

GENERAL GOVERNMENT CABINET
Kentucky Registry of Election Finance
(Amendment)

32 KAR 2:040. Investigatory procedures.

RELATES TO: KRS 121.140, 121.180

STATUTORY AUTHORITY: KRS 121.120(1)(g)

CERTIFICATION STATEMENT: This certifies that this administrative regulation complies with the requirements of 2025 RS HB 6, Section 8.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 121.120(1)(g) authorizes the Registry of Election Finance to promulgate administrative regulations necessary to carry out KRS Chapter 121. This administrative regulation establishes a procedure for investigations into complaints or internally generated matters and is necessary to ensure a consistent procedure.

Section 1. Investigations.

- (1) An investigation shall be conducted if the general counsel finds reason to believe that a violation of a campaign finance law may have occurred or is about to occur, or at the direction of the registry if the general counsel's recommendation of dismissal is rejected.
- (2) In its investigation, the registry may utilize the provisions of Sections 2 to 5 of this administrative regulation. The investigation may include field investigations, audits, and other methods of information gathering.

Section 2. Written Question Under Oath. The registry may authorize its chairman or general counsel to issue an order requiring any person to submit sworn written answers to written questions and may specify a date by which the answers shall be submitted.

Section 3. Subpoenas; Depositions.

- (1) The registry may authorize its chairman or general counsel to issue subpoenas requiring the attendance and testimony of any person by deposition or at a hearing. The registry may issue subpoenas duces tecum for the production of documentary or other tangible evidence in connection with an investigation, deposition, or a hearing.
- (2) If oral testimony is ordered to be taken by deposition or documents are ordered to be produced, the subpoena shall so state and shall advise the deponent or person subpoenaed that all testimony shall be given under oath. A deposition may be taken before any person having the power to administer oaths.
- (3) The Kentucky Rules of Civil Procedure, Rule 30.05, shall govern the opportunity to review and sign depositions taken pursuant to this section.

Section 4. Service of Subpoenas, Orders, and Notifications.

- (1) Service of a subpoena, order, or notification upon a person named therein shall be made by delivering a copy to that person in the manner prescribed by this section.
- (2) If service is to be made upon a person who has advised the registry of representation by an attorney, the service shall be made upon the attorney by any of the methods specified in subsection (3) of this section and a copy shall be sent to the individual.
- (3)
 - (a) Delivery of subpoenas, orders, and notifications to a natural person may be made by:
 1. Handing a copy to the person;
 2. Leaving a copy at the person's dwelling place or usual place of abode with a person of suitable age and discretion residing therein;
 3. Mailing a copy by registered or certified mail to the person's last known address;or

4. Another method if actual notice is given.
- (b) If the person to be served is not a natural person, delivery of subpoenas, orders, and notifications may be made by:
1. Mailing a copy by registered or certified mail to the person at its place of business;
 2. Handing a copy to a registered agent for service, or to any officer, director, or agent in charge of any office of the person;
 3. Mailing a copy by registered or certified mail to the representative at the representative's last known address; or
 4. Another method by which actual notice is given.

Section 5. Motions to Quash or Modify a Subpoena.

- (1) A person to whom a subpoena is directed may, prior to the time specified therein for compliance, but no later than five (5) days after the date of receipt of the subpoena, move the registry to quash or modify the subpoena, accompanying the motion with a brief statement of the reasons therefore. Motions to quash shall be filed with the general counsel, Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky 40601.
- (2) The registry may deny the motion, quash the subpoena, or modify the subpoena.
- (3) The person subpoenaed and the general counsel may agree to change the date, time, or place of a deposition or the conditions for the production of documents without affecting the force and effect of the subpoena, but any modifications shall be confirmed in writing.

Section 6. Briefing Procedures.

- (1)
 - (a) Upon completion of the investigation, the general counsel shall make a report of the findings of the registry.
 - (b) If the registry determines that the information obtained in the course of the investigation is insufficient to support a finding of probable cause or to provide a basis for dismissal of the action, it may direct the general counsel to prepare a brief setting forth his or her position on the alleged factual and legal issues of the case.
 - (c) The registry may request the respondent to appear to present additional information, or the respondent may request he or she be allowed to present additional evidence.
 - (d) The decision as to whether the respondent may present additional evidence shall be within the determination of the registry.
- (2) The general counsel shall provide a copy of the brief to the respondent who may, within fifteen (15) days of receipt of the general counsel's brief, file a brief with the registry setting forth the respondent's position on the factual and legal issues of the case.

Section 7. Probable Cause Finding; Notification.

- (1) If the registry determines that there is probable cause to believe that a respondent may have or is about to violate campaign finance law, the general counsel shall notify the respondent and complainant by letter.
- (2) If the registry finds no probable cause or otherwise orders a termination of its proceedings, the general counsel shall notify respondent and complainant by letter.

Section 8. Noncompliance with Reporting Requirements; Probable Cause Determination.

- (1) Prima facie evidence that probable cause to believe that a violation has occurred exists and the general counsel and executive director may immediately enter into conciliation negotiations with a respondent if:
 - (a) Any person subject to the provisions of KRS 121.180 fails to comply with any reporting requirement contained in that section; or

(b) Any candidate or slate of candidates does not revoke a request for exemption in a timely manner as described in KRS 121.180(1)(b), making the candidate or slate of candidates subject to the \$500 penalty imposed in KRS 121.180(1)(k)~~[-]~~; or

(c) Any person acting as a candidate or slate of candidates by receiving contributions or making expenditures with a view to bringing about his or her nomination or election to public office, or filing papers to run for public office, or group of persons acting as a political issues committee does not submit their form indicating whether they intend to raise or spend in excess of \$5,000 in the election in a timely manner as described in KRS 121.180(1)(a), making them subject to the penalty imposed in KRS 121.180(1)(a)4.

(2) A candidate or slate of candidates shall be deemed to have not revoked a request for exemption in a timely manner for purposes of subsection (1)(b) of this section if:

(a) The candidate or slate of candidates electronically files an amended Statement of Spending Intent beyond the deadlines established in KRS 121.180; or

(b) The candidate or slate of candidates reports ~~Reports~~ the receipt of contributions or the expenditures of funds in excess of \$5,000~~[\$3,000]~~ once the time to amend the Statement of Spending Intent has passed.

(3) The notice required by KRS 121.140(2) shall be issued when the registry's staff concludes any applicable deadlines related to the filing of required reports,~~or~~ revocation of a request for exemption made under KRS 121.180(1)(b), or submitting a form indicating spending intent as described in KRS 121.180(1)(a), have passed.

(4) A conciliation agreement pertaining to a violation of KRS 121.180 shall not be binding upon either party until it is signed by the respondent, the general counsel, and the executive director, and approved by the registry.

JOHN R. STEFFEN, Executive Director

APPROVED BY AGENCY: May 13, 2026

FILED WITH LRC: May 13, 2026 at 4:23 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2026, at 10:00AM, Eastern Time, 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 cancelled. 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 July 31, 2026, 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, General Counsel, Kentucky Registry of Election Finance, Phone: (502) 573-2226, Email: LeslieM.Saunders@ky.gov

Subject Headings: Election Finance, Elections and Voting

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation sets the process for the Registry of Election Finance's ("Registry") investigatory process once an enforcement matter begins by complaint or through an internal referral, and further provides criteria for the conciliation process.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary because, while KRS 121.140 contemplates a complaints process and addresses some of the investigatory powers the Registry possesses in processing complaints, the statute describes no procedures for doing so with any detail nor does it fully address criteria for conciliation.

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

The Registry is authorized by statute to promulgate regulations to carry out the provisions of KRS Chapter 121. KRS 121.140 provides authority to the Registry to investigate filed complaints, Registry generated matters, and authorizes the Registry to engage in conciliation. This administrative regulation establishes procedures and criteria for the same.

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

This administrative regulation sets procedures and criteria for the regular investigation of complaints and the conciliation process thereby assuring that the statute's mandates will be carried out effectively.

(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 amended administrative regulation allows the Registry, upon notice, to engage in conciliation negotiations and to assess monetary penalties upon respondents who have not timely submitted Registry forms indicating an intent to raise or spend in excess of \$5,000. It also provides that a request for exemption will not be deemed to have been timely revoked if receipt of contributions or expenditures of funds over \$5,000 (previously \$3,000) are reported once the time to amend the Statement of Spending Intent has passed.

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

This amended administrative regulation is necessary as it specifically identifies a third category of respondents with whom the Registry may engage in conciliation negotiations and clarifies associated penalties for violations, putting candidates, slates of candidates, and political issues committees who file a Statement of Spending Intent through a similar process as those who amend a Statement of Intent late. The amendment also assures consistency between KRS 121.180 and the regulation by raising the reporting level for Statements of Intent from \$3,000 to \$5,000, reflecting a statutory change.

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

KRS 121.120(1)(g) authorizes the Registry to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 121. KRS 121.140 provides a broad overview of the complaint process, including a process of the Registry's investigatory powers, however it does not provide specific guidance in all regulated areas. This amended regulation provides additional specificity and assures consistency between the statute and regulation. Further, the amendment reflects a statutory change in applicable exemption amount.

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

This amended administrative regulation will provide further guidance on how the Registry may resolve violations regarding filers who fail to submit required forms or fail to timely file. Further, allowing the parties to engage in conciliation negotiations streamlines the Registry's process and will assist in more efficiently resolving violations.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, 2024 HB 595 (2024 Ky. Acts Ch. 107)

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

The Registry and candidates, slates of candidates, and political issues committees who file a Statement of Spending Intent late will be affected by this amended administrative regulation.

(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment:

Regulated entities will enter into conciliation negotiations with the Registry immediately if mandated forms, including Statements of Spending Intent, are not timely filed.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4):

Regulated entities will incur no costs in complying as the necessary electronic forms are already available through the Registry's web page for entity completion and submittal.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4):

Compliance will streamline the conciliation process for the regulated entities.

(6) 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.

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

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

(8) 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.

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

No fees will be established or increased.

(10) TIERING: Is tiering applied?

This administrative regulation does not apply tiering because these general provisions apply equally to any regulated entity who fails to file a timely Statement of Spending Intent or other mandated forms with the Registry.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation:

KRS 121.120(1)(g), 121.140 and 121.180

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act:

Yes, 2024 HB 595 (2024 Ky. Acts Ch. 107)

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions:

The Kentucky Registry of Election Finance is the promulgating agency. No other state units, parts, or divisions are affected.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year:This administrative regulation will not result in any additional expenditures for the first year.

For subsequent years:This administrative regulation will not result in any additional expenditures for subsequent years.

2. Revenues:

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

For subsequent years:This administrative regulation will not generate revenue for subsequent years.

3. Cost Savings:

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

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

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts):

This amendment will not affect local entities

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year:This administrative regulation will not result in any additional expenditures for the first year.

For subsequent years:This administrative regulation will not result in any additional expenditures for subsequent years.

2. Revenues:

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

For subsequent years:This administrative regulation will not generate revenue for subsequent years.

3. Cost Savings:

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

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

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a):

The amendment will affect only those entities who do not timely submit mandated forms to the Registry.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year:This administrative regulation will not result in any additional expenditures for the first year.

For subsequent years:This administrative regulation will not result in any additional expenditures for subsequent years.

2. Revenues:

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

For subsequent years:This administrative regulation will not generate revenue for subsequent years.

3. Cost Savings:

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

For subsequent years:This administrative regulation will not generate any cost savings for subsequent years. (6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a),and (5)(a):

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation:

There are no fiscal impacts as the amendment only adds a category of potential respondents with whom it may enter into conciliation agreements after appropriate Registry notice is provided. It further increases the amount related to Statements of Spending Intent from \$3,000 to \$5,000 to assure compliance with the statute.

(b) Methodology and resources used to reach this conclusion:

A review of the criteria of the administrative regulation: the only changes do not have any fiscal impacts to any entity including the Registry.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14):

This administrative regulation will not have a major economic impact.

(b) The methodology and resources used to reach this conclusion:

This administrative regulation has no fiscal impact thus no methodology was applied nor resource analysis undertaken to determine that there is not a "major economic impact."