



COMMONWEALTH OF KENTUCKY
OFFICE OF THE SECRETARY OF STATE
MICHAEL G. ADAMS

August 14, 2020

The Honorable Andy Beshear
Governor, Commonwealth of Kentucky
Kentucky State Capitol, Suite 100
Frankfort, KY 40601

Dear Governor Beshear:

Pursuant to the authority granted to me, Secretary of State of the Commonwealth of Kentucky and its chief election official, by the Kentucky General Assembly and enacted at Kentucky Revised Statutes section 39A.100(1), I hereby recommend that you declare by executive order that the manner of the elections scheduled to be held on November 3, 2020, be conducted consistent with the following procedures:

1. The State Board of Elections by emergency regulation shall provide that the phrase "Not able to appear at the polls on election day on account of age, disability or illness" as enacted at K.R.S. 117.085(1)(a)(8.) shall be interpreted to mean "of an age, or possessing of a health condition or vulnerability, or potentially in contact with a person of an age, or possessing of a health condition or vulnerability, that the voter believes subjects the voter or other person to unacceptable risk of harm from contracting or transmitting the novel coronavirus."
2. The State Board of Elections by emergency regulation shall require all county clerks to conduct in-person voting during regular business hours, available to any voter who is registered to vote in the county clerk's county, beginning October 13, 2020. No absentee excuse otherwise required by K.R.S. 117.077 or 117.085 shall be required for eligibility to vote early in-person. The emergency regulation shall require all county clerks to conduct such in-person voting on the three Saturdays before the November 3, 2020 election for a span of at least four (4) hours. The location(s) of the in-person voting may be outside of the county clerk's office, but must be in secured area(s) monitored by law enforcement. County clerks, with assistance from the State Board of Elections and Secretary of State, shall publicize the location(s) where in-person voting shall occur. In the conduct of in-person voting, appropriate precautions shall be taken consistent with Centers for Disease Control guidance, and the State Board of Elections, with the assistance of the Governor, shall provide materials to assist in proper sanitization. The regulation shall instruct county clerks to implement in-person voting procedures that limit direct contact between

individuals, whether poll workers or voters. Such procedures shall promote a method of voting whereby poll workers do not come into contact with voters.

3. The State Board of Elections by emergency regulation shall empower all county clerks to reduce the number of sites for in-person voting on November 3, 2020. The State Board of Elections is directed to consider 2020 Regular Session House Bill 596, Sections 1 and 5, for guidance, but is not limited to its terms. County clerks, with assistance from the State Board of Elections and Secretary of State, shall publicize the location(s) where in-person voting shall occur. Such location(s) must be in secured area(s) monitored by law enforcement. In the conduct of in-person voting, appropriate precautions shall be taken consistent with Centers for Disease Control guidance and the State Board of Elections, with the assistance of the Governor, shall provide materials to assist in proper sanitization. The emergency regulation shall instruct county clerks to implement in-person voting procedures that limit direct contact between individuals, whether poll workers or voters. Such procedures shall promote a method of voting whereby poll workers do not come into contact with voters. In addition to the requisite approval of the State Board of Elections for any county plan to reduce its number of sites for in-person voting on November 3, 2020, any such plan must be approved by the Governor and the Secretary of State. Any county presenting a plan to reduce its number of sites for in-person voting on November 3 shall present such plan to the State Board of Elections, the Governor and the Secretary of State no later than September 30, 2020.
4. Each county shall establish at least one (1) site for in-person voting on November 3, 2020, which is capable of permitting a voter of any residence location in that county to vote.
5. The State Board of Elections shall purchase and make available to counties additional secure ballot dropboxes, subject to available funding. No county shall be permitted to utilize a ballot dropbox unless it is placed in a secure location and continuously supervised.
6. The State Board of Elections by emergency regulation shall provide that county clerks are permitted to utilize as precinct election officials voters who are registered to vote other than as Democrats or Republicans. The State Board of Elections is directed to consider 2020 Regular Session House Bill 596, Section 4, for guidance, but is not limited to its terms.
7. The State Board of Elections by emergency regulation shall provide that county clerks are permitted to utilize precinct election officials in shifts of less than twelve (12) hours.
8. The State Board of Elections by emergency regulation shall direct county clerks, in their appointment of precinct election officials for November 3, 2020, to give preference to precinct election officials who have prior experience as

same, whether in prior elections or in early voting conducted pursuant to this recommendation, as implemented.

9. The State Board of Elections shall ensure that each county is provided access to sufficient election equipment, subject to available funding.
10. The State Board of Elections by emergency regulation shall provide that the phrase “Disability or illness” as enacted at K.R.S. 117.228(1)(c)(8.)(e.) shall be interpreted to include a) “inability to procure photographic proof of identification due to office closure or temporary work stoppage or backlog of issuing authorities of such photographic proof of identification, as caused by the COVID-19 pandemic”; and b) “possessing of a health condition or vulnerability that the voter believes subjects the voter to unacceptable risk of harm from the novel coronavirus, including unacceptable risk of transmission of the virus from the voter to others.”
11. The State Board of Elections by emergency regulation shall provide that the phrase “Inability to obtain . . . documents needed to show proof of identification” as enacted at K.R.S. 117.228(1)(c)(8.)(b.) shall be interpreted to include “inability to provide a copy of proof of identification possessed by the voter”.
12. Not later than seven (7) days following the issuance by the Governor of an executive order accepting and incorporating this recommendation, the State Board of Elections shall make available a secure online portal for the request of an absentee ballot by a registered voter. The requester shall provide personally identifiable information in order to request the absentee ballot. The secure online portal shall have the capacity to ensure verification of the identity of the voter, in a manner not inconsistent with Senate Bill 2, 2020 Regular Session of the Kentucky General Assembly, as applied herein. Upon such verification, the secure online portal shall transmit the request to the county clerk of the county in which the requester is registered to vote. The county clerk shall be responsible for determining if the request is valid. The county clerk shall transmit a valid absentee ballot to the registered voter within seven (7) days of receipt, or within seven (7) days of ballots being available, but in any event no later than seven (7) days before the election. The secure online portal shall close at 11:59 p.m., eastern standard time, on October 9, 2020. Notwithstanding the availability of this secure online portal, a registered voter may request an absentee ballot using a traditional method of request.
13. The State Board of Elections shall utilize bar codes for tracking absentee ballots requested, sent, and received.
14. The State Board of Elections shall require county clerks, prior to issuance of an absentee ballot to a voter, to highlight with a colored marker each signature blank an absentee-by-mail voter is required by law to sign.

15. Absentee ballots must be received by the county clerk of the voter's county of registration no later than 6:00 p.m., local time, on November 3, 2020, except that an absentee ballot postmarked on or before November 3, 2020 may be accepted until 6:00 p.m., local time, November 6, 2020.
16. Each county board of elections shall appoint a processing committee that includes an equal number of registered Democrats and registered Republicans, to assist in counting the absentee ballots. A processing committee may begin processing absentee ballots on September 21, 2020.
17. Prior to processing an absentee ballot, the signatures on the absentee ballot envelopes shall be verified to match the voter's signature of record, which may be the signature on the voter's drivers license or voter registration card. The State Board of Elections shall establish a process for a voter to cure the voter's ballot error, whether by failure to sign as required by law, or due to a mismatch between the signature on the voter's absentee ballot envelope and the voter's signature of record. Such cure process shall conclude no later than November 9, 2020.
18. As contemplated by K.R.S. 117.275(11), beginning immediately upon closure of the polls, each county board of elections, or its designee, shall count and tally all ballots it has received – whether cast absentee or in-person – as of 6:00 p.m., local time, on November 3, 2020, and shall publicly report such tally no later than 11:59 p.m. on November 3, 2020.
19. The State Board of Elections and the Secretary of State will jointly conduct an advertising campaign, subject to available funding, to inform voters of changes to election rules referenced herein, and voters' options to vote.
20. The State Board of Elections by emergency regulation shall issue universal directives for county boards of elections to determine voter intent behind a ballot imperfectly cast. Such directives shall not be inconsistent with Kentucky statute and case law.
21. The State Board of Elections by emergency regulation shall provide that the term "covered voter" as enacted at K.R.S. 117A.010 shall be interpreted to include those within the disability community who wish to receive their ballot via electronic means in the same manner as utilized by military and overseas voters.
22. The State Board of Elections by emergency regulation shall permit, and establish a process for, observation of absentee ballot counting, to be conducted consistent with Centers for Disease Control guidance.

23. No person shall make public any partial election results prior to 6:00 p.m. local time, on November 3, 2020.
24. The State Board of Elections by emergency regulation shall provide that the deadline for a candidate to seek a canvass for a special election to be held on November 3, 2020, shall be extended to 4:00 p.m., Eastern Standard Time, November 10, 2020.
25. The Governor will take such action as is necessary to provide funds sufficient to cover the increase in cost necessitated by implementation of this plan, including but not limited to matching state funds against, and in order to secure, the maximum matching federal funds available for pandemic-related election costs.
26. The State Board of Elections is empowered to promulgate by emergency regulation any provision needed to give effect to this prescription of manner for the November 3, 2020 elections.
27. The State Board of Elections by emergency regulation shall provide that any existing regulation promulgated by the State Board of Elections that conflicts with any provision of the afore-mentioned prospective emergency regulations is suspended in pertinent part for the November 3, 2020 elections.
28. The State Board of Elections shall state in the foregoing emergency regulation(s) that no election statute or regulation is or shall be deemed as suspended, in whole or in part, unless it contradicts one or more of the foregoing terms.

This recommendation is limited to the manner of conducting the November 3, 2020 elections. To be effectuated, it must be agreed to by the Governor in the form of an executive order, and promulgated by the State Board of Elections in one or more administrative regulations, with such regulations to be approved by the Governor and Secretary of State by respective executive orders.

Any additional recommendation I may make pursuant to Kentucky Revised Statutes section 39A.100(I) will follow by separate correspondence.

Sincerely,



Michael G. Adams