

9 KAR 1:010. Statement of financial disclosure.

RELATES TO: KRS 11A.010(7), (9), (13), 11A.050(2), (3)

STATUTORY AUTHORITY: KRS 11A.050(2), 11A.110(3), (4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 11A.110(3) and (4) require the Executive Branch Ethics Commission to promulgate administrative regulations to implement KRS Chapter 11A and to prescribe forms for statements required by this chapter. KRS 11A.050(2) requires the commission to prescribe the form for the statement of financial disclosure. This administrative regulation prescribes the form and incorporates it by reference.

Section 1. Definitions. (1) "Address or location" means:

(a) A street address or an address assigned to a location by the U.S. postal service, 911 service, or local government; or

(b) If this address is not available, a description of the property so as to easily identify the location, global positioning system coordinates, or the location as described on the deed for the property.

(2) Business is defined by KRS 11A.010(1).

(3) "Candidate" is defined by KRS 11A.010(13).

(4) "Commission" is defined by KRS 11A.010(2).

(5) Compensation is defined by KRS 11A.010(3).

(6) "Consumer goods" means any item either tangible or intangible that can be purchased, except for purchases of real property or real estate.

(7) "Family" is defined by KRS 11A.010(4).

(8) "Gifts of money or property" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received, except for gifts from family members, campaign contributions, the waiver of a registration fee for a presenter at a conference or training described in KRS 45A.097(5), gifts received by a public servant on behalf of his or her agency pursuant to KRS 45A.097, or door prizes that are available to the public.

(9) "Home street address" means the address or location at which the officer resides on a permanent basis.

(10) "Income" is defined by KRS 11A.010(6).

(11) "Officer" is defined by KRS 11A.010(7).

(12) "Public servant" is defined by KRS 11A.010(9).

(13) "Start date" means the first date of employment with a state agency in the executive branch of the Commonwealth.

Section 2. (1) Current officers and public servants, as defined by KRS 11A.010(9)(a) to (g), shall file the statement of financial disclosure required by KRS 11A.050(1) on the statement of financial disclosure form effective at the time of his or her start date or effective at the time that candidate filing forms are filed by a candidate.

(2) Former officers and former public servants, as defined by KRS 11A.010(9)(a) to (g), shall file the statement of financial disclosure:

(a) In accordance with KRS 11A.050(1)(c); and

(b) On the statement of financial disclosure form effective at the date of departure from state service.

(3) The statement of financial disclosure required by KRS 11A.050(1) shall be filed on the Statement of Financial Disclosure EBEC-SFD-101.

Section 3. Submission. (1) The signature on the statements required by this administrative regulation shall be:

- (a) In blue or black ink; or
- (b) Electronic.

(2) The statement of financial disclosure shall be filed with the commission as follows:

(a) By hard copy via hand-delivery, U.S. Mail, or other delivery service to the Commission's address;

- (b) Electronically by facsimile to (502) 696-5091;
- (c) Electronically by electronic mail to ethicsfiler@ky.gov; or
- (d) Through an online system established by the commission.

(3) The statement of financial disclosure incorporated by reference may be reproduced.

Section 4. Incorporation by Reference. (1). "Statement of Financial Disclosure" EBEC-SFD-101 (Rev. 05/2019) is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Executive Branch Ethics Commission, 1025 Capital Center Drive, Suite 104, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (19 Ky.R. 2348; Am. 2611; eff. 6-7-1993; 21 Ky.R. 3059; 22 Ky.R. 273; 583; eff. 7-26-1995; 25 Ky.R. 883; eff. 1-19-99; 27 Ky.R. 2193; 2679; eff. 4-9-2001, 43 Ky.R. 997, 1367; eff. 3-3-2017; 45 Ky.R. 3439; 46 Ky.R. 405; eff. 9-6-2019.)

9 KAR 1:015. Preadministrative proceedings.

RELATES TO: KRS 11A.080, 11A.100

STATUTORY AUTHORITY: KRS 11A.110(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 11A.110(3) requires the Executive Branch Ethics Commission to promulgate administrative regulations to implement KRS Chapter 11A. KRS 11A.080(1) requires the commission to investigate violations of KRS Chapter 11A, upon complaint or its own motion, and establishes procedures for the filing of complaints and commission investigations. This administrative regulation establishes procedures, not established in KRS 11A.080, relating to investigations.

Section 1. Definitions. (1) "Commission" means the Executive Branch Ethics Commission created by KRS 11A.060.

(2) "Complaint" means the "complaint signed under penalty of perjury by any person" as stated in KRS 11A.080(1)(a) and does not include a referral of information to the commission that is provided without being under penalty of perjury.

Section 2. Complaint. (1) A complaint shall state the:

(a) Full name and address of the:

1. Complainant; and
 2. Complainant's attorney, if an attorney has been retained;
- (b) Name of each person alleged to have violated KRS Chapter 11A;
- (c) Employment of each alleged violator, if known;
- (d) Alleged facts that are the basis of the complaint; and
- (e) Statute alleged to have been violated, if known.

(2) The statement that the complaint is signed under penalty of perjury shall appear above the signature of the complainant.

(3) Appearing after the complainant's signature shall appear a line for a Notary Public to sign, the date of Notary Public signature, and the date of expiration of Notary Public commission.

(4) Appearing after the Notary Public's signature, the complainant's attorney, if any retained, shall sign the complaint.

(5) A complaint that does not contain the following shall not be accepted as properly filed with the commission:

- (a) The signature of the complainant;
- (b) The signature of a valid Notary Public;
- (c) The name of a person alleged to have violated KRS Chapter 11A over which the commission maintains jurisdiction; and
- (d) Facts that, if true, would indicate a violation of KRS Chapter 11A.

(6) The complaint shall be part of the records of a preliminary investigation pursuant to KRS 11A.080 and shall remain confidential pursuant to KRS 11A.080(2) until final action is taken by the commission pursuant to KRS 11A.100(3).

Section 3. Answer to Complaint. (1) The documents specified in KRS 11A.080(1)(c) shall be sent, by certified mail, return receipt requested, at the last known address, or by personal service to the person alleged to have violated KRS Chapter 11A.

(2) Within twenty (20) days of receiving a copy of the complaint, a person against whom a complaint is filed may:

- (a) File with the commission a written, signed response to the complaint; and

(b) Mail a copy of the response to the complainant.

(3) The answer, if any, shall be part of the records of the preliminary investigation pursuant to KRS 11A.080 and shall remain confidential pursuant to KRS 11A.080(2) until final action is taken by the commission pursuant to KRS 11A.100(3).

Section 4. Meeting During Preliminary Investigation. (1) At any time during the course of a preliminary investigation pursuant to KRS 11A.080(1)(a), a person being investigated may:

(a) Request a meeting with the commission's attorney and the complainant, if any; and

(b) Have an attorney represent him at this meeting.

(2) The commission's attorney shall use reasonable efforts to schedule a meeting if one has been requested.

(3) This section shall not be construed to prohibit the commission's attorney, or an investigator acting on behalf of the commission, from initiating contact with the person being investigated, or the person's attorney, if he or she has retained counsel.

Section 5. Dismissal of Complaint. (1) The commission may dismiss a complaint if it determines that the facts stated in the complaint, or facts known to the commission upon a preliminary investigation, fail to establish a violation of KRS Chapter 11A.

(2) The commission may dismiss a complaint if the complainant or his or her attorney at any time before the commission takes final action pursuant to KRS 11A.100(3), publicly reveals that the complaint has been filed with the commission or that the commission opened a preliminary investigation based upon the complaint, which may interfere with the preliminary investigation remaining confidential pursuant to the requirements of KRS 11A.080(2). (21 Ky.R. 2566; 22 Ky.R. 25; eff. 7-6-1995; 25 Ky.R. 883; 1577; eff. 1-19-1999; 27 Ky.R. 2193; 2679; eff. 4-9-2001; 45 Ky.R. 376; eff. 10-24-2018.)

9 KAR 1:025. Guidance on prohibited conduct and conflicts of interest.

RELATES TO: KRS 11A.010, 11A.020(1), 11A.030, 11A.080(1)

STATUTORY AUTHORITY: KRS 11A.110(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 11A.020 provides prohibited conduct for public servants. KRS 11A.030 establishes how to determine whether a conflict of interest exists and provides procedures a public servant must follow to abstain when a conflict of interest does exist. KRS 11A.110(3) requires the Executive Branch Ethics Commission to promulgate administrative regulations to implement KRS Chapter 11A. This administrative regulation provides guidance to public servants concerning prohibited conduct and avoiding conflicts of interest.

Section 1. Definitions. (1) "Appointing authority" is defined by KRS 11A.010(16).

(2) "Commission" means the Executive Branch Ethics Commission.

(3) "Family" is defined by KRS 11A.010(4).

(4) "Matter" means any measurable case, litigation, decision, grant, proceeding, application, determination, contract, claim, investigation, charge, or legislative bill.

(5) "Public servant" is defined by KRS 11A.010(9).

Section 2. If a public servant engages in any of the following conduct, the commission may conduct an investigation in accordance with KRS 11A.080 of the conduct as a possible violation of KRS 11A.020 or KRS 11A.030:

(1) A public servant seeks employment or contracting services for himself or herself by the use or attempted use of the public servant's office or position other than merely stating the fact that he or she holds a particular position or office in an application for employment, a resume, or curriculum vitae other than as is provided for by KRS Chapter 11A;

(2) A public servant participates directly or uses his or her position to influence or attempt to influence a decision within the state agency for which the public servant works concerning any matter involving the public servant's family member or a person with which the public servant has a personal relationship;

(3) A public servant uses state time, equipment, personnel, facilities, or other state resources for private business purposes;

(4) A public servant uses state time, equipment, personnel, facilities, or other state resources for political campaign purposes;

(5) A public servant uses state time, equipment, personnel, facilities, or other state resources for personal, prurient interests;

(6) A public servant solicits, sells to, or otherwise engages in a financial transaction with an immediate subordinate or a person the employee directly supervises, or with a person or business that is doing business with or is regulated by the state agency by which the employee is employed, if the economic benefit to the public servant is greater than \$100 in a single calendar year; or

(7) A public servant negotiates for future employment with a person or business that does business with or is regulated by the agency for which he or she works if the public servant is directly involved in matters regarding the prospective employer, unless the public servant abstains from direct involvement in matters regarding the prospective employer and the public servant discloses the abstention in writing to his or her appointing authority before entering into any form of negotiations for future employment subject to the provisions of KRS Chapter 11A. (42 Ky.R. 2292; eff. 4-1-2016).

9 KAR 1:030. Administrative proceedings.

RELATES TO: KRS 11A.080, 11A.100, 13B.030 - 13B.050, 13B.070, 13B.090

STATUTORY AUTHORITY: KRS 11A.080, 11A.100, 11A.110(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 11A.080(4)(b) authorizes the commission to initiate an administrative hearing to determine whether there has been a violation of KRS Chapter 11A. KRS 11A.100(1)(a) exempts the commission from KRS 13B.030(2)(b). KRS 11A.100(1)(b) exempts the commission from KRS 13B.050(1), (2), and (3) when a party fails to file an answer or otherwise participate. KRS 11A.110(3) requires the commission to promulgate administrative regulations to implement KRS Chapter 11A. This administrative regulation establishes procedures to govern administrative proceedings, the designation of hearing officers for the commission, and when a party fails to participate in an administrative proceeding.

Section 1. Definitions. (1) "Commission" means the Executive Branch Ethics Commission established by KRS 11A.060.

(2) "Commission secretary" means the employee of the commission designated pursuant to KRS 11A.070 to designate hearing officers.

(3) "Executive director" means the executive director appointed by the commission pursuant to KRS 11A.070.

(4) "Initiating order" means the document issued by the commission to initiate an administrative proceeding to determine whether there has been a violation as provided by KRS 11A.080(4)(b).

Section 2. Initiating Order. (1) To initiate an administrative proceeding, the commission shall issue an initiating order to the alleged violator, who shall be referred to as the respondent during the course of the administrative proceeding.

(2) The initiating order shall:

(a) Be served on the respondent by certified mail, return receipt requested, or registered mail sent to the last known address of the respondent, or by personal service. Service by certified or registered mail shall be complete upon the date on which the commission receives the return receipt or the returned notice;

(b) Include the information required by KRS 13B.050(3), except for the information required in KRS 13B.050(3)(a) and (b);

(c) State that all material submitted to the commission by the respondent or his attorney shall be addressed to the commission;

(d) State the deadline for submitting an answer and the ramifications of failing to file an answer as provided in Section 4 of this administrative regulation; and

(e) State that the procedural schedule for the proceedings will be set by a subsequent order after the designation of a hearing officer.

Section 3. Answer. (1) The respondent shall file a written answer to the initiating order with the commission within twenty (20) days of service of the initiating order.

(2) The answer shall be filed by the:

(a) Respondent, if he has not retained counsel; or

(b) Respondent's attorney, if he has retained counsel.

(3) The answer shall be signed by the respondent or by counsel for respondent.

(4) The respondent may request additional time in which to file an answer. The executive director may grant the respondent an additional twenty (20) days in which to file an answer.

(5) If the respondent requests additional time to file an answer beyond the additional twenty

(20) days, the request shall be reviewed by the commission at its next regularly scheduled meeting. The commission may grant additional time to file an answer with good cause shown.

Section 4. Default. (1) If the respondent fails to file a timely answer, then the commission may:

- (a) Accept the failure to answer as an admission of the allegations in the initiating order;
- (b) Find by clear and convincing evidence pursuant to KRS 11A.100(3) that the respondent has engaged in the alleged conduct in violation of KRS Chapter 11A;
- (c) Enter a final order of default against the respondent; and
- (d) Levy the appropriate possible penalty allowed under KRS 11A.100(3).

Section 5. Counsel. (1) If a respondent has retained counsel, the attorney shall file an entry of appearance with the commission.

(2) If a respondent has retained counsel, notices, correspondence, and orders relating to the administrative proceeding shall thereafter be transmitted to the attorney instead of the respondent.

Section 6. Assignment of a Hearing Officer. (1) If the respondent files a timely answer, then the commission shall designate a hearing officer.

(2) The commission shall designate a roster of hearing officers as provided by KRS 13B.030(2)(a) and as dictated by KRS Chapter 45A.

(3) A person qualified to serve as a hearing officer for the commission shall:

- (a) Maintain the qualifications required by KRS 13B.040;
- (b) Be an attorney in good standing with the Kentucky Bar Association or otherwise have approval by the Kentucky Bar Association to practice law in the Commonwealth of Kentucky;
- (c) Demonstrate knowledge of KRS Chapter 11A by having served as an ethics officer, having previously served as a member or staff of the commission, or attending or participating in trainings offered by the commission on the requirements of KRS Chapter 11A;
- (d) Not be a current member or staff of the commission; and
- (e) Not be under the jurisdiction of the commission.

(4) Once the roster of hearing officers is established, the commission secretary shall randomly assign administrative proceedings initiated by the commission pursuant to KRS 11A.080(4)(b) to a hearing officer from the roster of hearing officers, unless otherwise directed by the commission.

Section 7. Hearing Officer. (1) After the hearing officer is designated by the commission, the hearing officer shall within ten (10) days of the designation send notice to the parties of the date and time of the first telephonic prehearing conference.

(2) The hearing officer shall follow the requirements of KRS Chapter 13B for the conduct of administrative hearings, except as provided in KRS 11A.100 for the burden of proof where the higher standard of proof is required as dictated by KRS 13B.090(7).

Section 8. Settlement. (1) At any time during the proceedings, the commission's counsel may enter into mediation or informal proceedings pursuant to KRS 13B.070 with the respondent.

(2) An agreed order or settlement reached through this process shall be reviewed by the commission and, upon approval by the commission, shall be signed by the commission and the respondent.

(3) The commission shall not approve a settlement that provides for the confidentiality of:

- (a) The existence of the settlement; or
- (b) Any of the terms of the settlement.

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

Section 10.Record to be Maintained. (1) The hearing shall be transcribed by a court stenographer or by means of electronic media, such as videotaping.

(2) A transcript or electronic media copy of the testimony taken during the hearing shall:

- (a) Be kept by the commission;
- (b) Be available to the respondent upon request and payment of the appropriate fee; and
- (c) Be available to all commission members.

(3) Any documents or exhibits introduced into evidence shall be kept with the transcript or copy of the electronic media recording of the hearing or as ordered by the hearing officer. (19 Ky.R. 2349; eff. 6-7-93; Am. 21 Ky.R. 2517; 22 Ky.R. 26; eff. 7-6-95; 25 Ky.R. 884; 1577; eff. 1-19-1999; 31 Ky.R. 376; 697; eff. 11-5-2004; 45 Ky.R. 377; eff. 10-24-2018.)

009 KAR 1:040. Executive agency lobbyist, employer of executive agency lobbyist, and real party in interest registration and expenditure statements; financial transactions and termination forms; and enforcement.

RELATES TO: KRS 11A.201, 11A.211, 11A.216, 11A.221, 11A.231, 11A.233(1), 11A.236, 11A.241(4), (5), (6), 11A.990

STATUTORY AUTHORITY: KRS 11A.110(3), (4), 11A.241(4), (5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 11A.110(3) requires the Executive Branch Ethics Commission to promulgate administrative regulations to implement and prescribe forms for statements required by KRS Chapter 11A. KRS 11A.241(4) and (5) require the Executive Branch Ethics Commission to prescribe the initial registration statement, the updated registration statement, and the termination notice required by KRS 11A.211, the statement of expenditures required by KRS 11A.216, and the statement of financial transactions required by KRS 11A.221. This administrative regulation establishes the initial registration, financial transactions statements, expenditure statements, termination notice, and enforcement procedure.

Section 1. Definitions. (1) "Agent" means the "executive agency lobbyist" as defined by KRS 11A.201(8).

(2) "Commission" means the Executive Branch Ethics Commission.

(3) "Employer" is defined by KRS 11A.201(3).

(4) "Executive agency decision" is defined by KRS 11A.201(7).

(5) "Executive agency lobbyist" is defined by KRS 11A.201(8).

(6) "Filer" means the executive agency lobbyist, employer of the executive agency lobbyist, or real party in interest.

(7) "Real party in interest" is defined by KRS 11A.201(15).

Section 2. Initial Registration Statement. (1) Until June 30, 2019, the initial registration statement required by KRS 11A.211(1) shall be filed on the Initial Registration Statement (Rev. 4/2016). After June 30, 2019, the initial registration statement required by KRS 11A.211(1) shall be filed on the Initial Registration Statement EBEC-EAL-201.

(2)(a) The brief description of the executive agency decision shall include the subject matter for which an executive agency lobbyist:

1. Has been engaged; or

2. Is responsible.

(b) Subject matters shall include:

1. An award of grant for social services;

2. A lease for office space or equipment;

3. A contract to provide food, clothing, or other consumable products;

4. Any decisions made concerning the matters listed in KRS 11A.201(7)(a) through (f); and

5. Any other subject matter.

Section 3. (1)(a) Until July 31, 2019, if a filer submitted the initial registration statement form to the commission prior to June 30, 2019, then the updated registration statement form required by KRS 11A.211(2) shall be filed on the applicable Updated Registration Statement (Rev. 4/2016) for that filer.

(b) If a filer submitted the initial registration statement form to the commission after June 30, 2019, then the updated registration form required by KRS 11A.211(2) shall be filed on the applicable Updated Registration Statement as follows:

1. For the executive agency lobbyist on:
 - a. The combined form EBEC-EAL-202; or
 - b. EBEC-EAL-203;
2. For the employer of the executive agency lobbyist on form EBEC-EAL-204; and
3. For the real party in interest on form EBEC-EAL-205.

(2) Until June 30, 2019, the notice of termination required by KRS 11A.211(4) shall be filed on the Termination Notification as Executive Agency Lobbyist (Rev. 4/2016). After June 30, 2019, the notice of termination required by KRS 11A.211(4) shall be filed on the Termination Notification as Executive Agency Lobbyist EBEC-EAL-206.

Section 4. Enforcement Procedure. (1) If an executive agency lobbyist, an employer of an executive agency lobbyist, or a real party in interest has not filed an Updated Registration Statement on or before the date the statement is due, the commission shall notify the party, by certified mail, return receipt requested, that if the statement is not filed within fifteen (15) days of the date of the receipt of notice, the commission shall levy a fine, as provided by KRS 11A.990(5).

(2) If, by the 16th day after proof of service of the certified letter is received by the commission, the commission has not received the statement that was due by July 31, the commission shall prepare and issue to the executive agency lobbyist, employer, or real party in interest an order demanding payment of the appropriate fine as required by KRS 11A.990(5). The executive agency lobbyist, employer, or real party in interest shall pay the fine within ten (10) days from the date of the order. The commission shall exonerate or reduce the fine if the commission receives evidence during the ten (10) day fine payment period indicating the filer has already filed the updated registration statement, or that the delinquency is in error.

(3) The commission also may exonerate or reduce a fine for late filing of the updated registration statement if the commission feels that exoneration is warranted, based on the circumstances, such as illness or injury, bereavement, emergency, unforeseen circumstances beyond the control of the person, bona fide effort to file on time, or similar circumstance.

(4) If the commission is not in receipt of the fine from the executive agency lobbyist, employer, or real party in interest by the tenth day after issuance of the order demanding payment of the fine, the general counsel may recommend that the commission initiate an investigation of the executive agency lobbyist, employer, or real party in interest to determine if the failure to file was intentional causing the criminal penalties set forth in KRS 11A.990(6) to apply.

Section 5. Submission. (1) The signature on the statements and forms required by this administrative regulation shall be:

- (a) In blue or black ink; or
- (b) Electronic.

(2) The forms required by this administrative regulation, which are filed with the commission, shall be submitted as follows:

- (a) By hard copy via hand-delivery or U.S. Mail to the Commission's address;
- (b) Electronically by facsimile to (502) 696-5091;
- (c) Electronically by electronic mail to ethicsfiler@ky.gov; or
- (d) Through an online system once established by the commission.

(3) The forms incorporated by reference in this administrative regulation may be reproduced by the executive agency lobbyist, the employer, or real party in interest.

Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Initial Registration Statement", rev. 04/2016;
- (b) "Updated Registration Statement - Executive Agency Lobbyist", rev. 04/2016;
- (c) "Updated Registration Statement - Employer of Executive Agency Lobbyist", rev. 04/2016;
- (d) "Updated Registration Statement -Executive Agency Lobbyist/Employer Combined", rev. 04/2016;
- (e) "Updated Registration Statement - Real Party in Interest", rev. 04/2016;
- (f) "Termination Notification as Executive Agency Lobbyist", rev. 04/2016;
- (g) "Commonwealth of Kentucky Registration Card Executive Agency Lobbyist", 9/93;
- (h) "Initial Registration Statement" EBEC-EAL-201 (Rev. 05/2019);
- (i) "Updated Registration Statement - Executive Agency Lobbyist" EBEC-EAL-202 (Rev. 05/2019);
- (j) "Updated Registration Statement -Executive Agency Lobbyist/Employer Combined" EBEC-EAL-203 (Rev. 05/2019);
- (k) "Updated Registration Statement - Employer of Executive Agency Lobbyist" EBEC-EAL-204 (Rev. 05/2019);
- (l) "Updated Registration Statement - Real Party in Interest" EBEC-EAL-205 (Rev. 05/2019);
- (m) "Termination Notification as Executive Agency Lobbyist" EBEC-EAL-206 (Rev. 05/2019); and
- (n) "Commonwealth of Kentucky Registration Card Executive Agency Lobbyist" (Rev. 9/93).

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Executive Branch Ethics Commission, 1025 Capital Center Drive, Suite 104, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (20 Ky.R. 868; 1567; eff. 12-6-1993; 21 Ky.R. 3060; 22 Ky.R. 273; 583; eff. 7-26-1995; 25 Ky.R. 1086; 1579; eff. 1-19-1999; 27 Ky.R. 2194; 2679; eff. 4-9-2001; 30 Ky.R. 661; 1193; eff. 12-5-2003; 33 Ky.R. 3031; 3330; eff. 6-1-2007; 43 Ky.R. 392; eff. 10-7-2016; 45 Ky.R. 3440; 46 Ky.R. 405; eff. 9-6-2019.)

9 KAR 1:050. Approval of outside employment of a public servant.

RELATES TO: KRS 11A.040(9)

STATUTORY AUTHORITY: KRS 11A.040(10)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 11A.040(9) requires the appointing authority to review administrative regulations established under KRS Chapter 11A when deciding whether to approve outside employment for a public servant.

Section 1. (1) A public servant who requests approval of his appointing authority for outside employment shall submit a statement under oath to the appointing authority of his agency as follows: "I request approval of off-duty employment with (name of outside employer). As a (public servant's job title), I am not involved in the (name of state agency's) decisions concerning (name of outside employer). If the request is approved, I agree that if, in the future, I realize that I will be involved in such decisions, I will immediately notify (appointing authority) and take steps to avoid any conflict of interest."

(2) The public servant shall attach to this statement:

(a) The public servant's current P-1 personnel form or comparable form, if applicable, and job description, and the name, title and location of the public servant's immediate supervisor.

(b) The name and address of the outside employer; description of its type of business, ownership, and all its business and regulatory relationships with the appointing authority's agency; and a description of the public servant's off-duty job.

(c) An explanation of the specific factors which separate the public servant's state job from the agency's decisions concerning the outside employer.

Section 2. The appointing authority shall review the request and consider, including but not limited to, the following factors:

(1) The degree of separation between the public servant's state duties and decisions concerning the outside employer. Example: whether the public servant is involved with the awarding of contracts to or regulation of the outside employer.

(2) The public servant's level of supervisory or administrative authority, if any. Example: whether the public servant has ultimate responsibility for a decision concerning the outside employer, although he is not involved in the decision-making process.

(3) Whether the outside employment will interfere or conflict with the public servant's state employment duties.

(a) A conflict shall exist if a public servant cannot carry out an appropriate course of action for his agency because of responsibilities his outside employment would require.

(b) A conflict shall exist if the outside employment will materially interfere with the public servant's independent judgment in considering alternatives or courses of action that reasonably should be pursued in his state employment.

(4) The duration of the outside employment;

(5) Whether the outside employment would create an appearance of conflict of interest with state duties; and

(6) Whether the public servant is an auditor, inspector or other regulatory personnel of a division which is currently auditing, inspecting or reviewing or has scheduled an audit, inspection or review of the outside entity for which the public servant requests approval to work.

Section 3. The appointing authority shall consider the factors set forth in Section 2 of this administrative regulation and, if the appointing authority approves the outside employment request, certify in writing the following:

"As appointing authority for the (agency), I certify that as a (public servant's job title), (public servant's name) is not involved in this agency's decisions concerning (outside employer); that his off-duty employment by (outside employer), in my opinion, will not create a real or perceived conflict of interest which would damage public confidence in government; and that I approve such off-duty employment."

Section 4. On January 15, April 15, July 15, and October 15 of each year, the appointing authority shall file with the Executive Branch Ethics Commission a list of all employees who have been approved for outside employment during the preceding quarter, along with the name of the outside employer of each. (21 Ky.R. 1397; 1719; eff. 12-14-1994; 25 Ky.R. 887; 1580; eff. 1-19-1999; TAm eff. 9-12-2018.)

9 KAR 1:060. Requirements relating to fundraising activities and charitable nonprofit organizations.

RELATES TO: KRS 11A.010, 11A.045, 11A.055

STATUTORY AUTHORITY: KRS 11A.055, 11A.110(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 11A.110(3) authorizes the Executive Branch Ethics Commission to promulgate administrative regulations to implement KRS Chapter 11A. KRS 11A.055 authorizes state agencies or public servants to solicit and accept donations for charitable nonprofit organizations or for programs for crime prevention, drug and alcohol abuse prevention, or traffic safety. This administrative regulation establishes requirements relating to those fundraising activities and provides guidance related to the creation of charitable nonprofit organizations ensuring compliance with KRS 11A.045.

Section 1. Definitions. (1) "Affiliated" means a charitable nonprofit organization that:

- (a)1. Engages in activities for the benefit of an agency; or
 2. Furthers the statutory or regulatory mandates of the agency through the use of contributions solicited from the public; and
 - (b) Is not established, created, or controlled by the agency.
- (2) "Agency" is defined by KRS 11A.010(10).
- (3) "Charitable nonprofit organization" means an entity or corporation:
- (a) Described in 26 U.S.C. 501(c)(3);
 - (b) Granted tax exempt status under 26 U.S.C. 501(a); and
 - (c) That accepts charitable contributions.
- (4) "Commission" is defined by KRS 11A.010(2).
- (5) "Controlled" means that an agency or a public servant maintains control of a charitable nonprofit organization if at least one (1) of the following apply:
- (a) Public servants of the agency serve as a majority of the officers for or represent a majority of the voting members of the governing board of the charitable nonprofit organization;
 - (b) The agency or the public servant selects, elects, appoints, or removes a majority of the officers or voting members of the governing board of the charitable nonprofit organization or a portion thereof;
 - (c) The agency provides on an ongoing basis staff, resources, or office space with no recompense from the charitable nonprofit organization to the agency unless otherwise authorized by statute or the staff, resources, or office space are provided pursuant to an agreement made in accordance with the provisions of KRS Chapter 45A; or
 - (d) The public servant directs the use of the funds of the charitable nonprofit organization or has signatory authority of the charitable nonprofit organization's accounts.
- (6) "Created" means an agency or a public servant has filed articles of incorporation with the office of the Secretary of State to form the charitable nonprofit organization.
- (7) "Established" means an agency or a public servant:
- (a) Files documentation with the Internal Revenue Service to create the charitable nonprofit organization pursuant 26 U.S.C. 501(c); or
 - (b) Drafts bylaws or other governing documents under which a charitable nonprofit organization operates.
- (8) "Public servant" is defined by KRS 11A.010(9).
- (9) "Recompense" means payment by a charitable nonprofit organization to an agency either through monetary compensation or non-monetary consideration given in exchange for the value of rental or use of state-owned facilities, agency personnel, goods, resources, or services.

Section 2. For the purposes of this administrative regulation, A public servant shall be limited to an individual who is acting on behalf of a state agency in the course and scope of his or her state employment, unless otherwise authorized by statute.

Section 3. Category I. (1) A charitable nonprofit organization controlled by an agency shall constitute a part of that agency.

(2) A charitable nonprofit organization under subsection (1) of this section shall be subject to the Executive Branch Code of Ethics, pursuant to KRS Chapter 11A.

(3) To ensure compliance with KRS 11A.045, a charitable nonprofit organization under subsection (1) of this section shall not accept confidential contributions.

(4) Public servants of an agency shall not solicit contributions to the charitable nonprofit organization under subsection (1) of this section if the agency is prohibited from accepting these contributions under KRS 11A.045.

Section 4. Category II. (1) A Category II charitable nonprofit organization shall be an entity that is created or established, but not controlled, by an agency.

(2) A Category II charitable nonprofit organization may support similar goals of the agency and shall not be subject to the provisions of Section 3 of this administrative regulation if it does not provide funding directly or indirectly to the agency unless otherwise authorized by statute.

Section 5. Category III. (1) A Category III charitable nonprofit organization shall be an entity that is not created, established, or controlled by an agency, but may be affiliated with an agency.

(2) A Category III charitable nonprofit organization shall not be subject to the provisions of Section 3 of this administrative regulation.

Section 6. (1) Pursuant to KRS 11A.055, all funds raised by an agency or a public servant on behalf of a Category II or III charitable nonprofit organization shall be delivered to the charitable nonprofit organization or other statutorily authorized program. An agency involved in the fundraising effort shall not retain any funds.

(2) An agency or public servant shall not enter into a contract with an entity to raise funds for a Category II or III charitable nonprofit organization or program pursuant to KRS 11A.055 if the contract provides that the agency shall:

(a) Be paid out of the funds raised;

(b) Receive a commission based on funds raised; or

(c) Receive any portion of the funds to be delivered to the charitable organization or program.

(3) Except as provided in Section 7 of this administrative regulation, an agency may assign or permit a public servant to work on behalf of a Category II or III charitable nonprofit organization if:

(a) The public servant does not devote more than 100 hours per calendar year working on behalf of a Category II or III charitable nonprofit organization unless otherwise authorized by statute; and

(b) The agency determines in writing that these working hours are necessary to fulfill the statutory, regulatory, or programmatic mandates of the agency.

Section 7. An agency may devote state time and resources to any category charitable nonprofit organization without recompense from the charitable nonprofit organization if:

- (1) These activities are conducted for a cooperatively sponsored event; and
- (2) The event is conducted to further the statutory, regulatory, or programmatic mandates of the agency. (31 Ky.R. 508; 697; eff. 11-5-2004; 43 Ky.R. 754, 1390, 1504; eff. 3-31-2017.)



STEVEN L. BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2009-882
September 18, 2009

**AMENDED ORDER RELATING TO STANDARDS
OF ETHICAL CONDUCT IN THE EXECUTIVE BRANCH
OF STATE GOVERNMENT**

WHEREAS, on May 27, 2008, Executive Order 2008-454 was issued which, in addition to the provisions of KRS Chapter 11A, established various standards of ethical conduct and behavior for public servants and employees in the Executive Branch of State Government, including members of policy- making or regulatory boards and commissions; and

WHEREAS, the provisions of Executive Order 2008-454 were made expressly applicable to the members of approximately seventy four (74) policy- making or regulatory boards and commissions; and

WHEREAS, it has been determined that the members of additional policy- making or regulatory boards and commissions, namely, the Board of Housing, Building and Construction, Kentucky Board of Home Inspectors, Board of Boiler and Pressure Vessel Rules, Manufactured Home Certification & Licensure Board and the State Plumbers Examining Committee, should be subject to the provisions of Executive Order 2008-454, as well as the gift and conflict of interest rules for Executive Branch public servants set forth in KRS Chapter 11A:

NOW, THEREFORE, I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by the Sections 69, 79 and 81 of the Kentucky Constitution, and KRS 12.080, do hereby Order and Direct the following:

1. The provisions of Executive Order 2008-454, be and the same are incorporated herein and made a part of this Order by reference.
2. The members of the following policy- making or regulatory boards and commissions are hereby subject to the provisions of this Order, as well as the gift and conflict of interest rules for Executive Branch public servants set for in KRS Chapter 11A:
 - a. Board of Housing, Building and Construction
 - b. Kentucky Board of Home Inspectors
 - c. Board of Boiler and Pressure Vessel Rules
 - d. Manufactured Home Certification & Licensure Board
 - e. State Plumbers Examining Committee



STEVEN L. BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2009-882
September 18, 2009

3. In all future cases where questions arise concerning the provisions of this Order, its interpretation and intent, the Governor shall determine any such questions, and actions shall be taken in accordance with such determination pursuant to KRS 12.080 and 12.100.

A handwritten signature in black ink, appearing to read "Steven L. Beshear", written over a horizontal line.

STEVEN L. BESHEAR, GOVERNOR
Commonwealth of Kentucky

A handwritten signature in black ink, appearing to read "Trey Grayson", written over a horizontal line.

TREY GRAYSON
Secretary of State

RECEIVED AND FILED

DATE

9/18/09

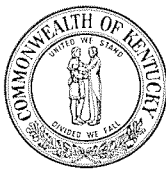
TREY GRAYSON

SECRETARY OF STATE

COMMONWEALTH OF KENTUCKY

BY

R. Adles



STEVEN L. BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2008-454

May 27, 2008

RELATING TO STANDARDS OF ETHICAL CONDUCT
IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT

WHEREAS, the proper operation of democratic government requires that a public official or employee shall not use public office to obtain private benefits and that the public must have confidence in the integrity of its government and public officials; and

WHEREAS, it is time to strengthen the integrity of state government and to insure that those who serve in the public sector are accountable to the people of the Commonwealth:

NOW, THEREFORE, I, STEVEN L. BESHEAR, Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by Sections 69, 79 and 81 of the Kentucky Constitution, and KRS 12.080, do hereby Declare, Order and Direct the following pertaining to standards of ethical conduct in the Executive Branch of state government:

1. All Executive Branch state agencies and department heads shall establish and implement, in coordination and consultation with the Executive Branch Ethics Commission, the Finance and Administration Cabinet and the Personnel Cabinet, mandatory ethics training for all major management personnel as defined in KRS 11A.010(7) in the Executive Branch of state government. A voluntary annual ethics training program also shall be established, implemented and made available for Executive Branch lobbyists by the Commission. Training on the Executive Branch Code of Ethics as authorized by this section shall be either



STEVEN L. BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2008-454

May 27, 2008

through classroom training or through educational materials. Agency-designated ethics officers shall provide assistance as needed in effecting this training.

2. The Executive Branch Ethics Commission, created under KRS 11A.060, is composed of five (5) members appointed the Governor. Beginning with the terms of the commission members whose appointments expire after the effective date of this Order, members shall be appointed on a rotating basis, as follows:

- A. The first member to be appointed after the effective date of this Order shall be appointed by the Governor;
- B. The next member to be appointed after the effective date of this Order shall be appointed by the Governor from a list of three (3) nominees submitted by the Attorney General;
- C. The next member to be appointed after the effective date of this Order shall be appointed by the Governor from a list of three (3) nominees submitted by the Auditor of Public Accounts.
- D. The annual appointment of members shall then be repeated in accordance with the same nomination and appointment rotation procedure established in this subsection. A vacancy in an unexpired term shall be filled for the remainder of the term in the same manner as the vacating member's position was filled under this section.

3. No executive branch public servant, by himself or through others, shall knowingly:

- A. Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in



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GOVERNOR

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Frankfort
Kentucky

2008-454

May 27, 2008

derogation of the public interest at large, including but not limited to the following:

- i. Seeking other employment or contracting for services for oneself by the use or attempted use of the employee's office or position;
 - ii. Misuse of state time, equipment, personnel, facilities, or other state resources for private business purposes;
 - iii. Use of state time, equipment, personnel, facilities, or other state resources for political campaign purposes; and
 - iv. Soliciting, selling to, or otherwise engaging in a financial transaction with a subordinate or a person the employee supervises, or with a person or business that is doing business with or is regulated by the state agency by which the employee is employed, if the economic benefit to the employee is greater than fifty dollars (\$50) in a single calendar year.
4. An executive branch public servant shall not negotiate for future employment with a person or business that does business with or is regulated by the agency for which he works if the public servant is directly involved in matters regarding the prospective employer. If an employee wishes to abstain from direct involvement in matters regarding a employee that does business with or is regulated by the employee's agency, the employee shall disclose such abstention in writing to his or her superior.



STEVEN L. BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2008-454

May 27, 2008

5. An executive branch public servant who wishes to accept donations to a legal defense fund established on behalf of the public servant to assist in defraying costs and expenses related to litigation or pending criminal charges shall:
- A. Before accepting any contributions register with the Executive Branch Ethics Commission that the legal defense fund exists;
 - B. Not accept donations from:
 - i. Any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of any state agency; or
 - ii. Any group or association which has as its primary purpose the representation of those persons or businesses; and
 - C. File quarterly reports with the Executive Branch Ethics Commission at the end of each calendar quarter identifying the donors to the legal defense fund and listing the amounts donated by each.
6. No member of a state policy-making or regulatory board or commission, shall himself or herself or through a business in which the member owns or controls an interest of more than five percent (5%), or by any other person for the member's use or benefit or on the member's account, undertake, execute, hold, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the board, commission, authority, council, or committee of which he or she is a member. This prohibition shall not apply to



STEVEN L. BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State

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2008-454

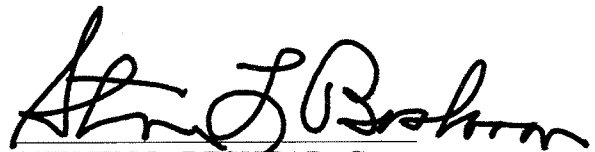
May 27, 2008

purchases that are available on the same terms to the general public or which are made at public auction.

7. A state policy-making or regulatory board or commission member shall disclose to the other members of the board, commission, authority, council or committee of which he or she is a member, any direct or indirect interest in any undertaking that puts the member's personal interest in conflict with that of the agency. This disclosure shall be made in writing or shall be recorded in the minutes of a formal meeting. A member who is required to publicly disclose a direct or indirect interest shall abstain from all decisions concerning his or her interest if the decision should affect him or her as a member of a business, profession, occupation, or group in a manner different from other members of the business, profession, occupation, or group.

8. Members of policy-making or regulatory boards and commissions members shall be subject to the gift rules for executive branch public servants set forth in KRS Chapter 11A.

9. Attached hereto is a list of all policy-making and regulatory boards or commissions covered by this Executive Order.


STEVEN L. BESHEAR, Governor
Commonwealth of Kentucky


TREY GRAYSON
Secretary of State



STEVEN L. BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State

Frankfort
Kentucky

Regulatory and Policy-Making Boards and Commissions

1. Accountancy
2. Agriculture Development Board
3. Athletic Commission
4. Alcohol and Drug Counselors
5. Alcoholic Beverage Control Board
6. Architects
7. Arts Council
8. Art Therapists
9. Auctioneers Board
10. Barbering
11. Bluegrass State Skills Corporation
12. Boxing and Wrestling Authority
13. Center for the Arts Board of Directors
14. Chiropractic Examiners
15. Commission for Children with Special Health Care Needs
16. Counselors
17. Deaf and Hard of Hearing Commission
18. Dentistry
19. Dieticians and Nutritionists
20. Education Professional Standards Board
21. Elections, Board of
22. Embalmers and Funeral Directors
23. Emergency Medical Services
24. Engineers and Land Surveyors
25. Executive Branch Ethics Commission
26. Fee-Based Pastoral Counselors
27. Fish and Wildlife Resources Commission
28. Geologists
29. Hairdressers and Cosmetologists
30. Hearing Instruments
31. Heating, Ventilation and Air Conditioning Contractors
32. Heritage Council
33. Higher Education Assistance Authority
34. Higher Education Student Loan Corporation
35. Horse Park Commission
36. Horse Racing Authority
37. Human Rights Commission



STEVEN L. BESHEAR
GOVERNOR

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38. Infrastructure Authority
39. Interpreters for the Deaf and Hard of Hearing
40. Kentucky Educational Television Authority
41. Kentucky Housing Corporation Board of Directors
42. Kentucky River Authority
43. Landscape Architects
44. Marriage and Family Therapists
45. Massage Therapy
46. Medical Licensure
47. Military Affairs, Commission on
48. Mine Safety Review Commission
49. Nursing
50. Nursing Home Administrators
51. Occupational Therapy
52. Ophthalmic Dispensers
53. Optometric Examiners
54. Personnel Board
55. Pharmacy
56. Physical Therapy
57. Podiatry
58. Private Investigators
59. Psychology
60. Real Estate Appraisers
61. Real Estate Commission
62. Registry of Election Finance
63. Respiratory Care
64. School Facilities Construction Commission
65. Social Work
66. Speech-Language Pathology and Audiology
67. State Fair Board
68. State Investment Commission
69. State Property and Buildings Commission
70. Teachers Retirement Systems Board of Trustees
71. Turnpike Authority
72. Unemployment Insurance Commission
73. Veterinary Examiners
74. Commission on Women



MATTHEW G. BEVIN
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2016-377
June 24, 2016

By virtue of the authority vested in me by the Kentucky Constitution and the laws of the Commonwealth of Kentucky, I, Matthew G. Bevin, Governor of the Commonwealth of Kentucky, do hereby order that the provisions of numerical Paragraph 2 of Executive Order 2008-454, dated May 27, 2008, be and the same are hereby rescinded, declared null and void, and are no longer in effect. All vacancies among the membership of the Executive Branch Ethics Commission that exist on or after the date of this Order shall be filled by the Governor as set forth in KRS 11A.060. All other provisions of Executive Order 2008-454, dated May 27, 2008, shall remain in effect.


MATTHEW G. BEVIN, Governor
Commonwealth of Kentucky


ALISON LUNDERGAN GRIMES
Secretary of State

RECEIVED AND FILED

DATE 6/28/16

ALISON LUNDERGAN GRIMES
SECRETARY OF STATE

COMMONWEALTH OF KENTUCKY
BY *A. Adler*

11A.001 Short title for chapter.

This chapter may be cited as the "Executive Branch Code of Ethics."

Effective: July 14, 1992

History: Created 1992 Ky. Acts ch. 287, sec. 1, effective July 14, 1992.

11A.005 Statement of public policy.

- (1) It is the public policy of this Commonwealth that a public servant shall work for the benefit of the people of the Commonwealth. The principles of ethical behavior contained in this chapter recognize that public office is a public trust and that the proper operation of democratic government requires that:
 - (a) A public servant be independent and impartial;
 - (b) Government policy and decisions be made through the established processes of government;
 - (c) A public servant not use public office to obtain private benefits; and
 - (d) The public has confidence in the integrity of its government and public servants.
- (2) The principles of ethical behavior for public servants shall recognize that:
 - (a) Those who hold positions of public trust, and members of their families, also have certain business and financial interests;
 - (b) Those in government service are often involved in policy decisions that pose a potential conflict with some personal financial interest; and
 - (c) Standards of ethical conduct for the executive branch of state government are needed to determine those conflicts of interest which are substantial and material or which, by the nature of the conflict of interest, tend to bring public servants into disrepute.

Effective: July 14, 1992

History: Created 1992 Ky. Acts ch. 287, sec. 2, effective July 14, 1992.

11A.010 Definitions for chapter.

As used in this chapter, unless the context otherwise requires:

- (1) "Business" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted, whether or not for profit;
- (2) "Commission" means the Executive Branch Ethics Commission;
- (3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;
- (4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;
- (5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, the waiver of a registration fee for a presenter at a conference or training described in KRS 45A.097(5), or door prizes available to the public;
- (6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;
- (7) "Officer" means:
 - (a) All major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, executive directors, executive assistants, policy advisors, special assistants, administrative coordinators, executive advisors, staff assistants, and division directors;
 - (b) Members and full-time chief administrative officers of:
 1. The Parole Board;
 2. Kentucky Claims Commission;
 3. Kentucky Retirement Systems board of trustees;
 4. Kentucky Teachers' Retirement System board of trustees;
 5. The Kentucky Public Employees Deferred Compensation Authority board of trustees;
 6. Public Service Commission;
 7. Worker's Compensation Board and its administrative law judges;

8. The Kentucky Occupational Safety and Health Review Commission;
 9. The Kentucky Board of Education; and
 10. The Council on Postsecondary Education;
- (c) Salaried members of executive branch boards and commissions; and
 - (d) Any person who, through a personal service contract or any other contractual employment arrangement with an agency, performs on a full-time, nonseasonal basis a function of any major management position listed in this subsection;
- (8) "Official duty" means any responsibility imposed on a public servant by virtue of his or her position in the state service;
 - (9) "Public servant" means:
 - (a) The Governor;
 - (b) The Lieutenant Governor;
 - (c) The Secretary of State;
 - (d) The Attorney General;
 - (e) The Treasurer;
 - (f) The Commissioner of Agriculture;
 - (g) The Auditor of Public Accounts;
 - (h) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees; and
 - (i) Any person who, through any contractual arrangement with an agency, is employed to perform a function of a position within an executive branch agency on a full-time, nonseasonal basis;
 - (10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his or her appointing authority is employed, unless his or her agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;
 - (11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(23) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);
 - (12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;
 - (13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of this section;
 - (14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency

in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;

- (15) "Public agency" means any governmental entity;
- (16) "Appointing authority" means the agency head or any person whom he or she has authorized by law to act on behalf of the agency with respect to employee appointments;
- (17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else;
- (18) "Directly involved" means to work on personally or to supervise someone who works on personally;
- (19) "Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public;
- (20) "Person" means an individual, proprietorship, firm, partnership, limited partnership, joint venture, joint stock company, syndicate, business or statutory trust, donative trust, estate, company, corporation, limited liability company, association, club, committee, organization, or group of persons acting in concert; and
- (21) "Salaried" means receiving a fixed compensation or benefit reserved for full-time employees, which is paid on a regular basis without regard to the actual number of hours worked.

Effective: June 27, 2019

History: Amended 2019 Ky. Acts ch. 195, sec. 1, effective June 27, 2019. -- Amended 2018 Ky. Acts ch. 107, sec. 83, effective July 14, 2018. -- Amended 2017 Ky. Acts ch. 74, sec. 51, effective June 29, 2017; and ch. 175, sec. 3, effective June 29, 2017. - - Amended 2014 Ky. Acts ch. 75, sec. 11, effective July 15, 2014. -- Amended 2013 Ky. Acts ch. 106, sec. 1, effective June 25, 2013. -- Amended 2012 Ky. Acts ch. 75, sec. 1, effective April 11, 2012; and ch. 81, sec. 77, effective July 12, 2012. -- Amended 2005 Ky. Acts ch. 123, sec. 7, effective June 20, 2005. -- Amended 2003 Ky. Acts ch. 29, sec. 3, effective June 24, 2003. -- Amended 2000 Ky. Acts ch. 417, sec. 3, effective December 1, 2000; ch. 475, sec. 1, effective July 14, 2000; and ch. 542, sec. 5, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 429, sec. 1, effective July 15, 1998; ch. 431, sec. 2, effective July 15, 1998; and ch. 602, sec. 1, effective July 15, 1998. -- Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 149, effective May 30, 1997. -- Amended 1996 Ky. Acts ch. 362, sec. 6, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 406, sec. 7, effective July 15, 1994. -- Amended 1993 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 71, effective September 16, 1993. -- Created 1992 Ky. Acts ch. 287, sec. 3, effective July 14, 1992.

Legislative Research Commission Note (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of this statute set by 2000 Ky. Acts ch. 417, sec. 18, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (12/13/2018). On December 13, 2018, the Kentucky Supreme Court ruled that the passage of 2018 SB 151 (2018 Ky. Acts ch. 107), did not comply with the three-readings rule of Kentucky Constitution Section 46 and that the legislation is, therefore, constitutionally invalid and declared void. That ruling applies to changes made to this statute in that Act.

11A.015 Agency exempt from chapter if law or administrative regulation creates its code of ethics.

An agency that is directed by statute to adopt a code of ethics shall be exempt from KRS Chapter 11A upon the effective date of an Act of the General Assembly creating the agency's code of ethics or upon the effective date of an administrative regulation that creates the agency's code of ethics.

Effective: July 14, 2000

History: Created 2000 Ky. Acts ch. 475, sec. 5, effective July 14, 2000.

11A.020 Public servant prohibited from certain conduct -- Exception -- Disclosure of personal or private interest.

- (1) No public servant, by himself or through others, shall knowingly:
 - (a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;
 - (b) Use or attempt to use any means to influence a public agency in derogation of the state at large;
 - (c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family; or
 - (d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.
- (2) If a public servant appears before a state agency, he shall avoid all conduct which might in any way lead members of the general public to conclude that he is using his official position to further his professional or private interest.
- (3) When a public servant abstains from action on an official decision in which he has or may have a personal or private interest, he shall disclose that fact in writing to his superior, who shall cause the decision on these matters to be made by an impartial third party.
- (4) The prohibitions imposed by subsection (1)(c) of this section shall not apply to Professional Golfers' Association class A members who teach golf lessons and receive a fee or lesson charge at golf courses owned and operated by the Kentucky Department of Parks. Instruction provided by an employee of the Commonwealth shall only be given while the employee is on his or her own personal time. The commissioner of the Department of Parks shall promulgate administrative regulations to establish guidelines for the process by which Professional Golfers' Association class A members are approved to teach golf lessons at Kentucky Department of Parks-owned golf courses. The exception granted by this subsection is in recognition of the benefits that will accrue to the Kentucky Department of Parks due to increased participation at state-owned golf courses.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 381, sec. 1, effective July 15, 1998. -- Created 1992 Ky. Acts ch. 287, sec. 4, effective July 14, 1992.

**11A.030 Considerations in determination to abstain from action on official decision
-- Advisory opinion.**

In determining whether to abstain from action on an official decision because of a possible conflict of interest, a public servant should consider the following guidelines:

- (1) Whether a substantial threat to his independence of judgment has been created by his personal or private interest;
- (2) The effect of his participation on public confidence in the integrity of the executive branch;
- (3) Whether his participation is likely to have any significant effect on the disposition of the matter;
- (4) The need for his particular contribution, such as special knowledge of the subject matter, to the effective functioning of the executive branch; or
- (5) Whether the official decision will affect him in a manner differently from the public or will affect him as a member of a business, profession, occupation, or group to no greater extent generally than other members of such business, profession, occupation, or group. A public servant may request an advisory opinion from the Executive Branch Ethics Commission in accordance with the commission's rules of procedure.

Effective: July 14, 1992

History: Created 1992 Ky. Acts ch. 287, sec. 5, effective July 14, 1992.

11A.040 Acts prohibited for public servant or officer -- Exception.

- (1) A public servant, in order to further his own economic interests, or those of any other person, shall not knowingly disclose or use confidential information acquired in the course of his official duties.
- (2) A public servant shall not knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.
- (3) A public servant shall not knowingly act as a representative or agent for the Commonwealth or any agency in the transaction of any business or regulatory action with himself, or with any business in which he or a member of his family has any interest greater than five percent (5%) of the total value thereof.
- (4) A public servant shall not knowingly himself or through any business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he is employed or which he supervises, subject to the provisions of KRS 45A.340. This provision shall not apply to:
 - (a) A contract, purchase, or good faith negotiation made pursuant to KRS Chapter 416 relating to eminent domain; or
 - (b) Agreements which may directly or indirectly involve public funds disbursed through entitlement programs; or
 - (c) A public servant's spouse or child doing business with any state agency other than the agency by which the public servant is employed or which he supervises; or
 - (d) Purchases from a state agency that are available on the same terms to the general public or that are made at public auction; or
 - (e) Sales of craft items to a state park by interim state employees designated as craftspersons under KRS 148.257.
- (5) A public servant shall not knowingly accept compensation, other than that provided by law for public servants, for performance of his official duties without the prior approval of the commission.
- (6) A former officer or public servant listed in KRS 11A.010(9)(a) to (g) shall not, within one (1) year of termination of his employment, knowingly by himself or through any business in which he owns or controls an interest of at least five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he was employed. This provision shall not apply to a contract, purchase, or good faith negotiation made under KRS Chapter 416 relating to eminent domain or to agreements that may directly or indirectly involve public funds disbursed through entitlement programs. This provision shall not apply to purchases from a state agency that are available on the same terms to the general

public or that are made at public auction. This provision shall not apply to former officers of the Department of Public Advocacy whose continued representation of clients is necessary in order to prevent an adverse effect on the client.

- (7) A present or former officer or public servant listed in KRS 11A.010(9)(a) to (g) shall not, within one (1) year following termination of his office or employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with, or is regulated by, the state in matters in which he was directly involved during the last thirty-six (36) months of his tenure. This provision shall not prohibit an individual from returning to the same business, firm, occupation, or profession in which he was involved prior to taking office or beginning his term of employment, or for which he received, prior to his state employment, a professional degree or license, provided that, for a period of one (1) year, he personally refrains from working on any matter in which he was directly involved during the last thirty-six (36) months of his tenure in state government. This subsection shall not prohibit the performance of ministerial functions, including but not limited to filing tax returns, filing applications for permits or licenses, or filing incorporation papers, nor shall it prohibit the former officer or public servant from receiving public funds disbursed through entitlement programs.
- (8) A former public servant shall not act as a lobbyist or lobbyist's principal in matters in which he was directly involved during the last thirty-six (36) months of his tenure for a period of one (1) year after the latter of:
 - (a) The date of leaving office or termination of employment; or
 - (b) The date the term of office expires to which the public servant was elected.
- (9) A former public servant shall not represent a person or business before a state agency in a matter in which the former public servant was directly involved during the last thirty-six (36) months of his tenure, for a period of one (1) year after the latter of:
 - (a) The date of leaving office or termination of employment; or
 - (b) The date the term of office expires to which the public servant was elected.
- (10) Without the approval of his appointing authority, a public servant shall not accept outside employment from any person or business that does business with or is regulated by the state agency for which the public servant works or which he supervises, unless the outside employer's relationship with the state agency is limited to the receipt of entitlement funds.
 - (a) The appointing authority shall review administrative regulations established under KRS Chapter 11A when deciding whether to approve outside employment for a public servant.
 - (b) The appointing authority shall not approve outside employment for a public servant if the public servant is involved in decision-making or recommendations concerning the person or business from which the public servant seeks outside employment or compensation.
 - (c) The appointing authority, if applicable, shall file quarterly with the Executive

Branch Ethics Commission a list of all employees who have been approved for outside employment along with the name of the outside employer of each.

- (11) The prohibitions imposed by subsection (5) or (10) of this section shall not apply to Professional Golfers' Association class A members who teach golf lessons and receive a fee or lesson charge at golf courses owned and operated by the Kentucky Department of Parks. Instruction provided by an employee of the Commonwealth shall only be given while the employee is on his or her own personal time. The commissioner of the Department of Parks shall promulgate administrative regulations to establish guidelines for the process by which Professional Golfers' Association class A members are approved to teach golf lessons at Kentucky Department of Parks-owned golf courses. The exception granted by this subsection is in recognition of the benefits that will accrue to the Kentucky Department of Parks due to increased participation at state-owned golf courses.

Effective: June 27, 2019

History: Amended 2019 Ky. Acts ch. 74, sec. 1, effective June 27, 2019. -- Amended 2006 Ky. Acts ch. 68, sec. 1, effective July 12, 2006. -- Amended 2000 Ky. Acts ch. 417, sec. 4, effective December 1, 2000; and ch. 475, sec. 2, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 381, sec. 2, effective July 15, 1998; ch. 429, sec. 2, effective July 15, 1998; ch. 430, sec. 1, effective July 15, 1998; and ch. 602, sec. 2, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 367, sec. 1, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 434, sec. 3, effective July 15, 1994. -- Created 1992 Ky. Acts ch. 287, sec. 6, effective July 14, 1992.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of this statute set by 2000 Ky. Acts ch. 417, sec. 18, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/15/98). A reference to "KRS 11A.010(9)(a) to (i)" in the former subsection (6) of this statute (now subsection (7)) has been changed in codification to "KRS 11A.010(9)(a) to (h)" under KRS 7.136(1)(e) and (h). 1998 Ky. Acts ch. 429, sec. 1, eliminated the former paragraph (g) of KRS 11A.010(9) and renumbered the remaining subsections accordingly. Other actions within Acts Chapter 429 used the "(a) to (h)" range in new language and modified existing language to use the "(a) to (h)" range. It seems clear from context, and this has been confirmed by the drafter of the bill, that this change was intended here as well but was inadvertently overlooked.

11A.045 Acceptance of gifts by public servants permitted under certain circumstances.

- (1) No public servant, his spouse, or dependent child knowingly shall accept any gifts or gratuities, including travel expenses, meals, alcoholic beverages, and honoraria, totaling a value greater than twenty-five dollars (\$25) in a single calendar year from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. Nothing contained in this subsection shall prohibit the commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety. This subsection shall not apply to:
 - (a) Activities involving sponsorships, naming rights, or similar honoraria granted under KRS 45A.097; or
 - (b) Individuals traveling on their own while involved in activities related to KRS 45A.097.
- (2) Nothing in KRS Chapter 11A shall prohibit or restrict the allocation of or acceptance by a public servant of a ticket for admission to a sporting event if the ticket or admission is paid for by the public servant at face value or is paid for at face value by the individual to whom the ticket is allocated.
- (3) Nothing in KRS 11A.001 to 11A.110 shall prohibit or restrict the acceptance by a public servant of the Cabinet for Economic Development or by any other public servant working directly with the cabinet on an economic incentive package of anything of economic value as a gift or gratuity, if the gift or gratuity:
 - (a) Was not solicited by the public servant;
 - (b) Was accepted by the public servant in the performance of his or her official duties and in compliance with guidelines to be established by the Kentucky Economic Development Partnership which shall include requirements that all gifts or gratuities of a reportable value under KRS 11A.050(3)(k) be registered with the Kentucky Economic Development Partnership and with the Executive Branch Ethics Commission and that all tangible property with a value in excess of twenty-five dollars (\$25), other than food and beverages consumed on the premises, shall be turned over to the Cabinet for Economic Development within thirty (30) days of receipt. In filing reports of gifts or gratuities with the Executive Branch Ethics Commission, the Cabinet for Economic Development may delete information identifying the donors if the cabinet believes identification of the donors would damage economic development; and
 - (c) Was not accepted under circumstances which would create a violation of KRS Chapter 521.

Effective: June 29, 2017

History: Amended 2017 Ky. Acts ch. 175, sec. 4, effective June 29, 2017. -- Amended 2000 Ky. Acts ch. 475, sec. 3, effective July 14, 2000; and ch. 542, sec. 6, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 431, sec. 1, effective July 15, 1998. -- Created 1994 Ky. Acts ch. 450, sec. 36, effective July

15, 1994.

11A.050 Financial disclosure by officers, candidates, and public servants.

- (1) Each officer, each public servant listed in KRS 11A.010(9)(a) to (g), and each candidate shall file a statement of financial disclosure with the commission, as follows:
 - (a) Each officer shall file the statement within thirty (30) days of employment as an officer, and each officer who occupies his or her position during any portion of a calendar year shall file the statement for that portion of the calendar year he or she occupied the position on or before April 15 of the following year, whether or not he or she remains an officer.
 - (b) Each public servant listed in KRS 11A.010(9)(a) to (g) who occupies his or her position during any portion of a calendar year shall file the statement for that portion of the calendar year he or she occupied the position on or before April 15 of the following year, whether or not he or she remains a public servant as listed in KRS 11A.010(9)(a) to (g).
 - (c) Each officer and public servant listed in KRS 11A.010(9)(a) to (g) who does not remain an officer or public servant listed in KRS 11A.010(9)(a) to (g) for the entire calendar year shall file the statement for the portion of the calendar year that the person served as an officer or public servant listed in KRS 11A.010(9)(a) to (g). The statement shall be filed with the commission within thirty (30) days after the date the person no longer serves as an officer or public servant listed in KRS 11A.010(9)(a) to (g).
 - (d) A candidate shall file the statement reflecting the previous calendar year with the commission no later than February 15.
- (2) The statement of financial disclosure shall be filed on a form prescribed by the commission. The commission shall provide copies of the form upon request without charge.
- (3) The statement shall include the following information for the preceding calendar year:
 - (a) Name and entire residential and business address of filer;
 - (b) Title of position or office whereby filing is required;
 - (c) Any other occupations of filer and spouse;
 - (d) Positions held by the filer or his or her spouse in any business, and the name and address of the business;
 - (e) Name and address of any employer by whom the filer was employed for the one (1) year period immediately prior to becoming an officer, not including those listed in paragraph (d) of this subsection;
 - (f) Names and addresses of all businesses in which the filer, his or her spouse, or dependent children has or had an interest of ten thousand dollars (\$10,000) at fair market value or five percent (5%) ownership interest or more;
 - (g) The name and address of any source of gross income exceeding one thousand dollars (\$1,000) from any one (1) source to the filer, his or her spouse, or dependent child, as well as information concerning the nature of the business,

and the form of the income;

- (h) Any representation or intervention for compensation by the filer or his or her spouse for any person or business before a state agency for which the filer works or supervises or before any entity of state government for which the filer would serve in a decision-making capacity, including the name and address of the person or business;
- (i) All positions of a fiduciary nature held by the filer or his or her spouse in a business, including the name and address of the business;
- (j) Information, including a street address or location, regarding any real property in which there is an interest of ten thousand dollars (\$10,000) or more held by the filer, his or her spouse, or dependent children;
- (k) Sources, including each source's name and address, of gifts of money or property with a retail value of more than two hundred dollars (\$200) from any one (1) source to the filer, his or her spouse, or dependent children, except those from a member of the filer's family;
- (l) Identity, including an address, of creditors owed more than ten thousand dollars (\$10,000), except debts arising from the purchase of consumer goods; and
- (m) Names and addresses of family members of the filer or persons with whom the filer was engaged in a business who are registered as legislative agents under KRS 6.807 or executive agency lobbyists under KRS 11A.211.

Paragraphs (a) to (m) of this subsection shall not require disclosure of specific dollar amounts or of privileged information.

Effective: June 27, 2019

History: Amended 2019 Ky. Acts ch. 74, sec. 2, effective June 27, 2019. -- Amended 2000 Ky. Acts ch. 417, sec. 5, effective December 1, 2000; and ch. 475, sec. 4, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 429, sec. 3, effective July 15, 1998. -- Amended 1993 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 72, effective September 16, 1993. -- Created 1992 Ky. Acts ch. 287, sec. 7, effective July 14, 1992.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of this statute set by 2000 Ky. Acts ch. 417, sec. 18, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/15/98). A reference to "KRS 11A.010(9)(a) to (i)" in subsection (1) of this statute has been changed in codification to "KRS 11A.010(9)(a) to (h)" under KRS 7.136(1)(e) and (h). 1998 Ky. Acts ch. 429, sec. 1, eliminated the former paragraph (g) of KRS 11A.010(9) and renumbered the remaining subsections accordingly. Other actions within Acts Chapter 429, including in the section that amended this statute, used the "(a) to (h)" range in new language and modified existing language to use the "(a) to (h)" range. It seems clear from context, and this has been confirmed by the drafter of the bill, that this change was intended here as well but was inadvertently overlooked.

11A.055 Raising of funds for certain activities permitted -- Exemption from requirements of chapter for nonprofit charitable organization.

- (1) Any provision of KRS Chapter 11A to the contrary notwithstanding, a state agency or a public servant may raise funds, either individually or as a department or agency, for a charitable nonprofit organization granted a tax exemption by the Internal Revenue Service under Section 501c of the Internal Revenue Code without violating the provisions of this chapter. Raising of funds shall include but not be limited to holding events for the benefit of the charitable organization, contacting potential donors, providing prizes, and engaging in other forms of fundraising and providing the funds thus raised to the charitable organization.
- (2) Any provision of KRS Chapter 11A to the contrary notwithstanding, a state agency or a public servant may raise funds, either individually or as a department or agency, for crime prevention, drug and alcohol abuse prevention, tourism promotion, and traffic safety programs without violating the provisions of this chapter. Raising of funds shall include but not be limited to holding events for the benefit of a program specified in this section, contacting potential donors, providing prizes, and engaging in other forms of fundraising and providing the funds thus raised to the program.
- (3) Any provision of KRS Chapter 11A to the contrary notwithstanding, any nonprofit charitable organization organized under 26 U.S.C. sec. 501(c)(3), affiliated with the Tourism, Arts and Heritage Cabinet, or whose purpose is the promotion of tourism in the Commonwealth:
 - (a) Shall not be subject to the provisions of this chapter;
 - (b) May benefit from cabinet employees working on its behalf without the employees violating the provisions of this chapter; and
 - (c) May make contributions to the cabinet after being solicited by cabinet employees without the employees violating the provisions of this chapter.

Effective: June 29, 2017

History: Amended 2017 Ky. Acts ch. 175, sec. 5, effective June 29, 2017. -- Created 2002 Ky. Acts ch. 290, sec. 2, effective April 9, 2002.

11A.060 Executive Branch Ethics Commission -- Membership -- Officers -- Compensation -- Removal -- Meetings.

- (1) The Executive Branch Ethics Commission is hereby established.
- (2) The commission shall be composed of five (5) members appointed by the Governor.
- (3) Members of the commission shall serve staggered terms of four (4) years. Of the initial members appointed as provided in this section, one (1) member shall serve a term of one (1) year, one (1) member shall serve a term of two (2) years, one (1) member shall serve a term of three (3) years, and two (2) members shall be appointed for terms of four (4) years. Thereafter, all appointments shall be for four (4) years.
- (4) The commission shall elect from its membership a chairman and vice chairman. In the absence of the chairman or in the event of a vacancy in that position, the vice chairman shall serve as chairman.
- (5) A member of the commission shall receive one hundred dollars (\$100) per day for attending meetings and shall be reimbursed for actual and necessary expenses incurred in the performance of duties.
- (6) All members shall be registered voters of the state.
- (7) Members of the commission shall be removed by the Governor for cause only, including substantial neglect of duty and inability to discharge the powers and duties of office.
- (8) A quorum shall consist of three (3) or more members. An affirmative vote of three (3) or more members shall be necessary for commission action.
- (9) The commission shall meet at the call of the chairman or a majority of its members.
- (10) The commission shall be attached to the Finance and Administration Cabinet for administrative purposes only.

Effective: June 25, 2009

History: Amended 2009 Ky. Acts ch. 12, sec. 17, effective June 25, 2009. -- Amended 1998 Ky. Acts ch. 602, sec. 3, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 208, sec. 1, effective July 15, 1994. -- Created 1992 Ky. Acts ch. 287, sec. 8, effective July 14, 1992.

11A.070 Executive director and employees of commission -- Use of services and facilities of state agencies.

The commission may employ an executive director and any other employees, agents, and consultants it considers necessary, and may prescribe their duties, fix their compensation, and provide for reimbursement of their expenses within the amount available therefor by appropriation. The commission may also engage outside professional counsel it considers necessary. The commission and its staff may also make use of the services and facilities of the office of the Attorney General or of any other state agency.

Effective: July 14, 1992

History: Created 1992 Ky. Acts ch. 287, sec. 9, effective July 14, 1992.

11A.080 Investigation of complaints -- Procedures -- Resolution.

- (1)
 - (a) Upon a complaint signed under penalty of perjury by any person, or upon its own motion, the commission shall conduct a preliminary investigation of any alleged violation of this chapter.
 - (b) The preliminary investigation shall begin not later than ten (10) days after the next commission meeting following the receipt of the sworn complaint, or, if the investigation is initiated by the commission's own motion, not later than ten (10) days after the date of the adoption of the motion.
 - (c) Within ten (10) days of the commencement of the preliminary investigation, the commission shall forward a copy of the complaint, if one has been filed, or a statement of possible violations being investigated, and a general statement of the applicable law to the person alleged to have committed a violation.
- (2) All commission proceedings and records relating to a preliminary investigation shall be confidential until a final determination is made by the commission, except:
 - (a) The commission may turn over to the Attorney General, the United States Attorney, or the Commonwealth's attorney of the jurisdiction in which the offense allegedly occurred, evidence which may be used in criminal proceedings or, at its discretion, may at any time turn over to the Personnel Board, the Auditor of Public Accounts, or any other agency with jurisdiction to review, audit, or investigate the alleged offense, evidence which may be used by those agencies for investigative purposes;
 - (b) If the alleged violator publicly discloses the existence of a preliminary investigation, the commission may publicly confirm the existence of the inquiry and, in its discretion, make public any documents which were issued to either party;
 - (c) If the matter being investigated was referred to the commission from another state agency, the commission may inform the referring state agency of the status of any preliminary investigation and of any action taken on the matter.
- (3) If the commission determines in the preliminary investigation that the facts are not sufficient to constitute a violation of this chapter, the commission shall immediately terminate the investigation and notify in writing the complainant, if any, and the person alleged to have committed a violation. The commission may confidentially inform the alleged violator of potential violations and provide information to ensure future compliance with the law. If the alleged violator publicly discloses the existence of such action by the commission, the commission may confirm the existence of the resolution and, in its discretion, make public any documents which were issued to the alleged violator.
- (4) If the commission, during the course of the preliminary investigation, finds probable cause to believe that a violation of this chapter has occurred, the commission may, upon majority vote:
 - (a) Due to mitigating circumstances such as lack of significant economic advantage or gain by the alleged violator, lack of significant economic loss to the state, or lack of significant impact on public confidence in government, in

writing, confidentially reprimand the alleged violator for potential violations of the law and provide a copy of the reprimand to the alleged violator's appointing authority, if any. If the alleged violator publicly discloses the existence of such an action, the commission may confirm the existence of the action and, in its discretion, make public any documents which were issued to the alleged violator; or

- (b) Initiate an administrative proceeding to determine whether there has been a violation.
- (5) If the commission determines that a violation of this chapter has occurred in a case involving a contract with state government, the secretary of the Finance and Administration Cabinet may void any contract related to that case.
- (6) If the commission determines that a violation of the provisions of KRS 11A.001 to 11A.130 has occurred, an employer of a former officer or public servant may be subject to a fine of up to one thousand dollars (\$1,000) for each offense.

Effective: June 27, 2019

History: Amended 2019 Ky. Acts ch. 74, sec. 3, effective June 27, 2019. -- Amended 2017 Ky. Acts ch. 162, sec. 1, effective June 29, 2017. -- Amended 2012 Ky. Acts ch. 34, sec. 1, effective July 12, 2012. -- Amended 2000 Ky. Acts ch. 475, sec. 6, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 603, sec. 1, effective July 15, 1998. -- Amended 1993 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 73, effective September 16, 1993. -- Created 1992 Ky. Acts ch. 287, sec. 10, effective July 14, 1992.

11A.090 Subpoena power.

For the purpose of carrying out a preliminary investigation, the commission may issue subpoenas to compel the attendance and testimony of witnesses or the production of documents, books, papers, or other records. Subpoenas may be issued by the chairman or the majority of the members of the commission and shall be served in the same manner as subpoenas for witnesses in civil cases. All provisions of law relative to subpoenas issued in such cases, including compensation of witnesses, shall apply to subpoenas issued by the commission. Upon petition by the commission, any Circuit Court within the jurisdiction of which any inquiry is being carried on may, in case of refusal to obey a subpoena or order of the commission, issue an order requiring compliance. Any failure to obey the order of the court may be punished by the court as contempt thereof.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 318, sec. 14, effective July 15, 1996. -- Created 1992 Ky. Acts ch. 287, sec. 11, effective July 14, 1992.

11A.100 Procedures for administrative hearings -- Action by commission.

- (1) The provisions of KRS Chapter 13B shall apply to all commission administrative hearings, except for the provisions of:
 - (a) KRS 13B.030(2)(b);
 - (b) KRS 13B.050(1), (2), and (3) when a party fails to file an answer or otherwise participate; and
 - (c) KRS 13B.090(7).
- (2) All administrative hearings of the commission carried out pursuant to the provisions of this section shall be public, unless the members vote to go into executive session in accordance with KRS 61.810.
- (3) The commission, upon a finding pursuant to an administrative hearing that there has been clear and convincing proof of a violation of this chapter, may:
 - (a) Issue an order requiring the violator to cease and desist the violation; and
 - (b) Issue an order requiring the violator to file any report, statement, or other information as required by this chapter; and
 - (c) In writing, publicly reprimand the violator for potential violations of the law and provide a copy of the reprimand to the alleged violator's appointing authority, if any; and
 - (d) In writing, recommend to the violator's appointing authority that the violator be removed or suspended from office or employment, and include a recommendation for length of suspension, to be approved by the appointing authority, if any; and
 - (e) Issue an order requiring the violator to pay a civil penalty of not more than five thousand dollars (\$5,000) for each violation of this chapter.
- (4) In addition to any other remedies provided by law, any violation of this chapter which has substantially influenced the action taken by any state agency in any particular matter shall be grounds for voiding, rescinding, or canceling the action on such terms as the interests of the state and innocent third persons require.
- (5) The commission shall refer to the Attorney General evidence of violations of KRS 11A.040 for prosecution. The Attorney General shall have responsibility for all prosecutions under the law and may request from the commission all evidence collected in its investigation. The commission may represent itself through the general counsel in all subsequent proceedings.

Effective: July 14, 2018

History: Amended 2018 Ky. Acts ch. 188, sec. 1, effective July 14, 2018. -- Amended 2000 Ky. Acts ch. 475, sec. 7, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 603, sec. 2, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 318, sec. 15, effective July 15, 1996. -- Created 1992 Ky. Acts ch. 287, sec. 12, effective July 15, 1996.

11A.110 Additional duties of commission.

The commission shall perform the following additional duties:

- (1) On its own initiative or upon a signed request in writing, issue and publish advisory opinions on the requirements of this chapter for those who wish to use the opinion to guide their own conduct. If requested in writing by the person seeking the advisory opinion, the commission shall not release that person's name;
- (2) Provide a continuing program of education, assistance, and information to public servants, including, but not limited to, publishing and making available to the persons subject to this chapter and the public explanatory information concerning this chapter, the duties imposed by it, and the means of enforcement;
- (3) Promulgate administrative regulations in accordance with KRS Chapter 13A to implement this chapter, including, if required by the commission, electronic filing of disclosure statements by executive agency lobbyists, their employers, or real parties in interest;
- (4) Prescribe forms for statements required by this chapter and furnish the forms to persons required to file the statements. The forms shall be adopted as administrative regulations or adopted by reference in an administrative regulation;
- (5) Prepare and publish a manual of guidelines setting forth uniform methods of reporting for use by persons required to file under this chapter;
- (6) Accept and file any information voluntarily supplied that exceeds the requirements of this chapter;
- (7) Preserve the disclosure statements filed with it for four (4) years from the date of receipt;
- (8) Make statements and reports filed with the commission available for public inspection and copying pursuant to KRS 61.870 to KRS 61.884 (Kentucky Open Records Law);
- (9) Compile and maintain a current index of all statements filed with the commission to facilitate public access to the reports and statements;
- (10) Prepare and publish reports as it may deem appropriate;
- (11) Audit statements and reports filed with the commission;
- (12) Make recommendations for legislation relating to governmental ethics and other matters included in this chapter as the commission deems desirable; and
- (13) Prepare a biennial written report, no later than December 1 of each odd-numbered year, to the Legislative Research Commission, the Governor, and the public on the activities of the commission in the preceding two (2) fiscal years. The report shall contain the names and duties of each individual employed by the commission and a summary of commission determinations and advisory opinions. The commission shall prevent disclosure of the identity of a person involved in decisions or advisory opinions. The report may contain other information on matters within the commission's jurisdiction and recommendations for legislation as the commission deems desirable.

Effective: June 27, 2019

History: Amended 2019 Ky. Acts ch. 74, sec. 4, effective June 27, 2019. -- Amended 1998 Ky. Acts ch. 429, sec. 4, effective July 15, 1998. -- Created 1992 Ky. Acts ch. 287, sec. 13, effective July 14, 1992.

11A.120 Employment of public servant by state institution of higher education.

Nothing in KRS 11A.001 to 11A.110 shall prohibit or restrict a public servant from accepting outside employment in a state institution of higher education as long as that outside employment does not interfere or conflict with the public servant's state employment duties. Nothing in this section shall prohibit or restrict a present or former public servant from accepting employment with a state institution of higher education immediately following termination of his office or employment in another state agency.

Effective: July 14, 1992

History: Created 1992 Ky. Acts ch. 287, sec. 14, effective July 14, 1992.

11A.130 Employment of officer or public servant in privatized agency by agency's operator.

Nothing in this chapter shall be construed to prohibit an officer or public servant employed by an agency that is privatized from accepting employment from the person or business which is operating that agency if the officer or public servant was not involved in making the decision to privatize or in developing the provisions of the privatization contract.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 492, sec. 6, effective July 15, 1998. -- Created 1994 Ky. Acts ch. 434, sec. 2, effective July 15, 1994.

11A.990 Penalties -- Time limitation on prosecution for violation of KRS 11A.040.

- (1) Any person who violates KRS 11A.040 shall be guilty of a Class D felony. In addition:
 - (a) The judgment of conviction for a violation of KRS 11A.040(2) shall recite that the offender is disqualified to hold office thereafter; and
 - (b) Any person who violates KRS 11A.040(1) to (5) shall be judged to have forfeited any employment, or constitutional or statutory office he holds, provisions of KRS Chapter 18A to the contrary notwithstanding.
- (2) Any officer, public servant, or candidate required to file a statement of financial disclosure under KRS 11A.050 who does not file the statement by a date specified in that section shall have his salary withheld from the first day of noncompliance until he shall have completed the action required by law. The amount withheld shall be deducted from his overall pay and allowances and shall be recoverable upon the filing of the statement of financial disclosure. The commission may grant a reasonable extension of time for filing a statement of financial disclosure for good cause shown.
- (3) Any person who maliciously files with the commission a false charge of misconduct on the part of any public servant or other person shall be fined not to exceed five thousand dollars (\$5,000), or imprisoned in a county jail for a term not to exceed one (1) year, or both.
- (4) Prosecution for violation of any provision of KRS 11A.040 shall not be commenced after four (4) years have elapsed from the date of the violation. Any executive agency lobbyist, employer, or real party in interest who violates any provision in KRS 11A.206 shall for the first violation be subject to a civil penalty not to exceed five thousand dollars (\$5,000). For the second and each subsequent violation, he shall be guilty of a Class D felony.
- (5) Any executive agency lobbyist, employer, or real party in interest who fails to file the initial registration statement or updated registration statement required by KRS 11A.211 or 11A.216, or who fails to remedy a deficiency in any filing in a timely manner, may be fined by the commission an amount not to exceed one hundred dollars (\$100) per day, up to a maximum total fine of one thousand dollars (\$1,000).
- (6) Any executive agency lobbyist, employer, or real party in interest who intentionally fails to register, or who intentionally files an initial registration statement or updated registration statement required by KRS 11A.211 or 11A.216 which he knows to contain false information or to omit required information shall be guilty of a Class D felony.
- (7) An executive agency lobbyist, employer, or real party in interest who files a false statement of expenditures or details of a financial transaction under KRS 11A.221 or 11A.226 is liable in a civil action to any official or employee who sustains damage as a result of the filing or publication of the statement.
- (8) Violation of KRS 11A.236 is a Class D felony.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 475, sec. 8, effective July 14, 2000. -- Amended

1998 Ky. Acts ch. 602, sec. 4, effective July 15, 1998; and ch. 603, sec. 3, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 172, sec. 8, effective July 15, 1996. -- Amended 1993 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 55, effective September 16, 1993. -- Created 1992 Ky. Acts ch. 287, sec. 15, effective July 14, 1992.