

FINANCE AND ADMINISTRATION CABINET
Commonwealth Office of Technology
(New Administrative Regulation)

200 KAR 1:016. Data breach notification forms.

RELATES TO: KRS 61.932, 61.933

STATUTORY AUTHORITY: KRS 42.726(2)(b), 61.932(2)(b)2., 61.933

NECESSITY, FUNCTION, AND CONFORMITY: KRS 42.726(2)(b) authorizes the Finance and Administration Cabinet, Commonwealth Office of Technology ("COT") to promulgate administrative regulations relating to COT's duties. KRS 61.933 specifically authorizes COT to promulgate administrative regulations prescribing the notification form to be used by state agencies and nonaffiliated third parties when they suspect or have determined that a breach of personal information has occurred with respect to personal information that the state agency or nonaffiliated third party maintains or otherwise possesses on behalf of another agency. KRS 61.932(2)(b)2. specifically authorizes COT to promulgate administrative regulations prescribing the form to be used if a law enforcement agency has requested a delay in notification of a security breach to allow for investigation of the breach.

Section 1. Administrative – Required Forms.

(1) Finance Form FAC-001, Suspected and Determined Breach Notification Form, or a form substantially similar thereto, shall be completed by a state agency or nonaffiliated third party to provide written notification of a suspected or determined security breach of personal information collected, maintained, or stored by the agency or nonaffiliated third party.

(2) Finance Form FAC-002, Delay Notification Record, or a form substantially similar thereto, shall be completed by a state agency or nonaffiliated third party if the notification of a suspected or determined breach of personal information collected, maintained, or stored by the agency or nonaffiliated third party has been delayed pursuant to a request from a law enforcement agency or with the approval of the Office of the Attorney General.

Section 2. Incorporation by Reference.

(1) The following materials are incorporated by reference:

(a) Finance Form FAC-001, Suspected and Determined Breach Notification Form, Effective Date June 15, 2022; and

(b) Finance Form FAC-002, Delay Notification Record, Effective Date June 15, 2022.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Commonwealth Office of Technology, 101 Cold Harbor Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5 p.m., and on the Finance and Administration Cabinet's Web site, <https://finance.ky.gov/office-of-the-secretary/Pages/finance-forms.aspx>.

RUTH DAY, Chief Information Officer

HOLLY M. JOHNSON, Secretary

APPROVED BY AGENCY: June 20, 2022

FILED WITH LRC: June 15, 2022 at noon

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 23, 2022, at 10 a.m. Eastern Time, in Room C-117, Kentucky Transportation Cabinet Building, 200 Mero Street, Frankfort, Kentucky 40622. Individuals interested in being heard at this hearing shall notify this

agency in writing at least five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by the required date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public 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 August 31, 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: Robin Goodlett, Administrative Specialist III, Office of General Counsel, Finance and Administration Cabinet, 200 Mero Street, 5th Floor, Frankfort, Kentucky 40622, phone (502) 564-6660, fax (502) 564-9875, email RobinM.Goodlett@ky.gov.