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Summary of Revisions to the

RULES FOR POLL WORKER TRAINING

The State Board of Election Commissioners met on June 23, 2015 and approved for public comment revisions to the "Rules for Poll Worker Training". The public comment period ended on August 10, 2015. The State Board of Election Commissioners met again on October 30, 2015 to approve revisions to the "Rules for Poll Worker Training".

Below is a summary of the rules that were approved by the Board on June 23, 2015 for the public comment period, followed by a list of persons commenting on the rule, a summary of the comments, the agency's response to the comments, and the changes to the rules as a result of the public comments.

Initial changes address legislative changes from Act 1042 of 2015 requiring that all county clerks or their designee be trained prior to the preferential primary election by: 1) amending the title of the rules to include "county clerk"; 2) Section 200: amending the definition of election official; and 3) Section 205: setting forth the procedure by which county clerks or their designees will be trained and reimbursed for mileage expenses associated with attending the mandatory training.

PERSONS COMMENTING ON THE RULE

Dennis Bosch – Garland County Election Commissioner (via email received on August 7, 2015)

SUMMARY OF COMMENTS

Scope of Rules: Commenter states that in defining who the scope of the rules apply, a more consistent phrase might be "Training for poll workers, and county clerks, or a person assigned by the county clerk". This could also apply in *Section 200* by eliminating the reference to the deputy county clerk since assignment by the clerk as noted above covers all situations.

§202: Commenter states that "item 3 states "Only one poll worker who has attended training in the past 12 months is required for any regularly scheduled election where item 2 states "all "need to be trained. These two paragraphs are in conflict."

§203: Commenter states that the word "Trainee" in item 1 should be "Trainer".

§205: Commenter states that the first sentence should be identical to the comment under scope (i.e. County clerks, or a person assigned by the county clerk) and that the page numbers need some editorial corrections.

AGENCY'S RESPONSE TO COMMENTS

Scope of Rules: The initial proposed rule states:

These rules will set forth the procedures for coordinating poll worker training for poll workers and county clerks 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.

§ 200 Definitions

(a) Election Official – a person who is a member of the county board of election commissioners, a person who performs election coordinator duties, or 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.

Commenter first notes that the section titled “Scope of Rules” mentions only that the training regulated by these rules is for county clerks when, in fact, the county clerk can designate another person to attend training instead of the clerk. Commenter suggests changes in the language to reflect that the training is for the county clerk or the clerk’s designee.

The purpose of the training regulated by these rules is to provide training to staff members of the clerk’s office who handle early voting. While the county clerk may designate someone else to be trained as a trainer for this purpose, the law (A.C.A. § 7-4-109(e) as amended by Act 1253 of 2015) makes it the county clerk’s responsibility to see that the training is provided to the office’s personnel.

That being the case, the scope (and the title of the rule) is sufficient and accurate by referring only to “county clerk” training, but a change amending the scope to more clearly identify that the topic of the training is for polling place procedures is necessary. Other portions of the rule clearly recognize that the county clerk may send a designee to take the training.

§ 202 The rule states:

Each county board of election commissioners shall:

- 1) Designate at least two (2) qualified electors of the county to attend training conducted by the State Board of Election Commissioners before the regularly scheduled preferential primary election for the purpose of being certified by the State Board as poll worker trainers for the county. Each designee 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 after each regular legislative session. Any designee who has not served as a certified poll worker trainer 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;*
- 2) Ensure that all poll workers at each polling site for a regularly scheduled election attended election training conducted locally by State Board-certified trainers and coordinated by the State Board prior to each regularly scheduled preferential primary election; and*
- 3) Ensure that at least one (1) poll worker at each polling site attended election training coordinated by the State Board within twelve (12) months prior to any regularly scheduled election.*

This is an existing rule, and the State Board has not proposed a change in this rule. Therefore, this comment is not germane to the rulemaking proposed by the board and the subject matter of this comment period. However, contrary to the comment, the noted paragraphs are not in conflict. All poll workers at a polling site must be trained; however, only one per poll must be trained *within the last year*. So, for

instance, in an odd-year school election all poll workers are required to have been trained, and the training for most of them could have occurred before the previous even-year primary. However, since the odd-year school election occurs more than one year after they would have been trained, at least one worker per poll would have had to receive training within a year of the school election.

These training requirements are further addressed in the board's commissioner's procedures manual which states in relevant part:

“The State Board’s procedure for training poll workers requires, prior to every preferential primary, that each county board designate two (2) qualified electors of its county to attend training conducted by the State Board for the purpose of being trained, tested, and certified by the State Board to train poll workers locally.

The law requires that for a regularly scheduled election **all poll workers** must have attended training conducted by a State Board-certified trainer and, at least one (1) poll worker at each polling site must have received the required training within twelve (12) months of the regularly scheduled election. [A.C.A. §§ 7-4-107(b)(2); 7-4-109(e)(1)]

***Explanatory Note:** In most cases, the need for additional training to meet the twelve (12) month requirement above would only apply to the odd-year school election. However, county election commissioners should always be mindful of this twelve (12) month requirement when scheduling training.”*

§ 203 The rule states:

Upon successful completion of training conducted by the State Board of Election Commissioners:

- 1) Certification, valid for a period of two (2) years, shall be issued by the State Board to each designated **trainee** who successfully completes the training program;*
- 2) A maximum of two (2) certified trainers per county are eligible to receive \$100 each, plus mileage reimbursement at the rate established for state employees by state travel regulations;*
- 3) 3) The two (2) certified trainers per county are eligible to receive an additional \$50 each per training session up to a maximum of two (2) sessions each for conducting poll worker training locally before the preferential primary election; and*
- 4) 4) Certified trainers’ compensation will be paid by the State Board to the County Treasurer upon receipt of the reporting form approved and provided by the State Board to the county for that purpose.*

This is an existing rule, and the State Board has not proposed a change in this rule. Therefore, this comment is not germane to the rulemaking proposed by the board and the subject matter of this comment period. However, the use of either the word trainer or trainee would be appropriate here. The SBEC delivers a certificate of completion to trainees (people who complete SBEC’s training for poll worker trainers) who go on to become trainers. The language is clear as to who gets the certificate. If the SBEC prefers to use the word “trainer” here, the board might wish to consider changing the term in future rulemaking.

§ 205: The proposed rule states:

A county clerk or his or her designee shall:

Attend training for poll worker trainers conducted by the State Board of Election Commissioners before the regularly scheduled preferential primary election. Each county clerk or designee 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 after each regular legislative session. Any county clerk or designee who has not served as an election official 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.

County clerks or clerk designees who attend training under this section are eligible to receive mileage reimbursement at the rate established for state employees by state travel regulations and are not eligible to receive any additional compensation; and

Any reimbursement will be paid by the State Board to the County Treasurer upon receipt of the reporting form approved and provided by the State Board to the county for that purpose.

No change is necessary in § 205 for the reasons stated in response to the comment above regarding the scope of the rule. Note that changes were made regarding the language in the scope provision.

RULE CHANGES AS A RESULT OF PUBLIC COMMENTS

Scope of Rules: The scope is amended to read “*These rules will set forth the methods for coordinating training on early voting and election day procedures for poll workers and county clerks 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.*”

§ 205: Typographical changes were made to strike the “;” and the word “and” after the second paragraph of §205.