

FINANCE AND ADMINISTRATION CABINET

Executive Branch Ethics Commission

(New Administrative Regulation)

9 KAR 1:070. Standards of Ethical Conduct for Transition Team Members and Disclosure Form.

RELATES TO: KRS 11A.010, 11A.047

STATUTORY AUTHORITY: KRS 11A.047

NECESSITY, FUNCTION, AND CONFORMITY: KRS 11A.110(3) and (4) require the Executive Branch Ethics Commission to promulgate administrative regulations to implement KRS Chapter 11A and to prescribe forms for statements required by this chapter. KRS 11A.047(3), (4), and (7) require the commission to establish standards of ethical conduct for transition team members, prescribe a form for the newly elected official to designate transition team leaders, prescribe a form for the transition team leaders to list the members of the transition team, and prescribe a disclosure form for the transition team members to submit to the commission. This administrative regulation establishes the standards of ethical conduct for transition team members, prescribes the three forms, and incorporates them by reference.

Section 1. Definitions.

- (1) "Agency" is defined by KRS 11A.047(1)(a).
- (2) "Commission" means the Executive Branch Ethics Commission as established by KRS 11A.060.
- (3) "Engage" is defined by KRS 6.611(13) and 11A.201(4).
- (4) "Executive agency decision" is defined by KRS 11A.201(8).
- (5) "Executive agency lobbying activity" is defined by KRS 11A.201(10).
- (6) "Financial Impact" means to have an effect on the financial position of a person or business whether or not the impact is positive or negative.
- (7) "Gifts" is defined by KRS 11A.010(5).
- (8) "Legislative matter" is defined by KRS 6.611(25).
- (9) "Lobby" is defined by KRS 6.611(27).
- (10) "Newly elected official" means a person elected to an office listed in KRS 11A.010(9)(a) to (g) who has not yet been sworn into office.
- (11) "Non-public information" is defined by KRS 11A.047(1)(b).
- (12) "Regular election" is defined by KRS 446.010(37).
- (13) "Transition team" is defined by KRS 11A.047(1)(c).
- (14) "Transition team lead" means a person designated by the newly elected official to manage the transition team on behalf of the newly elected official.
- (15) "Transition team member" is defined by KRS 11A.047(1)(d).
- (16) "Transition team end date" is the date of inauguration for the newly elected gubernatorial official or the swearing-in date for all other newly elected officials.

Section 2. Newly Elected Official Disclosure of Transition Team Lead.

- (1) The commission shall notify the newly elected official of all disclosure requirements within five (5) business days of the date of the regular election.
- (2) If the newly elected official decides to create a transition team as provided in KRS 11A.047(2), then the newly elected official shall file with the commission a Transition Team Lead Designation form EBEC-301, as required by KRS 11A.047(4), within ten (10) business days of the date of the regular election.
- (3) The newly elected official shall ensure that the Transition Team Lead Designation form EBEC-301 that is filed with the commission is current and notifies the commission by filing an amended Transition Team Lead Designation form EBEC-301 within five (5)

business days of any additions to or departures from the transition team leadership until the transition team end date.

Section 3. Transition Team Member Lists.

- (1) The commission shall notify each transition team lead of all disclosure requirements within fourteen (14) business day of the date of the regular election.
- (2) The transition team lead shall file with the commission a Transition Team Members List form EBEC-302, as required by KRS 11A.047(4), within twenty (20) business days of the date of the regular election.
- (3) The transition team lead shall ensure that the Transition Team Members List form EBEC-302 that is filed with the commission is current and shall notify the commission by filing an amended Transition Team Members List form EBEC-302 within five (5) days of any additions to or departures from the transition team until the transition team end date.

Section 4. Transition Team Member Disclosure.

- (1) Prior to beginning service on a transition team, every transition team member shall file with the commission, as required by KRS 11A.047(7), a Transition Team Disclosure Statement form EBEC-303.
- (2) The transition team member shall update the Transition Team Disclosure Statement form EBEC-303 filed with the commission within five (5) business days of any employment, business interest, or transition team assignment changes that would have a material effect on their originally filed Disclosure Statement form EBEC-303 until the transition team end date.
- (3) The transition team member shall update the Transition Team Disclosure Statement form EBEC-303 filed with the commission within five (5) business days of the acceptance of any gifts over \$25 or acceptance of future employment as required by KRS 11A.047(7)(f) until the transition team end date.
- (4) The transition team member shall update the Transition Team Disclosure Statement form EBEC-303 filed with the commission within five (5) business days of any new recusals required pursuant to KRS 11A.047(7)(h) until the transition team end date.
- (5) The commission shall notify any transition team member who fails to file the Transition Team Disclosure Statement form EBEC-303 within ten (10) business days after beginning their initial service.
- (6) If within ten (10) business days of receiving notice from the commission, the transition team member has failed to file the required Transition Team Disclosure Statement form EBEC-303, the Commission will send notice to the newly elected official and transition team leads that the transition team member should be removed from the transition team and discontinue all activities on behalf of the transition team until the form is filed.

Section 5. Standards of Ethical Conduct for Transition Teams.

- (1) All transition team members shall:
 - (a) Comply with KRS 11A.047(5) and (6);
 - (b) Document in writing all state agencies where they may be granted access to nonpublic information obtained for purposes of the transition process;
 - (c) Recuse from any assignment with which they have a financial interest as defined by KRS 11A.047(6)(a) through (g); and
 - (d) Ensure that their disclosures which are on file with the Commission are accurate and current until the transition team end date.
- (2) Recusals must be documented on the Transition Team Disclosure Statement form EBEC-303 filed with the commission prior to beginning service on the transition team.
- (3) Recusals that arise after beginning service on the transition team must be documented by filing an updated Transition Team Disclosure Statement form EBEC-303 with the

Commission until the transition team end date.

Section 6. Current and Former Registered Lobbyists. All transition team members who are registered lobbyists under KRS 6.801 to 6.829 and KRS 11A.201 to 11A.246 or are former lobbyists who were registered under KRS 6.801 to 6.829 and KRS 11A.201 to 11A.246 during the twelve (12) month period prior to becoming a transition team member shall:

- (1) Disclose his or her current or previous registration as a lobbyist during the twelve (12) months prior to becoming a transition team member on the Transition Team Member Disclosure Statement form EBEC-303 filed with the commission;
- (2) Recuse from involvement in a decision-making capacity on the transition team from any executive branch decision or legislative matter that would have a financial impact on his or her executive agency lobbying activities or legislative lobbying engaged in during the previous twelve (12) months;
- (3) Not use or reveal any nonpublic information he or she receives in his or her tenure as a transition team member in any current or future executive agency lobbying activity or legislative lobbying; and
- (4) Not receive nonpublic information regarding matters that financially impact his or her clients for whom he or she was engaged to lobby.

Section 7. Submission. The forms required by this administrative regulation, which are filed with the commission, shall be submitted as follows:

- (1) By hard copy via hand-delivery or U.S. Mail to the Commission's address;
- (2) Electronically by facsimile to (502) 696-5091; or
- (3) Electronically by electronic mail to ethicsfiler@ky.gov.

Section 8. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "Transition Team Lead Designation" EBEC-301 (Rev. 01/2022);
 - (b) "Transition Team Members List" EBEC-302 (Rev. 01/2022); and
 - (c) "Transition Team Disclosure Statement" EBEC-303 (Rev. 01/2022).
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Executive Branch Ethics Commission, 1025 Capital Center Drive, Suite 104, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The material incorporated by reference is also available on the commission's website at <https://ethics.ky.gov/Pages/default.aspx>.

JUDGE ROGER L. CRITTENDEN (RET.), CHAIRMAN

APPROVED BY AGENCY: January 19, 2022

FILED WITH LRC: February 9, 2022 at 1 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 21, 2022, at 1:00 p.m., via Video Teleconference platform Zoom <https://us02web.zoom.us/j/89517732224?pwd=cXl6UGVmSi9halNhWDRMM29adEUwUT09> Meeting ID: 895 1773 2224, Passcode: Open, by phone at +1 929 205 6099 US (New York), Meeting ID: 895 1773 2224, Passcode: 018719, and at the primary physical location of Shared Boardroom, Capital Complex East, 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky 40601. 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. A transcript of 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 through April 30, 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: Steven T. Pulliam, General Counsel, Executive Branch Ethics Commission, 1025 Capital Center Drive, Suite 104, Frankfort, Kentucky 40601, phone (502) 564-7954, fax (502) 695-5939, email EthicsFiler@ky.gov.