



COMMONWEALTH OF KENTUCKY
EXECUTIVE BRANCH ETHICS COMMISSION
<http://ethics.ky.gov/>

W. DAVID DENTON
CHAIR

WILLIAM G. FRANCIS
VICE CHAIR

JUDGE SHEILA R. ISAAC (RET.)
CHRISTOPHER L. THACKER
THERESA F. CAMORIANO

KATHRYN H. GABHART
EXECUTIVE DIRECTOR

MISTY DUGGER JUDY
GENERAL COUNSEL

#3 FOUNTAIN PLACE
FRANKFORT, KY 40601
(502) 564-7954
FAX: (502)-564-2686

Executive Branch Ethics Commission
ADVISORY OPINION 16-09
September 19, 2016

RE: Guidance for executive branch agencies in relation to fundraising activities conducted in accordance with KRS 11A.055 for charitable non-profit organizations established, created, and controlled by these agencies in anticipation of the effective date of the amendment to 9 KAR 1:060.

This opinion is issued by the Executive Branch Ethics Commission (the "Commission") upon its own motion pursuant to KRS 11A.110(1). As a result of several recent inquiries, the Commission wishes to advise public servants and executive branch agencies concerning fundraising activities conducted in accordance with KRS 11A.055 in relation to charitable non-profit organizations established, created, and controlled by these agencies. The Commission issues this Advisory Opinion to guide executive branch agencies until the effective date of the amendment to 9 KAR 1:060, with which the Commission is issuing this Advisory Opinion contemporaneously. Once the amendment to 9 KAR 1:060 becomes effective, 9 KAR 1:060 will take precedence over this Advisory Opinion where inconsistent. This matter was reviewed at the September 19, 2016, meeting of the Commission and the following opinion is issued.

The Commission has learned of an increasing number of agencies that have created and established as well as control, to varying degrees, charitable nonprofit organizations. This creates a particular concern to the Commission because some of these organizations are designed to supplement the budgets of state agencies or fund programs or services that are required by the state agencies to implement through statute or regulation. In other circumstances, the state agency provides state time, facilities, equipment, and personnel to staff the charitable nonprofit organization. In a few instances, the difference between the agency and the charitable organization are indiscernible. As such, in the opinion of the Commission, these charitable nonprofit organizations appear to be parts of the agencies, which would presume to require these charitable nonprofit organizations to be covered by the dictates of KRS Chapter 11A, the Executive Branch Ethics Code. However, in many instances these organizations may be

ADVISORY OPINION 16-09

September 19, 2016

2 | Page

accepting confidential donations, which means the state agencies they supplement could be accepting gifts that may otherwise be prohibited by KRS 11A.045, the gifts prohibition.

Furthermore, the Commission has received increasing numbers of questions concerning the application of KRS 11A.055 as it relates to fundraising activities for these charitable nonprofit organizations. The Advisory Opinions issued by the Commission over the years have resulted in a variance in interpretations. See Advisory Opinions 98-13, 98-38, 99-36, 00-23, 00-36, 00-43, 02-12, 03-37, 04-19, 05-43, 06-2, 07-14, 07-17, 08-10, 08-24, 09-5, 13-03. This varying advice has been caused by the numerous arrays of factual scenarios presented by the multitude of charitable organizations in existence. Nevertheless, the Commission desires to take this opportunity to provide clear guidance to state agencies and public servants concerning fundraising activities in relation to charitable nonprofit organizations that are closely tied with state agencies.

KRS 11A.055 provides:

- (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, 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.

Additionally KRS 11A.045(1) provides:

- (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

ADVISORY OPINION 16-09

September 19, 2016

3 | Page

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.

“Gift” is defined under KRS 11A.010(5) as:

- (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, or door prizes available to the public.

The Commission’s long-standing interpretation of KRS 11A.045(1) prohibits state agencies (in addition to state employees) from accepting gifts, as defined above, from persons or businesses they regulate or with which they do business. See, for example, Advisory Opinion 02-2, in which the Commission concluded that an agency should not accept donations of items and services from persons or businesses that were seeking to do business with that agency. While the Commission has granted exceptions to this general rule in the past, where such exemptions would not create an appearance of impropriety, these exceptions have been rare and have generally been granted due to certain unique circumstances that were involved.

Additionally, 11A.045(1) prevents an agency from seeking sponsorships from persons or businesses that are regulated by, doing business with, in litigation with, lobbying, or otherwise seeking to influence the agency. In Advisory Opinion 02-21, the Commission stated that a state agency is not prohibited from soliciting corporate donations for state-sponsored programs, provided the entities solicited have no business or regulatory relationship with the agency and provided the entities are not lobbying or seeking to influence matters of the state agency.

In the context of a state agency created charitable nonprofit organization, it is paramount that the agency ensure that the fundraising activities of the charitable nonprofit organization do not violate KRS 11A.045(1). Thus, the only way to accomplish such compliance is for the charitable nonprofit organization to avoid accepting confidential donations and ensure any such donations of funds that will be controlled by the state agency are not accepted from “a 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

ADVISORY OPINION 16-09

September 19, 2016

4 | Page

primary purpose the representation of those persons or businesses.” KRS 11A.045. To guide and assist agencies in this task, the Commission is issuing an amendment to 9 KAR 1:060 that will be filed with the Legislative Research Commission after the meeting in which this Advisory Opinion is issued. The Amendment will be published in the Administrative Register on November 1, 2016. The public comment period will be from November 1 through November 30, 2016. The Public Hearing on this Amendment will be held on November 21, 2016, at 10:00 a.m., at the Commission’s Offices at #3 Fountain Place, Frankfort, Kentucky. The drafted Amendment to 9 KAR 1:060 (attached hereto) as issued by the Commission on September 19, 2016 states as follows:

Executive Branch Ethics Commission

(Amendment)

9 KAR 1:060. Requirements relating to fundraising activities and charitable non-profit 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) Granted tax exempt status under 26 U.S.C. 501(c); and
 - (b) That may accept charitable contributions as defined by 26 U.S.C. 170(c).
- (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) The public servant of the agency serves as an officer for or is a voting member of the governing board of the charitable nonprofit organization;

ADVISORY OPINION 16-09

September 19, 2016

5 | Page

- (b) The agency or the public servant selects, elects, appoints, or removes officers or 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 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 nonprofit charitable 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) "Operating expenses" means the basic costs of an agency to function according to its statutory or regulatory mandates:
- (a) Such as costs associated with rental of facilities, utilities, computing services, janitorial, security guard, postage, office supplies, dues, subscriptions, and copier and printing services.
 - (b) With the exception of costs associated with programs and services provided to the public or extraordinary costs associated with these programs or services.
- (9) "Personnel costs" means the baseline salary costs of an agency as determined through the budgetary process for personnel:
- (a) Such as travel expenses, per diem payments, FICA, retirement, health insurance premiums, life insurance premiums, and worker's compensation payments.
 - (b) With the exception of personnel costs associated with programs and services provided to the public or extraordinary costs associated with these programs or services.
- (10) "Public servant" is defined by KRS 11A.010(9).
- (11) "Recompense" means payment by a charitable nonprofit organization to an agency either through monetary compensation or like-kind exchange for the value of rental or use of state-owned facilities, agency personnel, goods, resources, or services.

ADVISORY OPINION 16-09

September 19, 2016

6 | Page

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.

Section 3. Category I.

- (1) A charitable nonprofit organization established, created, and 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:
 - (a) Is created or established, but not controlled, by an agency; and
 - (b) Does not have as one (1) of its purposes or functions to serve the agency, the agency's statutory or regulatory mandates, or the agency's programs.
- (2) A Category II charitable nonprofit organization may support similar goals of the agency and shall not be subject to the provisions of Sections 3 of this administrative regulation if it does not provide funding directly or indirectly to the agency.

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 Sections 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;

ADVISORY OPINION 16-09

September 19, 2016

7 | Page

- (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; 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 jointly sponsored event; and
- (2) If the event is conducted to further the statutorily, regulatory, or programmatic mandates of the agency.

Until the effective date of the Amendment to 9 KAR 1:060, the Commission recommends that all executive branch agencies comply with the guidance contained in this Advisory Opinion. After the effective date of 9 KAR 1:060, the administrative regulation will take precedence over this Advisory Opinion where inconsistent.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION



By Chair: W. David Denton

Attachments: 9 KAR 1:060 (Amendment)

1 FINANCE AND ADMINISTRATION CABINET

2 Executive Branch Ethics Commission

3 (Amendment)

4 9 KAR 1:060. Requirements relating to fundraising activities and charitable non-profit
5 organizations.

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

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

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

15 Section 1. Definitions. (1) “Affiliated” means a charitable nonprofit organization
16 that:

17 (a)1. Engages in activities for the benefit of an agency; or

18 2. Furthers the statutory or regulatory mandates of the agency through the
19 use of contributions solicited from the public; and

20 (b) Is not established, created, or controlled by the agency.

21 (2) “Agency” is defined by KRS 11A.010(10).

1 (3) "Charitable nonprofit organization" means an entity or corporation:

2 (a) Granted tax exempt status under 26 U.S.C. 501(c); and

3 (b) That may accept charitable contributions as defined by 26 U.S.C. 170(c).

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

5 (5) "Controlled" means that an agency or a public servant maintains control of a charitable
6 nonprofit organization if at least one (1) of the following apply:

7 (a) The public servant of the agency serves as an officer for or is a voting member
8 of the governing board of the charitable nonprofit organization;

9 (b) The agency or the public servant selects, elects, appoints, or removes officers or
10 members of the governing board of the charitable nonprofit organization or a portion thereof;

11 (c) The agency provides on an ongoing basis staff, resources, or office space with
12 no recompense from the charitable nonprofit organization to the agency unless the staff, resources,
13 or office space are provided pursuant to an agreement made in accordance with the provisions of
14 KRS Chapter 45A; or

15 (d) The public servant directs the use of the funds of the charitable nonprofit
16 organization or has signatory authority of the charitable nonprofit organization's accounts.

17 (6) "Created" means an agency or a public servant has filed articles of incorporation with
18 the office of the Secretary of State to form the nonprofit charitable organization.

19 (7) "Established" means an agency or a public servant:

20 (a) Files documentation with the Internal Revenue Service to create the charitable
21 nonprofit organization pursuant 26 U.S.C. 501(c); or

22 (b) Drafts bylaws or other governing documents under which a charitable nonprofit
23 organization operates.

1 (8) “Operating expenses” means the basic costs of an agency to function according to its
2 statutory or regulatory mandates:

3 (a) Such as costs associated with rental of facilities, utilities, computing services,
4 janitorial, security guard, postage, office supplies, dues, subscriptions, and copier and printing
5 services.

6 (b) With the exception of costs associated with programs and services provided to the
7 public or extraordinary costs associated with these programs or services.

8 (9) “Personnel costs” means the baseline salary costs of an agency as determined through
9 the budgetary process for personnel:

10 (a) Such as travel expenses, per diem payments, FICA, retirement, health insurance
11 premiums, life insurance premiums, and worker’s compensation payments.

12 (b) With the exception of personnel costs associated with programs and services
13 provided to the public or extraordinary costs associated with these programs or services.

14 (10) “Public servant” is defined by KRS 11A.010(9).

15 (11) “Recompense” means payment by a charitable nonprofit organization to an agency
16 either through monetary compensation or like-kind exchange for the value of rental or use of state-
17 owned facilities, agency personnel, goods, resources, or services.

18 Section 2. For the purposes of this administrative regulation, a public servant shall be
19 limited to an individual who is acting on behalf of a state agency in the course and scope of his
20 or her state employment.

21 Section 3. Category I. (1) A charitable nonprofit organization established, created, and
22 controlled by an agency shall constitute a part of that agency.

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

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

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

8 Section 4. Category II. (1) A Category II charitable nonprofit organization shall be an
9 entity that:

10 (c) Is created or established, but not controlled, by an agency; and

11 (d) Does not have as one (1) of its purposes or functions to serve the agency, the
12 agency's statutory or regulatory mandates, or the agency's programs.

13 (2) A Category II charitable nonprofit organization may support similar goals of the
14 agency and shall not be subject to the provisions of Sections 3 of this administrative regulation if
15 it does not provide funding directly or indirectly to the agency.

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

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

21 Section 6. (1) Pursuant to KRS 11A.055, all funds raised by an agency or a public servant
22 on behalf of a Category II or III charitable nonprofit organization shall be delivered to the

1 charitable nonprofit organization or other statutorily authorized program. ~~An~~Any agency [~~or~~
2 ~~other entity~~] involved in the fundraising effort shall not retain any funds.

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

6 ~~(1) The fundraising]~~ agency shall:

7 (a) Be paid out of the funds raised; [~~or~~]

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

9 (c) Receive any~~[(2) Any]~~ portion of the funds to~~[shall not]~~ be delivered to the
10 charitable organization or program.

11 (3) Except as provided in Section 8 of this administrative regulation, an agency may
12 assign or permit a public servant to work on behalf of a Category II or III charitable nonprofit
13 organization if:

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

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

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

20 (3) These activities are conducted for a jointly sponsored event; and

21 (4) If the event is conducted to further the statutorily, regulatory, or programmatic
22 mandates of the agency.



WILLIAM DAVID DENTON, CHAIR

APPROVED BY AGENCY: September 19, 2016

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 21, 2016, at 10:00 a.m., at Executive Branch Ethics Commission, #3 Fountain Place, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. This hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 2016. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Kathryn H. Gabhart, Executive Director, Executive Branch Ethics Commission, #3 Fountain Place, Frankfort, Kentucky 40601, (502) 564-7954, facsimile (502) 564-2686, Katie.gabhart@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation Number: 9 KAR 1:060

Contact Person: Kathryn H. Gabhart

Phone Number: (502) 564-7954

Email: Katie.gabhart@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides guidance to Executive Branch agencies and public servants concerning fundraising activities related to charitable nonprofit organizations.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to interpret the application of KRS 11A.055 to the conduct of Executive Branch agencies that fundraise for charitable purposes.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation provides guidance as dictated by KRS 11A.055 and provides guidance pursuant to KRS 11A.110(3) for the implementation of KRS Chapter 11A.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation currently provides guidance for the implementation of KRS 11A.055 in relation to fundraising activities of Executive Branch agencies.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment will change the administrative regulation to provide guidance to those Executive Branch agencies that have established, created, and control charitable nonprofit organizations to ensure that these agencies are not violating KRS 11A.045.

(b) The necessity of the amendment to this administrative regulation: This amendment to the administrative regulation is required because Executive Branch agencies have been increasingly establishing, creating, and controlling charitable nonprofit organizations under the allowances provided in KRS 11A.055, but without taking into account the necessity of following KRS 11A.045.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment to the administrative regulation conforms to the provisions established by KRS 11A.055 that allow public servants and agencies to fundraise for charitable purposes and provides guidance for agencies that create such nonprofit charitable organizations with the purpose of supporting the agencies own mandates, but ensuring such agencies do not violate the gift prohibitions provided in KRS 11A.045.

(d) How the amendment will assist in the effective administration of the statutes: This amendment to the administrative regulation will assist in the administration of KRS 11A.055 and ensuring agencies do not violate KRS 11A.045.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Executive Branch Agencies, public servants, and charitable nonprofit organizations.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: All Executive Branch Agencies and public servants will have to ensure that they follow the guidance when conducting fundraising activities for charitable purposes or when establishing, creating, and controlling charitable nonprofit organizations.

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: They will have to follow the guidance when conducting fundraising activities for charitable purposes or when establishing, creating, and controlling charitable nonprofit organizations.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no known cost associated with this amended administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All Executive Branch Agencies and public servants will have guidance and clarity to the provisions of KRS 11A.055 and KRS 11A.045 when conducting fundraising activities for charitable purposes or when establishing, creating, and controlling charitable nonprofit organizations.

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

(a) Initially: Minimal costs to the Executive Branch Ethics Commission associated with the publication of training materials and conducting education already provided in the Commission's budget.

(b) On a continuing basis: Minimal costs to the Executive Branch Ethics Commission associated with the ongoing publication of training materials and conducting education already provided in the Commission's budget.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Commission's existing budget.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: This administrative regulation will not require an increase in any fees or funding.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? Tiering was not applied because this administrative regulation applies equally to all affected individuals.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 9 KAR 1:060

Contact Person: Kathryn H. Gabhart

Phone Number: (502) 564-7954

Email: Katie.gabhart@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Executive Branch of state government.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 11A.110(3), 11A.045, and 11A.055.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The amendment to the administrative regulation will not generate any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any revenue? The amendment to the administrative regulation will not generate any revenue.

(c) How much will it cost to administer this program for the first year? \$500 for publications and training; funds already included in the Executive Branch Ethics Commission's budget.

(d) How much will it cost to administer this program for subsequent years? \$300 for publication and training; funds already included in the Executive Branch Ethics Commission's budget.

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

Revenues (+/-): None

Expenditures (+/-): None

Other Explanation: