

GENERAL GOVERNMENT CABINET
Kentucky Registry of Election Finance
(Amendment)

32 KAR 1:030. Campaign finance statements. ~~{Election finance statement forms; campaign contributions or expenditures in excess of \$3,000.}~~

RELATES TO: KRS 121.180

STATUTORY AUTHORITY: KRS 121.120(1)(g), (4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 121.120(1)(g) authorizes the Registry to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 121. KRS 121.120(4) requires the Registry to promulgate administrative regulations and prescribe forms for the making of reports under KRS Chapter 121. KRS 121.015(18) defines "form" to mean an "an online Web page of an electronic document designed to capture, validate, and submit data for processing to the registry." This administrative regulation specifies the Web page from which~~{forms to be used by}~~ candidates, slates of candidates, contributing organizations, and committees shall file campaign finance reports required by KRS 121.180. It also specifies how an executive committee of a political party determines whether it files annually or semiannually under KRS 121.180(2)(c)~~{committees, and incorporates those forms by reference}~~.

Section 1. All ~~{The following}~~ candidates, slates of candidates, contributing organizations, and committees shall file the reports required by KRS 121.180 using the Kentucky Election Finance Management System found on the Registry's Web site at <https://kref.ky.gov>.~~{on the forms incorporated by reference in this administrative regulation.}~~

~~{(1)} {Candidate campaign funds, gubernatorial slate campaign funds, political issues committees, and candidate authorized campaign committees who register an intent to raise or spend more than \$3,000 or actually receive contributions or make expenditures in excess of \$3,000; and}~~

~~{(2)} {All permanent committees, caucus campaign committees, inaugural committees, contributing organizations, unauthorized campaign committees, and political party executive committees regardless of the amount of contributions or expenditures.}~~

Section 2. If an executive committee of a political party has ten thousand dollars (\$10,000) or more in its campaign account fund at any time during the twelve-month period before July 1, it shall make the campaign finance reports required by KRS 121.180(2)(c) semiannually. In making this determination, the committee shall include any funds received from income tax checkoff contributions in accordance with KRS 141.071(2), whether or not those funds are kept in an account separate from other campaign funds. A committee that does not have more than ten thousand dollars (\$10,000) in the twelve-month period before July 1 shall use the Kentucky Election Finance Management System found on the Registry's Web site at <https://kref.ky.gov> to certify to the registry that it is not required to file a campaign finance report by July 31. ~~{Incorporation by Reference.}~~

~~{(1)} {The following material is incorporated by reference:}~~

~~{(a)} {"Candidate/Slate of Candidates Election Finance Statement", reference KREF 006, revised 08/2018;}~~

~~{(b)} {"Executive Committee/ Caucus Campaign Committee Election Finance Statement", reference KREF 006/EC, revised 08/2018;}~~

~~{(c)} {"Unauthorized Campaign Committee/ Political Issues Committee Election Finance Statement", reference KREF 006/UCC IC, revised 08/2018;}~~

~~{(d)} {"Inaugural Committee Election Finance Statement", reference KREF 006/I, revised 08/2018; and}~~

~~[(c)] ["Permanent Committee (PAC)/ Contributing Organization Election Finance Statement", reference KREF-006/PAC-CO, revised 08/2018.]~~

~~[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the office of the Kentucky Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

JOHN R. STEFFEN, Executive Director

APPROVED BY AGENCY: June 14, 2023

FILED WITH LRC: June 15, 2023 at 9:10 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 21, 2023, at 10:00AM, at the Kentucky Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the 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 through August 31, 2023, at 11:59 PM. 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: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 573-2226, fax (502) 573-5622, email LeslieM.Saunders@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Leslie Saunders

(1) Provide a brief summary of:

(a) What this administrative regulation does:

KRS 121.180 requires candidates, slates of candidates, contributing organizations, and committees to make reports of contributions and expenditures on prescribed reporting schedules. This administrative regulation tells candidates how to provide the Registry with that information. Also, 2023 HB 302 allowed certain executive committees of political parties with less than \$10,000 in their campaign fund accounts to report annually instead of semi-annually. This administrative regulation gives a date by which those committees determine whether they meet the requirements for annual reporting

(b) The necessity of this administrative regulation:

This administrative regulation is necessary because, while the statutes cited above describe candidate's filing obligations or options, they do not detail the mechanism by which the entities should provide that information. Both mention only note that the candidates use a form provided by the Registry. Further, the amendment to KRS 121.180(2)(c) did not provide a date by which executive committees of political parties determine whether they have reached the \$10,000 threshold. This administrative regulation states that the committee determine whether it had \$10,000 in its campaign fund account at any time before the first semiannual is due and that it includes both general campaign account funds and income tax checkoff funds.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

As noted above, the Registry is given the authority by statute to provide forms for the various filings that KRS Chapter 121 requires of candidates, slates of candidates, contributing organizations, and committees. Further, the General Assembly amended KRS 121.015 last year to make the definition of "form" mean "an online Web page or an electronic document designed to capture, validate, and submit data for processing to the registry, unless the context otherwise prescribes."

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

It gives the location of the Web page candidates, slates of candidates, contributing organizations, and committees use to file campaign finance reports.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

The original administrative regulation listed and incorporated by reference paper forms to provide the required information to the Registry. This amendment removes the mention of paper forms, which the Registry no longer uses, and replaces them with the Web page of the Kentucky Electronic Finance Management System, an electronic filing system that is required under KRS 121.120(6)(h).

(b) The necessity of the amendment to this administrative regulation:

As noted above, the paper forms are no longer in use and, therefore, the administrative regulation as currently written is incorrect.

(c) How the amendment conforms to the content of the authorizing statutes:

The amendment brings the administrative regulation into conformity with the electronic filing requirements in KRS 121.120(6)(i). Candidates, slates of candidates, contributing organizations, and committees have been required to file electronically since 2020 by KRS 121.120 and this amendment catches the administrative regulation up to both what is happening in reality and what the statute now requires.

(d) How the amendment will assist in the effective administration of the statutes:

Without this amendment, candidates, slates of candidates, contributing organizations, and committees have a duty to file campaign finance statements, but no mechanism by which to do so. Also, the amendment reflects a change in the law from the 2023 General Assembly, clarifying how and when to determine if an executive committee of a political party has more than \$10,000 in its campaign account. Without setting parameters for making that determination it is unclear how the affected committees would know if the possibility of a reduced filing schedule would apply to them.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

All candidates, slates of candidates, contributing organizations, and committees as defined in KRS 121.015 in Kentucky are affected.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Instead of filing the paper Statement of Spending Intent and Appointment of Campaign Treasurer form (KREF 001), the regulated entities will create a secured account through the Kentucky Electronic Management System and will use that system to provide the information formerly on the KREF 006.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

The entities will incur no costs in complying.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

Compliance will provide the regulated population with efficient access to the administrative body's statutorily mandated electronic filing system.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

There will be no initial cost to the administrative body to implement this administrative regulation.

(b) On a continuing basis:

There will be no cost on a continuous basis to the administrative body to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

While no additional funding will be required for the implementation and enforcement of this administrative regulation, the administrative body operates solely on General

Funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

It will not be necessary to increase fees or funding to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

No.

(9) TIERING: Is tiering applied?

This administrative regulation itself does not apply tiering as the reporting requirements are the same for all entities, subject to the statutory differences in the reporting schedule. By statute, candidates, slates of candidates, and political issues committees that expect to raise or spend under certain statutory thresholds report less frequently, but their registration requirements, the subject with which this administrative regulation is concerned, remain the same.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

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(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 121.015, KRS 121.120, and KRS 121.180

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

This administrative regulation will not generate revenue for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This administrative regulation will not generate revenue for subsequent years.

(c) How much will it cost to administer this program for the first year?

This program will not cost any additional amount to administer for the first year.

(d) How much will it cost to administer this program for subsequent years?

This program will not cost any additional amount to administer for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

This administrative regulation will not generate any cost savings for the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

This administrative regulation will not generate any cost savings for subsequent years.

(c) How much will it cost the regulated entities for the first year?

This administrative regulation will not cost the regulated entities anything for the first year.

(d) How much will it cost the regulated entities for subsequent years?

This administrative regulation will not cost the regulated entities anything for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]. This administrative regulation will not have a major economic impact.