

Executive Branch Lobbying

Kathryn Gabhart, Executive Director

Michael Board, General Counsel

Jenny May, Lobbyist Coordinator

Executive Branch Ethics Commission

1025 Capital Center Drive

Frankfort, KY 40601

(502) 564-7954

www.ethics.ky.gov

The Executive Branch Code of Ethics

Provisions relating to Lobbying:

- ▶ KRS 11A.201 through KRS 11A.246
 - ▶ 2019 GA Senate Bill 6
- ▶ 9 KAR 1:040E
- ▶ Penalties: KRS 11A.100 and 11A.990

EXECUTIVE BRANCH ONLY

▶ LEGISLATIVE LOBBYING:

Legislative Ethics Commission
#22 Mill Creek Park
Frankfort, Kentucky 40601
(502) 573-2863
<https://klec.ky.gov>

▶ LOCAL LOBBYING ON THE COUNTY OR CITY LEVEL:

Department for Local Government
Ethics Ordinances:
http://kydlgweb.ky.gov/Legal/16_EthicsSearch.cfm

RECENT LEGISLATION

SENATE BILL 6, signed by the Governor on March 25, 2019, effective June 27, 2019.

Lobbying statutes affected:

- ▶ KRS 11A.201 Definitions
 - ▶ (7) Executive Agency Decision
 - ▶ (8) Executive Agency Lobbyist
 - ▶ (9) Executive Agency Lobbyist Activity
 - ▶ (16) Substantial Issue [Basis]



RECENT LEGISLATION

SENATE BILL 6, signed by the Governor on March 25, 2019, effective June 27, 2019.

Lobbying statutes affected:

- ▶ **KRS 11A.211(1), (2), and (3) Registration Statements**
 - ▶ Compensation paid to lobbyists disclosure
 - ▶ Certification of compliance with KRS 11A.236

- ▶ **KRS 11A.236(1) Contingency fees prohibited expanded**

What is Professional Lobbying?

Any person who receives compensation for his or her efforts to influence legislators or executive agency decision-makers on behalf of a client or employer is a professional lobbyist.

A lobbyist of executive branch agencies is called an **EXECUTIVE AGENCY LOBBYIST** or **EAL**.

What is Executive Agency Lobbying?

Anyone attempting to

- ▶ Promote, oppose, or influence
- ▶ The outcome of an executive agency decision
- ▶ By making contacts to officials

IF the decision involves either:

- ❑ The expenditure of state funds over \$5000

OR

- ❑ Would financially impact the client

Executive Agency Decision: SB 6 Impact

An **executive agency decision** means a decision of an executive agency regarding the expenditure of funds of the state with respect to the award of a contract, grant, lease, or other financial arrangement under which those funds are distributed or allocated.

This shall also include decisions made concerning:

- (a) The parameters of requests for information and requests for proposal
- (b) Drafting, adopting, or implementing a budget provision
- (c) Administrative regulations or rules
- (d) An executive order
- (e) Legislation or amendments thereto
- (f) Other public policy decisions

Who should register as an EAL?

An *Executive Agency Lobbyist* is

- ▶ any person
- ▶ who is engaged
- ▶ to influence executive agency decisions or to conduct executive agency lobbying activity
- ▶ by making contacts to agency officials
- ▶ as one of his or her main purposes
- ▶ regarding a substantial issue

Who should register as an
EAL?

Let's Break This
Down
By Each Term

Who should register as an EAL? Continued

PERSON : 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.

Who should register as an EAL? Continued

ENGAGED: To make any arrangement, an "engagement" means arrangement, whereby an individual is employed or retained for compensation to act for or on behalf of an employer to influence executive agency decisions or to conduct any executive agency lobbying activity.

Who should register as an EAL? Continued

When an EAL is “engaged” it means he or she is receiving compensation to perform a service for his or her employer or client.

- ▶ "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.
- ▶ Contingency Fee Arrangements are strictly prohibited!! (more on this later)

“List of Compensation Paid to EAL by Employer”: SB 6 Impact

- ▶ EALs report the compensation paid to them by each employer.
- ▶ Employers of EALs report compensation paid to each EAL engaged to represent them.
- ▶ *SB 6* does not state a specific method for the reporting of compensation i.e., monthly, annually, pro-rated amount based on percentage of time actually conducting lobbying activity, etc.

Provide a good faith answer to the best of your knowledge.

Who should register as an EAL? Continued

Executive agency decisions (defined above) or to conduct executive agency lobbying activity

- ▶ **EXECUTIVE AGENCY LOBBYING ACTIVITY:** Contacts made to promote, advocate, or oppose the passage, modification, defeat, or executive approval or veto of any legislation or otherwise influence the outcome of an executive agency decision by direct communication with an elected executive official, the secretary of any cabinet listed in KRS 12.250, any executive agency official whether in the classified service or not, or a member of the staff of any one of the officials listed in this paragraph.

Who should register as an EAL? Continued

- ▶ **MAIN PURPOSES:** Not defined. In practice, it means a person who regularly engages in such contacts on behalf of his or her employer or client.
- ▶ **SUBSTANTIAL ISSUE:** means contacts which are intended to influence a decision that involves
 - ▶ one or more disbursements of state funds in an total amount of \$5,000 or more in a calendar year

OR

- ▶ any budget provision, administrative regulation or rule, legislative matter or other public policy matter that financially impacts the executive agency lobbyist or his or her employer.

Who should register as an EAL? Continued

- ▶ Executive Agency Lobbyist also includes:
 - ▶ Representatives of associations, coalitions, or public interest entities formed to promote or influence executive agency decisions
 - ▶ **PLACEMENT AGENTS:** An individual or firm who is compensated or hired to influence an executive agency decision regarding the investment of the Kentucky Retirement Systems or the Kentucky Teachers' Retirement System assets
 - ▶ **UNREGULATED PLACEMENT AGENTS:** A placement agent who is prohibited by federal securities laws and regulations from receiving compensation for soliciting a government agency

Definition of “on a substantial issue”

Any lobbying activity which includes direct contacts with an executive agency during a calendar year for the purpose of influencing an executive agency decision involving state funds of at least \$5,000 per year

OR

To influence any budget provision, administrative regulation or rule, legislative matter or other public policy matter that *financially impacts* the executive agency lobbyist or his or her employer.

WHAT DOES FINANCIALLY IMPACT MEAN?

This term is not defined in statute. In general it would mean a decision that would have an affect on the financial position of the client.



What is an Executive Agency?

The office of an *elected executive official*, a cabinet listed in KRS 12.250, or any other state agency, department, board, or commission controlled or directed by an elected executive official or otherwise subject to his or her authority.

"Executive agency" does not include any court or the General Assembly.

Contacts That Require Filing

Contacts made by an EAL, employer or real party in interest with the following:

ELECTED EXECUTIVE OFFICIAL: Governor, Lieutenant Governor, Auditor, Treasurer, Secretary of State, Attorney General, and Commissioner of Agriculture.

STAFF: Any employee of the office of the Governor, or a cabinet listed in KRS 12.250, whose official duties are to formulate policy and who exercises administrative or supervisory authority, or who authorizes the expenditure of state funds.

EXECUTIVE AGENCY OFFICIAL: An officer or employee of an executive agency whose principal duties are to formulate policy or to participate directly or indirectly in the preparation, review, or award of contracts, grants, leases, or other financial arrangements with an executive agency.

Who is an Employer of an EAL?

An *employer* means any *person* who employs or engages an executive agency lobbyist.

- ▶ For example, this can be the firm for which the EAL works on a permanent basis or it can be the client of the lobbyist.

What is a Real Party in Interest?

A *Real Party in Interest* is the person or organization on whose behalf the EAL is acting, if that person is not the employer.

- ▶ For example, if the ABC Corporation engages XYZ Consulting Company which, in turn, hires John Smith to influence decisions or conduct executive agency lobbying on behalf of ABC Corporation: (a) John Smith is the EAL; (b) XYZ Consulting Company is the “employer;” and (c) ABC Corporation is the “real party in interest.”

Who is exempt from filing?

- ▶ Persons exercising their constitutional right to assemble with others for their common good and petition state executive branch agencies for redress of grievances.
- ▶ Unpaid lobbyists.
- ▶ A person whose job does not include lobbying as a “main purpose.” Example: an engineer for a public utility who sometimes is in contact with state highway officials about moving utility lines for right of way, but whose main duties do not include lobbying.
- ▶ A person whose contacts with state officials are for the sole purpose of submitting a request under the Kentucky Open Records Act.
- ▶ A person whose lobbying is done only during appearances before executive agencies during public meetings.

Who is exempt from filing?

Continued

- ▶ A person whose contacts are limited to those employees whose official duties **do not include** policy formulation, administrative or supervisory authority, or expenditure authorization or would otherwise fulfill the definition of ***executive agency official*** or ***staff*** pursuant to definitions in KRS 11A.201(10) and (14). To be considered lobbying, contacts must be with an elected official; a cabinet secretary; officials whose principal duties are to make policy or participate in the preparation or award of state contracts or other financial arrangements, or the staff of any of the above officials.
- ▶ A person who is an elected or appointed officer or employee of federal, state, or local government, state college and university, or other political subdivision when acting within his or her official duties.

Who is exempt from filing?

Continued

- ▶ Any news, editorial, and advertising statements published in newspapers, journals, or magazines, or broadcast over radio or television.
- ▶ A person or entity that is gathering or furnishing information and news by bona fide reporters, correspondents, or news bureaus to news media described in Item 8.
- ▶ Any publications primarily designed for, and distributed to, members of bona fide associations or charitable or fraternal nonprofit corporations.
- ▶ Any Professional services performed in preparing executive agency decisions, preparing arguments regarding executive agency decisions, or in advising clients and rendering opinions regarding proposed or pending executive agency decisions, if the services are not otherwise connected to lobbying.

Who is exempt from filing?

Continued

- ▶ A person submitting public comments to an executive agency during the public comment period of administrative regulations or rules.
- ▶ A person acting to promote, oppose or otherwise influence the outcome of a decision of the Cabinet for Economic Development or any board or authority within or attached to the Cabinet relating to the issuance or award of a bond, grant, lease, loan, assessment, incentive inducement, or tax credit pursuant to KRS 42.4588, 103.210, Chapter 154 or Chapter 224A, or otherwise relating to another component of an economic incentive package. KRS 11A.233(1).

How to register

The *Initial Registration Statement* is available for electronic completion on the Executive Branch Ethics Commission's website at <http://ethics.ky.gov/>.

The *Initial Registration Statement* can be submitted by mail, email or fax to the following:

EXECUTIVE BRANCH ETHICS COMMISSION
1025 CAPITAL CENTER DRIVE, SUITE #104
FRANKFORT, KENTUCKY 40601
FAX: (502)696-5091
EMAIL: ETHICSFILER@KY.GOV

The *Initial Registration Statement* may be completed electronically via the Commission's website, but must be printed, signed by both the Executive Agency Lobbyist and the employer contact, and submitted via regular mail, scanned/emailed, fax.

What forms should I file?

Impact of SB 6

SCENARIO 1:

If an Executive Agency Lobbyist, employer or real party in interest filed an Initial Registration Statement PRIOR to July 1, 2019, then the he or she will file the 2016 versions of the Update forms during the upcoming filing period (July 1-31, 2019).

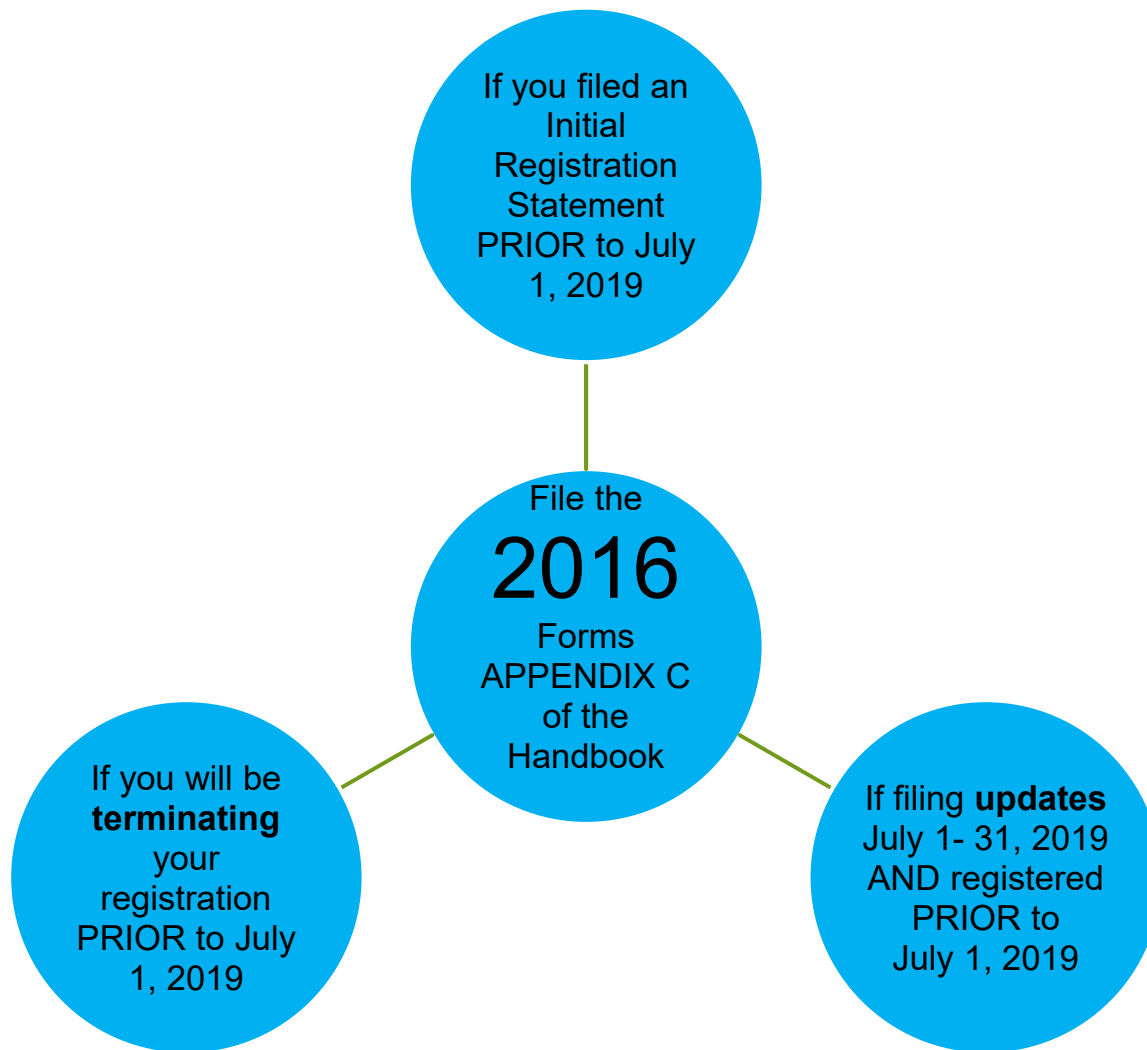
- ▶ If the engagement continues AFTER July 1, 2019, then the 2019 versions of all forms for all proceeding filing periods need to be filed, i.e. July 1-31, 2020, and thereafter.
- ▶ If the engagement will be terminating PRIOR to July 1, 2019, then the 2016 versions of the Update and Termination forms need to be filed upon terminating the engagement.

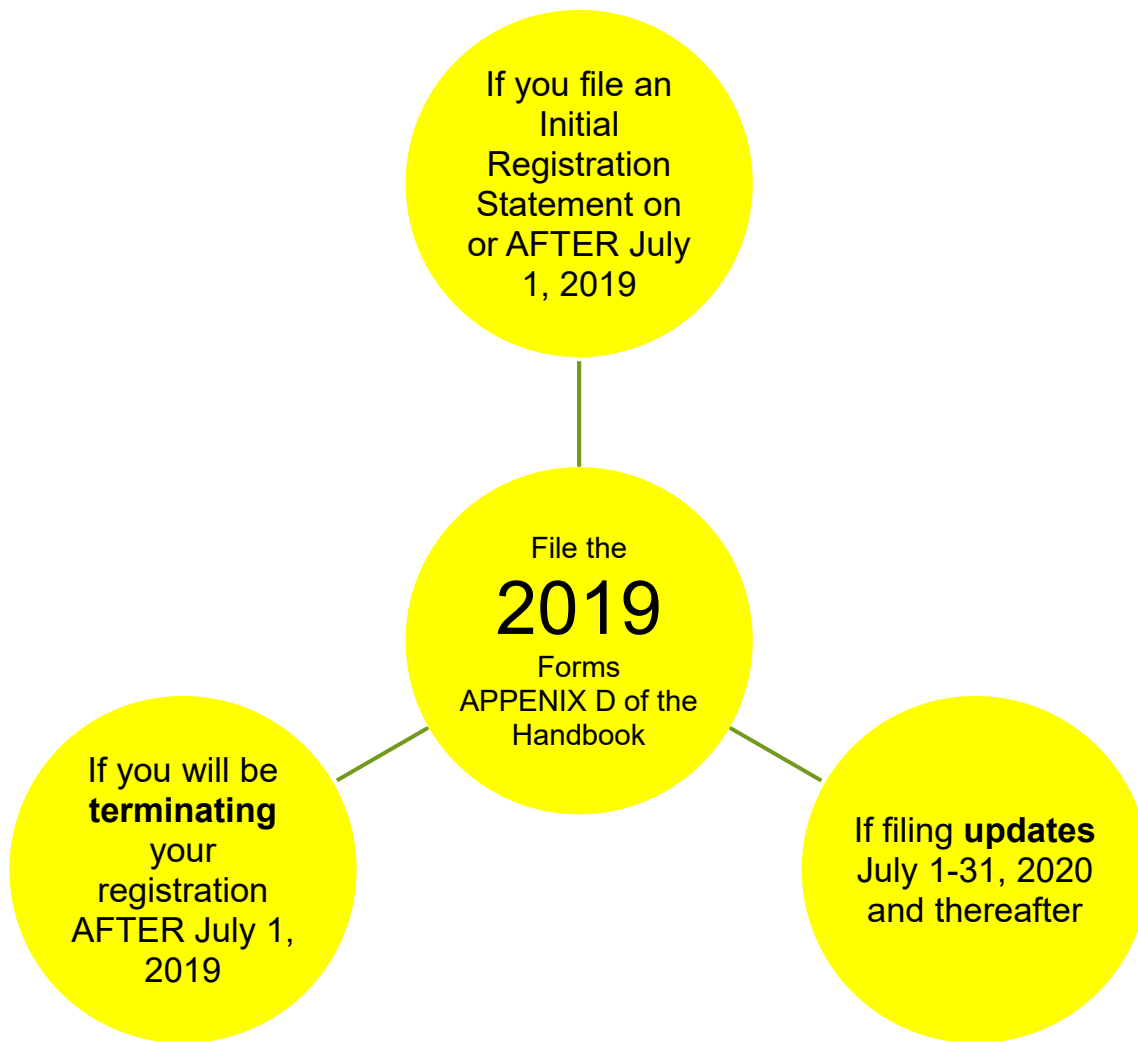
What forms should I file?

Impact of SB 6

SCENARIO 2:

If an Executive Agency Lobbyist, employer or real party in interest files an Initial Registration Statement AFTER July 1, 2019, then he or she will file the 2019 versions of the Update and Termination forms during the proceeding filing periods.





Initial Filing

Each executive agency lobbyist (“EAL”) must file an *Initial Registration Statement* that will, simultaneously, register the lobbyist, the employer, and the real party in interest.

There is no fee that is filed with the initial filing.

An EAL engaged by more than one employer or real party in interest must file a separate Initial Registration Statement for each engagement, i.e., for each employer.

Employers must ensure that each individual EAL engaged to represent the employer files an Initial Registration Statement.

When should you register?

Each EAL, employer, and, if applicable, real party in interest, is required to file, jointly, an Initial Registration Statement within ten (10) days of the engagement of the EAL.

Initial Registration Statement

2016 Form

2019 Form: EBEC-EAL-201

FORM EBEC-2016
INITIAL REGISTRATION STATEMENT
EXECUTIVE AGENCY LOBBYIST/EMPLOYER/REAL PARTY IN INTEREST

Commonwealth of Kentucky
EXECUTIVE BRANCH ETHICS COMMISSION
1025 Capital Centre Drive, Suite 104
Frankfort, Kentucky 40601
(502) 564-7954 FAX (502) 696-5091

ATTENTION FORMER EXECUTIVE BRANCH EMPLOYEES:
KRS 11A.040(3) prohibits you for one (1) year from the date you leave state employment from lobbying on matters in which you had direct involvement the last thirty-six (36) months of your state employment.

This statement must be filed with the Executive Branch Ethics Commission within ten (10) days of engagement. Please read instructions and review Kentucky Revised Statutes 11A.211 prior to filing. Upon termination of this engagement, there is an affirmative duty to notify the Executive Branch Ethics Commission within thirty (30) days. Any person who knowingly files a false statement is in violation of state law and subject to fines and other penalties.

A. Executive Agency Lobbyist Information

1. Full Name: _____ 3. Title: _____
2. Occupation: _____
4. Firm Name: _____
5. Business Address: _____
6. Business Telephone: _____ 7. E-Mail Address: _____
8. Cell/Mobile Telephone: _____
9. Permanent Residential Address: _____
10. Date of Engagement as Executive Agency Lobbyist with this Employer: _____

B. Employer Information

1. Full name of company/organization: _____
2. Type of Industry: _____
3. Business Address: _____
4. Employer Contact: Name and title of person responsible for completing the *Updated Registration Statement/Employer of Executive Agency Lobbyist* (each Employer should name one person as a contact).

Name: _____ Title: _____
Address (if different from Employer above): _____
Telephone: _____ E-mail Address: _____

C. Real Party in Interest Information (if applicable)

1. Full name of company/organization: _____
2. Type of Industry: _____
3. Business Address: _____
4. Name and title of person responsible for completing the *Updated Registration Statement/Real Party in Interest* (each Real Party should name one person as a contact).

Name: _____ Title: _____
Address (if different from Real Party above): _____
Telephone: _____ E-mail Address: _____

1 | Page FORM: EBEC-EAL-201 (Rev. 5/2019)

INITIAL REGISTRATION STATEMENT
EXECUTIVE AGENCY LOBBYIST/EMPLOYER/REAL PARTY IN INTEREST

After completing, submit your Initial Registration Statement by mail, fax, or email to the location below:

Commonwealth of Kentucky
EXECUTIVE BRANCH ETHICS COMMISSION
1025 Capital Center Drive, Suite 104
Frankfort, Kentucky 40601

PHONE (502) 564-7954, FAX (502) 696-5091, EMAIL: ethics@ky.gov

ATTENTION FORMER EXECUTIVE BRANCH EMPLOYEES:
Please review the post-employment provisions in KRS 11A.040(7) & (8) before completing this form.

This statement must be filed with the Executive Branch Ethics Commission within ten (10) days of engagement. Please read instructions and review Kentucky Revised Statutes 11A.211 prior to filing. Upon termination of this engagement, there is an affirmative duty to notify the Executive Branch Ethics Commission within thirty (30) days. Any person who knowingly files a false statement is in violation of state law and subject to fines and other penalties.

A. Executive Agency Lobbyist Information

1. Full Name: _____ 3. Title: _____
2. Occupation: _____
4. Firm Name: _____
5. Business Address: _____
6. Business Telephone: _____ 7. E-Mail Address: _____
8. Cell/Mobile Telephone: _____
9. Permanent Residential Address: _____
10. Date of Engagement as Executive Agency Lobbyist with this Employer: _____

B. Employer Information

1. Full name of company/organization: _____
2. Type of Industry: _____
3. Business Address: _____
4. Employer Contact: Name and title of person responsible for completing the *Updated Registration Statement/Employer of Executive Agency Lobbyist* (each Employer should name one person as a contact).

Name: _____ Title: _____
Address (if different from Employer above): _____
Telephone: _____ E-mail Address: _____

C. Real Party in Interest Information (if applicable)

1. Full name of company/organization: _____
2. Type of Industry: _____
3. Business Address: _____
4. Name and title of person responsible for completing the *Updated Registration Statement/Real Party in Interest* (each Real Party should name one person as a contact).

Name: _____ Title: _____
Address (if different from Real Party above): _____
Telephone: _____ E-mail Address: _____

How long is a registration valid?

After the Statement is processed, the EAL will be issued a registration card by the Commission effective from the date of its issuance until the proceeding July 31.

Until an EAL files a Termination Notification with the Commission, the lobbyist and his/her employer and real party interest are considered “active” and are required to file Updated Registration Statements between July 1 through July 31 of each year.

Who must file an Updated Registration Statement

EALs, employers, and real parties in interest are each required to file *Updated Registration Statements* annually.

The Updated Registration Statements are different for each type of filer:

- ▶ EALs file **Updated Registration Statement Executive Agency Lobbyist**. This form contains information for each of the EAL's employers.
- ▶ Each Employer files the **Updated Registration Statement Employer of Executive Agency Lobbyist** for all of their engaged EALs.
- ▶ Each Real Party in Interest files the **Updated Registration Statement Real Party in Interest** form for all of their engaged EAL's.

When to file the Updated Statement

A reporting year runs from July 1 through June 30.

- ▶ Updated Registration Statements are due between July 1 and July 31 for the previous reporting period.
- ▶ Statements filed before July 1 will be rejected.

Updated Registration Statements

2016 Forms:

- ▶ Updated Registration Statement Executive Agency Lobbyist
- ▶ Updated Registration Statement Employer of EAL
- ▶ Updated Registration Statement COMBINED
- ▶ Updated Registration Statement Real Party in Interest

2019 Forms:

- ▶ EBEC-EAL-202: Updated Registration Statement Executive Agency Lobbyist
- ▶ EBEC-EAL-203: Updated Registration Statement Employer of EAL
- ▶ EBEC-EAL-204: Updated Registration Statement COMBINED
- ▶ EBEC-EAL-205: Updated Registration Statement Real Party in Interest

Registration Fee

Each Employer of one or more lobbyists, and each Real Party in Interest, must pay a registration fee of **\$500** upon the filing of an **Updated Registration Statement** due by **July 31** each year.

EALs do not pay the fee.

Failure to File or Pay Fee

Both the Initial Registration Statement and Updated Registration Statements are reviewed by the Commission for completeness.

- ▶ If an EAL, employer, or real party in interest fails to file either an Initial Registration Statement or an Updated Registration Statement or that the filed statement is not complete, the Commission will send written notification by certified mail to the person or entity who failed to file the Statement regarding such failure.
- ▶ Any person or entity so notified shall, within 15 days after receiving the notice, file a Registration Statement or an amended Registration Statement that includes all required information. Failure to file the requested Statement within the 15 days may result in an investigation of the matter. If an investigation is initiated, the Commission will also notify each elected official and cabinet secretary.

Parties Must Report the Following:

- ▶ **Confirmation** of the continuing existence of each engagement described in the Initial Registration Statement
- ▶ **A list of the specific executive agency decisions** that the lobbyist sought to influence under the engagement during the period covered by the Updated Registration Statement
- ▶ **A statement of expenditures**
- ▶ **Details of any financial transactions**
- ▶ **Compensation** paid to the lobbyist by the employer

The EAL Must Report:

- ▶ All specific executive agency decisions which the EAL attempted to influence, on behalf of the employer, during the reporting period and the specific agencies contacted.
- ▶ Any additional types of executive agency decisions which relate to the EAL's engagement that have arisen since the last Statement.
- ▶ All expenditures made by the EAL on behalf of the employer to, or for the benefit of, an official that the lobbyist is engaged to influence.
- ▶ Any and all financial transactions the EAL or his or her immediate family members had with or for the benefit of an official or employee so listed.
- ▶ Compensation received from the employer.

The Employer Must Report:

- ▶ All specific executive agency decisions which EALs were engaged by the employer to influence during the reporting period and the specific agencies contacted.
- ▶ All expenditures made by the employer which (1) **are not being reported by the EAL** engaged by the employer, and (2) were made to, or for the benefit of, an official or his or her staff.
- ▶ Any and all financial transactions the employer or his or her immediate family members had with or for the benefit of an official or employee so listed.
- ▶ Compensation paid by the employer to the EAL.

The Real Party in Interest Must Report:

- ▶ All specific executive agency decisions which EALs were engaged by the real party in interest to influence during the reporting period.
- ▶ All expenditures made by the real party in interest which are (1) **not being reported by the EAL or an employer** engaged by the real party in interest, and (2) were made to, or for the benefit of, an official or his or her staff.
- ▶ Any and all financial transactions the real party in interest or his or her immediate family members had with or for the benefit of an official or employee so listed.

What is a financial transaction?

A financial transaction is a transaction or activity that is conducted or undertaken for profit and arises from the ownership, or the joint ownership, or part ownership in common of any real or personal property or any commercial or business enterprise of any form or nature between:

1. An executive agency lobbyist, his employer, a real party in interest, or a member of the immediate family AND
2. Any executive agency employee (including elected and appointed officials) UNLESS such transaction is available to the general public on the same terms.

Financial Transactions must be reported

- ▶ At least ten (10) days before the date on which the statement is filed, the filer shall deliver a copy of the statement to the official or employee with whom or for whose benefit the financial transaction was made.
- ▶ The official or employee has may dispute the information contained in the statement

Disputes

- ▶ Disputes between executive branch officials, employees, real parties in interest, employers, or EALs may be investigated by the Commission upon the filing of a complaint by any party.
- ▶ A complaint must be filed at least 3 days prior to the time a Statement is required to be filed with the Commission. The time for filing a disputed expenditure or financial transaction on any Statement may be extended pending the final decision of the Commission. If the Commission decides that the disputed expenditure or financial transaction should be reported, the party responsible for reporting shall include the matter in an amended statement.

EALs with only one employer

When an EAL has only one employer and that employer has only one EAL, with the EAL listed as the “employer contact” on the Initial Registration Statement, the EAL and employer may alternately file an *Updated Registration Statement Lobbyist/Employer “COMBINED”* in lieu of filing two separate updated registration statements.

The “*COMBINED*” form may only be used if neither the EAL nor the employer has expenses or financial transactions to report.

The employer is still required to pay the \$500 registration fee even if the employer qualifies to complete the “*COMBINED*” form.

Termination

- ▶ An EAL is required to notify the Commission within **30 days** after the termination of an engagement by filing a *Termination Notification Form*. The form should be completed, signed, and attached to the EAL's final Updated Registration Statement.
- ▶ If the engagement exists for even one day into a new reporting period, the EAL, employer, and the real party in interest must file Updated Registration Statements for that period.
- ▶ When all EALs engaged by an employer or real party in interest terminate their registrations with the Commission, then the employer/real party in interest has effectively terminated its registration with the Commission as well. **However, the employer/real party in interest must file a final Updated Registration Statement with the Commission and pay the \$500 registration fee for the final reporting period.**

Termination Notification Statement

2016 Form

2019 Form: EBEC-EAL-206

(Rev. 4/2016)

Commonwealth of Kentucky
EXECUTIVE BRANCH ETHICS COMMISSION
**TERMINATION NOTIFICATION
AS
EXECUTIVE AGENCY LOBBYIST**

You must file a final Updated Registration Statement, Executive Agency Lobbyist with the Termination Notification to report your activity from July 1 of the current reporting period through your date of termination.
Executive Agency Lobbyist Number: _____

Full Name: _____

I wish to inform the Executive Branch Ethics Commission that I am no longer engaged to represent the employer and/or real party in interest named below, as of _____ (Termination Date)

Name of Employer: _____

Address: _____
Street City State Zip Code

Name of Real Party In Interest (if applicable): _____

Executive Agency Lobbyist Permanent Address: _____
Street City State Zip Code

CERTIFICATION: I certify that the information contained in this termination notification is complete and accurate. Any person who knowingly files a false statement is in violation of state law and subject to fines and other penalties.¹

Signature of Executive Agency Lobbyist _____ Date _____

Please send completed Termination Notification and final Updated Registration Statement, Executive Agency Lobbyist to: Executive Branch Ethics Commission, 1025 Capital Center Drive, Suite 104, Frankfort, Kentucky 40601 or FAX 502-696-5091.

¹ KRS 11A.990

(4) 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.225 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.

FORM EBEC - EAL - 206 (Rev. 5/2019)

Commonwealth of Kentucky
EXECUTIVE BRANCH ETHICS COMMISSION
**TERMINATION NOTIFICATION
AS EXECUTIVE AGENCY LOBBYIST**

You must file a final Updated Registration Statement Executive Agency Lobbyist EBEC-EAL-203 with the Termination Notification to report your activity from July 1 of the current reporting period through your date of termination.

Full Name: _____ EAL #: _____

Residential Address: _____
Street City State Zip Code

I wish to inform the Executive Branch Ethics Commission that I am no longer engaged to represent the employer and/or real party in interest named below, as of _____ (Termination Date)

Name of Employer: _____

Address: _____
Street City State Zip Code

Name of Real Party In Interest (if applicable): _____

Address: _____
Street City State Zip Code

COMPENSATION: List final compensation paid to each executive agency lobbyist by each employer. ["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." KRS 11A.201(1)].

CERTIFICATION: I certify that the employer and agent have complied with KRS 11A.236 and the information contained in this termination notification is complete and accurate. Any person who knowingly files a false statement is in violation of state law and subject to fines and penalties.¹

Signature of Executive Agency Lobbyist _____ Date _____

Please send completed Termination Notification and final Updated Registration Statement to: Executive Branch Ethics Commission, 1025 Capital Center Drive, Suite 104, Frankfort, Kentucky 40601 by hand-delivery or U.S. Mail or by FAX to (502) 696-5091 or by EMAIL to ethicsfiler@ky.gov.

¹ KRS 11A.990

(4) 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.225 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.

Termination Fee

When an employer or real party in interest has terminated the engagement of all EALs registered on their behalf, the employer or real party in interest has consequently terminated its registration with the Commission. If an employer or real party in interest terminates their registration at any time during the reporting period, a final **Updated Registration Statement** and **\$500 registration fee** must be submitted to the Commission.

Record Keeping Requirements

Executive Agency Lobbyists, employers, and real parties in interest shall retain receipts or maintain records for all expenditures that are required to be reported to the Commission.

These receipts or records shall be maintained for a period ending on the 30th day of June of the 2nd fiscal year after the year in which the expenditure was made.

Campaign Contributions Are Not Prohibited

- ▶ Nothing in the Ethics Code prohibits an elected official from soliciting or accepting a contribution from or an expenditure by *any person*, even an Executive Agency Lobbyist, employer, or real party in interest, if the contribution or expenditure is reported in accordance with KRS Chapter 121, the campaign finance laws. Indeed, campaign contributions to elected officials are not considered gifts, pursuant to KRS 11A.010(5).

Penalties

FAILING TO TIMELY FILE FORMS OR REMEDY DEFICIENCIES:

- ▶ 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). KRS 11A.990(5).

FAILURE TO MAINTAIN RECORDS:

- ▶ An Executive Agency Lobbyist, employer or real party in interest who intentionally fails to register, knowingly fails to keep a receipt or maintain required records, or knowingly fails to file an expenditure statement shall for the first violation be subject to a civil penalty not to exceed \$5,000. For the second and each subsequent violation, he shall be guilty of a Class D felony. KRS 11A.990(4), KRS 11A.206, 11A.216.

Penalties

FAILURE TO PAY \$500 FEE:

- ▶ Failure to submit the \$500 registration fee will constitute a deficiency in the filing of an updated registration statement for employers and real parties in interest. KRS 11A.990(5). Any employer, or real party in interest who fails to submit the \$500 registration fee 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.

FAILURE TO FILE INITIAL REGISTRATION:

- ▶ 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. KRS 11A.990(4), KRS 11A.206, and KRS 11A.211.

Penalties

INTENTIONALLY FILING A FALSE INITIAL REGISTRATION STATEMENT OR OMITTING REQUIRED INFORMATION:

- ▶ Any Executive Agency Lobbyist, employer, or real party in interest 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. KRS 11A.990(6).

INTENTIONAL FAILURE TO FILE AN EXPENDITURE STATEMENT:

- ▶ An Executive Agency Lobbyist, employer or real party in interest who intentionally fails to file an expenditure statement shall for the first violation be subject to a civil penalty not to exceed \$5,000. For the second and each subsequent violation, he shall be guilty of a Class D felony. KRS 11A.990(4) and KRS 11A.206.

Penalties

INTENTIONALLY FILING FALSE STATEMENT OF EXPENDITURES:

- ▶ 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. KRS 11A.990(7).

VOIDING OF CONTRACTS:

- ▶ 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.

Contingency Arrangements are Prohibited!

No person shall engage any persons to influence or receive compensation to influence executive agency decisions or conduct executive agency lobbying activity for compensation that is contingent in any way on the outcome of an executive agency decision, which includes payment based on the awarding of a contract or payment of a percentage of a government contract awarded.

Contingency Arrangements are Prohibited!

An employer who enters into a contingency arrangement with a lobbyist shall be barred from doing business with the Commonwealth for a period of five (5) years from the date on which such a payment is revealed to the Executive Branch Ethics Commission.

Violation is a Class D felony.

CONTINGENCY FEES: A CASE STUDY

- ▶ The Players:
 - Timothy Longmeyer, former Secretary of the Personnel Cabinet and Chief of Staff for the Attorney General
 - James Sullivan
 - CCMSI (Cannon Cochran Management Services, Inc.)
- ▶ What They Did
- ▶ Why it Was Wrong

Questions

Contact:

Kathryn Gabhart katie.gabhart@ky.gov
Executive Director (502) 892-3400 Direct

Jenny May jenny.may@ky.gov
Lobbyist Coordinator (502) 892-3404 Direct

Michael Board Michael.board@ky.gov
General Counsel (502) 892-3401

Executive Branch Ethics Commission
1025 Capital Center Drive, Suite 104
Frankfort, KY 40601
(502) 564-7954
www.ethics.ky.gov