

BOARDS AND COMMISSIONS
BOARD OF OPHTHALMIC DISPENSERS
(Amended at ARRS Committee)

201 KAR 13:065. Complaint Management.

RELATES TO: KRS Chapter 13B, 319A.190, 326.020(5), 326.030, 326.090, 326.100

STATUTORY AUTHORITY: KRS 326.020(3)(a) ~~and (5), 326.030, 326.090, 326.100~~

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 326.020(3)(a)~~Chapter 326~~ authorizes the board to promulgate administrative regulations to carry out the purposes and provisions ~~of~~ KRS 326.010 through 326.990. This administrative regulation establishes the procedures for filing, investigating, and addressing a complaint filed against an ophthalmic dispenser, apprentice ophthalmic dispenser, ~~or and~~ a person or entity who operates an optical establishment contrary to this chapter.

Section 1. Receipt of Complaints.

(1) A complaint:

(a) May be submitted by an:

1. Individual;
2. Organization; or
3. Entity;

(b) Shall be:

1. In writing and provided on the "Complaint Form with Information Sheet and Authorization for Release of Medical and Client Records", DPL-BOD-10~~Complaint Form, DPL-BOD-11~~;
2. Signed by the person submitting the complaint; and
3. Notarized; ~~and~~

(c) May be filed by the board based upon information in its possession.

(2)

(a) Upon receipt of a complaint, a copy of the complaint with the address, phone number, and email address of the complainant redacted shall be sent to the individual named in the complaint along with a request for that individual's response to the complaint.

(b) The individual shall be allowed a period of twenty (20) days from the date of receipt to submit a written response.

(3)

(a) Upon receipt of the written response of the individual named in the complaint, a copy of his or her response shall be sent to the complainant.

(b) The complainant shall have seven (7) days from receipt to submit a written reply to the response.

Section 2. Initial Review.

(1) After the receipt of a complaint and the expiration of the period for the individual's response or reply, the complaints committee shall consider the complaint, the individual's response, the complainant's reply to the response, the preliminary recommendation of the board's attorney, and any other relevant material available to the board. The complaints committee shall determine whether there is enough evidence to warrant a formal investigation of the complaint.

(2) If the complaints committee determines before formal investigation that a complaint is without merit, it shall recommend to the board that the complaint be dismissed and that the complainant and respondent be notified of the board's decision.

(3) If the complaints committee determines that a complaint warrants a formal investigation, it shall recommend that the board authorize an investigation into the matter and for a report to be made to the complaints committee at the earliest opportunity.

Section 3. Results of Formal Investigation; Board Decision on Hearing.

(1) Upon completion of the formal investigation, the investigator shall submit a report to the complaint screening committee of the facts regarding the complaint. The committee shall review the investigative report and make a recommendation to the board. The board shall determine whether there has been a prima facie violation of KRS 326.010 to 326.990 or the administrative regulations promulgated thereunder, and further whether a formal complaint ~~shall/shoudl~~ be issued.

(2) If the board determines that a complaint does not warrant issuance of a formal complaint, it shall:

(a) Dismiss the complaint or take action pursuant to KRS 326.090; and

(b) Notify the complainant and respondent of the board's decision.

(3) If the board determines that a complaint warrants the issuance of a formal complaint against a respondent, the complaint screening committee shall prepare a formal complaint, which states clearly the charge or charges to be considered at the hearing. The formal complaint shall be reviewed by the board and, if approved, signed by the chair and served upon the individual as required by KRS Chapter 13B. The hearing shall be held in accordance with KRS Chapter 13B.

(4) If the board determines that a person, or an optical establishment as identified in KRS 326.030 and 201 KAR 13:080, may be in violation, it shall:

(a) Order the individual or the optical establishment, to cease and desist from further violations of KRS 326.030;

(b) Forward information to the county attorney of the county of residence of the person allegedly violating KRS 326.030 with a request that appropriate action be taken under KRS 326.990; or

(c) Initiate action in Franklin Circuit Court for injunctive relief to stop the violation of KRS 326.030.

Section 4. Settlement by Informal Proceedings; Letter of Admonishment.

(1) The board, through counsel and the complaints committee, may, at any time during this process, enter into informal proceedings with the individual who is the subject of the complaint for the purpose of appropriately dispensing with the matter. Any agreed order or settlement reached through this process shall be approved by the board and signed by the individual who is the subject of the complaint and the chair of the board or another member authorized by the board. The board may employ mediation as a method of resolving the matter informally.

(2)

(a) The board may, at any time during this process, issue a letter of admonishment to the individual who is named in the complaint as a means of resolving the complaint. The action may be taken if the board determines that this is an appropriate method of dispensing with the complaint. Such letter of admonishment shall be sent to the individual with a copy placed in the individual's permanent file.

(b) Within thirty (30) days of the date of the letter, the individual shall have the right to file a written response to the letter and have it attached to the letter of admonishment and placed in the permanent file.

(c) The individual shall also, within thirty (30) days of the date of the letter, have the right to appeal the letter of admonishment and be granted a full hearing on the complaint. If this appeal is requested, the board shall immediately file a formal complaint in regard to the matter and set a date for a hearing.

Section 5. Notice and Service of Process.

- (1) Any notice required by the Act or this administrative regulation shall be in writing, dated and signed by the chair or another member authorized by the board.
- (2) Service of notice and other process shall be made by hand-delivery or delivery by certified mail, return receipt requested, to the individual's last known address of which the board has record or, if known, by such service on the named individual's attorney of record, if appropriate. Refusal of service if by certified mail, ~~or~~ or avoidance of service if hand-delivered, shall not prevent the board from pursuing proceedings as may be appropriate.
- (3) ~~If~~ ~~When~~ notice of the initial date for the administrative hearing is given by either the board or the hearing officer, the notice shall be sent to the appropriate person at least twenty (20) days prior to the date of the hearing.

Section 6. Publication. The board shall make public:

- (1) Its final order in a disciplinary action under KRS 319A.190 except for a written admonishment issued; and
- (2) An action to restrain or enjoin a violation for the unauthorized practice of ophthalmic dispensing.

Section 7. Incorporation by Reference.

- (1) "Complaint Form with Information Sheet and Authorization for Release of Medical and Client Records", DPL-BOD-10, December 2025, is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Ophthalmic Dispensers, 500 Mero St, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:00 p.m. This material is also available on the board's website at www.bod.ky.gov.

FILED WITH LRC: June 9, 2026

CONTACT PERSON: Sara Boswell Janes, Title: Staff Attorney III, Agency: Department of Professional Licensing, Office of Legal Services, Address: 500 Mero Street, 2 NC WK#2, Phone Number: (502) 782-2709 (office), Fax: (502) 564-4818, Email: Sara.Janes@ky.gov Link to PPC public comment portal: https://ppc.ky.gov/reg_comment.aspx