

**GENERAL GOVERNMENT CABINET**  
**Kentucky Registry of Election Finance**  
**(Amendment)**

**32 KAR 2:030. Complaints; internally-generated matters.**

RELATES TO: KRS 121.140

STATUTORY AUTHORITY: KRS 121.120(1)(g)

NECESSITY, FUNCTION, AND CONFORMITY: The purpose of this administrative regulation is to establish the procedure to be followed by the Registry of Election Finance in processing complaints of alleged violations of campaign finance law.~~[Law or administrative regulations promulgated by the registry. This administrative regulation also repeals 32 KAR 2:010, Processing complaints; hearings because the provisions of that administrative regulation do not comply with the registry's current statutory authority.]~~

Section 1. Filing Requirements for Complaints.

(1) A person who believes that a violation of campaign finance law~~[any campaign finance statute or administrative regulation]~~ may have occurred or is about to occur may file a complaint in writing with the general counsel, Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky 40601.

(2) A complaint alleging a violation shall be filed within a year from the time the violation has occurred.~~[time prescribed by KRS 500.050.]~~ If the alleged practice is of a continuing nature, the date of the occurrence of the practice shall be deemed to be any date subsequent to the commencement of the practice until~~[up to and including]~~ the date on which the practice has ceased, or the date on which the complaint is filed. The registry may refer a complaint to the Office of the Attorney General for potential criminal prosecution at any time.

(3) A complaint filed with the general counsel shall comply with the following requirements:

(a) The complaint shall provide the full name and address of the complainant.

(b) The contents of the complaint shall be sworn to and signed in the presence of a notary public and shall be duly notarized.

(c) The complaint shall state that statements contained within it are based upon the complainant's personal knowledge and are ~~[Statements contained in the complaint shall be]~~ made under penalty of perjury. ~~[The complaint shall differentiate between statements based upon personal knowledge and statements based upon information and belief.]~~

(d) The complaint shall clearly identify as a respondent each person or entity who is alleged to have committed a violation or is about to commit a violation.

~~[(e)] [Statements which are not based upon personal knowledge shall be accompanied by an identification of the source of information which gives rise to the complainant's belief in the truth of the statements contained in the complaint.]~~

(e) ~~[(f)]~~ The complaint shall contain a clear and concise recitation of the facts which support the allegation of a violation of ~~[a]~~ campaign finance law.~~[statute or administrative regulation.]~~

(f) ~~[(g)]~~ The complaint shall be accompanied by documentation supporting the allegations if the documentation is known by and available to the complainant.

Section 2. Initial Complaint Processing; Notification.

(1) Upon receipt of a complaint, the general counsel shall review the complaint for substantial compliance with the technical requirements of Section 1 of this administrative regulation. If the complaint complies with those requirements, the general counsel shall, within five (5) days after receipt of the complaint, notify each respondent that the

complaint has been filed, advise them of registry procedures, and enclose a copy of the complaint and supporting documentation.

(2) If a complaint fails to comply with the requirements of Section 1 of this administrative regulation, the general counsel shall notify the complainant and person or entity identified as respondents, within the five (5) day period specified in subsection (1) of this section, that no action shall be taken on the basis of that complaint. A copy of the complaint shall be enclosed with the notification to each respondent. The notification shall include an explanation of the reasons the complaint fails to comply.

### Section 3. Responses. ~~[Opportunity to Demonstrate that no Action Should be Taken on Complaint-Generated Matters.]~~

(1) Within fifteen (15) days of receiving a copy of the complaint, a respondent or respondent's counsel may file:

(a) A written response to the complaint, signed by the respondent or the respondent's counsel; and

(b) An entry of appearance as described in 32 KAR 2:020(4)(1), if the respondent has retained counsel.

(2) The registry shall take no action nor make any finding against a respondent other than action dismissing the complaint unless it has considered the response or unless no response has been served upon the registry within the fifteen (15) day period prescribed in subsection (1) of this section.

~~[(1)] [A respondent shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting, within fifteen (15) days from receipt of a copy of the complaint, a letter or memorandum setting forth reasons why the registry should take no action.]~~

~~[(2)] [The registry shall not take any action, or make any finding against a respondent other than action dismissing the complaint, unless it has considered the respondent's letter or memorandum or unless no response has been served upon the registry within the fifteen (15) day period prescribed in subsection (1) of this section.]~~

### Section 4. Reason to Believe Finding.

(1) Following either the expiration of the fifteen (15) day period prescribed by Section 3 of this administrative regulation, or receipt of a response from the respondent, whichever occurs first, the general counsel shall determine whether there is reason to believe that a respondent may have violated or is about to violate a campaign statute or administrative regulation.

(2) If the general counsel determines that there is reason to believe that a violation may have occurred or is about to occur, an investigation shall commence as provided in Section 2 of 32 KAR 2:040.

(3) If the general counsel determines that there is no reason to believe that a violation may have occurred or is about to occur, he or she shall recommend to the registry that the complaint be dismissed. The registry shall determine whether to accept or reject the general counsel's recommendation.

### Section 5. Referrals.

(1) On the basis of information ascertained by the registry in the normal course of performing its enforcement duties, or on the basis of referral from an agency of the United States or of any state, the general counsel may find reason to believe that a person or entity may have committed or is about to commit a violation of campaign finance law~~[statutes or administrative regulations,]~~ and an investigation shall commence as provided in Section 2 of 32 KAR 2:040.

(2) If the general counsel finds reason to believe that a violation may have occurred or is about to occur, the notification to the respondent required by Section 2 of this

administrative regulation shall include a copy of a staff report setting forth the legal basis for and the alleged facts which support the general counsel's finding.

(3) No later than four (4) days preceding each primary and general election, the registry shall publish the names of all candidates appearing on the ballot who have failed to timely file any report required by KRS 121.180(3)(a) for any reporting period since the date of the last election.

Section 6. Reopening of Proceedings. After a hearing and the issuance of a final order as provided in KRS 121.140~~[Acts 1992, Chapter 288, Section 46,]~~ the registry may, upon its own motion or upon application of any party or intervening party, for good cause shown, or whenever justice so requires, reopen any closed proceeding upon notice to all parties and intervenors, and may take the action it deems necessary.

Section 7. Certification. The chairman or the executive director may certify all documents or records which are a part of the files of the registry.

*JOHN. R. STEFFEN, Executive Director*

APPROVED BY AGENCY: July 6, 2023

FILED WITH LRC: July 10, 2023 at 8:30 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on September 25, 2023, at 10:00 a.m., 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 September 30, 2023, at 11:59 p.m. 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](mailto:LeslieM.Saunders@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

**Contact Person: Leslie Saunders, General Counsel**

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:**

This administrative regulation sets the process for filing a complaint with the Registry and for how the registry handles complaints received.

**(b) The necessity of this administrative regulation:**

This administrative regulation is necessary because, while KRS 121.140 contemplates a complaints process, the statute describes no procedures for doing the filing and processing of complaints with any detail.

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

KRS 121.120(1)(g) grants the registry the authority to “promulgate administrative regulations necessary to carry out the provisions of this chapter”

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

It sets procedures for the regular handling of complaints, including providing deadlines for filing and responding to complaints.

**(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:**

This amendment updates the definitional section, removing those not needed and adding a definition that allows the removal of redundant language, amends the statute of limitations section to describe the SOL without reference to an unrelated section of the penal code, simplifies the section concerning the filing of responses, removes gender-specific language, and increases the readability of the administrative regulation where possible.

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

This amendment is necessary in part to help simplify the statute of limitations language which pointed to a statute outside campaign finance law that was hard to apply to the complaint process.

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

KRS 121.140 provides a complaint process in broad strokes, but does not provide any specific guidance. This amendment continues to provide that specificity.

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

This amendment will provide further guidance on how the registry processes and investigates complaints received.

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

Anyone who wishes to file a complaint or is a respondent to a complaint received by the registry is 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:**

Regulated entities will use this regulation file and respond to complaints.

**(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 with the administrative regulation.

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

Compliance will allow for the orderly processing and response to complaints before the registry.

**(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 continuing 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 does not apply tiering because the underlying statutes envision one complaint process that applies in the same way to all complainants and respondents.

## 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?**

The Kentucky Registry of Election Finance

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

KRS 121.120 and KRS 121.140

**(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.