

Kentucky Election Policies and Readiness

July 10, 2020

As a state with little experience with vote-by-mail, Kentucky faced many new challenges in June 2020 when it administered a competitive primary election amid the COVID-19 pandemic. After expanding mail-in voting to all eligible voters, over a million people cast ballots in the election and [nearly 75% of them](#) did so through mailed absentee ballots. Meanwhile, the state faced some scrutiny as most counties dramatically reduced the number of in-person locations open on Election Day. At least judging from polling place lines, which were only notable in one county, Kentucky's primary proved more successful than many critics had warned. Fayette County was the exception, as some voters there reported wait times in excess of two hours. Moreover, over 15,000 absentee ballots were rejected in Jefferson and Fayette Counties for violations, such as mismatched signatures.

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I. Introduction

Kentucky held primary elections for local, state, and federal offices on June 23, 2020. The elections were originally scheduled to be held on May 19, but were delayed by [executive order](#) due to the ongoing COVID-19 pandemic. The state made several changes to election procedures, including: (1) expanding mail-in voting to all eligible voters, (2) allowing early in-person voting by appointment or walk-in, (3) allowing county clerks to reduce the number of polling locations on election day, (4) reducing the minimum hours for poll workers' shifts, and (5) sending each registered voter a postcard describing the changes to election procedures.

The three key decision-makers in Kentucky elections are the Governor, the Secretary of State, and the Board of Elections. Governor Beshear, a Democrat, took office in December 2019. Secretary of State Michael Adams, a Republican, assumed office in January 2020. The State Board of Elections is composed of Secretary Adams, four Democrats, and four Republicans. The Board is [responsible for](#) ensuring Kentucky's compliance with state and federal election law, providing and maintaining the statewide voter registration database, appointing county board of elections members, and training county clerks and county board of election members. Additionally, county clerks have [substantial autonomy](#) over the specific procedures of election administration, even [during](#) the ongoing emergency.

II. Mail-In Ballots and Early In-Person Voting

To address the impact of the COVID-19 pandemic on election administration, Kentucky's leaders made several changes to state rules for the 2020 primary election. First, on April 24, Governor Andy Beshear issued an [executive order](#) allowing any eligible voter to vote by mail-in ballot. The Secretary of State and Board of Elections also created a [website](#) that allowed voters to request their mail-in ballots online. In addition, each registered voter was mailed an informational pamphlet explaining the expansion of mail-in ballots. Once they received their ballots, voters filled out their ballots at home and [returned them by mail with prepaid postage or returned them to a dropbox](#) at the County Clerk's office. The period for in-person early voting was also [extended](#).

It took counties some time to provide voters with the information they needed regarding updated voting procedures. On May 20, 98 of 120 counties (over 80%) still had no information pertaining to changes in voting procedures on their websites. However, over the course of the next month, the counties updated their websites to include more information.

Early concerns related to absentee voting were largely resolved by Election Day. Absentee ballots included free postage and were required to be postmarked no later than June 23 and received by June 27 to be counted. In isolated cases, voters reported that Kentucky's online ballot tracker did not [accurately reflect their ballot status](#), prompting concern. Additionally, some voters reported they did not receive mail-in ballots in time to vote. The State Board of Elections resolved this issue by [passing a regulation](#) before the election allowing voters to vote in person if they requested (but never received) mail-in ballots.

Turnout was up significantly in the 2020 primary. By the May 16 deadline, nearly 890,000 Kentuckians requested mail-in absentee ballots. This figure represents [about 25% of the state's 3.5 million registered voters](#). In addition, [over 110,130 voters cast in-person ballots early](#). Overall, [848,000 absentee ballots](#) were returned, and more than [161,238 people](#) voted in person on Election Day. Together, this represents a turnout of [29% of registered voters, higher than Kentucky's 20.6% voter turnout in the 2016 primary and 13.9% turnout in the 2012 primary](#).

After Election Day, however, it was [reported](#) that election officials had rejected 15,000 absentee ballots in Kentucky's two largest counties alone. The most common reasons for rejection included the absence of voter signatures, signature mismatches, and envelopes not being properly sealed. Under [Kentucky state law](#), if an absentee ballot is rejected, voters are not informed and there is no opportunity to cure any defects. Rejected ballots are not counted in the election results.

Of Jefferson county's roughly 8,000 rejected absentee ballots, nearly 4,000 ballots were rejected due to a lack of voter signature. In addition, over 1,000 ballots were rejected for being delivered too late, over 400 for having a non-matching signature, and around 800 due to a missing signature on the envelope's inner flap. In Fayette county, of the 6,000 rejected ballots, over 2,000 were rejected for not being sealed properly, and over 1,500 were missing the inner envelope flap. The rejection rate in Fayette County was also [particularly high](#), representing 8% of the county's 83,000 absentee ballots.

COMMONWEALTH OF KENTUCKY
STATE BOARD OF ELECTIONS

**NUMBER OF REJECTED ABSENTEE BALLOTS
AND REASONS FOR REJECTED BALLOTS**

County	Election (Primary or General)	Date of Election
JEFFERSON	PRIMARY	JUNE 23, 2020

Reason for Rejection of Absentee Ballot	Number Rejected
NO VOTER SIGNATURE	3848
MISSED DEADLINE - LATE	1178
NON-MATCHING SIGNATURE	431
INNER FLAP MISSING	387
INNER ENVELOPE MISSING	647
INNER FLAP NOT SIGNED	795
MISSING OUTER ENVELOPE	347
RETURNED NOT DELIVERABLE	549
CLERICAL ERROR	28
NO BALLOT IN INNER ENVELOPE	15
OUTER ENVELOPE EMPTY	3
DECEASED	8
DECLINED TO VOTE	3
UNOFFICIAL ENVELOPE	6
NO WITNESS SIGNATURE	3
BALLOTS ONLY	8
DAMAGED COULD NOT COUNT	2
INNER ENVELOPE GLUED TO OUTER ENVELOPE	6
VOTED IN PERSON-RETURNED SPOILED BALLOT	68
PARTY CHANGED	49

For example, signature missing on outer envelope; signature missing on inner flap; inner flap missing; received after 6 PM on election day, etc.

KRS 117.086(8)
SBE 33B (9/02)

White – County Clerk
Canary – State Board of Elections

**NUMBER OF REJECTED ABSENTEE BALLOTS
AND REASONS FOR REJECTED BALLOTS**

County	Election (Primary or General)	Date of Election
FAYETTE 34	2020 Primary Election (P)	6/23/2020
Reason for Rejection of Absentee Ballot		Number Rejected
Missed Deadline		619
No Voter Signature		1915
No Witness Signature		2
Non-Matching Signature		7
Envelope Not Sealed		2226
No Resident Address on Envelope		9
Inner Envelope Flap Missing		1572
Inner Envelope Missing		2
Ballot Missing From Envelope		23
Multiple Ballots in One Envelope		6
Other Rejection Reasons:		
Outer Envelope Missing		50
Other Rejection Reasons:		
Voter Assistance Incomplete		5
Other Rejection Reasons:		
FPCA Missing Voter Declaration		1
Other Rejection Reasons:		
Ballot Outside of Inner Envelope		204
Other Rejection Reasons:		
Signed by POA (no POA on file or included)		4
Total Rejections for county		6645

Overall, despite some concerns, Kentucky managed to make a massive transition to voting through the mail, with nearly [75% of the votes](#) cast via absentee ballots and with election officials calculating the results within a week of Election Day. For a state that typically sees [only 2% of its votes](#) cast via vote-by-mail, the vast expansion and rapid implementation was a laudable accomplishment.

III. Election Day Voting

Partially due to the increase in mail-in ballots and early in-person voting, Kentucky counties chose to greatly reduce the number of polling places open on Election Day. [Most counties only had one in-person polling location available on Election Day](#), including the state’s largest counties (Jefferson and Fayette). Overall, among Kentucky’s 120 counties, Kentucky’s Secretary of State allowed just [170 polling locations](#) to open statewide on Election Day. Despite [concerns](#) about the possibility of long lines going into Election Day, this arrangement proved largely manageable, with some issues cropping up in larger counties.

In Jefferson County, which includes Louisville, the Kentucky Exposition Center served as the sole polling location. Despite concerns from several national figures about in-person voting, voting ran smoothly in Jefferson County until the end of the day. Polls were set to close at 6:00 PM, but many people were still waiting to park outside the Expo Center at that time. Some individuals reported waiting in 45 minutes of traffic to enter the parking lot and there were [video reports](#) of dozens of voters banging on the windows outside of the Expo Center chanting “open the door” shortly after the deadline. In response, Senate candidate Charles Booker filed a [last-minute injunction](#) request to keep the doors of the Expo Center open. The judge granted the injunction to reopen the Expo Center doors until 6:30 PM but denied requests to keep the polls open until 9:00 PM.

Additionally, there were reports of problems in other areas of the state. In Lexington, some voters had to wait in line for two hours after polls opened. According to [Kentucky.com](#), “Fayette County Clerk Don Blevins Jr. said turnout was higher than expected and his office added more check-in stations in the middle of the day so the line of voters could move faster.” In 2018, Kentucky [changed from paper ledgers](#) for checking in voters at polls to electronic poll books. On June 23, 2020, there were initially [only four electronic check-in stations](#), which were [causing the long lines](#). However, just before 1:00 PM [two more check-in stations were added](#), which [alleviated the bottleneck](#). Blevins later [explained](#) that in-person voting was higher than expected because a number of people who had requested absentee ballots came to vote in person and several registered independents tried to vote (in Kentucky’s closed primary). But those appear to be isolated problems. According to a spokeswoman for the Secretary of State’s Office, [Miranda Combs](#), no other counties experienced long lines of voters.

Critics had warned of a debacle in the Kentucky primary that, for several reasons, did not materialize on Election Day. First, government and private entities offered voters free transport to the polls. The Louisville’s Transit Authority of River City (TARC) provided a [fare-free shuttle](#) to all voters. In addition, the Louisville Urban League negotiated and secured [free Lyft rides](#) to voting locations across Kentucky, including Louisville, Lexington, Hopkinsville, Elizabethtown, and Alvaton. Second, the Kentucky National Guard contributed emergency support to overwhelmed election officials. [225 Kentucky National Guard members supported election activities](#) in 45 counties across Kentucky on Election Day. Guard members were distributed according to direct requests from counties, which were collected and vetted by the Kentucky Board of Elections. The bulk of support went toward facilitating voting in Louisville’s consolidated polling location. Guard members wore civilian clothes and performed only sanitation and logistical support activities, including enforcing social distancing provisions and directing traffic. Notably, no Guard members served as poll workers, counted votes, or performed other election-related functions. Legally, all Guard members served on State Active Duty Status rather than through Federal orders. This was an explicit decision by the Kentucky Guard to avoid any perception of federal involvement in the election.

IV. Litigation

Kentucky faced a number of election-related lawsuits. First, On May 27, 2020, a collection of voting rights groups and individuals [sued](#) Governor Beshear, Secretary of State Adams, and Chairman of the Board of Elections Ben Chandler, in federal court. The lawsuit sought an injunction to extend the expanded mail-in ballots procedure through the November election. On July 7, 2020, the Fair Elections Center and the Kentucky Equal Justice Center [filed](#) a state court [claim](#) against Governor Beshear and Secretary of State Adams seeking a similar injunction.

In addition, State Representative Jason Nemes filed a lawsuit hoping to force the state to add more voting locations. U.S. District Judge Charles R. Simpson III ruled that the use of a single consolidated polling place was [not unconstitutional](#), and therefore ordered no counties to add additional locations. According to the court, Kentucky's decision to reduce the number of polling places due to the increase in absentee options and the fears of COVID-19 transmission did not violate any statute or the constitution. "While it may seem intuitive that, when it comes to polling places, more is better, that is not a call for this Court to make, unless we first find a constitutional or statutory violation," [the court held](#).

Despite the influx of litigation, Election Day rules were not disrupted by judicial decision, although the precise rules for November's election remain to be seen.

V. Conclusion

With a few notable exceptions, Kentucky's June 23rd primary election proceeded relatively smoothly. The state expanded absentee balloting from 2% of voters to nearly 75%. Despite the reduced number of in-person polling places on Election Day, the expanded use of mail-in ballots and early voting helped keep wait times short for most voters. Moving forward, the most pressing concerns are whether the state can lower voter wait times in isolated problem areas like Fayette County and shrink the high mail-in ballot rejection rate.