

ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

John Thurston

500 Woodlane, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

www.sos.arkansas.gov



For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency State Board of Election Commissioners

Department _____

Contact Chris Madison E-mail chris.madison@arkansas.gov Phone 501-682-1447

Statutory Authority for Promulgating Rules 7-4-101(f)(3); 7-4-109(e)(2)(D) Act 1051 of 2021

Rule Title: Rules for County Election Commissioner Training

Intended Effective Date

(Check One)

☐ Emergency (ACA 25-15-204)

☒ 10 Days After Filing (ACA 25-15-204)

☐ Other _____
(Must be more than 10 days after filing date.)

Legal Notice Published

Final Date for Public Comment

Reviewed by Legislative Council

Adopted by State Agency

Date

01/23/2022

02/22/2022

04/20/2022

11/03/2021

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Chris Madison chris.madison@arkansas.gov

04/_____/2022

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act, (ACA 25-15-201 et, seq.)

Signature

501-682-1447

chris.madison@arkansas.gov

Phone Number

E-mail Address

Legal Counsel

Title

04/_____/2022

Date

RULES FOR COUNTY ELECTION COMMISSIONERS TRAINING

(Effective December 1, 2005; Revised May 7, 2022)



**State Board of Election Commissioners
501 Woodlane Street – Suite 122 South,
Little Rock, AR 72201
(501) 682-1834 or (800) 411-6996
www.arkansas.gov/sbec**

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Scope of Rules

These rules will set forth the procedures for training members of the county boards of election commissioners in the 75 counties in the State. These rules are in addition to, and not a substitute for, the laws of the State of Arkansas.

§ 701 Definitions

- (a) County Board of Election Commissioners - the three-member board in each of the 75 counties in this State responsible for conducting all elections within their respective county, including two members elected by the county committee of the majority party and one member elected by the county committee of the minority party or persons appointed by the state chair of either the majority or minority party to fill a vacancy in that party's position.¹
- (b) Candidate – for the purpose of these rules, any individual who has knowingly and willingly taken affirmative action, including solicitation of funds, for the purpose of seeking nomination for or election to any public office.²
- (c)(1) Election Official - a person who is a member of the county board of election commissioners, a person who performs election coordinator duties, a person who is a poll worker designated by a county board of election commissioners to be an election clerk, election judge, or election sheriff, or a deputy county clerk or a person assigned by a county clerk to conduct early voting.³
- (2) Election Official - includes a person who serves as:
 - (A) A member of the county board of election commissioners;
 - (B) A person who is appointed by the county board of election commissioners to serve as:
 - (i) an election coordinator;
 - (ii) a person appointed to perform tasks related to the election which require the handling of ballots or other election materials or equipment;
 - (iii) an election clerk;
 - (iv) an election judge;
 - (v) an election sheriff; or
 - (vi) an absentee ballot clerk; or
 - (C) A person assigned by a county clerk to conduct early voting administered by the county clerk.

¹ A.C.A. § 7-4-102(a)

² A.C.A. § 7-6-201(2)

§ 702 Qualifications of a Member of the County Board of Election Commissioners

- (a) The qualifications⁴ of a member of the county board of election commissioners as determined by the General Assembly⁵ are as follows:
- (1) Must be a qualified elector of this state;
 - (2) Must be able to read and write the English language;
 - (3) Must be a resident of the county in which he or she serves at the time of his or her appointment or election;
 - (4) Must not have been found guilty or pled guilty or nolo contendere to the violation of any criminal election law of this state;
 - (5) Must not be a paid employee of any political party;
 - (6) Must not be a paid employee of any person running for any office on the county's ballot;
 - (7) Must not participate in the campaign of any candidate listed on a ballot or of a write-in candidate seeking election in that county that falls under their jurisdiction or authority;
 - (8) Must not manage a campaign;
 - (9) Must not perform labor for a campaign;
 - (10) Must not solicit on behalf of a candidate or campaign;
 - (11) Must not pass out handbills, signs, or other literature concerning a candidate's campaign;
 - (12) Must not assist a candidate's campaign at a rally or parade;
 - (13) Must not display candidate placards or signs on an automobile;
 - (14) Must not be employed with a company that has any business dealings, contracts, or pending contracts with the county board of election commissioners at the time of his or her appointment to the county board;
 - (15) Must not be a candidate for any office to be filled at an election while serving on the county board, except for appearing on the ballot as a candidate for a position in his or her political party;
 - (16) Must not be a chairman or secretary of a county political party;
 - (17) Must not be married to or related within the second degree of consanguinity to any candidate running for office in the current election if objection to the service is made to the county board of election commissioners within ~~ten (10)~~ seven (7) calendar days after the posting of the list of officials; and
 - (18) Must not be the spouse of a chairman of a county political party or the spouse of another county board of election commissioner if objection to the service is made to the county board of election commissioners within ten (10) calendar days after the posting of the list of officials.
- (b) If an objection filed against married members of the county election commission the objection can only be filed against one of the two married individuals.
- (c) A member of the county board may make a financial contribution to a candidate, attend a political party's state, district, or county meeting where a candidate or issue advocate speaks as a member of the audience, or participate in a political party convention.⁶

⁴ A.C.A. § 7-4-109 as amended by Act 1253 of 2015

⁵ Art 3, § 10 of the Arkansas Constitution, as amended by Amendment 85

⁶ A.C.A. § 7-4-109(c)(2)(B)(ii) as amended by Act 1253 of 2015

§ 703 Required Training

- (a) Each member of the county boards of election commissioners shall attend either a comprehensive training program conducted by the State Board of Election Commissioners before the regularly scheduled preferential primary election or an advanced training program conducted by the State Board of Election Commissioners.
- (b) Advanced training will be made available if the Director of the State Board determines that, based on the amount of changes in law and procedure from the previous election cycle, an advanced training program is appropriate for experienced county commissioners. Advanced trainings are to only be utilized for commissioners who are unable to attend the comprehensive training and may be conducted remotely. Advanced trainings may not necessarily include a detailed review of all basic laws and procedures which are unchanged from the previous two election cycles but will address all aspects of the duties of an election commissioner.⁷
- (c) Any member of a county board of election commissioners who has not served on the commission during the previous two (2) preferential primary and general elections and previously attended the comprehensive training program conducted by the State Board of Election Commissioners must attend the comprehensive training program.
- (d) A member of a county board of election commissioners shall attend additional interim training if deemed necessary and appropriate by the State Board.

§ 704 Examination and Certification of Election Commissioners

- (a) Having attended the instructional portion of the training program, the election commissioner shall take an examination of essential skills developed and administered by the State Board of Election Commissioners.
 - (1) The State Board shall issue a certification to each commissioner who attended the instructional program and demonstrated competency in the skills essential for conducting an election through the examination process.
 - (2) Certification shall be issued by the State Board to each designated trainee who is certified through the training program.

⁷ A.C.A. § 7-4-109(e)(1)

§ 705 Compensation

- (a) Upon completion of training by the State Board of Election Commissioners, each county election commissioner attending the training is eligible to receive mileage reimbursement at the rate established for state employees by state travel regulations⁸
- (b) Any election commissioner who is trained and certified under this section and who remains in office until the certification of the preferential primary election results shall be eligible to receive \$300 in compensation for attending training.
- (c) If the county political party elects a new commissioner following the preferential primary, the commissioner shall be eligible to receive mileage for additional required trainings only but is not eligible to receive additional compensation.
- (d)
 - (1) All compensation and reimbursement paid under this section shall be paid to the County Treasurer and shall include a statement explaining the purpose of the funds and who is entitled to receive the funds under state law.
 - (2) Mileage for training shall be paid upon receipt of the reporting form approved by the State Board and verification that the commissioner was tested.
 - (3) Payment of the \$300 shall be paid upon verification by the Director that the commissioner who attended training remains an election commissioner for the county at the time the preferential primary is certified.
- (e) Attendance by county election coordinators is optional, and compensation for attending training will not be provided by the State Board.

§ 706 Noncompliance

The State Board may withhold funding for county election commissioner training attendance from any county that fails to comply with the rules and guidelines developed by the State Board for the administration of election commissioner training, until all requirements are met to the satisfaction of the State Board.⁹

§ 707 Training Materials

The State Board of Election Commissioners will provide training materials to each county election commissioner attending training.

⁸ A.C.A. § 7-4-109(e)(2)

⁹ A.C.A. § 7-7-201(b)(3)

ARKANSAS STATE LIBRARY



Agency Certification Form For Depositing Rules At the Arkansas State Library



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For Office Use Only		
Classification Number:		
Name of Agency:		Division/Department/Office:
Contact Person:		Telephone:
Statutory Authority for Promulgating Rules:		
Title of Rule:		
Rule Status	Date Adopted by Agency	Effective Date
<small>(Use drop down to select different status)</small>	MM/DD/YYYY	10 Days After Filing Other: _____ <small>(if other, specify date)</small>
Rule above is proposed and will be replaced by final version		
Financial and/or Fiscal Impact Statement Attached		
<h3>Certification of Authorized Officer</h3> <p>I hereby certify that the attached rules were adopted in compliance with Act 434 of 1967 as amended.</p> <p>Signature: _____ Date: _____</p> <p>Title: _____</p>		

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT State Board of Election Commissioners

DIVISION N/A

PERSON COMPLETING THIS STATEMENT Daniel J. Shults, Director

TELEPHONE 501-682-1834 **FAX** 501-682-1782 **EMAIL:** Daniel.shults@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Rules of Procedure for Citizen Complaints Regarding Violations of State Election and Voter Registration Laws

- | | | |
|---|--------------|-------------|
| 1. Does this proposed, amended, or repealed rule have a financial impact? | Yes X | No |
| 2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? | Yes X | No |
| 3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? | Yes | No X |

If an agency is proposing a more costly rule, please state the following:

(a) How the additional benefits of the more costly rule justify its additional cost;

Arkansas law places the duty to prepare and conduct every election on the county election commission. These quasi-volunteer officials are responsible for a highly technical and intricately detailed legal process for which they receive one day of mandatory training every two years. Increasing the compensation to attend this training by \$200 is designed to encourage service as a CBEC member and to provide a more meaningful incentive to pass the test.

(b) The reason for adoption of the more costly rule;

The requirements of Act 1051 could have been implemented with no change in the amount of compensation. However, given this rate has remained unchanged since 2005 while the obligation and potential legal liabilities for the failure to correctly implement the election training are ever increasing, the SBEC determined that the increase from \$100 to \$300 was in the best interest of the State of Arkansas. The mechanism through which this interest is most immediately served is that the increase makes the commissioners more likely to take seriously the test established in Act 1051.

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

The rule is designed to benefit the public welfare by ensuring that each county has qualified and motivated commissioners to conduct the elections for that county. The rule also seeks to make the testing and certification process as effective as possible under the law through monetary incentives.

(d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

The SBEC is explicitly required to determine the "method and amount" of compensation under

Revised January 2019

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

(a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue	<u>\$0.00</u>
Federal Funds	<u>\$0.00</u>
Cash Funds	<u>\$0.00</u>
Special Revenue	<u>\$0.00</u>
Other (Identify)	<u>\$0.00</u>
Total	<u>\$0.00</u>

Next Fiscal Year

General Revenue	<u>\$0.00</u>
Federal Funds	<u>\$0.00</u>
Cash Funds	<u>\$0.00</u>
Special Revenue	<u>\$0.00</u>
Other (Identify)	<u>\$0.00</u>
Total	<u>\$0.00</u>

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue	<u>\$45,000.00</u>
Federal Funds	<u>\$0.00</u>
Cash Funds	<u>\$0.00</u>
Special Revenue	<u>\$0.00</u>
Other (Identify)	<u>\$0.00</u>
Total	<u>\$45,000.00</u>

Next Fiscal Year

General Revenue	<u>\$0.00</u>
Federal Funds	<u>\$0.00</u>
Cash Funds	<u>\$0.00</u>
Special Revenue	<u>\$0.00</u>
Other (Identify)	<u>\$0.00</u>
Total	<u>\$0.00</u>

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

\$ \$0.00

Next Fiscal Year

\$ \$0.00

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ \$45,000.00

Next Fiscal Year

\$ \$0.00

The SBEC will pay an additional \$200 to three people in each of the 75 counties once every two years. This totals \$45,000.

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes

No **X**

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.