

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

32 KAR 2:230. Processing of records requests.

RELATES TO: KRS 121.120

STATUTORY AUTHORITY: KRS 121.120(1)(g), 61.876

NECESSITY, FUNCTION, AND CONFORMITY: KRS 121.120(1)(g) authorizes the Registry of Election Finance to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 121. Further, KRS 61.876 mandates that each public agency adopt rules and regulations in conformity with Kentucky open records law in KRS 61.870 to 61.884. This administrative regulation provides the process by which the public may access the public records held by the Kentucky Registry of Election Finance that are not available through the agency's website.

Section 1. Records Requests.

- (1) The principal office for the registry is 140 Walnut St., Frankfort, Kentucky 40601. Regular office hours are from 8 a.m. to 4:30 p.m., Monday through Friday, prevailing time in Frankfort, Kentucky.
- (2) The title of the official custodian of records of the registry is the Records Custodian, whose address is the address of the agency's principal office and whose email address is KREFRequests@ky.gov.
- (3) Requested records will be sent via electronic means to the extent possible and that the requestor provides an email address through which to receive them.
- (4) Fees, to the extent authorized by KRS 61.874, shall be charged for physical copies of requested materials, with a charge of ten (10) cents a page for each photocopy and reasonable costs for materials provided in any other format, such as on storage media. Requestor shall view the records on the registry's searchable public database to the extent they are available.
- (5) Procedure for requesting records.
 - (a) Requests to inspect records shall be made to the Records Custodian by U.S. postal mail or by email address provided in (2) of this Section.
 - (b) Requests to inspect public records shall be made in writing, describing in reasonably sufficient detail the records to be inspected, including party and case number, if applicable and known. The registry shall also accept any standardized open records request form provided by the Office of the Attorney General.

Section 2. Public Disclosure of Registry Action.

- (1) If the registry makes a finding of no reason to believe or no probable cause or otherwise terminates an enforcement action, it shall make public its determination and the basis for the determination no later than thirty (30) days from the date on which the required notifications are sent to complainant and respondent.
- (2) If a conciliation agreement is finalized, the registry shall make the agreement public.
- (3) Except as provided in subsections (1) and (2) of this section, a complaint filed with the registry, any notification sent by the registry, any investigation conducted by the registry, or any findings made by the registry shall not be made public by the registry without the written consent of the respondent until a written response has been received or the expiration of the fifteen (15) day response period required by Section 3 of 32 KAR 2:030. Upon receipt of a response or the expiration of the fifteen (15) day period, the complaint, response, and materials related thereto, exclusive of materials exempted by KRS 61.878(1), shall be open for public inspection.

(4) Except as provided in subsections (1) and (2) of this section, an action by the registry or by any person, and information derived in connection with conciliation efforts shall not be made public by the registry until a final action with regard to a conciliation attempt is taken.

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.

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 provides procedures for making open records requests from the registry, such as filling in the details necessary to get the request to the correct person and describing when certain records are considered “open.”

(b) The necessity of this administrative regulation:

This administrative regulation is necessary because KRS 61.876 requires agencies to adopt rules consistent with Kentucky open records laws that describe how to access the agency’s records.

(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[.]” Further, KRS 61.876 mandates that agencies adopt rules that carry out Kentucky’s Open Records Act.

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

It sets procedures for making records requests and provides agency specific information on where to send them.

(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:

N/A

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

N/A

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

N/A

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

N/A

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

Anyone who would like to make an open records request with the registry will be 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 to know where to send requests and when to be able to access certain types of records.

(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 unless they request hard copies of the documents and then will be subject to the normal costs for open records requests.

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

Compliance will allow for the orderly processing of open records requests 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 continuous 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?

Tiering is not used here, nor is it applicable. Open records laws are generally made by individuals, but in any event, the underlying law is the same for all requestors.

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 61.876.

(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, except the costs to compensate the agency for the costs of copying requested documents where applicable.

(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, except the costs of copying requested documents where applicable.

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.