

GENERAL GOVERNMENT CABINET
Kentucky Registry of Election Finance
(Amended at ARRS Committee)

32 KAR 2:030. Complaints; internally-generated matters.

RELATES TO: KRS 121.140, 121.180

STATUTORY AUTHORITY: KRS 121.120(1)(g)

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 the procedure to be followed by the Registry of Election Finance in processing complaints of alleged violations of campaign finance law.

Section 1. Filing Requirements for Complaints.

(1) A person who believes that a violation of campaign finance law may have occurred or is about to occur may file a complaint in writing with the general counsel, Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky 40601.

(2) A complaint alleging a violation shall be filed within one (1) year from the time the violation has occurred. If the alleged practice is of a continuing nature, the date of the occurrence of the practice shall be deemed to be any date subsequent to the commencement of the practice until the date on which the practice has ceased, or the date on which the complaint is filed. The registry may refer a complaint to the Office of the Attorney General for potential criminal prosecution at any time.

(3) A complaint filed with the general counsel shall comply with the following requirements:

(a) The complaint shall provide the full name and address of the complainant.

(b) The contents of the complaint shall be sworn to and signed in the presence of a notary public and shall be duly notarized.

(c) The complaint shall state that statements contained within it are based upon the complainant's personal knowledge and are made under penalty of perjury.

(d) The complaint shall clearly identify as a respondent each person or entity who is alleged to have committed a violation or is about to commit a violation.

(e) The complaint shall contain a clear and concise recitation of the facts which support the allegation of a violation of campaign finance law.

(f) The complaint shall be accompanied by documentation supporting the allegations if the documentation is known by and available to the complainant.

Section 2. Initial Complaint Processing; Notification.

(1) Upon receipt of a complaint, the general counsel shall review the complaint for substantial compliance with the technical requirements of Section 1 of this administrative regulation. If the complaint complies with those requirements, the general counsel shall, within five (5) days after receipt of the complaint, notify each respondent that the complaint has been filed, advise them of registry procedures, and enclose a copy of the complaint and supporting documentation.

(2) If a complaint fails to comply with the requirements of Section 1 of this administrative regulation, the general counsel shall notify the complainant and person or entity identified as respondents, within the five (5) day period specified in subsection (1) of this section, that no action shall be taken on the basis of that complaint. A copy of the complaint shall be enclosed with the notification to each respondent. The notification shall include an explanation of the reasons the complaint fails to comply.

Section 3. Responses.

(1) Within fifteen (15) days of receiving a copy of the complaint, a respondent or respondent's counsel may file:

(a) A written response to the complaint, signed by the respondent or the respondent's counsel; and

(b) An entry of appearance as described in 32 KAR 2:020, Section 4, if the respondent has retained counsel.

(2) The registry shall not take action or make any finding against a respondent other than action dismissing the complaint unless it has considered the response or unless a response has not been served upon the registry within the fifteen (15) day period prescribed in subsection (1) of this section.

Section 4. Reason to Believe Finding.

(1) Following either the expiration of the fifteen (15) day period prescribed by Section 3 of this administrative regulation, or receipt of a response from the respondent, whichever occurs first, the general counsel shall determine if there is reason to believe that a respondent may have violated or is about to violate campaign finance law.

(2) If the general counsel determines that there is reason to believe that a violation may have occurred or is about to occur, an investigation shall commence as provided in 32 KAR 2:040, Section 1.

(3) If the general counsel determines that there is no reason to believe that a violation may have occurred or is about to occur, he or she shall recommend to the registry that the complaint be dismissed. The registry shall determine whether to accept or reject the general counsel's recommendation.

Section 5. Referrals.

(1) On the basis of information ascertained by the registry in the normal course of performing its enforcement duties, or on the basis of referral from an agency of the United States or of any state, the general counsel may find reason to believe that a person or entity may have committed or is about to commit a violation of campaign finance law and an investigation shall commence as provided in 32 KAR 2:040, Section 1.

(2) If the general counsel finds reason to believe that a violation may have occurred or is about to occur, the notification to the respondent required by Section 2 of this administrative regulation shall include a copy of a staff report setting forth the legal basis for and the alleged facts which support the general counsel's finding.

(3) No later than four (4) days preceding each primary and general election, the registry shall publish the names of all candidates appearing on the ballot who have failed to timely file any report required by KRS 121.180(3)(a) for any reporting period since the date of the last election.

Section 6. Reopening of Proceedings. After a hearing and the issuance of a final order as provided in KRS 121.140 the registry may, upon its own motion or upon application of any party or intervening party, for good cause shown, or if justice so requires, reopen any closed proceeding upon notice to all parties and intervenors, and may take the action it deems necessary.

Section 7. Certification. The chairman or the executive director may certify all documents or records which are a part of the files of the registry.

(19 Ky.R. 1233; 1525; eff. 1-4-1993; Crt eff. 9-27-2019; 50 Ky.R. 403, 1045; eff. 1-30-2024.)

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