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**LEGISLATIVE RESEARCH COMMISSION**

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**MEMORANDUM**

TO: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance

FROM: Emily Caudill, Regulations Compiler

RE: Proposed Amendment or New Regulation – 032 KAR 002:020, 032 KAR 002:030,  
, 032 KAR 002:040, 032 KAR 002:050, 032 KAR 002:060, 032 KAR  
002:221, and 032 KAR 002:230.

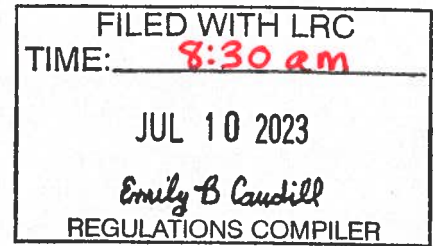
DATE: July 10, 2023

A copy of each administrative regulation listed above is enclosed for your files. These regulations are tentatively scheduled for review by the Administrative Regulation Review Subcommittee at its **OCTOBER 2023** meeting. We will notify you of the date and time of this meeting once it has been scheduled.

Pursuant to KRS 13A.280, *if* comments are received during the public comment period, a Statement of Consideration or a one-month extension request for these regulations is due **by noon on October 13, 2023**. Please reference KRS 13A.270 and 13A.280 for other requirements relating to the public hearing and public comment period and Statements of Consideration.

If you have questions, please contact us at [RegsCompiler@LRC.ky.gov](mailto:RegsCompiler@LRC.ky.gov) or (502) 564-8100.

Enclosures



1 GENERAL GOVERNMENT CABINET

2 Kentucky Registry of Election Finance

3 (Amendment)

4 32 KAR 2:020. General provisions.

5 RELATES TO: KRS 121.120, 121.140

6 STATUTORY AUTHORITY: KRS 121.120(1)(g)

7 NECESSITY, FUNCTION, AND CONFORMITY: The Registry of Election Finance is  
8 charged with the responsibility of enforcing campaign finance laws contained in KRS Chapter  
9 121. This administrative regulation establishes ~~[Chapters 121 and 121A. The function of this~~  
10 ~~administrative regulation is to establish]~~ procedures for processing possible violations of campaign  
11 finance law ~~[statutes and administrative regulations promulgated by the Registry of Election~~  
12 ~~Finance]~~ and establishes general provisions that ~~[The purpose of this administrative regulation is~~  
13 ~~to establish general provisions which]~~ shall apply throughout this chapter governing practice and  
14 procedure.

15 Section 1. Definitions.

16 (1) "Campaign finance law" means statutes in KRS Chapter 121 and administrative  
17 regulations in KAR Title 32.

18 ~~["Chairman" means the Chairman of the Registry of Election Finance.]~~

19 (2) "Complainant" means any person who files a complaint with the Registry of Election  
20 Finance alleging a violation of campaign finance law. ~~[laws or administrative regulations.]~~

1 (3) "Complaint" means an allegation filed with the Registry of Election Finance charging  
2 that a violation of campaign finance law [~~statutes or administrative regulations~~] has occurred or is  
3 about to occur.

4 (4) "Conciliation agreement" means an agreement offered by the Registry of Election  
5 Finance to an alleged violator of campaign finance law [~~laws or administrative regulations~~] as  
6 provided in KRS 121.140.

7 (5) "Hearing officer" means the retired or former justice or judge selected by the process  
8 described in KRS 121.140(4).

9 [~~(5) "General counsel" means the general counsel of the Registry of Election Finance.~~]

10 (6) "Registry" means the Registry of Election Finance.

11 (7) "Respondent" means any person against whom a complaint has been filed with the  
12 Registry of Election Finance or against whom action is taken by the registry based upon  
13 information ascertained through its normal enforcement activity.

14 [~~(8) "Three (3) judge panel" means a panel of three (3) active or retired justices or judges~~  
15 ~~of the Court of Justice appointed by the Chief Justice of the Kentucky Supreme Court to conduct~~  
16 ~~a hearing as provided in KRS 121.140.]~~

17 Section 2. Computation of Time.

18 (1) General provision. In computing any period of time prescribed or allowed by this  
19 administrative regulation, the provisions of KRS 446.030 shall govern, except as provided in  
20 subsection (2) of this section.

21 (2) Special provision for service by mail. When the registry or a person serves a document  
22 by mail, the prescribed period for the registry or any person to take the next subsequent action that  
23 is permitted or required shall include [~~has the right or is required to do some act within a prescribed~~

1 ~~period of time after the service of any document by or upon the registry or a person, and the~~  
2 ~~document is served by mail,] three (3) additional days. [~~days shall be added to the prescribed~~~~  
3 ~~period.]~~

4 Section 3. ~~[Initiation of]~~ Enforcement Matters.

5 (1) Enforcement matters may be initiated by a written complaint or on the basis of  
6 information ascertained by the registry in the normal course of the performance of its ~~[conducting~~  
7 ~~its enforcement]~~ duties.

8 (2) ~~[Section 4. Ex Parte Communications.~~

9 (1)] In order to avoid the possibility of prejudice, real or apparent, in derogation of the  
10 public interest in enforcement actions pending before the registry, ~~[except to the extent required~~  
11 ~~during an investigation or conciliation negotiations,]~~ interested persons outside the agency shall  
12 not make or cause to be made to any registry board member ~~[or employee]~~ any ~~[ex parte]~~  
13 communication relative to the factual or legal merits of an enforcement action, nor shall a registry  
14 board member ~~[or employee]~~ make or entertain any communications relating to registry  
15 enforcement actions ~~[ex parte communications.~~

16 (2) ~~This prohibition against ex parte communications shall apply from the time a complaint~~  
17 ~~is filed with the registry or from the time that the registry determines on the basis of information~~  
18 ~~ascertained in the normal course of its duties that it has reason to believe that a violation has~~  
19 ~~occurred or may occur, and shall remain in effect]~~ until the registry has concluded all action with  
20 respect to the enforcement matter in question.

21 (3) This section shall not be construed to prohibit contact between a respondent or  
22 respondent's attorney and a registry employee in the performance of the registry's ~~[his]~~ duties.

1 Statements made by a registry employee during these communications shall not bind or estop the  
2 registry in any way.

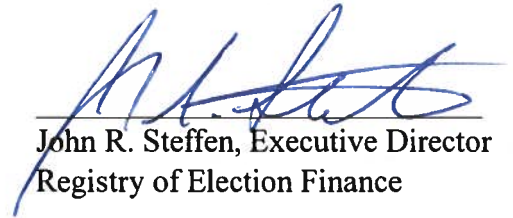
3 Section 4. ~~[5.]~~ Representation by Counsel; Notification.

4 ~~[(1)]~~ If a respondent wishes to be represented by counsel with regard to any matter pending  
5 before the registry, the respondent's counsel shall file an Entry of Appearance identifying  
6 ~~[respondent shall so advise the registry by sending a letter of representation signed by the~~  
7 ~~respondent, which shall contain]~~ the name, address, email address, and telephone number of the  
8 counsel and a statement signed by the respondent, identifying the subject of the representation,  
9 and authorizing the counsel to receive all notifications and other communications from the registry  
10 on the respondent's behalf. ~~[behalf of the respondent.~~

11 ~~(2) Upon receipt of a letter of representation, the registry shall have no contact with~~  
12 ~~respondent except through the designated counsel unless requested in writing by respondent.]~~

32 KAR 2:020

7/6/23  
Date

  
John R. Steffen, Executive Director  
Registry of Election Finance

## PUBLIC HEARING INFORMATION

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on September 25, 2023, at 10:00AM, 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 11:59PM. 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](mailto:LeslieM.Saunders@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

32 KAR 2:020

Contact Person: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance

Phone: (502) 573-2226

Email: LeslieM.Saunders@ky.gov.

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation provides general provisions for actions involving the Registry and the public, particularly in regard to enforcement actions. The administrative regulation provides definitions and sets rules related to time computation, communications between the registry and those involved in enforcement actions, and the entry of counsel.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary because, while KRS 121.140 contemplates a complaint process for campaign finance violations and KRS 121.120(4)(m) contemplates the registry initiating these actions in the course of its normal duties, neither statute describes the procedures for doing so with any detail.

(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[.]”

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

It sets procedures for the regular handling of enforcement actions.

(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:

This amendment recognizes that the “three-judge panel” originally described in KRS 121.140 was amended to be one former or retired justice or judge. Thus, the regulation no longer reflects the statute and this amendment will make it conform. It also removes definitions that are not needed or are obvious in context, cleans up some unnecessarily convoluted language, makes slight changes to the entry of appearance to make that process reflect that the respondents’ counsel (and not the respondents themselves) enter the document, and removes much of the language relating to “ex parte communications” to reflect that there are many reasons that the respondent might need to get in touch with the registry during the pendency of an enforcement action, thus should not be barred from direct contact with registry staff about matters not related to that action. It keeps in place, however, the idea that those against which an

enforcement action is pending should not contact members of the registry's board, nor should board members contact them.

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

The main necessity for the amendment is because of statutory changes that make the current regulation an incorrect statement of the law. Much of the other language is clean-up language or reflects a description of the current procedure.

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

The amendment reflects a change to a single judge used as a hearing officer instead of a three-judge panel in KRS 121.140. It also adds concrete procedures or calculations in matters for which the statute is silent.

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

This amendment answers questions of how to file an entry of appearance, how to calculate time for actions the registry or those involved in enforcement actions before the registry take, and who the respondent can contact at the registry during the pendency of the action.

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

Anyone regulated by the registry is 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 these rules for computing time, entering appearance of counsel,

(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.

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

Compliance will allow for the orderly processing and resolution of actions pending 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 established any fees or directly or indirectly increased any fees: No.

(9) TIERING: Is tiering applied? (Explain why or why not):

This administrative regulation does not apply tiering because these general provisions apply equally to anyone who has an action pending before the registry. The statutes do not allow for a separate process for "small" respondents, because the process afforded to all the respondents is the same.

## FISCAL NOTE

32 KAR 2:020

Contact Person: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance  
Phone: (502) 573-2226  
Email: LeslieM.Saunders@ky.gov.

(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 121.140

(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.

(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.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation:

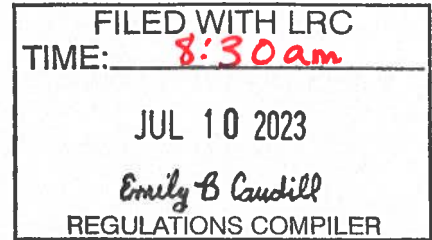
Cost Savings (+/-):

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.



1 GENERAL GOVERNMENT CABINET

2 Kentucky Registry of Election Finance

3 (Amendment)

4 32 KAR 2:030. Complaints; internally-generated matters.

5 RELATES TO: KRS 121.140

6 STATUTORY AUTHORITY: KRS 121.120(1)(g)

7 NECESSITY, FUNCTION, AND CONFORMITY: The purpose of this administrative  
8 regulation is to establish the procedure to be followed by the Registry of Election Finance in  
9 processing complaints of alleged violations of campaign finance law. [~~law or administrative~~  
10 ~~regulations promulgated by the registry. This administrative regulation also repeals 32 KAR 2:010,~~  
11 ~~Processing complaints; hearings because the provisions of that administrative regulation do not~~  
12 ~~comply with the registry's current statutory authority.~~]

13 Section 1. Filing Requirements for Complaints.

14 (1) A person who believes that a violation of campaign finance law [~~any campaign finance~~  
15 ~~statute or administrative regulation~~] may have occurred or is about to occur may file a complaint  
16 in writing with the general counsel, Registry of Election Finance, 140 Walnut Street, Frankfort,  
17 Kentucky 40601.

18 (2) A complaint alleging a violation shall be filed within a year from the time the violation  
19 has occurred. [~~time prescribed by KRS 500.050.~~] If the alleged practice is of a continuing nature,  
20 the date of the occurrence of the practice shall be deemed to be any date subsequent to the  
21 commencement of the practice until [~~up to and including~~] the date on which the practice has

1 ceased, or the date on which the complaint is filed. The registry may refer a complaint to the  
2 Office of the Attorney General for potential criminal prosecution at any time.

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

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

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

8 (c) The complaint shall state that statements contained within it are based upon the  
9 complainant's personal knowledge and are ~~[Statements contained in the complaint shall be]~~ made  
10 under penalty of perjury. ~~[The complaint shall differentiate between statements based upon~~  
11 ~~personal knowledge and statements based upon information and belief.]~~

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

14 ~~[(e) Statements which are not based upon personal knowledge shall be accompanied~~  
15 ~~by an identification of the source of information which gives rise to the complainant's belief in~~  
16 ~~the truth of the statements contained in the complaint.]~~

17 (e) ~~[(f)]~~ The complaint shall contain a clear and concise recitation of the facts which  
18 support the allegation of a violation of [a] campaign finance law, statute or administrative  
19 regulation.

20 (f) ~~[(g)]~~ The complaint shall be accompanied by documentation supporting the  
21 allegations if the documentation is known by and available to the complainant.

22 Section 2. Initial Complaint Processing; Notification.

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

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

13 Section 3. Responses. ~~[Opportunity to Demonstrate that no Action Should be Taken on~~  
14 ~~Complaint-Generated Matters.]~~

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

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

19 (b) An entry of appearance as described in 32 KAR 2:020(4)(1), if the respondent  
20 has retained counsel.

21 (2) The registry shall take no action nor make any finding against a respondent other than  
22 action dismissing the complaint unless it has considered the response or unless no response has

1 been served upon the registry within the fifteen (15) day period prescribed in subsection (1) of this  
2 section.

3 ~~[(1) A respondent shall be afforded an opportunity to demonstrate that no action should be~~  
4 ~~taken on the basis of a complaint by submitting, within fifteen (15) days from receipt of a copy of~~  
5 ~~the complaint, a letter or memorandum setting forth reasons why the registry should take no action.~~

6 ~~—— (2) The registry shall not take any action, or make any finding against a respondent other~~  
7 ~~than action dismissing the complaint, unless it has considered the respondent's letter or~~  
8 ~~memorandum or unless no response has been served upon the registry within the fifteen (15) day~~  
9 ~~period prescribed in subsection (1) of this section.]~~

10 Section 4. Reason to Believe Finding.

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

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

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

22 Section 5. Referrals.

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

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

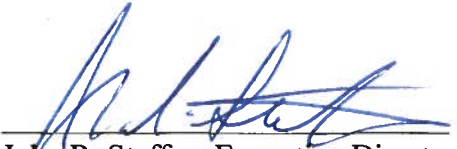
10 (3) No later than four (4) days preceding each primary and general election, the registry  
11 shall publish the names of all candidates appearing on the ballot who have failed to timely file any  
12 report required by KRS 121.180(3)(a) for any reporting period since the date of the last election.

13 Section 6. Reopening of Proceedings. After a hearing and the issuance of a final order as  
14 provided in KRS 121.140 [~~Acts 1992, Chapter 288, Section 46,~~] the registry may, upon its own  
15 motion or upon application of any party or intervening party, for good cause shown, or whenever  
16 justice so requires, reopen any closed proceeding upon notice to all parties and intervenors, and  
17 may take the action it deems necessary.

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

32 KAR 2:030

7/6/23  
Date

  
John R. Steffen, Executive Director  
Registry of Election Finance

## PUBLIC HEARING INFORMATION

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on September 25, 2023, at 10:00AM, 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 11:59PM. 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](mailto:LeslieM.Saunders@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

32 KAR 2:030

Contact Person: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance

Phone: (502) 573-2226

Email: LeslieM.Saunders@ky.gov.

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation sets the process for filing a complaint with the Registry and for how the registry handles complaints received.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary because, while KRS 121.140 contemplates a complaints process, the statute describes no procedures for doing the filing and processing of complaints with any detail.

(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[.]”

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

It sets procedures for the regular handling of complaints, including providing deadlines for filing and responding to complaints.

(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:

This amendment updates the definitional section, removing those not needed and adding a definition that allows the removal of redundant language, amends the statute of limitations section to describe the SOL without reference to an unrelated section of the penal code, simplifies the section concerning the filing of responses, removes gender-specific language, and increases the readability of the administrative regulation where possible.

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

This amendment is necessary in part to help simplify the statute of limitations language which pointed to a statute outside campaign finance law that was hard to apply to the complaint process.

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

KR 121.140 provides a complaint process in broad strokes, but does not provide any specific guidance. This amendment continues to provide that specificity.

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

This amendment will provide further guidance on how the registry processes and investigates complaints received.

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

Anyone who wishes to file a complaint or is a respondent to a complaint received by the registry is 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 file and respond to complaints.

(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 with the administrative regulation.

(3): (c) As a result of compliance, what benefits will accrue to the entities identified in question (3):  
Compliance will allow for the orderly processing and response to complaints 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 continuing 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 established any fees or directly or indirectly increased any fees: No.

(9) TIERING: Is tiering applied? (Explain why or why not):

This administrative regulation does not apply tiering because the underlying statutes envision one complaint process that applies in the same way to all complainants and respondents.

## FISCAL NOTE

32 KAR 2:030

Contact Person: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance

Phone: (502) 573-2226

Email: LeslieM.Saunders@ky.gov.

(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 121.140

(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.

(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.

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.

FILED WITH LRC TIME: <u>8:30 am</u>
JUL 10 2023
Emily B Caudill REGULATIONS COMPILER

1 GENERAL GOVERNMENT CABINET

2 Kentucky Registry of Election Finance

3 (Amendment)

4 32 KAR 2:040. [~~Preconciliation procedures.~~] Investigatory procedures.

5 RELATES TO: KRS 121.140

6 STATUTORY AUTHORITY: KRS 121.120(1)(g)

7 NECESSITY, FUNCTION, AND CONFORMITY: The purpose of this administrative  
8 regulation is to establish a procedure for ~~processing complaints or internally generated matters~~  
9 ~~prior to the conciliation process established by Acts 1992, Chapter 288, Section 46 enacted by the~~  
10 ~~General Assembly. The bill became effective July 14, 1992, and it is necessary to promulgate this~~  
11 ~~administrative regulation to enable the registry to comply with the new provision.] investigations  
12 into complaints or internally generated matters and is necessary to ensure a consistent procedure.~~

13 [~~Section 1. Reason to Believe Finding.~~]

14 [~~(1) If the general counsel, either after reviewing a complaint and a respondent's letter or~~  
15 ~~memorandum requesting that the registry take no action on the complaint as provided in Section 3~~  
16 ~~of 32 KAR 2:030, or after reviewing an internally generated matter as described in Section 5 of~~  
17 ~~32 KAR 2:030, determines there is reason to believe that a respondent may have violated or is~~  
18 ~~about to violate a campaign finance statute or administrative regulation, he shall notify the~~  
19 ~~respondent and complainant of his finding by letter, setting forth the sections of the statute or~~  
20 ~~administrative regulation alleged to have been violated and the factual basis supporting the~~  
21 ~~finding.]~~

1 ~~[(2) If the general counsel finds no reason to believe that a violation occurred or otherwise~~  
2 ~~terminates its proceedings, the general counsel shall so advise both the complainant and respondent~~  
3 ~~by letter.]~~

4 Section 1. ~~[2-]~~ Investigations.

5 (1) An investigation shall be conducted in any case in which the general counsel finds  
6 reason to believe that a violation of a campaign finance statute or administrative regulation may  
7 have occurred or is about to occur, or at the direction of the registry if the general counsel's  
8 recommendation of dismissal is rejected.

9 (2) In its investigation, the registry may utilize the provisions of Sections 3 to 7 of this  
10 administrative regulation. The investigation may include field investigations, audits, and other  
11 methods of information gathering.

12 Section 2. ~~[3-]~~ Written Question Under Oath. The registry may authorize its chairman or  
13 general counsel to issue an order requiring any person to submit sworn written answers to written  
14 questions and may specify a date by which the answers shall be submitted.

15 Section 3. ~~[4-]~~. Subpoenas; Depositions.

16 (1) The registry may authorize its chairman or general counsel to issue subpoenas requiring  
17 the attendance and testimony of any person by deposition or at a hearing. Further the registry may  
18 issue subpoenas duces tecum for the production of documentary or other tangible evidence in  
19 connection with an investigation, deposition, or a hearing.

20 (2) If oral testimony is ordered to be taken by deposition or documents are ordered to be  
21 produced, the subpoena shall so state and shall advise the deponent or person subpoenaed that all  
22 testimony will be given under oath. A deposition may be taken before any person having the power  
23 to administer oaths.

1 (3) The Kentucky Rules of Civil Procedure, Rule 30.05, shall govern the opportunity to  
2 review and sign depositions taken pursuant to this section.

3 Section 4. ~~[5.]~~ Service of Subpoenas, Orders, and Notifications.

4 (1) Service of a subpoena, order, or notification upon a person named therein shall be made  
5 by delivering a copy to that person in the manner prescribed by this section. ~~[In the case of~~  
6 ~~subpoenas, fees for one (1) day's attendance and mileage shall be tendered as specified in Section~~  
7 ~~6 of this administrative regulation.]~~

8 (2) When service is to be made upon a person who has advised the registry of representation  
9 by an attorney, the service shall be made upon the attorney by any of the methods specified in  
10 subsection (3) of this section and a copy shall be sent to the individual.

11 (3)

12 (a) Delivery of subpoenas, orders, and notifications to a natural person may be made  
13 by:

- 14 1. Handing a copy to the person;
- 15 2. Leaving a copy at the person's ~~[his]~~ dwelling place or usual place of  
16 abode with a person of suitable age and discretion residing therein;
- 17 3. Mailing a copy by registered or certified mail to the person's ~~[his]~~ last  
18 known address; or
- 19 4. Any other method whereby actual notice is given.

20 (b) When the person to be served is not a natural person, delivery of subpoenas,  
21 orders, and notifications may be made by:

- 22 1. Mailing a copy by registered or certified mail to the person at its place of  
23 business;

1                   2. Handing a copy to a registered agent for service, or to any officer,  
2     director, or agent in charge of any office of the person;

3                   3. Mailing a copy by registered or certified mail to the representative at the  
4     representative's [his] last known address; or

5                   4. Any other method by which actual notice is given.

6           ~~[Section 6. Witness Fees and Mileage. Witnesses subpoenaed to appear for depositions~~  
7     ~~shall be paid the same fees and mileage as witnesses in the courts of the Commonwealth of~~  
8     ~~Kentucky. These fees may be tendered at the time the witness appears for the deposition or within~~  
9     ~~a reasonable time thereafter.]~~

10          Section 5. [7.] Motions to Quash or Modify a Subpoena.

11          (1) A person to whom a subpoena is directed may, prior to the time specified therein for  
12     compliance, but no later than five (5) days after the date of receipt of the subpoena, move the  
13     registry to quash or modify the subpoena, accompanying the motion with a brief statement of the  
14     reasons therefore. Motions to quash shall be filed with the general counsel, Registry of Election  
15     Finance, 140 Walnut Street, Frankfort, Kentucky 40601. ~~[Three (3) copies shall be submitted.]~~

16          (2) The registry may deny the motion, quash the subpoena, or modify the subpoena.

17          (3) The person subpoenaed and the general counsel may agree to change the date, time, or  
18     place of a deposition or the conditions for the production of documents without affecting the  
19     force and effect of the subpoena, but any modifications shall be confirmed in writing.

20          Section 6. [8.] Briefing Procedures.

21          (1)

22                 (a) Upon completion of the investigation, the general counsel shall make a report  
23     of the findings of the registry.

1 (b) If the registry determines that the information obtained in the course of the  
2 investigation is insufficient to support a finding of probable cause or to provide a basis for  
3 dismissal of the action, it may direct the general counsel to prepare a brief setting forth his  
4 position on the alleged factual and legal issues of the case.

5 (c) The registry may also request the respondent to appear to present additional  
6 information, or the respondent may request ~~[that he]~~ be allowed to present additional evidence.

7 (d) The decision as to whether the respondent may present additional evidence shall  
8 be within the discretion of the registry.

9 (2) The general counsel shall provide a copy of the ~~[his]~~ brief to the respondent who may,  
10 within fifteen (15) days of receipt of the general counsel's brief, file a brief with the registry  
11 setting forth the respondent's ~~[his]~~ position on the factual and legal issues of the case. ~~[Ten (10)~~  
12 ~~copies of the brief shall be filed with the executive director and three (3) copies shall be filed~~  
13 ~~with the general counsel.]~~

14 Section 8. ~~[9.]~~ Probable Cause Finding; Notification.

15 (1) If the registry determines that there is probable cause to believe that a respondent may  
16 have or is about to violate ~~[a]~~ campaign finance law, ~~[statute or administrative regulation,]~~ the  
17 general counsel shall notify the respondent and complainant by letter.

18 (2) If the registry finds no probable cause or otherwise orders a termination of its  
19 proceedings, the general counsel shall notify respondent and complainant by letter.

20 Section 9. ~~[10.]~~ Noncompliance with Reporting Requirements; Probable Cause  
21 Determination.

22 (1) If any person subject to the provisions of KRS 121.180 fails to comply with any  
23 reporting requirement contained in that section, the failure to file a report due in a timely manner

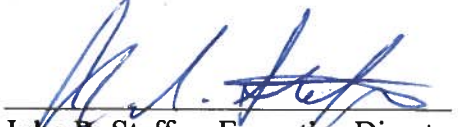
1 shall constitute prima facie evidence that probable cause exists to believe that a violation has  
2 occurred and the general counsel and executive director may immediately enter into conciliation  
3 negotiations with the respondent. The notice required by KRS 121.140(2) shall be issued when  
4 the registry's staff concludes that there has been a failure to file any report required under the  
5 campaign finance laws.

6 (2) If any a candidate or slate of candidates does not revoke a request for exemption in  
7 a timely manner as described in KRS 121.180(1)(b), making the candidate or slate of candidates  
8 subject to the five hundred dollar \$500 penalty imposed in KRS 121.180(1)(k), the filing of an  
9 amended Statement of Spending Intent untimely or the reporting of the receipt of contributions or  
10 the expenditures of funds in excess of three thousand dollars (\$3,000) once the time to amend the  
11 Statement of Spending Intent has passed, shall constitute prima facie evidence that probable cause  
12 exists to believe that a violation has occurred and the general counsel and executive director may  
13 immediately enter into conciliation negotiations with the candidate or slate of candidates. The  
14 notice required by KRS 121.140(2) shall be issued when the registry's staff concludes that there  
15 has been a failure to timely amend a Statement of Spending Intent.

16 (3) [(2)] A conciliation agreement pertaining to a violation of KRS 121.180 shall not be  
17 binding upon either party until it is signed by the respondent, the general counsel, and the  
18 executive director, and approved by the registry.

32 KAR 2:040

7/6/23  
Date

  
John R. Steffen, Executive Director  
Registry of Election Finance

## PUBLIC HEARING INFORMATION

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on September 25, 2023, at 10:00AM, 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 11:59PM. 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](mailto:LeslieM.Saunders@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

32 KAR 2:040

Contact Person: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance  
Phone: (502) 573-2226  
Email: LeslieM.Saunders@ky.gov.

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation sets the process for the Registry's investigatory process once an enforcement matter begins by complaint or through an internal referral.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary because, while KRS 121.140 contemplates a complaints process and addresses some of the investigatory powers the registry processes in processing complaints, the statute describes no procedures for doing with any detail.

(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[.]"

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

It sets procedures for the regular investigation of complaints.

(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:

This amendment removes a portion of duplicated regulation that is covered by the previous administrative regulation (where the subject matter fits better). It also removes the requirement that the state pay witness fees and the requirement that the respondent send multiple copies of the documents to the Registry, which it no longer needs. Finally, it adds a second violation related to late filing that can go to conciliation immediately, like other forms of late filing.

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

This amendment is necessary to remove impediments to the complaint investigation process, such as witness fees to which the agency should not be subject and costs associated with

copies of documents which the Registry now receives no benefit from the public incurring. It also removes what had been redundant language between 32 KAR 2:030 and 32 KAR 2:040 and treats similar violations in a similar manner.

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

KR 121.140 provides broad overview of the complaint process, including a process of the registry's investigatory powers, however does not provide any specific guidance. This regulation will provide that specificity.

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

This amendment will provide further guidance on how the registry investigates complaints received and will streamline several steps in the process that no longer reflected agency needs or had been changed by amendment.

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

Anyone who wishes to file a complaint or is a respondent to a complaint received by the registry is affected, as well as anyone who might be a witness the board meeting or hearing related to an enforcement matter.

(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 no longer be required to file multiple copies of the same document and will enter into conciliation immediately if a Statement of Spending Intent is amended late, as opposed to having the matter heard at a meeting before the Board.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

Entities will incur no costs in complying, with the exception that the state will no longer pay witness expenses.

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

Compliance will make the process less burdensome for the entities because they no longer have to file multiple copies of documents (that the Registry no longer uses but are still in the regulatory language) and they will no longer be required to participate in a board hearing before going to conciliation for a violation that is similar to the less burdensome delinquency process.

(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 established any fees or directly or indirectly increased any fees: No.

(9) TIERING: Is tiering applied? (Explain why or why not):

This administrative regulation does not apply tiering because the underlying statute sets out one complaint and investigation procedure in KRS 121.140 that is applicable in the same manner to all respondents, complainants, witnesses, etc.

## FISCAL NOTE

32 KAR 2:040

Contact Person: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance

Phone: (502) 573-2226

Email: LeslieM.Saunders@ky.gov.

(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 121.140

(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.

(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.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation:

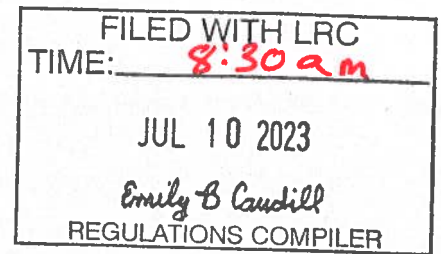
Cost Savings (+/-):

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.



1 GENERAL GOVERNMENT CABINET

2 Kentucky Registry of Election Finance

3 (Amendment)

4 32 KAR 2:050. Conciliation.

5 RELATES TO: KRS 121.140

6 STATUTORY AUTHORITY: KRS 121.120(1)(g)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 121.120(1)(g) authorizes the  
8 Registry of Election Finance to promulgate administrative regulations necessary to carry out the  
9 provisions of KRS Chapter 121. This administrative regulation establishes conciliation procedures.

10 Section 1. Negotiations.

11 (1) Upon a registry finding of probable cause, the general counsel and executive director  
12 shall attempt to correct or prevent the violation by informal methods of conference, conciliation,  
13 and persuasion [~~conference conciliation and persuasion,~~] and shall attempt to reach a tentative  
14 conciliation agreement with the respondent.

15 (2) During conciliation negotiations, the general counsel and executive director shall  
16 consider as a mitigating factor the attendance by a candidate or treasurer at one (1) or more training  
17 sessions sponsored by the registry, directly preceding the election during which the violation  
18 occurred. Based upon this and any other mitigating factors, the general counsel and executive  
19 director may reduce a fine, if proposed by the registry.

20 (3) A conciliation agreement shall not be binding upon either party until it is signed by the  
21 respondent, the general counsel, and the executive director and approved by the registry.

1 (4) If the probable cause to believe finding is made within forty-five (45) days preceding  
2 an election, the conciliation attempt shall continue for at least fifteen (15) days from the date of  
3 the finding. In all other cases, conciliation attempts by the registry shall continue for at least thirty  
4 (30) [~~days, not to exceed ninety (90)~~] days.

5 (5) If a conciliation agreement is reached between the registry and the respondent, the general  
6 counsel shall send a copy of the signed agreement to both complainant and respondent.

7 ~~[Section 2. Public Disclosure of Registry Action.~~

8 ~~(1) If the registry makes a finding of no reason to believe or no probable cause or otherwise~~  
9 ~~terminates its proceedings, it shall make public its determination and the basis for the~~  
10 ~~determination no later than thirty (30) days from the date on which the required notifications are~~  
11 ~~sent to complainant and respondent.~~


12 ~~—— (2) If a conciliation agreement is finalized, the registry shall make the agreement public.~~

13 ~~—— (3) Except as provided in subsections (1) and (2) of this section, a complaint filed with the~~  
14 ~~registry, any notification sent by the registry, any investigation conducted by the registry, or any~~  
15 ~~findings made by the registry shall not be made public by the registry without the written consent~~  
16 ~~of the respondent until a written response has been received or the expiration of the fifteen (15)~~  
17 ~~day response period required by Section 3 of 32 KAR 2:030. Upon receipt of a response or the~~  
18 ~~expiration of the fifteen (15) day period, the complaint, response, and materials related thereto,~~  
19 ~~exclusive of materials exempted by KRS 61.878(1), shall be open for public inspection.~~

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

32 KAR 2:050

7/6/23  
Date

  
John R. Steffen, Executive Director  
Registry of Election Finance

## PUBLIC HEARING INFORMATION

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on September 25, 2023, at 10:00AM, 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 11:59PM. 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](mailto:LeslieM.Saunders@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

32 KAR 2:050

Contact Person: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance  
Phone: (502) 573-2226  
Email: LeslieM.Saunders@ky.gov.

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes conciliation procedures.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary because, while KRS 121.140 contemplates a conciliation process and an appeals process for violators, the statute describes no procedures for doing so with any detail.

(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[.]”

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

It sets procedures for the regular conciliation process.

(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:

This amendment removes an arbitrary deadline for conciliation discussions and removes a section relating to when records are public in favor of putting that language in a new, expanded regulation relating to open records. It is worth noting that one provision of the deleted language does not even concern records related to conciliation, which is the subject of the regulation, but with when complaints and responses are considered public. Finally, it fixes punctuation errors in the original language.

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

This amendment is necessary to remove irrelevant information from the regulation and to move the remaining language to a new administrative regulation that would be a better fit.

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

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. This amendment removes an unnecessary impediment to continued conciliation negotiations and allows for restructuring of the current administrative regulations by keeping the body of the regulations consistent with the title.

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

This amendment will allow for a more flexible conciliation process and make the administrative regulation structure make more internal sense.

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

Anyone who is party to a conciliation negotiation with the registry is 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 navigate the conciliation process with the registry.

(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 with the regulation, although they may incur penalties as a result of a conciliation, as permitted by KRS 121.140.

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

Compliance will allow for the orderly closing of enforcement matters 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 established any fees or directly or indirectly increased any fees: No.

(9) TIERING: Is tiering applied? (Explain why or why not):

This administrative regulation does not apply tiering as the negotiations and considers made within them are fact-specific to the respondent.

## FISCAL NOTE

32 KAR 2:050

Contact Person: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance  
Phone: (502) 573-2226  
Email: LeslieM.Saunders@ky.gov

(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 121.140

(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. Note, however, that the conciliation process does provide a small amount of revenue to the general fund through penalties. This amount has averaged about \$15,000 a 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, subject to the note about penalties above.

(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.

(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.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation:

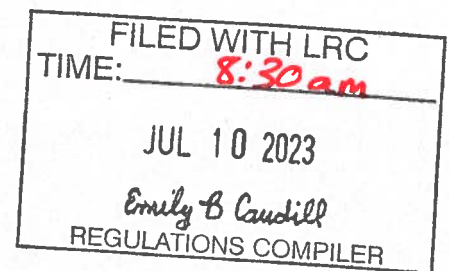
Cost Savings (+/-):

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.



1 GENERAL GOVERNMENT CABINET

2 Kentucky Registry of Election Finance

3 (Amendment)

4 32 KAR 2:060. Advisory opinions.

5 RELATES TO: KRS 121.135

6 STATUTORY AUTHORITY: KRS 121.120(1)(g)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 121.135 requires the Registry of  
8 Election Finance to issue advisory opinions concerning the application of campaign finance laws  
9 or administrative regulations promulgated by the registry pursuant to statutory authority. These  
10 provisions became effective July 14, 1992, and this administrative regulation is necessary to  
11 implement the process through which advisory opinions may be requested and issued.

12 Section 1. Requests for Advisory Opinions.

13 (1) A person may request in writing an advisory opinion concerning the application of  
14 campaign finance statutes or administrative regulations with regard to a particular transaction. An  
15 authorized agent of the person requesting an advisory opinion may submit the advisory opinion  
16 request, but the agent shall disclose the identity of the ~~[his]~~ principal.

17 (2) The written advisory opinion request shall describe a specific transaction or activity  
18 that the requesting person plans to undertake; ~~[undertake or]~~ is presently undertaking; or  
19 ~~[undertaking and]~~ intends to undertake in the future. Requests presenting a general question of  
20 interpretation, ~~[or]~~ posing a hypothetical situation, or regarding the activities of third parties  
21 ~~[parties,]~~ shall not be considered.

1 (3) Advisory opinion requests shall include a complete description of all facts relevant to  
2 the specific transaction or activity with respect to which the request is made.

3 (4) The office of general counsel shall review all requests for advisory opinions submitted  
4 to the registry. If the office of general counsel determines that a request is incomplete or otherwise  
5 fails to meet the criteria established in this section, it shall, within ten (10) calendar days of receipt  
6 of the request, notify the requesting person [~~person,~~] of any deficiencies in the request.

7 (5) Advisory opinion requests shall be submitted by mail to the Office of the General  
8 Counsel, Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky, 40601; or by email  
9 to KREFRequests@ky.gov. [Kentucky 40601.]

10 (6) Upon receipt by the registry, each request which qualifies as an advisory opinion  
11 request (AOR) under this section shall be assigned an AOR number for reference purposes.

12 Section 2. Public Availability of Requests. (1) The registry shall make public on its Web  
13 site at [www.kref.ky.gov](http://www.kref.ky.gov) any advisory [Advisory] opinion requests that [which] qualify under  
14 Section 1 of this administrative regulation [shall be made public at the registry] promptly upon  
15 receipt. A register shall be maintained by the registry containing a list of requests for advisory  
16 opinions and shall be updated on a regular basis. [The register, copies of all requests for advisory  
17 opinions, supplemental materials, and copies of all opinions issued shall be available for public  
18 inspection at the Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky 40601,  
19 Monday through Friday, between the hours of 8 a.m. and 4:30 p.m. local time.]

20 Section 3. Written Comments on Request.

21 (1) Any interested person may submit comments concerning requests for advisory opinions  
22 made public to [~~by~~] the registry. All comments shall be in writing and shall refer to the AOR  
23 number of the request.

1 (2) Written comments shall be submitted not later than ten (10) calendar days following  
2 the date the request is made public by the registry. If the tenth day falls on a Saturday, Sunday, or  
3 legal holiday, the ten (10) day period shall expire at the close of the following business day. [~~day~~  
4 ~~next following.~~]

5 (3) The registry may grant additional time to submit written comments at the Office of  
6 General Counsel's discretion or if a member of the public wishing to submit comments requests  
7 it. [~~Additional time for submission of written comments may be granted upon written request for~~  
8 ~~an extension by the person who wishes to submit comments or may be granted in the discretion of~~  
9 ~~the Office of General Counsel without a request.~~]

10 (4) Written comments and requests for additional time to comment shall be sent to the  
11 Office of General Counsel, Registry of Election Finance, 140 Walnut Street, Frankfort, Kentucky,  
12 40601; or by email to KREFRequests@ky.gov. [~~40601.~~]

13 (5) Before issuing an advisory opinion, the registry shall accept and consider all written  
14 comments submitted within the ten (10) day comment period or any extension of the normal  
15 comment period.

16 [~~Section 4. Issuance of Advisory Opinions. Advisory opinions shall be issued by the~~  
17 ~~registry as provided in KRS 121.135(2).~~]

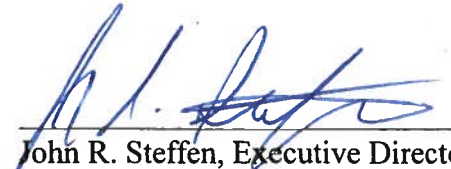
18 ~~Section 5. Reliance on Advisory Opinions. An advisory opinion issued by the registry may~~  
19 ~~be relied upon only as provided in KRS 121.135(4).~~

20 ~~Section 6. Advisory Opinion Subscription Service Available. Copies of all advisory~~  
21 ~~opinions issued by the Registry of Election Finance shall be made available to interested parties~~  
22 ~~through a per page charge of ten (10) cents per page plus postage. Persons wishing to obtain a~~

- 1 ~~copy of an advisory opinion may contact the Registry of Election Finance, 140 Walnut Street,~~
- 2 ~~Frankfort, Kentucky 40601, (502) 564-2226.]~~

32 KAR 2:060

7/6/23  
Date

  
John R. Steffen, Executive Director  
Registry of Election Finance

## PUBLIC HEARING INFORMATION

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on September 25, 2023, at 10:00AM, 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 11:59PM. 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](mailto:LeslieM.Saunders@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

32 KAR 2:060

Contact Person: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance  
Phone: (502) 573-2226  
Email: LeslieM.Saunders@ky.gov.

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation sets the process for requesting advisory opinions, which the registry is required to answer by KRS 121.135.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary because, while KRS 121.135 contemplates an advisory opinion request process, the statute describes no procedures for doing with any detail.

(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[.]”

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

It sets procedures for the regular handling of advisory opinion requests.

(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:

This amendment allows for the making of advisory opinion requests and public comments by email, in addition to the US mail option that was already in the statute. It also recognizes that the requests and comments are being made available through the registry’s Web site and there is no longer a need for a copying procedure. In the rare instance that someone would rather have paper copies of the material, charges and the like are already covered by the registry’s open records process. It also replaces gender-specific language with gender neutral language and cleans up some convoluted language and grammatical errors.

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

This amendment is necessary to recognize that registry has changed how it posts and provides copies of advisory opinions, requests, and comments, making them more efficient, and at times cheaper, to the public to engage in the process.

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

KR 121.135 provides no requirements for the advisory opinion process, save that they be in writing, they are available to the public for comment, and that the registry make the response within 20 or 30 days depending on the date of the next election.

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

This amendment allows the requestors and commenters to communicate with the registry by email, if preferred and points to the location of the requests and related documents on the Registry's Web site, which is not mentioned in the current version of 32 KAR 2:060.

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

Anyone who wishes to request an advisory opinion or comment on one is 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 deliver their requests and comments to the registry and to view copies of those already filed.

(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 and response to advisory opinion 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 established any fees or directly or indirectly increased any fees: No.

(9) TIERING: Is tiering applied? (Explain why or why not):

This administrative regulation does not apply tiering because it would aid neither the agency nor the regulated population to set up separate processes based on the size of the requestor or the number of requests made. KRS 121.135 envisions a standard advisory opinion request process that would not depend on the entity of the requestor.

## FISCAL NOTE

32 KAR 2:060

Contact Person: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance

Phone: (502) 573-2226

Email: LeslieM.Saunders@ky.gov.

(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 121.135

(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.

(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.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation:

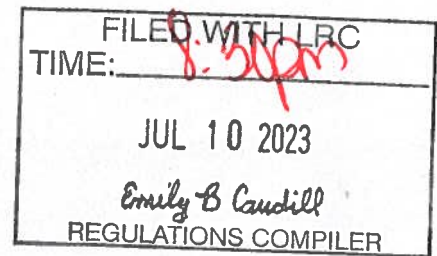
Cost Savings (+/-):

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.



1 GENERAL GOVERNMENT CABINET

2 Registry of Election Finance

3 (Repealer)

4 32 KAR 2:221. Repeal of 32 KAR 2:220.

5 RELATES TO: KRS 121.015(13), 121.120(6), 121.180

6 STATUTORY AUTHORITY: KRS 121.120(1)(g), 121.120(6)

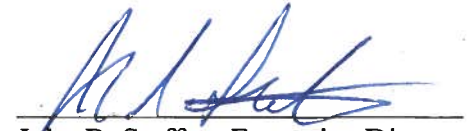
7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 121.120(1)(g) grants the  
8 Registry the authority to promulgate administrative regulations necessary to carry out the  
9 provisions of KRS Chapter 121. KRS 121.120(4) requires the Registry to promulgate  
10 administrative regulations and prescribe forms for the making of reports under KRS Chapter 121.  
11 KRS 121.120(6)(i) requires all candidates, committees, and contributing organizations to make all  
12 campaign finance reports electronically. The registry must repeal administrative regulation 32  
13 KAR 2:220 because the process it describes for electronic reporting and testing of the compliance  
14 of electronic files reflects the procedures necessary under a previous electronic filing procedure  
15 that has not been in use since 2020.

16 Section 1. The following administrative regulation is hereby repealed:

17 (1) 32 KAR 2:220. Electronic reporting file format and test file compliance procedure.

32 KAR 2:221:

7/6/23  
Date

  
\_\_\_\_\_  
John R. Steffen, Executive Director  
Registry of Election Finance

## PUBLIC HEARING INFORMATION

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on September 25, 2023, at 10:00AM, 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 11:59PM. 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](mailto:LeslieM.Saunders@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

32 KAR 2:221

Contact Person: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance  
Phone: (502) 573-2226  
Email: LeslieM.Saunders@ky.gov.

(1) Provide a brief summary of:

(a) What this administrative regulation does:

The underlying administrative regulation provided a manner by which filers who were using the previous electronic filing system could submit their files and could test the formatting they used for compliance.

(b) The necessity of this administrative regulation:

This administrative regulation was necessary because, at the time it was promulgated, KRS 121.120(6)(b) required the registry to "accept test files from software vendors and persons wishing to file reports electronically" to determine whether the software and data format submitted complies with the registry's file format. The administrative regulation establishes a data file format for electronic reporting, as defined by KRS 121.015(13), and a procedure for the submission of test files.

(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[.]"

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

This amendment repeals an administrative regulation that describes a process no longer applicable to the current electronic filing system.

(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:

The amendment repeals the current administrative regulation 32 KAR 2:220.

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

The amendment is necessary because it describes a process no longer applicable to electronic filing

(c) How the amendment 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 KRS Chapter 121. KRS 121.120(4) requires the Registry to promulgate administrative regulations and prescribe forms for the making of reports under KRS Chapter 121.

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

This amendment repeals an administrative regulation that no longer correctly interprets or administers the underlying statutes.

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

No one is currently affected by this administrative regulation, as the process it describes ceased being part of the electronic filing system in 2020.

(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:

None.

(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.

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

None, except for the removal of the confusion that the regulation causes because it describes an obsolete process that applied to a subset of filers prior to 2020.

(5) Provide an estimate of how much it will cost the administrative body to implement 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:

There will be no cost involved in the implementation and enforcement of this repealer.

(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 established any fees or directly or indirectly increased any fees: No.

(9) TIERING: Is tiering applied? (Explain why or why not):

Tiering is not applied in this repealer regulation, as it is no longer applicable to any segment of the regulated population.

## FISCAL NOTE

32 KAR 2:221

Contact Person: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance  
Phone: (502) 573-2226  
Email: LeslieM.Saunders@ky.gov.

- (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

- (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.

(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.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation:

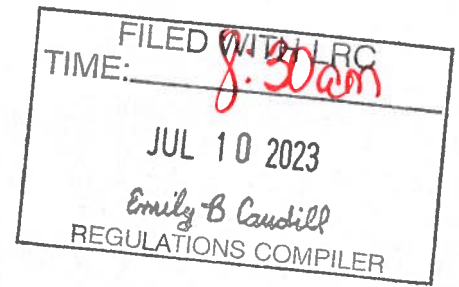
Cost Savings (+/-):

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.



1 GENERAL GOVERNMENT CABINET

2 Kentucky Registry of Election Finance

3 (New Administrative Regulation)

4 32 KAR 2:230. Processing of records requests

5 RELATES TO: KRS 121.120

6 STATUTORY AUTHORITY: KRS 121.120(1)(g); KRS 61.876

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

14 Section 1. Records Requests.

15 (1) The principal office for the registry is 140 Walnut St., Frankfort, Kentucky, 40601.  
16 Regular office hours are from 8 a.m. to 4:30 p.m., Monday through Friday, prevailing time in  
17 Frankfort, Kentucky.

18 (2) The title of the official custodian of records of the registry is the Records Custodian,  
19 whose address is the address of the agency's principal office and whose email address is  
20 KREFRequests@ky.gov.

1           (3)     Requested records will be sent via electronic means to the extent possible and that  
2     the requestor provides an email address through which to receive them.

3           (4)     Fees, to the extent authorized by KRS 61.874, shall be charged for physical copies  
4     of requested materials, with a charge of ten (10) cents a page for each photocopy and reasonable  
5     costs for materials provided in any other format, such as on storage media. Requestor shall view  
6     the records on the registry's searchable public database to the extent they are available.

7           (5)     Procedure for Requesting Records.

8                   (a) Requests to inspect records shall be made to the Records Custodian by U.S.  
9     postal mail or by email address provided in (2) of this Section.

10                   (b) Requests to inspect public records shall be made in writing, describing in  
11     reasonably sufficient detail the records to be inspected, including party and case number, if  
12     applicable and known. The registry shall also accept any standardized open records request form  
13     provided by the Office of the Attorney General.

## 14           Section 2. Public Disclosure of Registry Action.

15           (1) If the registry makes a finding of no reason to believe or no probable cause or otherwise  
16     terminates an enforcement action, it shall make public its determination and the basis for the  
17     determination no later than thirty (30) days from the date on which the required notifications are  
18     sent to complainant and respondent.

19           (2) If a conciliation agreement is finalized, the registry shall make the agreement public.

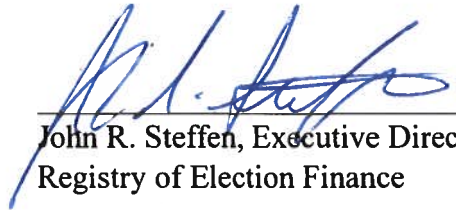
20           (3) Except as provided in subsections (1) and (2) of this section, a complaint filed with the  
21     registry, any notification sent by the registry, any investigation conducted by the registry, or any  
22     findings made by the registry shall not be made public by the registry without the written consent  
23     of the respondent until a written response has been received or the expiration of the fifteen (15)

1 day response period required by Section 3 of 32 KAR 2:030. Upon receipt of a response or the  
2 expiration of the fifteen (15) day period, the complaint, response, and materials related thereto,  
3 exclusive of materials exempted by KRS 61.878(1), shall be open for public inspection.

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

32 KAR 2:230

7/6/23  
Date

  
John R. Steffen, Executive Director  
Registry of Election Finance

## PUBLIC HEARING INFORMATION

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on September 25, 2023, at 10:00AM, 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 11:59PM. 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](mailto:LeslieM.Saunders@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

32 KAR 2:230

Contact Person: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance

Phone: (502) 573-2226

Email: LeslieM.Saunders@ky.gov.

(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 established any fees or directly or indirectly increased any fees: No.

(9) TIERING: Is tiering applied? (Explain why or why not):

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

32 KAR 2:230

Contact Person: Leslie Saunders, General Counsel, Kentucky Registry of Election Finance

Phone: (502) 573-2226

Email: LeslieM.Saunders@ky.gov.

(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.