

SECRETARY OF STATE
(Amendment)

30 KAR 2:010. Certification of vacancy in nominations

RELATES TO: KRS 118.105

STATUTORY AUTHORITY: KRS 118.105

NECESSITY, FUNCTION, AND CONFORMITY: KRS 14.025(2) requires the Department of State to be responsible for elections. KRS 118.105 authorizes the Secretary of State to certify that a vacancy exists in a nomination because of death, withdrawal, disqualification to hold the office sought, or severe disabling condition which arose after the nomination.

Section 1. Notification of Vacancy.

- (1) The Secretary of State shall be notified of the vacancy in a nomination governed by KRS 118.105.
- (2) The notification shall:
 - (a) Be written;
 - (b) Be dated;
 - (c) State the reason for the vacancy;
 - (d) Contain documentation to substantiate the reason for the vacancy;
 - (e) Be signed by the person making the notification; and
 - (f) Be notarized.
- (3) The notification may be made by:
 - (a) The candidate;
 - (b) The governing authority of a party;
 - (c) A registered voter; or
 - (d) An opposing candidate.
- (4) The notification shall be delivered to the Secretary of State by:
 - (a) Certified mail;
 - (b) Fax;
 - (c) Email; or
 - (d) Any person authorized by the person making the notification.

Section 2. Documentation to Substantiate Reason for Vacancy.

- (1) Documentation to substantiate the reason for a vacancy shall be filed with the notification by the candidate or governing authority of the party as provided by this section. For:
 - (a) Death of a candidate: a certificate of death or other evidence satisfactory to the Secretary of State, such as a:
 1. Certification or written statement from the coroner; or
 2. Certification from a funeral director;
 - (b) Withdrawal of a candidate: the Notice of Candidate Withdrawal form, SBE/SOS/05 (4/21);
 - (c) Disqualification to hold the office sought: evidence of legal disqualification; and
 - (d) Severe disabling condition: medical evidence of the condition.
- (2) Medical evidence of a severe disabling condition shall consist of medical evidence provided by:
 - (a) A licensed and practicing:
 1. Physician;
 2. Osteopath;
 3. Psychologist;
 4. Psychiatrist; or

- (b) Other medical professional qualified to make a determination that the candidate is suffering from a severe disabling condition.
- (3) The documentation filed to substantiate the reason for vacancy may be challenged, in writing, by:
 - (a) The governing authority of an opposing party;
 - (b) An opposing candidate; or
 - (c) A registered voter.
- (4)
 - (a) The Secretary of State shall review all documentation relating to the reason for a vacancy.
 - (b) If the Secretary of State determines that additional documentation is required, he or she shall request a review:
 - 1. Of the medical evidence of a severe disabling condition filed with the notification; or
 - 2. By a medical professional specified in subsection (2) of this section.

Section 3. In accordance with KRS 118.105, the Secretary of State shall not certify that a vacancy exists if he or she determines that the documentation filed to substantiate the reason for the vacancy does not establish that a vacancy exists because of:

- (1) Death;
- (2) Withdrawal;
- (3) Disqualification to hold the office sought; or
- (4) A severe disabling condition which arose after the nomination.

MICHAEL G. ADAMS, Secretary of State

APPROVED BY AGENCY: December 1, 2021

FILED WITH LRC: December 2, 2021 at 12:58 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 25, 2022, at 10:00 a.m. EST, at Office of the Secretary of State. Individuals interested in being heard at this hearing shall notify this agency in writing by five 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 February 28, 2022. 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: Jennifer Scutchfield, 700 Capital Avenue, State Capitol, Suite 152, Frankfort, Kentucky 40601, phone (502) 782-7417, fax (502) 564-5687, email jscutchfield@ky.gov.