

GENERAL GOVERNMENT CABINET
Kentucky Registry of Election Finance
(New Administrative Regulation)

32 KAR 2:240. Administrative hearing procedures.

RELATES TO: KRS 121.140(5)

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: To determine whether there has been a violation of KRS Chapter 121, KRS 121.140(5) authorizes the Registry of Election Finance to initiate an administrative hearing pursuant to KRS Chapter 13B after an alleged violator declines to accept a conciliation agreement or fails to respond within the time allowed. KRS 121.140(5) exempts the registry from KRS 13B.030(2)(b). KRS 121.120(1)(g) requires the registry to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 121. This administrative regulation establishes procedures to govern administrative hearings before the registry.

Section 1. Definitions.

- (1) "Executive director" means the executive director appointed by the registry pursuant to KRS 121.120.
- (2) "Initiating order" means the document issued by the registry to initiate an administrative proceeding to determine whether there has been a violation as provided by KRS 121.140(5).

Section 2. Initiating Order.

- (1) If the registry and the respondent fail to reach a conciliation agreement, the registry shall initiate an administrative proceeding by issuing an initiating order to the alleged violator, who shall be referred to as the respondent during the course of the administrative proceeding.
- (2) The initiating order shall:
 - (a) Be served on the respondent by certified mail, return receipt requested, or registered mail sent to the last known address of the respondent, or by personal service. Service by certified or registered mail shall be complete upon the date on which the registry receives the return receipt or the returned notice;
 - (b) Include a statement that conciliation negotiations have been extended for the maximum period allowed by 32 KAR 2:050 and that the conciliation negotiations were unsuccessful;
 - (c) Include a statement of the allegations contained in the original complaint or notice of noncompliance;
 - (d) Include the registry's findings of fact and conclusions of law in support of a finding of probable cause, or its notice of noncompliance with reporting requirements pursuant to 32 KAR 2:040, Section 8;
 - (e) Include all other information required by KRS 13B.050(3), except for the information required in KRS 13B.050(3)(a) and (b);
 - (f) State that all material submitted to the registry by the respondent or the respondent's attorney shall be addressed to the registry;
 - (g) State the deadline for submitting an answer and the ramifications of failing to file an answer as provided in Section 4 of this administrative regulation; and
 - (h) State that the procedural schedule will be set by a subsequent order after the designation of a hearing officer.

Section 3. Answer.

- (1) The respondent shall file a written answer to the initiating order with the registry within twenty (20) days of service of the initiating order.
- (2) The answer shall be filed by the:
 - (a) Respondent, if no counsel has been retained; or
 - (b) Respondent's attorney, if counsel has been retained.
- (3) The answer shall be signed by the respondent or by counsel for respondent.
- (4) The executive director may grant reasonable extensions of time to file an answer at the respondent's request.

Section 4. Default. If the respondent fails to file a timely answer, the registry may:

- (1) Accept the failure to answer as an admission of the allegations in the initiating order;
- (2) Find that the respondent has engaged in the alleged conduct in violation of KRS Chapter 121;
- (3) Enter a final order of default against the respondent; and
- (4) Levy the appropriate possible penalty allowed under KRS 121.140(5).

Section 5. Counsel.

- (1) If a respondent has retained counsel, the attorney shall file an entry of appearance with the registry.
- (2) If a respondent has retained counsel, notices, correspondence, and orders relating to the administrative proceeding shall thereafter be transmitted to the attorney instead of the respondent.

Section 6. Assignment of a Hearing Officer.

- (1) If the respondent files a timely answer, then the registry shall designate a hearing officer.
- (2) The registry shall designate a roster of hearing officers as provided by KRS 13B.030(2)(a) and as dictated by KRS Chapter 45A.
- (3) A person qualified to serve as a hearing officer for the registry shall:
 - (a) Maintain the qualifications required by KRS 13B.040;
 - (b) Be an attorney in good standing with the Kentucky Bar Association or otherwise have approval by the Kentucky Bar Association to practice law in the Commonwealth of Kentucky;
 - (c) Comply with the provisions of 32 KAR 2:080; and
 - (d) Not be a current member of the registry board or staff.
- (4) Once the roster of hearing officers is established, the executive director shall randomly assign administrative proceedings initiated by the registry pursuant to KRS 121.140(5) to a hearing officer from the roster of hearing officers.

Section 7. Hearing Officer.

- (1) After the hearing officer is designated by the registry, the hearing officer shall within ten (10) days of the designation send notice to the parties of the date and time of the first telephonic prehearing conference.
- (2) The hearing officer shall follow the requirements of KRS Chapter 13B for the conduct of administrative hearings.
- (3) All hearings shall be held in person at a location designated by the registry.

Section 8. Settlement.

- (1) At any time during the proceedings, the registry's counsel may enter into informal settlement procedures pursuant to KRS 13B.070 with the respondent.
- (2) An agreed order or settlement reached through this process shall be reviewed by the registry and, upon approval by the registry, shall be signed by the registry chairman and the respondent.

- (3) The registry shall not approve a settlement that provides for the confidentiality of:
 - (a) The existence of the settlement; or
 - (b) Any of the terms of the settlement.

Section 9. Ex Parte Communications. Once an administrative proceeding has commenced, the registry, its executive director, registry counsel, the respondent, respondent's counsel, or other person acting on behalf of the respondent shall not initiate, participate in, or consider ex parte communications concerning the subject matter of a hearing or a related issue of fact or law, except upon notice and opportunity for all parties to participate.

Section 10. Record to be Maintained.

- (1) The hearing shall be transcribed by a court stenographer or recorded by means of electronic media.
- (2) A transcript or electronic media copy of the testimony taken during the hearing shall:
 - (a) Be kept by the registry;
 - (b) Be available to the respondent upon request and payment of the appropriate fee; and
 - (c) Be available to all registry board members.
- (3) Any documents or exhibits introduced into evidence shall be kept with the transcript or copy of the electronic media recording of the hearing or as ordered by the hearing officer.

JOHN R. STEFFEN, Executive Director

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