

### **30 KAR 2:010. Certification of vacancy in nominations.**

RELATES TO: KRS 118.105

STATUTORY AUTHORITY: KRS 118.105

NECESSITY, FUNCTION, AND CONFORMITY: KRS 14.025(2) requires the Department of State to be responsible for elections. KRS 118.105 authorizes the Secretary of State to certify that a vacancy exists in a nomination because of death, disqualification to hold the office sought, or severe disabling condition which arose after the nomination.

#### Section 1. Notification of Vacancy.

- (1) The Secretary of State shall be notified of the vacancy in a nomination governed by KRS 118.105.
- (2) The notification shall:
  - (a) Be written;
  - (b) Be dated;
  - (c) State the reason for the vacancy;
  - (d) Contain documentation to substantiate the reason for the vacancy;
  - (e) Be signed by the person making the notification; and
  - (f) Be notarized.
- (3) The notification may be made by:
  - (a) The candidate;
  - (b) The governing authority of a party;
  - (c) A registered voter; or
  - (d) An opposing candidate.
- (4) The notification shall be delivered to the Secretary of State by:
  - (a) Certified mail;
  - (b) Fax;
  - (c) Email; or
  - (d) Any person authorized by the person making the notification.

#### Section 2. Documentation to Substantiate Reason for Vacancy.

- (1) Documentation to substantiate the reason for a vacancy shall be filed with the notification by the candidate or governing authority of the party as provided by this section. For:
  - (a) Death of a candidate: a certificate of death or other evidence satisfactory to the Secretary of State, such as a:
    1. Certification or written statement from the coroner; or
    2. Certification from a funeral director;
  - (b) Disqualification to hold the office sought: evidence of legal disqualification; and
  - (c) Severe disabling condition: medical evidence of the condition.
- (2) Medical evidence of a severe disabling condition shall consist of medical evidence provided by:
  - (a) A licensed and practicing:
    1. Physician;
    2. Osteopath;
    3. Psychologist;
    4. Psychiatrist; or
  - (b) Other medical professional qualified to make a determination that the candidate is suffering from a severe disabling condition.
- (3) The documentation filed to substantiate the reason for vacancy may be challenged, in writing, by:
  - (a) The governing authority of an opposing party;
  - (b) An opposing candidate; or

(c) A registered voter.

(4)

(a) The Secretary of State shall review all documentation relating to the reason for a vacancy.

(b) If the Secretary of State determines that additional documentation is required, he or she shall request a review:

1. Of the medical evidence of a severe disabling condition filed with the notification;  
or
2. By a medical professional specified in subsection (2) of this section.

Section 3. In accordance with KRS 118.105, the Secretary of State shall not certify that a vacancy exists if he or she determines that the documentation filed to substantiate the reason for the vacancy does not establish that a vacancy exists because of:

(1) Death;

(2) Disqualification to hold the office sought; or

(3) A severe disabling condition which arose after the nomination.

(17 Ky.R. 155; eff. 9-13-1990; 43 Ky.R. 2180; 44 Ky.R. 213; eff. 9-1-2017.)