRANKFORT KY 40601-3240
(502) 573-7100

**COMPLAINT AND AFFIDAVIT FOR VIOLATION OF TITLE III
OF THE HELP AMERICA VOTE ACT OF 2002**

Instructions:

- a. For use of this form, see Administrative Regulation 31 KAR 6:010.
- b. Use of this form is limited to violations of Title III of the Help America Vote Act of 2002, Public Law 107-252, governing elections for federal office.
- c. Title III places requirements on the states concerning voting system standards, provisional voting, voting information requirements, computerized statewide voter registration list requirements, and requirements for voters who register by mail.
- d. If this document is incomplete or if your complaint fails to state a violation of Title III, it shall not be acceptable for filing.
- e. The complaint shall be filed with the State Board of Elections within ninety days of the alleged violation.

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Section 1: Please state under oath or affirmation and in legible writing your full name, physical address, mailing address, and telephone number. If you do not have an address or telephone number, please so state and explain the best way to contact you.

Name (Please Print)			
Residential Address			
Mailing Address (If different)			
City/State/Zip			
Telephone Number	()		

Section 2: Please state in writing under oath or affirmation in your own words why you believe a violation of Title III of the Help America Vote Act of 2002 has occurred, is occurring, or is about to occur. State a description of the alleged violation sufficient to apprise the Board and the respondent of the nature and specifics of the complaint below and attach additional sheet if more space is needed.

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Section 3: Please state what you want done about the violation to bring the election system or election process into compliance with Title III of the Act. Attach additional sheet if more space is needed.

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Signature of Complainant

Subscribed and sworn to or affirmed before me by _____, who personally
appeared before me on _____ day of _____ 20 ____.

My Commission Expires: _____ 20 ____.

Notary Public State at Large

