EXECUTIVE BRANCH ETHICS COMMISSION

ETHICS OFFICER TRAINING GUIDE

REVISED: October 2026

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ETHICS COMMISSION STAFF

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- Serves as the primary contact for the Ethics Commission.
- Acts as legislative liaison, business manager and budget liaison.
- Receives referrals of possible new investigations from agencies.
- Provides advice concerning prohibited acts, conflicts of interest, post-employment, outside employment, and gifts.
- Receives requests for formal Advisory Opinions from the Commission and prepares formal opinions for the Commission.
- Serves as Official Records Custodian.
- Represents Commission in litigation.
- Provides training on the requirements of the Ethics Code.

INVESTIGATIVE STAFF:

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- Commission secretary
- Document filing and management.
- Works on administrative proceedings, ongoing investigations.

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WHO IS COVERED BY THE ETHICS CODE?

OFFICERS: As defined by KRS 11A.010(7)

Officers must follow the entire Ethics Code, which includes the additional responsibility of filing Statements of Financial Disclosure and following the post-employment rules in KRS 11A.040(6) & (7).

The term **Officer** includes:

- **Constitutional Officers** (Governor, Lt. Governor, Secretary of State, Attorney General, Treasurer, Auditor, and Commissioner of Agriculture)
- "**Major Management" Personnel**: This term is not defined by statute, but guidance was provided in Advisory Opinion 17-05. Any employee who can step into the role of a named position in the absence of that officer or any employee with the authority to set policy, determine the award of contracts or business relationships, hire and fire employees, or establish the budget for an agency may be considered to be an officer.
- **Property Valuation Administrators**: See: *EBEC v. Atkinson*, Ky. App., 339 S.W.3d 472 (2010)
- **Commonwealth Attorneys**: See: Advisory Opinion 22-03
- **Specifically Enumerated Positions**:
    - Secretary of the Cabinet, Governor's Chief Executive Officers, Cabinet Secretaries and Deputy Secretaries
    - General Counsels
    - Commissioners and Deputy Commissioners
    - Executive Directors
    - Executive Assistants
    - Policy Advisors
    - Special Assistants
    - Administrative Coordinators
    - Executive Advisors
    - Staff Assistants
    - Division Directors
- **Contract Employees**: Anyone holding a position by contract that would otherwise be considered a full-time position for any of the above-listed positions is also considered an "officer." This does not include seasonal or "interim" employees.
- **Members and full-time chief administrative officers of the following Boards and Commissions**:
    - The Parole Board
    - Office of Claims and Appeals
    - Board of Tax Appeals
    - Board of Claims
    - Crime Victims Compensation Board

- Kentucky Retirement Systems Board of Trustees
- Kentucky Teachers' Retirement System Board of Trustees
- Kentucky Public Employees Deferred Compensation Authority Board of Trustees
- Public Service Commission
- Worker's Compensation Board and its administrative law judges
- Kentucky Occupational Safety and Health Review Commission
- Kentucky Board of Education
- Council on Postsecondary Education
- County Employees Retirement System Board of Trustees
- Kentucky Public Pensions Authority
- Kentucky Horse Racing Commission [exempted from KRS 11A.040(6)-(10)]

- Members of salaried boards and commissions, as defined by KRS 11A.010(21)
  - Advisory Opinion 19-05 (Unemployment Insurance Commission Members)
  - Advisory Opinion 19-06 (State Board of Elections Members)

PUBLIC SERVANTS: As defined by KRS 11A.010(9)

Public servants follow the complete Ethics Code but are exempted from the post-employment provisions of KRS 11A.040(6) & (7) and are not required to file a Statement of Financial Disclosure. Every employee of the Executive Branch is a public servant, regardless of whether they are merit or non-merit, part-time or interim, seasonal, or permanent. Any person who is hired through a contract to perform the function of a position that is full-time, and non-seasonal, is also considered to be a public servant.

However, the following are ***excluded*** from the Ethics Code by KRS 11A.015 or other legislation:

- KRS Chapter 16 sworn officers of the Kentucky State Police;
- Employees of the KY Lottery Corporation;
- Employees of secondary education;
- Employees of public universities;
- Employees of the Legislative Research Commission;
- Employees of the Administrative Office of the Courts;
- County elected officials included in KRS 65.003; and
- Employees of county elected officials.

GENERAL PRINCIPLES

The Executive Branch Code of Ethics recognizes that public office is a public trust where government is based upon the consent of its citizens. Our citizens are entitled to have complete confidence in the integrity of their government. Thus, it is your responsibility to ensure that your agency is following these over-arching principles in the exercise of its functions and mandates:

- Employees must be independent and impartial.
- Employees must not make decisions and policies outside the established processes of government.
- Employees should not use public office to obtain private benefits.
- Employees' actions should promote public confidence in the integrity of government.
- Employees should not engage or be involved in any activity, which has the potential to become a conflict of interest with their state employment.

Source: KRS 11A.005

YOUR ROLE AS ETHICS OFFICER

The Executive Branch Ethics Commission ("Ethics Commission") enforces the Executive Branch Code of Ethics, codified at KRS Chapter 11A ("the Ethics Code"). The Commission requests all agencies designate an employee within the agency to serve as the Ethics Officer. While there are no specific requirements for who can serve as an Ethics Officer, this person should be accessible to employees in the agency, be willing to answer questions that can oftentimes be cumbersome, be willing to seek the counsel of the Commission staff and be willing to report conduct that could possibly violate the Ethics Code.

Every Ethics Officer should be familiar with the following materials and be ready to address issues and questions as they arise in your agency: (Available online-https://ethics.ky.gov/about-us/Pages/Publications.aspx)

Guide to Executive Branch Code of Ethics 12th Edition (September 2023)
Post-Employment: Things to Consider Before You Leave State Government (Oct 2025)
Acceptance of Gifts (July 2022)
Ethical Guidelines for Members of Boards & Commissions (August 2022)
Political Activities (September 2023)

What is your reward? Our thanks and the peace of mind that your agency is doing all it can to ensure its employees follow the Ethics Code. In addition, the Commission presents an annual award for the Outstanding Ethics Officer. Please submit nominations for the Brereton C. Jones Outstanding Ethics Officer Award.

ETHICS OFFICERS ASSIST THE ETHICS COMMISSION IN THE FOLLOWING AREA TO ENSURE PROPER ENFORCEMENT OF THE ETHICS CODE

1. **Disseminate information and training from the Ethics Commission to employees in your agency.**

2. **Serve as a resource for employees to seek ethics advice.**

3. **Assist your appointing authority with requests for outside employment and ensure that the appointing authority reports quarterly to the Ethics Commission.**

4. **Assist public servants with determining how to handle gifts.**

5. **Assist with questions regarding requirements when leaving state government service.**

6. **Monitor the filing of Statements of Financial Disclosure by officers.**

7. **Assist the Commission staff with possible investigations.**

1. DISSEMINATE INFORMATION AND TRAINING TO NEW EMPLOYEES AND OFFICERS

The Ethics Commission relies on you to pass important information along to your agency. You are our contact person for all ethics information, publications, advisory opinions, and correspondence. We ask that you forward the information we provide to you and information on our website to the appropriate people in your agency.

NEW EMPLOYEES:

- *Guide to Executive Branch Code of Ethics:* New employees should be informed of the existence of the Ethics Code. Provide this *Guide* either in print or through PDF during new employee orientation. We recommend that you ensure each new hire signs a confirmation that he or she has received the Guide OR a link to the *Guide*. This confirmation should then be placed in the employee's permanent personnel file.
- *Training:* New hires must complete online training within 30 days of employment that includes ethics training.

NEW "OFFICERS" AS DEFINED BY KRS 11A.010(7):

- The Governor's Executive Orders 2008-454 and 2016-377 require major management personnel to receive training. This is accomplished by the online training mandated by the Personnel Cabinet or individualized training from our office at your request.
- Statements of Financial Disclosure: New officers should be immediately informed of the requirement to file an SFD and when to file:
    - An initial SFD must be filed within 30 days of their start date;
    - An annual SFD must be filed by April 15 of the following calendar year; and
    - A final SFD is filed within 30 days of their leaving the officer position.
- Post-Employment Rules: New officers should be informed before being hired into the officer position of the post-employment requirements. All rules apply for one-year post-employment

DEPARTING EMPLOYEES:

- *Post-Employment Pamphlet:* Whether the employee is retiring, taking a new position outside of state government, or being involuntarily terminated, the statutes listed in the pamphlet apply. You may print these materials from our website as the need arises. The Personnel Cabinet also provides the post-employment brochure to all employees leaving state government service. See our website or

contact us for more information. We are also available to provide in-house and agency-specific training for your staff upon request to the Executive Director.

2. BE A RESOURCE FOR ETHICS ISSUES

You should make employees in your agency aware that they can come to you with ethics issues, such as:

- Statements of Financial Disclosure: KRS 11A.050 and 9 KAR 1:010
- Outside Employment: KRS 11A.040(10), 9 KAR 1:050
- Foundations & Fundraising: KRS 11A.055 and 9 KAR 1:060
- Post-Employment: KRS 11A.040(6)-(9) and 9 KAR 1:025
- Gifts: KRS 11A.045, KRS 45A.096 and 097
- Conflicts of Interest: KRS 11A.020(3) and 11A.030
- Prohibited Conduct: KRS 11A.020, KRS 11A.040, and 9 KAR 1:025

You do not have to know all the answers. You can refer people to Commission staff, or you can call us on the employee's behalf. If you think that you know the answer but want to give us a call to discuss it, please do.

REQUESTING ADVICE FROM THE COMMISSION

INFORMAL OPINIONS: Many questions can be answered informally through a verbal or written opinion from the Ethics Commission Staff. Informal opinions are advice given by the Executive Director of the Ethics Commission based on a review of past advisory opinions. If the issue is unique, a formal advisory opinion may be required. The Commission is given copies of the advice for its review and comment.

FORMAL ADVISORY OPINIONS: Formal opinions are issued by the Commission at its meetings. Opinions often address the following issues:

- Conflict of Interest, pursuant to KRS 11A.030(5).
- Gift Exceptions, pursuant to KRS 11A.045(1). Agencies and public servants may request an exception from the application of the prohibition when it would not create an "appearance of impropriety".
- Additional Compensation Exemptions, pursuant to KRS 11A.040(5). The Commission has granted exemptions to the additional compensation rule in instances when agencies would like to offer a form of economic incentive for employees who exceed their job duties:
    - Department of Fish & Wildlife Resources – Advisory Opinion 15-01
    - Department of Veterans Affairs – Advisory Opinion 17-08
    - Tourism, Arts & Heritage Cabinet – Advisory Opinion 19-03

    - Department for Criminal Justice Training – Advisory Opinion 19-04
    - Department of Corrections – Advisory Opinion 20-01
    - Commonwealth Office of Technology – Advisory Opinion 21-01
    - Department of Parks-Jenny Wiley State Park-Advisory Opinion 23-01
    - Department of Corrections-Blackburn Correctional Farm-Advisory Opinion 24-06
- General Advisory Opinions, KRS 11A.110(1).

To request a Formal Advisory Opinion, contact the Executive Director. Written requests for a formal advisory opinion must be received at least two weeks prior to a scheduled Commission meeting for the request to appear on the agenda for the following meeting. Advisory opinions are the highest level of guidance available from the Commission regarding the requirements of the Executive Branch Code of Ethics.

3. OVERSEE OUTSIDE EMPLOYMENT

BASIC RULE: Educate your agency on the requirements contained in the Ethics Code for obtaining **PRIOR** approval of certain outside employment. See KRS 11A.040(10) and 9 KAR 1:050.

REPORTING REQUIREMENTS:

You should also ensure that the outside employment reporting requirements are met by your agency. KRS 11A.040(10)(c) requires each appointing authority to file quarterly with the Commission a list of all employees who have been approved for outside employment. 9 KAR 1:050 requires that these filings should be accomplished by the **15th of January, April, July, and October**. You may fulfill your agency's reporting requirement by sending a simple email to ethicfiler@ky.gov with the list of names of employees and outside employer's names or a confirmation that you have nothing to report.

APPOINTING AUTHORITY HAS ALL THE POWER:

KRS 11A.040(10) was revised in the year 2000 to change the authority for enforcing the outside employment provisions from the Executive Branch Ethics Commission to the Appointing Authority. See Advisory Opinion 22-06 and 21-02. Any advisory opinions that were issued by the Commission prior to 2000 are inapplicable to present scenarios. The provisions on outside employment state, in pertinent part, the following:

KRS 11A.040(10) provides:

> (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.

(emphasis added).

KRS 11A.010 defines the key following terms:

(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;

(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;

Pursuant to 9 KAR 1:050, the public servant requesting permission to engage in outside employment must submit a request for approval by the appointing authority. This request is then reviewed by the Appointing Authority, not the Ethics Commission.

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

(a) 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.

(b) 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.

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

1. 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.
2. 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.

(d) The duration of the outside employment;

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

(f) 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."

WHAT HAPPENS WHEN THERE IS A CONFLICT?

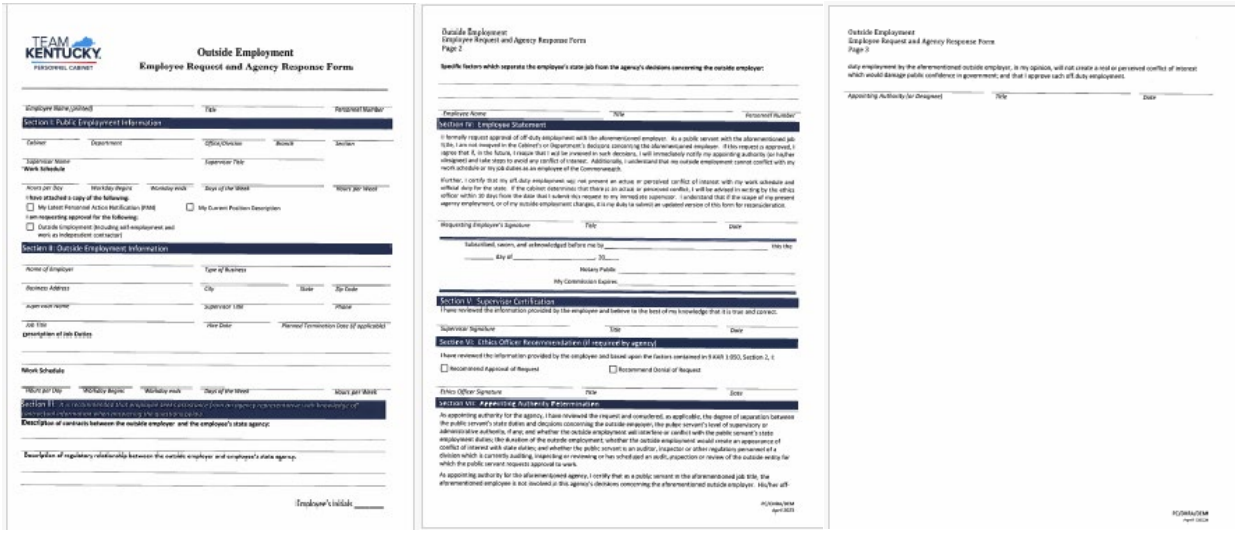
An Appointing Authority may still grant the public servant permission to engage in the outside employment, even when the outside employer has a business relationship or regulatory relationship with the agency. However, conflicts of interest must be minimized. Using KRS 11A.030 as a guide, a public servant should follow KRS 11A.020(3), which provides that public servants shall avoid participating in "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."

If the Appointing Authority were to allow the public servant to participate in the outside employment, it could mitigate conflicts of interest by allowing the public servant to abstain from official decisions on behalf of the agency about the outside employer.

It is ultimately up to the Appointing Authority to grant or deny permission to engage in the proposed outside employment. It may decide that it can limit conflicts by setting up parameters for the public servant to operate under while engaging in the outside employment while continuing with the public servant's official duties. However, the Appointing Authority may decide that it may be too difficult to minimize such conflicts.

AGENCIES MAY HAVE MORE RESTRICTIVE REQUIREMENTS: Many agencies have additional policies regarding outside employment, which may be more restrictive than the Ethics Code's requirements. Be sure you are familiar with what your agency requires.

PERSONNEL CABINET'S FORM:



RELEVANT ADVISORY OPINONS

Advisory Opinion 26-01: An executive branch employee serving in a DPA leadership position may continue to serve as Executive Director of LJCPD after DPA assumed responsibility for LJCPD's former public defender functions as the position was not outside employment under KRS 11A; it is non-paid, volunteer service for a charitable organization. The employee's continued service with LJCPD did not create a conflict of interest but if one presented, recusal would be required.

Advisory Opinion 22-06: The decision to allow an employee of the Kentucky Housing Corporation ("KHC"), currently running for a partisan office, and if elected, to serve in both that elected political office and continue employment with KHC lies with the employer, Kentucky Housing Corporation.

Advisory Opinion 21-02: The Board of Cosmetology may, within its discretion pursuant to KRS 11A.040(10), choose to deny permission for a field inspector to engage in outside employment by opening a salon in their own home. However, in the alternative, the Board may also, in its discretion, choose to allow the field inspector for the Board to engage in the proposed outside employment if the Board sets up parameters to ensure that the inspector does not perform inspections in a geographical region of the state as determined by the board to ensure that the field inspector is not inspecting the competitors of their salon.

Advisory Opinion 19-09: A Utility Inspector with the PSC may work for privately owned water treatment facilities that are not subject to the jurisdiction of the PSC without violating the outside employment provisions of the Executive Branch Code of Ethics as long as the appointing authority approves of the outside employment and conflicts of interest are mitigated.

Advisory Opinion 19-08: A Utility Inspector with the Public Service Commission (PSC) may work for a city-owned water treatment plant without violating the outside employment provisions of the Executive Branch Code of Ethics as long as the appointing authority approves of the outside employment and conflicts of interest are mitigated. The employee may serve on the board of an Association of members regulated by the PSC as long as conflicts of interest are mitigated.

Advisory Opinion 15-04: A conflict of interest will exist if an Environmental Scientist I, employed by the Division of Oil and Gas, Department for Natural Resources, Energy and Environment Cabinet, is allowed to create a research-focused company involved in researching and developing a process for treating a waste product of the environmental industry of which the environmental scientist is a regulator. The Commission found that the appointing authority properly denied the same employee's request for outside employment to work for his research-focused company because the employee's involvement with the created company posed a direct conflict of interest with the employee's duties for the Cabinet by operation of KRS 11A.040(10) and 9 KAR 1:050. The Commission did not find a valid reason to overrule the appointing authority's decision.

Advisory Opinion 09-08: The Commissioner of the Department for Fish and Wildlife Resources may also be self-employed as an independent contractor with a land development company. However, he cannot do business with his own agency, and he must ensure that he has no competing interests between his official position and his private interests.

Advisory Opinion 09-03: A case manager/nurse investigator for the Kentucky Board of Nursing may accept part-time employment with a nursing school in Kentucky if the employee's official job duties do not include regulation of nursing school programs. However, the employee must cease the part-time employment in the event that the employee's job duties change to include regulation of nursing school programs, or if a particular student who enrolls in a class taught by the employee is subject to disciplinary monitoring by the employee.

Advisory Opinion 08-21: With limitations and the approval of his appointing authority, the Vice Chairman of the Public Service Commission may actively practice law, serve as a Bankruptcy Trustee, and remain an equity partner in a law firm in an "as counsel" role. A period of six months is a reasonable period of time for the Vice Chairman of the Public Service Commission to abstain in a matter pending before the Public Service Commission in which the Vice Chairman formerly represented one of the parties, but the agency may require abstention for a longer period of time. A Vice Chairman who was a former member of the Sierra Club is not required to abstain in cases in which the Sierra Club intervenes as a party.

Advisory Opinion 08-20: The Chairman of the Public Service Commission may actively practice law if he does not represent clients regulated by the Public Service Commission, subject to the approval of his appointing authority. A period of six months is a reasonable period of time for the Chairman of the Public Service Commission to abstain in a matter pending before the Public Service Commission in which the Chairman formerly represented one of the parties in the matter, and in a matter in which his former law firm represents a party. However, the agency may require the Chairman to abstain for a longer period of time. The Chairman of the Public Service Commission may serve on boards of certain charitable and civic organizations that are not regulated by the Public Service Commission.

4. GIFTS TO PUBLIC SERVANTS v. GIFTS TO AGENCIES

BASIC RULE:

A public servant, his spouse, or dependent child shall not knowingly:

- 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.

KRS 11A.045 was amended during the 2017 General Assembly Session to include:

> *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.*

DEFINITION OF "PERSON" OR "BUSINESS": **Gifts being offered by a person or business are covered by KRS 11A.045**:

- "**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. KRS 11A.010(1)
- "**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. KRS 11A.010(20).

HOWEVER, A "PERSON" OR "BUSINESS" IS NOT: **Gifts being offered by agencies or public agencies are not covered by KRS 11A.045.** If the entity can fit within the definition of agency or public agency in KRS 11A.010, then it is not a person or business.

- "**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. KRS 11A.010(10).

- "**Public agency**" means any governmental entity. KRS 11A.010(15).

WHAT DOES DOING BUSINESS MEAN? **If the person or business is <u>not receiving payment from a state agency</u>, then there is no business relationship.**

- "**Does business with**" or "**doing business with**" to mean "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." KRS 11A.010(14).

PERSONAL USE VS. AGENCY USE:

KRS 11A.045 prohibits a public servant from accepting a gift from a <u>prohibited source</u> if the gift is being provided to the individual public servant for his or her personal use and enjoyment. However, if the gift is being provided to the agency for agency use, then we must look at this scenario under a new provision, KRS 45A.097. KRS 45A.097 is a new statute and is part of the Model Procurement Code that is not part of the Ethics Code but provides an exception to the gifts prohibition (KRS 11A.045(1)) and the additional compensation provision (KRS 11A.040(5)). This new statute allows agencies to accept gifts to fund the mission of an agency and further its governmental purpose. However, this new statute does not address how an agency would accept monetary gifts.

<u>CAUTION ABOUT ADVISORY OPINIONS ISSUED PRIOR TO 2017:</u>

All Executive Branch Ethics Commission opinions dated prior to 2017 interpreting KRS 11A.045 concerning the application of the gifts prohibition should now be viewed under the perspective of KRS 45A.097. If the gift to the public servant is for personal use, then KRS 11A.045 will apply. If the gift is for agency use, then KRS 45A.097 will apply.

Advisory Opinion 24-06: The Correctional Farm Manager at Blackburn Correctional Complex is prohibited from personally accepting a monetary award from the Thoroughbred Industry Employee Award Organization for his outstanding work as manager of Blackburn's thoroughbred retirement farm; however, the monetary award may be donated in his honor to the thoroughbred retirement farm operated at Blackburn Correctional Complex.

Advisory Opinion 23-01: The Executive Branch Ethics Commission grants a gift exemption pursuant to KRS 11A.040(5) and KRS 11A.045(1) to the Office of the Secretary of the Tourism, Arts, and Heritage Cabinet for the employees of Jenny Wiley State Park to accept a gift from the non-profit "Friends of Jenny Wiley," for their exemplary service during and after the historic flooding in eastern Kentucky.

Advisory Opinion 22-07, Gift Exception 2022-3: The Executive Branch Ethics Commission grants a gifts exemption pursuant to KRS 1 lA.045(1). for the Chief Communications Officer in the Office of the Commissioner of the Kentucky Department of Education to receive funds from a donation account established by her friends to assist with payment of emergency veterinary costs.

Advisory Opinion 22-04, Gift exception 2022-2: The Executive Branch Ethics Commission grants the exemption pursuant to KRS 11A.045(1) for the Executive Director of the Office of Senior Protection within the Attorney General's Office to receive funds from a donation account established by her friends to supplement her medical costs.

Advisory Opinion 22-02, Gift Exception 2022-1: The Executive Branch Ethics Commission grants an exemption pursuant to KRS 11A.040(5) to allow employees of the Kentucky Transportation Cabinet to participate in the Safety Recognition Program and receive prizes valued between $15 - $25.

Advisory Opinion 21-11, Gift Exception 2021-3: The Department of Worker's Claims, Labor Cabinet is granted an exemption to KRS 11A.045(1) for a non-merit employee to receive funds from a donation account established by his family to supplement his medical costs.

Advisory Opinion 21-09, Gift Exception 2021-2: The Executive Branch Ethics Commission grants an exemption to KRS 11A.045(1) for a non-merit employee of the Department of Veterans Affairs to receive induction into the Kentucky Veterans Hall of Fame which includes receipt of a plaque and dinner worth more than $25. That same employee should follow a planned six-month moratorium on any decision-making concerning the Kentucky Veterans Hall of Fame to avoid any conflicts of interest as provided in KRS 11A.020(3) and KRS 11A.030.

Advisory Opinion 21-01, Gift Exception 2021-1: The Executive Branch Ethics Commission grants an exemption to The Commonwealth Office of Technology pursuant to KRS 11A.040(5) so that it may offer a program in which public servants are enrolled into a drawing to win a prize of monetary value greater than $25 when they enroll into the Self Service for Password reset.

Advisory Opinion 20-03: Property Valuation Administrators may sell advertising space on their websites without violating the Executive Branch Code of Ethics as long as they use the mechanism provided in KRS 45A.097 to solicit sponsorships, which may include selling advertising space on state-sponsored websites, as long as the state agency follows the requirements of KRS 45A.097 and the procedures established by the Finance and Administration Cabinet for its implementation. Furthermore, the Executive Branch Ethics Commission recommends that the website include a disclaimer that any such advertisements are not to be considered an endorsement of the services or products of the advertisers pursuant to KRS 45A.097(4)(h) and (i).

Advisory Opinion 20-01, Gift Exception 2020-1: Within limits, the Executive Branch Ethics Commission grants an exception to KRS 11A.040(5) to all employees of the Department of Corrections("Department") as part of the Department's proposed awards program for employees who go beyond their official duties to provide exceptional service to the Department.

Advisory Opinion 19-07: Pursuant to KRS 11A.055, the Department of Agriculture (KDA) is prohibited from directly raising funds for a 26 USC Section 501(c)(6) tax-exempt organization to fund a conference being held in Kentucky for the organization over which the Commissioner of Agriculture is serving as president. Pursuant to KRS 11A.045(1) the Commissioner of Agriculture and the staff of the KDA are prohibited from raising funds for the 501(c)(6) organization by soliciting persons or businesses that may otherwise be prohibited from giving gifts to the KDA and its employees. The Commissioner of Agriculture and other members of the KDA's senior leadership may seek donations to the 501(c)(6) organization in advance of the conference from individuals and/or corporate entities who do not meet any of the circumstances as set forth in KRS 11A.045(1) as long as they use their own time and resources and avoid using state time and state resources. The 501(c)(6) organization may use the Commissioner's name and identity on solicitations sent to entities that are regulated by or doing business with the KDA or otherwise listed in KRS 11A.045(1). If allowable under KRS 45A.097, the Commissioner of Agriculture and the staff of the KDA may raise funds to be donated directly to the Department to fund a conference sponsored jointly by the KDA with the 501(c)(6) organization.

The Finance Cabinet enforces the Model Procurement Code. Please contact the Finance Cabinet for further guidance with your individual scenarios related to KRS 45A.097:

Finance and Administration Cabinet
Office of Legal Services
(502) 564-6660

Office of Procurement Services
(502) 564-4510

KRS 45A.097 Governmental body's acceptance of donation and gifts and consideration of establishing commemoration, memorial, naming rights, or sponsorships.

(1) A governmental body may accept donations and gifts from persons or businesses to further the governmental body's mission or to benefit the Commonwealth. Donations and gifts shall not be from a prohibited source.
(2) In exchange for a donation or gift, a governmental body may consider an accompanying request for a commemoration or memorial, but all such requests involving state property shall be subject to approval by the secretary.
(3) Except as provided in KRS 45A.095(2)(d), naming rights of structures, buildings, or any other physical property owned or operated by the Commonwealth of Kentucky shall be competitively awarded pursuant to KRS Chapter 45A and subject to review and approval by the secretary. Naming rights shall not constitute an endorsement of a particular business by the Commonwealth.

(4) Notwithstanding KRS Chapter 11A, a governmental body may accept and solicit sponsorships from persons and businesses in the following manner:
   (a) A sponsorship shall be for a defined period of time, a specific event, or a particular governmental body purchase or need;
   (b) A governmental body seeking to solicit a sponsorship shall advertise the sponsorship opportunity on its Web site, newsletter, or other written media for a minimum of seven (7) calendar days. A sponsorship opportunity shall describe the number of potential sponsorships available, the relative importance of price and other evaluation factors used to ensure "best value" as defined in KRS 45A.070, and the advertising or similar commercial considerations available from the Commonwealth for a particular sponsorship opportunity;
   (c) The governmental body shall notify the Office of Material and Procurement Services in the Office of the Controller of the Finance and Administration Cabinet by providing copies of its sponsorship opportunity advertisements to the office. If the Office of Procurement Services approves or does not respond to the governmental body within one (1) business day of notification, the governmental body may proceed under this subsection;
   (d) At the end of the advertising period for a sponsorship, all responses shall be evaluated in accordance with the evaluation factors set forth in the sponsorship opportunity;
   (e) Written or oral discussions may be conducted with responsible bidders in accordance with KRS 45A.085(7);
   (f) A sponsorship shall be awarded to the responsible bidder determined in writing to be most advantageous to the Commonwealth, taking into consideration the evaluation factors set forth in the sponsorship opportunity. All evaluation documentation, scoring, and summary conclusions of the award shall be made a part of the file or governmental body record;
   (g) If insufficient eligible responses are received in response to the advertising of a sponsorship opportunity, and the purchasing officer determines in writing that further bidding would not likely result in additional responsive proposals being received by the Commonwealth, then noncompetitive negotiations with nonprohibited sources may be used to award contracts for the remaining number of sponsorships available;
   (h) A sponsorship shall not constitute an endorsement of a particular business by the Commonwealth as the sole vendor of choice; and
   (i) An entity that is a prohibited source may be considered for a sponsorship opportunity only if there is a written finding by the purchasing officer that:
      1. The entity is not lobbying or attempting to influence matters of the governmental body; and
      2. The sponsorship will provide: a. A public benefit to the Commonwealth; or b. Economic development or enhanced tourism in the Commonwealth.

(5) An entity that is a prohibited source due to its current contractual relationship with a governmental body may provide conferences or training events for the benefit of the governmental body only:
   (a) When the entity does not have any interests that might be affected by the performance or nonperformance of the governmental body s official duties; and
   (b) The conference or training promotes safety, economic development, or tourism in the Commonwealth, or there is otherwise a public benefit to the Commonwealth.

(6) Governmental body employees whose official duties include acceptance or solicitation of donations, gifts, or sponsorships shall not be involved with:
   (a) The solicitation or award of contracts by the governmental body; or

(b) The noncompetitive negotiation of naming rights of structures, buildings, or any physical property owned or operated by the Commonwealth.

Effective: June 29, 2017 History: Created 2017 Ky. Acts ch. 175, sec. 2, effective June 29, 2017.

KRS 45A.096 Definitions for KRS 45A.096 and 45A.097.

As used in this section and KRS 45A.097:
(1) "Business" has the same meaning as in KRS 11A.010;
(2) "Commemoration" means an object, such as a plaque or a sign, honoring a living person or an event, but does not include naming rights;
(3) "Does business with" or "doing business with" has the same meaning as in KRS 11A.010;
(4) "Donation" means a monetary or in-kind contribution given to a governmental body to further the governmental body's mission with no tangible or intangible benefit to the donor. Name recognition in promotional materials or on a commemoration or memorial shall not constitute a tangible or intangible benefit to a donor;
(5) "Gift" means a payment, loan, subscription, advance, deposit of money, service, or anything of monetary value given to a governmental body to further a governmental body's mission, where only the governmental body receives the tangible or intangible benefit, and no personal benefits accrue to any individual;
(6) "Memorial" means an object, such as a plaque or a sign, honoring a deceased person or an event, but does not include naming rights;
(7) "Naming rights" means a form of advertising sponsorship contracted by one (1) of the methods in KRS 45A.075(1) or (2) or 45A.077, where a business or other entity purchases the right to name a building, structure, or any other physical property owned or operated by the Commonwealth for a defined period of time, for consideration. No naming rights shall be granted to alter the names of state parks, cemeteries, historical memorials, battlefields, state institutions of higher education, historical landmarks, the Capitol, the Capitol Annex, lakes, or rivers;
(8) "Person" means an individual or any legal entity through which business is conducted for profit;
(9) "Prohibited source" means any person, company, or organization that:
   (a) Has a current contractual relationship with a governmental body;
   (b) Conducts operations that are regulated by a governmental body;
   (c) May be lobbying or attempting to influence matters of that governmental body;
   (d) That has any interests that might be affected by the performance or nonperformance of official duties of the governmental body or the governmental body s employees; or
   (e) Is a person, company, or organization currently bidding on or proposing a contractual project with the governmental body under one (1) of the methods established in KRS 45A.075 or 45A.077;
(10) "Public benefit" means a benefit accrued to a governmental body of the Commonwealth to further the mission of or improve the governmental body or its infrastructure; and
(11) "Sponsorship" means an agreement for the receipt of cash or noncash value by a governmental body from a business or other entity in exchange for advertising or similar commercial considerations, including event sponsorships.

Effective: June 29, 2017 History: Created 2017 Ky. Acts ch. 175, sec. 1, effective June 29, 2017.

THE CREATION OF FOUNDATIONS

GIFTS PROHIBITION

KRS 11A.045(1) prohibits public servants from accepting gifts valuing more than $25 in a 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.

However, KRS 11A.055 allows agencies to fundraise for charities as designated by the IRS, which could include foundations. Furthermore, KRS 11A.055 specifically allows agencies to fundraise for crime prevention, drug and alcohol abuse prevention, tourism promotion, and traffic safety programs without violating the ethics code.

DONATIONS AND GIFTS

KRS 45A.097(1) provides an exception to KRS 11A.045 [the gifts prohibition] that allows a governmental body to accept donations and gifts from persons or businesses to further the governmental body's mission or to benefit the Commonwealth.

DEFINITIONS: KRS 45A.096 provides definitions for this section.

(1) A "Person" means an individual or any legal entity through which business is conducted for profit.

(2) A "Business" is defined by KRS 11A.010(1) to mean 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***.

(3) A "Donation" means a monetary or in-kind contribution given to a governmental body to further the governmental body's mission with no tangible or intangible benefit to the donor. Name recognition in promotional materials or on a commemoration or memorial shall not constitute a tangible or intangible benefit to a donor.

(4) A "Gift" means a payment, loan, subscription, advance, deposit of money, service, or anything of monetary value given to a governmental body to further a governmental body's mission, where only the governmental body receives the tangible or intangible benefit, and no personal benefits accrue to any individual.

(5) A "Public benefit" means a benefit accrued to a governmental body of the Commonwealth to further the mission of or improve the governmental body or its infrastructure; and

Donations and gifts given pursuant to KRS 45A.097(1) shall not be from a prohibited source.

A "Prohibited source" means any person, company, or organization that:

(a) Has a current contractual relationship with a governmental body;
(b) Conducts operations that are regulated by a governmental body;
(c) May be lobbying or attempting to influence matters of that governmental body;
(d) That has any interests that might be affected by the performance or nonperformance of official duties of the governmental body or the governmental body's employees; or
(e) Is a person, company, or organization currently bidding on or proposing a contractual project with the governmental body under one (1) of the methods established in KRS 45A.075 or 45A.077.

An entity that is a prohibited source due to its current contractual relationship with a governmental body may provide conferences or training events for the benefit of the governmental body.

ISSUES WITH NEW STATUTE**:** "Governmental Body" is not defined. In the Ethics Code, KRS 11A.010(10) defines "agency" as

> [E]very 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.

The Ethics Commission has interpreted this to mean that entities such as commissions and boards are part of the agency to which they are attached unless the mandating statutes provides that the board or commission is independent. The General Assembly in failing to define "Governmental Body" does not clarify this issue for the purposes of applying KRS 45A.096.

SPONSORSHIPS

Notwithstanding KRS Chapter 11A, a governmental body may accept and solicit sponsorships from persons and businesses or a defined period of time, a specific event, or a particular governmental body purchase or need.

(1) A "Sponsorship" means an agreement for the receipt of cash or noncash value by a governmental body from a business or other entity in exchange for advertising or similar commercial considerations, including event sponsorships.

EMPLOYEE PARTICIPATION IN FUNDRAISING

Governmental body employees whose official duties include acceptance or solicitation of donations, gifts, or sponsorships shall not be involved with the solicitation or award of contracts by the governmental body or the noncompetitive negotiation of naming rights of structures, buildings, or any physical property owned or operated by the Commonwealth.

SUMMARY OF 9 KAR 1:060

Requirements Relating to Fundraising Activities and Charitable Nonprofit Organizations

SUMMARY: 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 by state agencies ensuring compliance with KRS 11A.045, the gift prohibition.

APPLIES TO:

- Executive Branch Agencies: every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government.

- Public Servants: Elected officials and employees in the Executive Branch of state government. For the purposes of this administrative regulation, a public servant is an individual who is acting on behalf of a state agency in the course and scope of his or her state employment.

- Certain Charitable Nonprofit Organizations
  A Charitable Nonprofit Organization is any entity or corporation that
  (1) is registered with the IRS as a 501(c)(3);
  (2) is granted tax exempt status under 26 U.S.C. 501(a); and
  (3) accepts charitable contributions.

REQUIREMENTS: The administrative regulation requires state agencies and certain charitable nonprofit organizations to follow requirements determined by the category in which the organization fits to ensure that executive branch agencies are following the statutory provisions of KRS 11A.055 concerning fundraising activities without violating KRS 11A.045 the gifts prohibition.

CATEGORIES:

CATEGORY I

- Charitable Nonprofit Organizations ***controlled*** by Executive Branch agencies:
    - CONTROLLED means that an agency or a public servant maintains control of the charitable nonprofit organization if at least one (1) of the following apply:

        - 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;
        - The agency or a 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;
        - The agency provides on an ongoing basis staff, resources, or office space with no ***recompense*** (see below) 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 (the Model Procurement Code); or
        - The public servant, during the scope of his or her public service, directs the use of the funds of the charitable nonprofit organization or has signatory authority of the charitable nonprofit organization's accounts.

(1) What does RECOMPENSE mean? A 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.

REQUIREMENTS: A CATEGORY I charitable nonprofit organization

- Is a part of that agency;
- Is subject to the Executive Branch Code of Ethics, pursuant to KRS Chapter 11A; AND
- Shall not accept confidential contributions to ensure compliance with KRS 11A.045.

Public servants may solicit contributions for CATEGORY I charitable nonprofit organizations except from those persons or businesses the agency is prohibited from accepting contributions under KRS 11A.045, the gifts prohibition.

CATEGORY II

(1) A Charitable Nonprofit Organization that

- Is ***created OR established***, ***but NOT controlled***, by an executive branch agency;

    - ESTABLISHED means an agency or a public servant:

➢ Files documentation with the IRS to create the charitable nonprofit organization pursuant 26 U.S.C. 501(c); or

- Drafts bylaws or other governing documents under which a charitable nonprofit organization operates.

    - CREATED means an agency or a public servant has filed articles of incorporation with the Kentucky Secretary of State to form the nonprofit charitable organization.

REQUIREMENTS: A CATEGORY II Charitable Nonprofit Organization may support similar goals of the agency and shall NOT be subject to the provisions of CATEGORY I ***IF*** it does not provide funding directly or indirectly to the agency.

CATEGORY III

(2) Charitable Nonprofit Organizations ***affiliated*** with Executive Branch Agencies:

- What does AFFILIATED mean?
    - a Charitable Nonprofit Organization that engages in activities for the benefit of an agency or furthers the statutory or regulatory mandates of the agency through the use of contributions solicited from the public
      AND
    - is NOT ***created, established, or controlled*** by the agency.

REQUIREMENTS: A Category III Charitable Nonprofit Organization shall NOT be subject to the provisions of Category I or II.

FUNDRAISING ACTIVITIES:

- 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. [An agency or public servant may fundraise for a CATEGORY I charitable nonprofit organization as long as contributions are not confidential and KRS 11A.045 is followed.]

- 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:
    - Be paid out of the funds raised;
    - Receive a commission based on funds raised; or
    - Receive any portion of the funds to be delivered to the charitable organization or program.

  [This provision does not apply to a CATEGORY I because it is considered part of the agency as long as the Model Procurement Code, KRS Chapter 45A, is followed.]

- An agency may assign or permit a public servant to work on behalf of a CATEGORY II or III Charitable Nonprofit Organization ***IF***:

(1) 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

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

[Public Servants may devote any amount of time to a CATEGORY I because it is considered a part of the agency.]

HOWEVER:

- An agency may devote unlimited state time and resources to any category charitable nonprofit organization without ***recompense*** from the charitable nonprofit organization ***IF***:
  (d) These activities are conducted for a cooperatively sponsored event such as a conference, summit, meeting, or training; and
  (e) The event is conducted to further the statutory, regulatory, or programmatic mandates of the agency.

MODEL PROCURMENT CODE v. THE ETHICS CODE

BOTH CODES PROHIBIT YOU FROM:

- knowingly disclosing or using confidential information acquired in the course of your official duties, when such would further your own economic interests.
- knowingly receiving, directly or indirectly, any interest or profit arising from the use or loan of public funds in your hands or to be raised through any public agency.

Source: KRS 11A.040 (1) & (2), KRS 45A.340(1), KRS 45A.455(5).

- knowingly acting as a representative or agent for your public agency in the transaction of any business or regulatory action with
  - yourself, or
  - any business in which you or a member of your family has any interest greater than 5% of the total value thereof.

  Source: KRS 11A.040(3) and KRS 45A.340(2) and (4)
- Knowingly holding, bidding on, negotiating or holding any contract, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which you are employed.

Source: KRS 11A.040(4) and KRS 45A.340(5).

BOTH CODES PROHIBIT YOU FROM ACCEPTING KICKBACKS AND BRIBES:

- Knowingly accepting compensation, other than that provided by law for public servants, for performance of your official duties

Source: KRS 11A.040(5) and KRS 45A.455.

MODEL PROCUREMENT CODE HAS ADDED ETHICAL CONSIDERATIONS:

- KRS 45A.455 provides certain additional ethics requirements for employees with procurement authority, such as:
  - Conflict of Interest standards when dealing with family members, business associates, or prospective employers
  - Prohibition concerning *Quid Pro Quo* scenarios, such as accepting a gift in exchange for approving a purchase
  - Prohibition from soliciting or accepting offers of employment from subcontractors of a prime contractor as an inducement for an award of a subcontract
  - Prohibition from using confidential information for personal gain
  - Post-employment

VIOLATIONS OF THE MODEL PROCUREMENT CODE INCLUDE:

- Any person who violates any provisions of KRS 45A.330 to 45A.340 shall be guilty of a Class B misdemeanor, and in addition he shall be adjudged to have forfeited any statutory office or employment which he may hold.
- Any person who willfully violates this code shall be guilty of a Class A misdemeanor.
- Offering or receiving inducements is a Class C Felony.

Source: KRS 45A.990

FUNDRAISING ACTIVITIES

The Executive Branch Code of Ethics, which applies to all employees of the executive branch of state government, generally prohibits employees from soliciting and/or accepting gifts or donations from persons or businesses that do business with, are regulated by, are seeking grants from, are involved in litigation against, or are lobbying or attempting to influence the actions of, the agency for which the employee works. However, the legislature created an exception to this general rule in 2002 which allows employees, and their agencies, to raise funds for charitable nonprofit organizations granted a tax exemption by the Internal Revenue Service under Section 501c of the Internal Revenue Code. See KRS 11A.055(1) and Advisory Opinion 13-03. The Kentucky Employees Charitable Campaign is such an organization.

According to KRS 11A.055, raising of funds for such charitable purposes 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. The funds thus raised must all go to the charitable organization.

WHO SHOULD SOLICIT AND WHO SHOULD NOT:
What this means for KECC purposes is that employees of the executive branch may solicit donations from any person or business regardless of that person's or business's relationship to the employee's agency. It does not matter whether the person or business is doing business with or is regulated by their agency. However, the Executive Branch Ethics Commission recommends that employees involved in regulating an entity, such as an inspector, should not solicit donations from regulated entities.

EXCEPTION FOR TOURISM:
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.

GUIDELINES FOR SOLICITING DONATIONS:
When soliciting funds for KECC, employees should keep in mind that:

(1) All funds donated as a result of such solicitation **must** be provided directly to KECC.
(2) Public acknowledgement of a corporate donor to KECC is **not** permissible if the acknowledgment appears to be an endorsement of the donor by the state.
    - No "active" acknowledgments, such as public statements in the newspaper or television, are permitted.

- No acknowledgements that would favor one KECC donor over another are permitted.
- "Static" acknowledgments of a donation, for example the placement of a sign or marker at an event, the printing of co-sponsors of an event on the back of t-shirts, are permissible, so long as they merely acknowledge the sponsorship (that is, the acknowledgments must be such that they do not serve as advertisements on behalf of the donors).

(3) The appearance of impropriety may still exist even if the Code of Ethics permits such solicitation. Agencies and employees should remain mindful of conflicts of interest when conducting fundraising activities for KECC.

RELEVANT ADVISORY OPINIONS

Advisory Opinion 21-13: Department of Corrections staff are prohibited from using state time and state resources to conduct limited fundraising and administrative activities associated with managing outside bank accounts to support the staff canteen funds. Additionally, the Department of Corrections should follow the recommendations of the Finance and Administration Cabinet to avoid using correctional facility names in the name of the outside bank accounts associated with the staff canteen fund.

Advisory Opinion 19-07: Pursuant to KRS 11A.055, the Department of Agriculture (KDA) is prohibited from directly raising funds for a 26 USC Section 501(c)(6) tax-exempt organization to fund a conference being held in Kentucky for the organization over which the Commissioner of Agriculture is serving as president. Pursuant to KRS 11A.045(1) the Commissioner of Agriculture and the staff of the KDA are prohibited from raising funds for the 501(c)(6) organization by soliciting persons or businesses that may otherwise be prohibited from giving gifts to the KDA and its employees. The Commissioner of Agriculture and other members of the KDA's senior leadership may seek donations to the 501(c)(6) organization in advance of the conference from individuals and/or corporate entities who do not meet any of the circumstances as set forth in KRS 11A.045(1) as long as they use their own time and resources and avoid using state time and state resources. The 501(c)(6) organization may use the Commissioner's name and identity on solicitations sent to entities that are regulated by or doing business with the KDA or otherwise listed in KRS 11A.045(1). If allowable under KRS 45A.097, the Commissioner of Agriculture and the staff of the KDA may raise funds to be donated directly to the Department to fund a conference sponsored jointly by the KDA with the 501(c)(6) organization.

CONFERENCE & EVENT PLANNING

The following is guidance for Executive Branch agencies (AGENCY) covered by the Executive Branch Code of Ethics (the Ethics Code), codified under KRS Chapter 11A.

SCENARIO:

AGENCY is a member of a national association or organization (ASSOCIATION) that is comprised of state and/or federal agency officials to facilitate cooperation. The purpose of the ASSOCIATION is to encourage conformity of state laws, provide education to state and federal agencies, and bring together state and federal agencies across all states in various ways that are beneficial to the member agencies. Typically, these associations are non-profit entities operated by a board or committee composed of representatives from member state agencies.

Annually or biannually, these associations ask a member state to host a conference or meeting (EVENT). You represent AGENCY that has been asked to host EVENT. As the host state, AGENCY and its employees are responsible for making all the arrangements for the EVENT. Your employees will be involved as part of their official duties. Hosting this EVENT will reflect on the state of Kentucky and could provide a benefit to the state.

As the host state, AGENCY is responsible for raising sufficient funds to cover such expenses. The registration fee charged the attendees does not cover all the meeting expenses. All correspondence, arrangements, and finances will be handled under the auspices of the ASSOCIATION. Financial records for the meeting will be completely separate from those of AGENCY and will be reported to the board of the ASSOCIATION. AGENCY must find way to meet the difference in funding that will be generated by the registration fees, plan the EVENT, represent Kentucky in a positive light, and not violate the Ethics Code.

LAWS REFERENCED[1]: KRS 11A.005, KRS 11A.045, KRS 11A.055, and 9 KAR 1:060.
ADVISORY OPINIONS: 93-56, 93-81, 93-88 , 94-17, 94-21, 94-58, 94-63, 96-12, 00-55, 02-28, 02-44, 04-31, 05-4, 05-43, 07-2, 07-34, 11-07, and 12-06.

GUIDANCE:

USE OF STATE TIME AND RESOURCES FOR PLANNING EVENT: It is a management decision to determine whether the official duties of AGENCY employees include performing duties for planning the EVENT. If AGENCY management believes that it is in the best interest of the AGENCY to allow employees as part of their official duties to perform duties for planning

[1] Other laws, such as the Model Procurement Code, Open Records Act, and Open Meetings Act, may also be implicated. AGENCY officials should seek advice from the relevant sources concerning those laws.

the EVENT, such action is not prohibited by the Ethics Code. (KRS 11A.055; 9 KAR 1:060, Section 7(1); and AO 05-4).

HANDLING FUNDS: AGENCY employees may determine the amount and be involved in the collection of a registration fee to be charged those attending the EVENT. However, such collections are ultimately the funds of the ASSOCIATION and should not be deposited in an AGENCY account. All funds for the EVENT should be maintained in a separate account outside of state government in the name of the ASSOCIATION and all expenses for the EVENT should be paid from the separate ASSOCIATION account. (AO 96-12).

SOLICITATIONS BY STATE EMPLOYEES:

DIRECT DONATIONS: Employees of the AGENCY who, as part of their official duty, will be involved in planning and coordinating the EVENT, must not solicit or accept donations from persons or businesses regulated by or currently doing business with the AGENCY. Solicitation or acceptance of donations by employees of the AGENCY from entities which are *potential* vendors of the AGENCY could create a conflict of interest in appearance, if not in fact, and should only be done by AGENCY employees that are not involved in any way with entering into contracts with vendors of the AGENCY or regulating. (KRS 11A.045(1), AO 93-56, 96-12, 12-06). Otherwise, AGENCY may accept donations from private entities to fund the EVENT or accept reimbursement from private entities to cover the costs of expenses for the EVENT. (AO 12-06).

VENDORS: Solicitation by AGENCY employees for trade show exhibitors who also may have a business or regulatory relationship with the AGENCY is allowable because the vendor receives a benefit for the rental fee paid. Consequently, upon the rental of booth space to vendors, neither the ASSOCIATION, the AGENCY, nor the employee is considered to have received a gratuity which would otherwise be prohibited by the Ethics Code. (AO 93-81, 94-63, 00-55, 04-31, 05-43).

Vendors may be asked by AGENCY employees to rent booth space for a reasonable fee at an open trade show and/or exposition to be held at the EVENT. However, AGENCY employees who are involved in the regulation of or selection of vendors for the AGENCY should not be involved in the solicitation of vendors for the trade show. AGENCY employees involved in the solicitation for the trade show should have no responsibilities over those vendors which are solicited. Contacts with potential vendors or entities regulated by the AGENCY should be limited to mailings only. In order to avoid a conflict of interest, personal contacts should not be made to entities which are potential vendors of the AGENCY or are regulated by the AGENCY. (AO 96-12).

DOOR PRIZES & SWAG: Employees may solicit and accept donations for door prizes, souvenir bags, and other expenses of the EVENT from ASSOCIATION members, companies, and other businesses and associations in the industry as long as the member or company giving the donation is not directly regulated by nor seeking to do business with the AGENCY. ASSOCIATION members and companies which are regulated by the AGENCY or are seeking to do business with

the AGENCY should not be solicited by employees for such donations because a benefit is not received by the company for such a donation. (AO 96-12).

GOLF TOURNAMENTS AND OTHER SATELLITE EVENTS: AGENCY employees should not solicit sponsors or accept donations for a golf tournament or other function that will be held in conjunction with the EVENT from entities which do business with the AGENCY or from associations which primarily represent entities that do. Donations from outside consulting firms or professionals regulated by or who do business with the AGENCY create a conflict of interest for those employees organizing the EVENT. However, if a local association made up of regulated persons or entities wish to host a golf tournament in conjunction with the EVENT, for which a fee will be charged, the ASSOCIATION may solicit such persons or entities to participate, but AGENCY employees should not be involved in the solicitation. (AO 94-21).

DISCOUNTS FOR ATTENDEES: Hotels and motels may be solicited by AGENCY employees to provide discount rates for state employees on official travel status. Such solicitation was likened to state price contracts which are solicited from vendors. Airlines and rental car companies may offer discounts to attendees of the EVENT as long as the discounts offered are comparable to discounts offered to other groups of comparable size. (AO 93-88).

REASONABLE FEES: AGENCY may charge a reasonable fee for EVENT attendees, vendor booth rental fees, and announcements to be published in a trade show directory, newsletter, or conference advertisements. However, the AGENCY should not allow a profit to be made by the ASSOCIATION or the AGENCY. The amount charged should be sufficient to cover the actual costs, but not result in a profit, within reason. (AO 94-58, 96-12, 07-02, and 12-06).

Charging a higher fee to individuals or entities that are not members of the ASSOCIATION does not rise to the level of a sponsorship and is acceptable under the Ethics Code provided the difference in fees is not unreasonable in value. Furthermore, the difference in fee for members and nonmembers would not be construed as a gift to the ASSOCIATION because those attending the EVENT are receiving a benefit of participating in the EVENT, provided the fee is reasonable for supporting the EVENT. (AO 05-4).

USE OF FUNDS: The funds received from the rental fees should be used for the trade show exposition costs and EVENT expenses only. The funds received for advertisements should be used for the publication of the directory or newsletter and the EVENT expenses only. (AO 96-12).

SOLICITATION BY NON-PUBLIC SERVANTS: The ethical prohibitions placed on AGENCY employees do not apply to employees of another state, employees of private foundations, university employees, and private citizens, and thus no restrictions would apply to such an individual's fund-raising efforts. The Ethics Code would not apply to an outside organization, such as a university or private foundation not controlled by AGENCY, which volunteers or is hired by the AGENCY to manage all or part of the EVENT. Thus, the only restrictions that would apply would be to the activities of the AGENCY employees who may be

involved with the outside organization or with the parts of the EVENT not managed by the outside organization. (9 KAR 1:060 and AO 96-12).

However, if the outside organization solicits donations for the conference from entities which are potential vendors of the AGENCY, its employees should not be involved in maintaining or reviewing records of contributions. Any promotional items received by the outside entity should be routed through and provided to attendees in the name of the ASSOCIATION. (AO 94-17 and 94-21).

AGENCY head may allow his or her name to be included in solicitation letters from the outside entity sent to prospective donors for the conduct of an EVENT, even if such prospective donors do business with or are regulated by the agency, as long as the agency head does not directly solicit the sponsors. (AO 02-28, 02-44, 07-2).

Similarly, if the EVENT is promoting the interests of AGENCY, then AGENCY may co-sponsor the conference with another state that solicits sponsors, and acknowledge such co-sponsorship in EVENT materials, as long as employees of AGENCY are not involved in the solicitation of such financial sponsorship from entities that do business with, are regulated by, or are seeking to influence some future action of AGENCY. (AO 02-28, 07-2).

Further, if the solicitation by the other state includes soliciting sponsorship from entities that may do business with, be regulated by, or seek to influence your agency, the record keeping of donations should not be maintained or reviewed by AGENCY employees. (AO 07-34).

DONATIONS FROM PRIVATE SOURCES: An entity that is not regulated by or doing business with AGENCY wants to provide financial assistance to the AGENCY for the EVENT. There would be no issue with such entities providing financial assistance to the AGENCY to fund the EVENT; however, if the AGENCY accepts the financial support from the private entity, it is in effect entering into a "partnership" with that organization. AGENCY may enter into such an agreement with a private entity in a program that will benefit the entire Commonwealth or will promote economic development or tourism in the state, but that AGENCY may not "endorse" a private entity by publicly and actively promoting one private entity over another. The AGENCY should take care not to promote one private entity over any other such organization and must provide any similar organization with the same partnership opportunities. (AO 11-07 and 12-06).

LEFTOVERS: Any donated items or funds leftover from the event should be returned to the donor, if possible or practicable, used by the AGENCY for future AGENCY sponsored events, or provided to the ASSOCIATION for use for future EVENTS. Such items should not be used by any AGENCY employee for personal use. (See *Executive Branch Ethics Commission v. Richie Farmer*, Case No. 13-01).

5. POST-EMPLOYMENT

PRIOR TO LEAVING STATE EMPLOYMENT: *Source: 9 KAR 1:025, Section 2*

- A public servant shall not seek personal employment or contracting services by the use of the public servant's office or position **EXCEPT** the public servant may state the fact that he or she holds a particular position or office in an application for employment, a resume, or curriculum vitae.

- A public servant shall not negotiate for future employment with a person or business that does business with or is regulated by his or her agency 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.

"Negotiate" is not defined by statute or regulation. However, in practice, it means that a public servant has been offered the job and he or she is about to discuss salary and start date. Those discussions are considered negotiations.

AFTER LEAVING STATE EMPLOYMENT: *Source 11A.040*

ALL PUBLIC SERVANTS

A PUBLIC SERVANT SHALL NOT
WITHIN ONE YEAR OF LEAVING EMPLOYMENT:

- act as a lobbyist or
- represent a person or business

in matters in which he or she was directly involved during the last 3 years of his tenure.

SOURCE: KRS 11A.040(8) & (9)

OFFICERS ONLY

AN OFFICER SHALL NOT WITHIN ONE YEAR OF LEAVING EMPLOYMENT:

RULE #1: An Officer shall not by himself or through any business in which he owns at least 5% or by any other person for his use or benefit:

- 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 or purchase relating to eminent domain;
- to entitlement programs agreements;
- to purchases that are available to the public or at public auction; or
- to former officers of the DPA who continue to represent clients.

SOURCE: KRS 11A.040(6)

RULE #2: An Officer shall not:

- 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 3 years of his tenure.

This provision shall not prohibit an Officer from

- returning to the same business, firm, occupation, or profession in which he was involved prior to working for the state;
- working in a profession for which he received a degree or license prior to his state employment provided that he personally refrains from working on any matter in which he was directly involved during the last 3 years of his state tenure;
- the performance of ministerial functions; or
- the receipt entitlement benefits.

SOURCE: KRS 11A.040(7)

STATEMENT OF FINANCIAL DISCLOSURE

An Officer shall file the Statement for the portion of the calendar year that the officer served within 30 days of termination from state service. ***SOURCE: KRS 11A.050***

SOURCE: KRS 11A.010(14), (17) & (18) AND 9 KAR 1:025, SECTION 1(4)

RELEVANT DEFINITIONS

- "**Lobbyist**" includes an executive agency lobbyist registered with the Commission as well as a legislative agent registered with the Kentucky Legislative Ethics Commission. KRS 11A.010(12).
- "**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. KRS 11A.010(14).
- "**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. KRS 11A.010(1)
- "**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. KRS 11A.010(20)
- "**Regulated by**" is not defined by statute or regulation, but, in practice, means an agency has either statutory or regulatory power to take some form of action for or against a person or business, such as issuing licenses, citations, penalties, grants, or awards.
- "**Represent**" means to
  - Attend an agency proceeding;
  - Write a letter; or
  - Communicate with an employee of an agency on behalf of someone else. KRS 11A.010(17)
- "**Directly involved**" means to work on personally or supervise someone who works on personally. KRS 11A.010(18).
- **"Matter"** means any measurable case, litigation, decision, grant, proceeding, application, determination, contract, claim, investigation, charge, or legislative bill. 9 KAR 1:025, Section 1(4).

DETERMINING WHAT OR WHO IS A "PERSON" OR "BUSINESS" IS:

When Outside employment or Postemployment is being offered by a person or business, how do we determine what or who is a person or business? A "**person or business**" excludes another state agency, a federal agency, a city or county government, health department or library district, or public university. *Advisory Opinion 16-04.*

A "PERSON" OR "BUSINESS" is not an entity that can fit within the definition of agency or public agency in KRS 11A.010:

> (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;

(15) "Public agency" means any governmental entity.

****Post-employment that is being offered by agencies or public agencies is not covered by KRS 11A.040(6)-(9). See also KRS 11A.120 and 11A.130.**

WHAT DOES DOING BUSINESS MEAN? **If the person or business is not receiving payment from a state agency, then there is no business relationship.**

ADDITIONAL CONSIDERATIONS

Retirees: Must abide by the rules of the Kentucky Public Pension Authority.
Attorneys: Must abide by the Rules of Professional Responsibility. See Supreme Court Rules.

RELEVANT ADVISORY OPINIONS

- **Post-Employment for Non-Officers:**

Advisory Opinion 21-05: A public servant in a non-officer position may accept employment with a company that has a contract with his former agency without violating the post-employment provisions contained in KRS 11A.040(6)-(9) because the non-officer did not work on those matters whiles working at the state. Furthermore, the former non-officer may serve as an expert witness for his former agency through a contract with his new employer without violating the post-employment provisions.

Advisory Opinion 16-04: Because a public health department is not considered a "person" or "business" as defined by the Executive Branch Code of Ethics, a public servant and officer working for the Cabinet for Health and Family Services may immediately go to work for a local public health department without violating the post-employment provisions applicable to officers and is therefore not required to abstain from matters involving the Cabinet for Health and Family Services for any amount of time after beginning employment with the local public health department.

Advisory Opinion 09-06: For a period of one year, a former employee may not work for a private company that seeks to do business with the employee's former agency on matters in which the employee was directly involved during the last thirty-six months of his tenure.

- **Post-Employment for Officers:**

Advisory Opinion 24-04: KRS 11A.040 prohibits the former Division Director of the Division of Water for the Commonwealth of Kentucky from taking a job with a consulting firm with which he approved ongoing state contracts and projects. DECISION QUALIFIED: For one year from the termination of state service, KRS 11A.040(6) prohibits officers, or public servants listed in KRS 11A.010(9)(a) to (g), from "enjoying" the benefits of any contract awarded by their agency to a consulting firm with which they are seeking employment. Further, KRS 11A.040(7) prohibits officers, or public servants listed in KRS 11A.010(9)(a) to (g), from accepting 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 the officer was directly involved in during the last 36 months of their state service. However, KRS 11A.040(7) also contains a limited exception for an individual to return to the same business, firm, occupation, or profession they held prior to state service, or for which they had received a professional degree or license prior to state service.

Advisory Opinion 21-07: May a former public servant in an officer position work for a company that has a current contract with his former agency if the contract does not result in the contractor receiving state funds? Yes, because the contractor is not "doing business with" the former public servant's agency, as defined in KRS 11A.010(14), the post-employment provisions in KRS 11A.040(7) would not prohibit the former public servant from accepting the employment during the first year after state service. However, the public servant must limit his contacts with his former agency in compliance with the provisions of KRS 11A.040(9).

Advisory Opinion 20-02: As defined in 9 KAR 1:025, Section 1(4), a contract for a 2020 construction project (Contract) in Henderson, Kentucky, to complete a section of the I-69 Ohio River Crossing is considered to be a separate "matter" from a 2016 agreement between Kentucky and Indiana (Agreement) to complete the environmental studies and preliminary development of the I-69 Ohio River Crossing for the application of the post-employment rules in KRS 11A.040(6) through (9). A former officer may be listed as a point of contact on the Contract during his first year post-employment without violating KRS 11A.040(6) through (9) as long as he abides by KRS 11A.040(9) in limiting any contacts he has with KYTC concerning the Agreement. The former officer may also work on the Contract during his first-year post-employment without violating KRS 11A.040(6) through (9) as long as he abides by KRS 11A.040(7) and abstains from working on the Agreement and abides by KRS 11A.040(9) and avoids contacts with KYTC concerning the Agreement.

Advisory Opinion 19-11: Provides general post-employment advice to an officer and public servant serving in various roles of major management in the prior three years of state service.

Advisory Opinion 07-29: Because he is returning to his former profession, the Executive Director for Project Delivery with the Transportation Cabinet is not prohibited, upon retirement, from immediately accepting employment with a consulting firm with which he may have had direct involvement, provided for six months the employee does not work on any matters for the new employer with which he or anyone under his supervision had involvement.

6. STATEMENTS OF FINANCIAL DISCLOSURE

Statements of Financial Disclosure (SFD) are filed by "officers" as defined by KRS 11A.010(7), in accordance with the requirements of KRS 11A.050 and 9 KAR 1:010. Note the new and expanded definitions in the regulation for terms contained within the SFD, including "address or location," "consumer goods," "gifts of money or property," "home street address," and "start date."

NEW FORMS: The Statement of Financial Disclosure can now be submitted on one (1) of four (4) forms depending on the reason for filing.

NEW HIRES: Newly hired, appointed, or detailed public servants serving in an officer position shall file an SFD within 30 days of their start date. This does not apply to a current officer who merely transfers into another officer position with no break in service. The form is to be completed by someone who has not served in an officer position in the previous month. NOTE: "Start date" means the first date of employment with a state agency in an officer position. See 9 KAR 1:010, Section 1. New hires complete the questions with information that applies from start date until the date of signing the form.



Page | 1 NEW HIRE FORM: EBEC-SFD-103 (Rev. 5/2020)

COMMONWEALTH OF KENTUCKY
EXECUTIVE BRANCH ETHICS COMMISSION
1025 Capital Centre Drive, Suite 104
Frankfort, KY 40601
PHONE: 502-564-7954, FACSIMILE: (502) 696-5091, or EMAIL: ethicsfiler@ky.gov

STATEMENT OF FINANCIAL DISCLOSURE

NEW HIRE FORM

NEWLY HIRED OFFICERS:
NEWLY APPOINTED OR ACTING EXECUTIVE BRANCH OFFICERS* AS DEFINED BY KRS 11A.010(7) SHALL SUBMIT THIS FORM WITHIN 30 DAYS OF THEIR START DATE IN AN OFFICER POSITION. (KRS 11A.050(1)(A)). "Start date" means the first date of employment with a state agency in the executive branch. 9 KAR 1:010, Section 1(13).

*CONSITUTIONAL OFFICERS DO NOT COMPLETE THIS FORM.

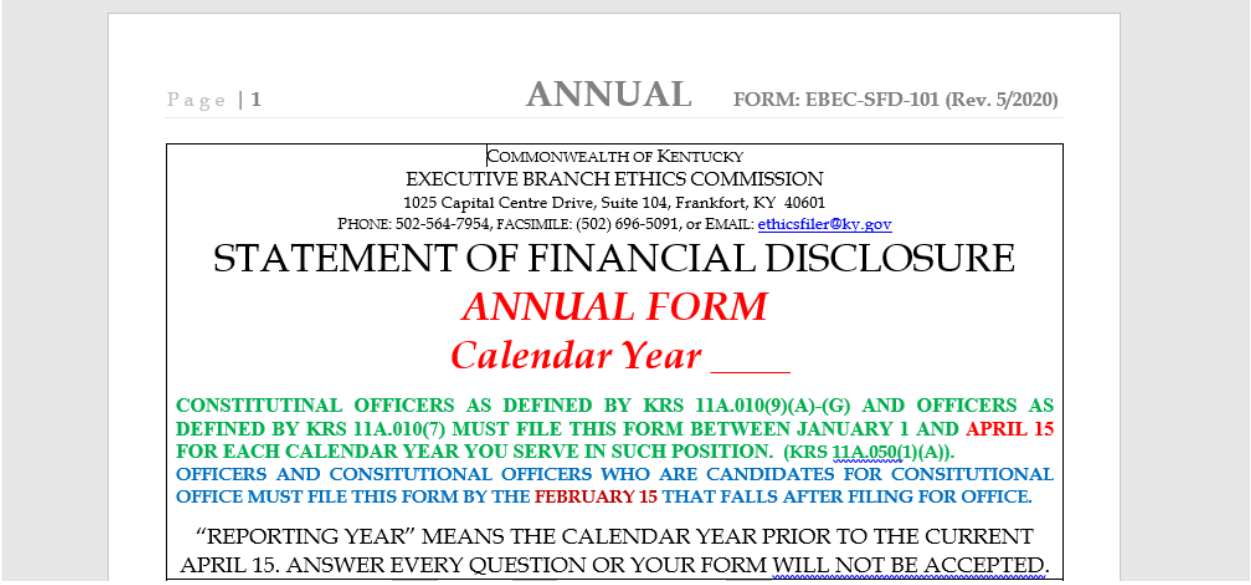
"REPORTING PERIOD" means the time from your start date until the date you sign the form. Do not provide information from prior to your start date unless the question specifically instructs you to do so. ANSWER EVERY QUESTION OR YOUR FORM WILL NOT BE ACCEPTED.

CANDIDATES FOR OFFICE FOR POSITIONS LISTED IN KRS 11A.010(9)(a)-(g): Constitutional Officers who are running again as a candidate for constitutional office or officers running for constitutional office will file their ANNUAL EBEC-SFD-101 on or before February 15, rather than April 15. They will complete the questions with information that applies for the entire previous calendar year that falls the year prior to running for office. These officers only need to submit one SFD form for the year in which

they are a candidate, which will count for the annual filing. Incumbents will NOT complete the Candidate SFD. That form is only for candidates who are not currently public servants.

CURRENT OFFICERS FILING ANNUALLY: Officers file annually on or before April 15. The form can be submitted any time between January 1 and April 15. Officers will complete the questions with information that applies for the entire previous calendar year during which he or she served in an officer position.

NEWLY ELECTED CONSTITUTIONAL OFFICERS: Within 10 days of taking the oath of office, newly elected constitutional officers (not returning incumbents) must file the ANNUAL SFD for the previous calendar year in which the election was held.



Page | 1 ANNUAL FORM: EBEC-SFD-101 (Rev. 5/2020)

COMMONWEALTH OF KENTUCKY
EXECUTIVE BRANCH ETHICS COMMISSION
1025 Capital Centre Drive, Suite 104, Frankfort, KY 40601
PHONE: 502-564-7954, FACSIMILE: (502) 696-5091, or EMAIL: ethicsfiler@ky.gov

STATEMENT OF FINANCIAL DISCLOSURE

ANNUAL FORM

Calendar Year ____

CONSTITUTINAL OFFICERS AS DEFINED BY KRS 11A.010(9)(A)-(G) AND OFFICERS AS DEFINED BY KRS 11A.010(7) MUST FILE THIS FORM BETWEEN JANUARY 1 AND APRIL 15 FOR EACH CALENDAR YEAR YOU SERVE IN SUCH POSITION. (KRS 11A.050(1)(A)).
OFFICERS AND CONSITUTIONAL OFFICERS WHO ARE CANDIDATES FOR CONSITUTIONAL OFFICE MUST FILE THIS FORM BY THE FEBRUARY 15 THAT FALLS AFTER FILING FOR OFFICE.

"REPORTING YEAR" MEANS THE CALENDAR YEAR PRIOR TO THE CURRENT APRIL 15. ANSWER EVERY QUESTION OR YOUR FORM WILL NOT BE ACCEPTED.

LEAVING OFFICERS FILING WHEN THEY SEPARATE: Officers who leave state service, regardless of the reason for departure, must file a leaver SFD within thirty (30) days of leaving state service. Former officers will complete the questions with information that applies for the entire current calendar year during which he or she served in an officer position.

COMMONWEALTH OF KENTUCKY
EXECUTIVE BRANCH ETHICS COMMISSION
1025 Capital Centre Drive, Suite 104, Frankfort, KY 40601
PHONE: 502-564-7954, FACSIMILE: (502) 696-5091, or EMAIL: ethicsfiler@ky.gov

STATEMENT OF FINANCIAL DISCLOSURE

LEAVER FORM

Calendar Year ____

CONSITUTIONAL OFFICERS AS DEFINED BY KRS 11A.010(9)(A)-(G) AND OFFICERS AS DEFINED BY KRS 11A.010(7) MUST FILE THIS FORM WITHIN 30 DAYS OF LEAVING STATE SERVICE AS AN OFFICER. (KRS 11A.050(1)(a)).

"REPORTING YEAR" MEANS THE PORTION OF THE CURRENT CALENDAR YEAR IN WHICH YOU SERVED AS AN OFFICER PRIOR TO LEAVING THE OFFICER POSITION. ANSWER EVERY QUESTION OR YOUR FORM WILL NOT BE ACCEPTED.

HOW TO FILE: E-File the SFD at http://ethics.ky.gov/. Just look for the icon in the bottom right corner of the Commission's website:

Filers may also submit as follows:

EMAIL: EthicsFiler@ky.gov
U.S. Mail, Messenger, or Hand-delivery to:
Executive Branch Ethics Commission
Capital Complex East
1025 Capital Center Drive, Suite 104
Frankfort, KY 40601

DELINQUENTS: We will contact you if any of your agency's officers do not file a timely SFD. We will need your cooperation in the event that an officer is not compliant.

PENALTY: Delinquent filers may have their salary withheld until the proper form is submitted and may face further penalties under KRS 11A.100(3).

HOW OFFICERS ARE DETERMINED: The Commission will send a list every year in late February to each ethics officer listing the officers who are required to file the SFD with the Commission. Please review this list to ensure that all the officers in your agency are included. Please contact us if you notice a discrepancy. This list is generated by the Personnel Cabinet based on the public servant's job title, pursuant to KRS 11A.010(7).

HOW TO DETERMINE "MAJOR MANAGEMENT": If you believe you have an employee that should have to file an SFD, but they are not in a job title that is automatically submitted to the Commission by the Personnel Cabinet, the Commission can review the job responsibilities and make a determination that the individual public servant is "Major Management."

RELEVANT ADVISORY OPINIONS

Advisory Opinion 24-03: While the Prosecutor's Advisory Council has adopted a code of ethics for the unified prosecutorial system, such does not modify the obligations of Commonwealth's Attorneys and their staff under KRS 1IA. The provisions of the Executive Branch Code of Ethics contained in KRS Chapter 11A, including the requirement of filing a Statement of Financial Disclosure, pursuant to KRS 11A.050, are still applicable to Commonwealth's Attorneys.

Advisory Opinion 23-02: Upon review of the job requirements by the Executive Branch Ethics Commission ("the Commission") for the Department of Juvenile Justice position, "Facilities Regional Administrator", it is determined, by the Commission, that the job specifications indicate that Facilities Regional Administrator is a position considered to be "major management" as that term is used in KRS l lA.010(7) and therefore defined as an "officer".

Advisory Opinion 22-05: Salary of a merit employee may be held, pursuant to KRS 11A.990(2), for his failure to timely file the Statement of Financial Disclosure required of him as a former officer.

Advisory Opinion 17-05: When the Commission reviews the job duties of potential officers, it looks for factors such as whether the employee has responsibility for managing a division, department or Cabinet, supervises a geographical region, oversees a state facility, coordinates a state program, makes decisions concerning how state funds are spent or dispersed, or makes decisions on setting state policy. The Commission may also determine that any public servant who is in a position that could require him or her to step into the role of the decision-makers in the event such individual cannot fulfill his or her role, such as an assistant executive director, then that public servant may also be an officer.

7. ETHICS REFERRALS

Pursuant to KRS 11A.080, the Commission conducts confidential investigations of possible violations of the Ethics Code. Oftentimes, the Commission receives referrals from appointing authorities or Ethics Officers concerning possible violations of the Ethics Code by their employees or former employees. If so, pursuant to KRS 11A.080(2)(c), the Commission staff is at liberty to keep your agency updated as to the status of these investigations.

During the course of the Commission's investigations of matters that you have referred to us, you may be asked to assist us in gathering documents or tracking down witnesses to be interviewed. In such instances, please ensure that the confidential nature of our investigation is preserved.

During the course of your tenure as an Ethics Officer, we encourage you to contact us any time you are concerned that a public servant may be violating the Ethics Code or may be entering into a course of conduct that could potentially violate the Ethics Code. We will be happy to provide that employee with guidance or to investigate the matter further. It is always in the best interest of the Commonwealth that we can work together to prevent a violation before it happens.

ETHICS ACTIONS FOLLOW KRS CHAPTER 11A AND 9 KAR

1. PROCESS BEFORE THE ETHICS COMMISSION

- **The Complaint or Information:** KRS 11A.080(1) and 9 KAR 1:015

The Executive Branch Ethics Commission must investigate an alleged violation of KRS Chapter 11A upon receiving a complaint signed under penalty of perjury. The Ethics Commission may also investigate an alleged violation upon its own motion. The Ethics Commission considers information received by the Ethics Commission staff in person, by telephone, by letter, or through the media. Commission staff will take complaints from anonymous complainants, if the alleged conduct is specifically defined. If the information Commission staff receives indicates that a public servant may have violated the Ethics Code, the Ethics Commission will determine whether to initiate a preliminary investigation upon its own motion at its next regularly scheduled meeting.

The complaint, whether under penalty of perjury, informal, or anonymous, remains confidential. All records relating to the Ethics Commission's investigations, unless used as part of an administrative hearing, remain confidential. See 97-ORD-70, 02-ORD-44, 07-ORD-201, 07-ORD-202.

- **The Preliminary Investigation:** KRS 11A.080(2) and (3), 11A.070, and 11A.090

Within ten days of the initiation of the preliminary investigation, the Ethics Commission must forward to the alleged violator a copy of the complaint (if applicable) and a general statement of the law violated. Thus, the Ethics Commission will notify a public servant by certified letter if he or she is under investigation.

Unless an alleged violator publicly discloses the existence of the preliminary investigation, the Ethics Commission is required to keep confidential the fact of the preliminary investigation. This confidentiality remains until the Ethics Commission determines probable cause of a violation and initiates an administrative proceeding to determine whether there has been a violation. However, the Ethics Commission may inform a referring state agency of the status of, or any action taken on, an investigative matter referred to the Ethics Commission by the agency. It may also, for investigative purposes, share evidence, at its discretion, with the Auditor of Public Accounts, the Personnel Board, and other agencies with the authority to review, audit, or investigate the conduct. These entities are covered by the confidentiality requirement of KRS 11A.080 when working with the Commission on a preliminary investigation. 94-ORD-81.

The Ethics Commission has the power to subpoena witnesses and evidence, as well as use the facilities of other agencies in carrying out its investigations. The Ethics Commission views its investigations as fact-finding missions. The Ethics Commission does not desire to bring charges without

sufficient evidence. If the Ethics Commission determines that evidence is not sufficient to show probable cause of a violation during the preliminary investigation, the public servant is confidentially informed that the investigation is terminated, and such notification remains confidential. This confidentiality is designed to protect the reputation of an employee who is falsely accused of a violation or against whom there is insufficient evidence to warrant further action.

- **The Confidential Reprimand:** KRS 11A.080(4)(a)

The Ethics Commission may find probable cause of a violation during a preliminary investigation, but may also find mitigating circumstances, such as lack of financial gain to the employee, lack of loss to the state, and lack of impact on public confidence. In such situations, the Ethics Commission may confidentially reprimand the alleged violator rather than initiate an administrative proceeding. A confidential reprimand is merely a letter from the Ethics Commission sent to the public servant by certified mail. A copy is also sent to the appointing authority with instructions that the letter remain confidential.

- **Charges of the Commission:** KRS 11A.080(4)(b), KRS 11A.100(1), (2), and (3)

If the Ethics Commission finds probable cause that a public servant may have violated the Ethics Code, and no mitigating factors exist that would justify a confidential reprimand, the Ethics Commission will vote to issue charges against the violator. These charges come in the form of a document called the **Initiating Order**. This is the first formal public document in the Ethics Commission's record. This document begins the open administrative proceedings process. The Ethics Commission's charges are civil in nature but can lead to criminal prosecution for violations of KRS 11A.040.

The person charged in the Initiating Order has twenty (20) in which to file an answer to the charges. If they fail to do so, the Commission may enter a default judgement pursuant to KRS 11A.080(4)(b), KRS 11A.100, and 13B.050(5).

After charging an alleged violator with a violation of the Ethics Code, the Ethics Commission must prove by clear and convincing evidence during an administrative hearing that the public servant has actually violated the Ethics Code. This is a high standard and requires the Ethics Commission to ensure that it has good, solid evidence to bring charges against a violator.

The Ethics Commission's administrative hearings follow the KRS Chapter 13B process, except the Commission is not required to use the Attorney General's Administrative Hearings Branch for hearing officer services. KRS 13B.020(7). The Commission maintains a roster of qualified hearing officers pursuant to 9 KAR 1:030, Section 6. During the administrative hearing, the alleged violator has due process rights to be represented by counsel, call witnesses, introduce exhibits, and cross-examine witnesses. The Ethics Commission's General Counsel serves as the "prosecutor" of these actions. The Hearing Officer will hear all evidence and issue a recommended order to the Ethics Commission. A final determination whether a violation

occurred is ultimately made by the Ethics Commission.

The Ethics Commission may settle matters with an individual if the individual will admit to the conduct and pay a reduced penalty.

- **Penalties:** KRS 11A.100(3), (4), and (5), and KRS 11A.990

The Ethics Commission, upon clear and convincing proof of a violation of the Ethics Code, may:

- Issue a cease-and-desist order;
- Require a public servant to file a report, statement, or other information;
- Issue a written, public reprimand which will be forwarded to the public servant's appointing authority;
- Recommend to the appointing authority that the public servant be removed from office or his or her position; and
- Order the public servant to pay a civil penalty of not more than **$5,000** for **each** violation.

In addition:

- If the violation has substantially influenced the action taken by any state agency in any particular matter, such shall be grounds for voiding, rescinding, or canceling the action on such terms as the interest of the state and innocent third persons require.
- 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.
- 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 $1,000 for each offense.
- The Ethics Commission **shall** refer to the Attorney General all evidence of violations of KRS 11A.040 for prosecution – violations are Class D felonies punishable by one to five years in jail and additional fines.
- An employee who fails to file with the Ethics Commission his Statement of Financial Disclosure by the due date will have his salary withheld until the statement is filed.

- **Appeals**

The Commission's final orders may be appealed to the circuit court pursuant KRS 13B.140.

2. VIOLATIONS OF THE ETHICS CODE ARE PERSONAL BEHAVIOR

When a public servant violates the ethics code, such conduct is the "personal behavior" of the individual and is outside of his or her duties and responsibilities as a public official. *Executive Branch Ethics Commission v. Stephens*, Ky., 92 S.W.3d 69, 73-74 (2002). A public servant who violates the Ethics Code, and does so resulting from their personal behavior, cannot be defended or represented by his or her own agency or the staff attorneys or legal counsel of that agency before the Ethics Commission. SCR 3.130(1.7) would prevent the agency attorney from representing the public servant for the alleged violations of the Ethics Code before the Commission because he or she would have a conflict of interest inherent to his or her duties representing the public agency and his or her responsibilities as a public servant.

Furthermore, "official immunity" is not a viable defense to violating the Ethics Code. *Stephens* at 74. A violation of the Ethics Code is a civil violation; therefore, the punishment for the conduct resulting from a violation of the Ethics Codes is not penal in nature and cannot be excused by executive pardon. *Turbyfill v. Executive Branch Ethics Commission*, Ct. App., 303 S.W. 3d 124, 130 (2010).

Finally, ignorance of the Ethics Code's provisions is not a defense. The Court of Appeals determined that all persons are charged with knowledge of laws pertaining to their conduct. *Flint v. Executive Branch Ethics Commission*, Ky. App., 981 S.W.2d 132, 133-134 (1998).

3. PROTECTION FOR REPORTING CONDUCT

All public servants have a responsibility to report such conduct to the Ethics Commission. *See Advisory Opinion 13-02.* The "Whistleblower Act" codified at KRS 61.102 further protects public servants from reprisal for disclosing alleged violations of the law to the Commission. KRS 61.102 provides in pertinent part:

> (1) No employer shall subject to reprisal, or directly or indirectly use, or threaten to use, any official authority or influence, in any manner whatsoever, which tends to discourage, restrain, depress, dissuade, deter, prevent, interfere with, coerce, or discriminate against any employee who in good faith reports, discloses, divulges, or otherwise brings to the attention of the . . . the Executive Branch Ethics Commission . . . any facts or information relative to an actual or suspected violation of any law, statute, executive order, administrative regulation, mandate, rule, or ordinance of the United States, the Commonwealth of Kentucky, or any of its political subdivisions, or any facts or information relative to actual or suspected mismanagement, waste, fraud, abuse of authority, or a substantial and specific danger to public health or safety. No employer

shall require any employee to give notice prior to making such a report, disclosure, or divulgence.

(2) No employer shall subject to reprisal or discriminate against, or use any official authority or influence to cause reprisal or discrimination by others against, any person who supports, aids, or substantiates any employee who makes public any wrongdoing set forth in subsection (1) of this section.

As an executive branch official, you have a responsibility to protect employees covered by this Act from reprisals from your agency. Any employee who makes a complaint to the Commission or is requested to participate in an investigation as a witness by the Commission is protected by the Whistleblower Act.

Nevertheless, intrinsic in Whistleblower litigation is the notion of notice to the employer. The notice issue is further compounded by the fact that any reports from so-called whistleblowers must be kept confidential by the staff of the Commission, pursuant to KRS 11A.080, unless compelled by a court to testify. Therefore, a whistleblower will have a difficult time proving that the public servant's management or agency had notice that the public servant had reported the conduct to the Commission prior to management taking action of a punitive nature against the public servant.

Notable Whistleblower Act Case Law:

Davidson v. Department of Military Affairs, Ky. App., 152 S.W. 3d 247 (2004): Four elements required to prove an action under KRS 61.102: (1) the employer is an officer of the state; (2) the employee is employed by the state; (3) the employee made or attempted to make a good faith report or disclosure of a suspected violation of state or local law to an appropriate authority; and (4) the employer took action or threatened to take action to discourage the employee from making such a disclosure or to punish the employee for making such a disclosure.

An employee alleging a violation of the Whistleblower Act must show by a preponderance of evidence that his disclosure of a suspected violation of the law was a contributing factor in the personnel action against him; burden of proof is then on the state employer to prove by clear and convincing evidence that the disclosure was not a material fact in the personnel action.

Workforce Development Cabinet v. Gaines, Ky., 276 S.W.3d 789, 793-794 (2008): A mere internal report to a superior suffices as a report under the Whistleblower Act.

Pennyrile Allied Community Services, Inc. v. Rogers, Ky., 459 S.W.3d 339 (2015): KRS 61.102 does not require an employee's report or disclosure to touch on a matter of public concern.

Thornton v. Office of the Fayette County Attorney, Ky. App., 292 S.W.3d 324, 331 (2009): Any facts that are related to "actual or suspected mismanagement" are allowed to be part of the whistleblower report. "The word 'suspected' implies a liberal orientation toward the content of

the disclosure." Further, the Court determined that second-hand hearsay can be used to report possible wrongdoing. Therefore, the public servant does not have to have first-hand knowledge to report conduct. The Court ultimately determined that Thornton could not prove that her management knew she had made the report.

Moss v. Kentucky State University, Ky. App.,---S.W.3d--- (2014); 2013-CA-001431-MR: Disagreements between the public servant and her supervisors over job-related activities are commonplace and do not constitute whistleblowing.

4. PERSONNEL ACTIONS: The curious case of Terry Farmer

Terry Farmer was a bridge inspector with the Transportation Cabinet. He used his position, state time, and resources to influence the labeling of a culvert on his family's private property as a bridge, in contravention of the law, and then he used his influence to have that culvert listed on the National Bridge Inventory so that it would be replaced with the use of federal funds. Farmer was dismissed from his agency and pursued an appeal before the Personnel Board. Meanwhile, the Commission opened its own investigation and eventually charged Farmer with violating the Ethics Code, but not until after the Cabinet had dismissed Farmer. The Cabinet, in its dismissal letter, listed as authority and support for the dismissal the Cabinet's internal policies adopting the Ethics Code provisions and KRS 11A.020(1)(a), (c), and (d). The Personnel Board used these same policies and cited KRS 11A.020 as support for its denial of Farmer's appeal. Farmer sought review by the Franklin Circuit Court, which found that the Cabinet and the Personnel Board could not rely on KRS Chapter 11A stating that:

> "the KPB [Kentucky Personnel Board] lacked jurisdiction to apply KRS Chapter 11A because that authority is vested solely in the Commission. The circuit court stated, "unless the matter is first referred to the agency by the Ethics Commission pursuant to KRS 11A.100(3)(d) or referred to the Attorney General's office for prosecution, no other state entity may enforce the provisions of KRS Chapter 11A." The circuit court went on to say, "substantial evidence in the record as a whole does support Farmer's termination, as the [KPB] also found that Farmer had violated the Cabinet's internal ethic's policy, GAP–810, irrespective of any reference to a violation of KRS Chapter 11A."

Farmer v. Kentucky Transportation Cabinet, No. 2012-CA-001505-MR, 2013 WL 5676831, at 3 (Ky. Ct. App. Oct. 18, 2013). The Court of Appeals affirmed the Franklin Circuit Court decision and determined that it is the sole authority of the Ethics Commission to determine violations of KRS Chapter 11A. An agency may have internal policies that supplement the Ethics Code but should not take personnel action based solely on a perceived violation of KRS Chapter 11A. Agencies should take care to file personnel actions pursuant to KRS Chapter 18A and internal policies, but should refer any possible violations of KRS Chapter 11A to the Commission for review.

The Ethics Commission requests and recommends that agencies note in letters of suspension or intent to dismiss a reference to a *possible* violation of the Ethics Code and copy the Ethics Commission in the cc: line. Agencies should also consider adopting the Ethics Code or portions thereof in internal policies that can be used as authority upon which to act pursuant to KRS 18A.

SERVING BOARDS AND COMMISSIONS

Appointed board and commission members, except for a select few noted in KRS 11A.010(7), are not covered by the Ethics Code. The Commission does not have authority to charge a board or commission member with violation of the executive order. However, the Commission may investigate possible violations of the executive order and refer such matters for review by the Governor to take appropriate action.

EXECUTIVE ORDER 2008-454 AND 2020-423

On May 27, 2008, Governor Beshear issued Executive Order 2008-454 establishing certain ethical standards for members of policy-making and regulatory boards and commissions. These provisions were reinstituted in May 2020 by Governor Andy Beshear. These standards were issued to ensure that board and commission members who serve in the public sector are accountable to the people of the Commonwealth. The ethical guidelines in the executive order do not subject board and commission members to all provisions of the Executive Branch Code of Ethics contained in KRS Chapter 11A. The ethical standards that do apply to board and commission members specifically relate to the prohibition against self-dealing, the obligation to disclose in writing or in the minutes of a meeting a direct or indirect interest, and gift acceptance provisions.

Prohibition against Self-Dealing

No member of a state policy-making or regulatory board or commission, personally or through a business of 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 (spouse), may 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 on which he or she serves. This prohibition does not apply to purchases that are available on the same terms to the general public or which are made at public auction.

Obligation to Disclose and Abstain

A state policy-making or regulatory board or commission member must disclose to 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 board or commission on which he or she serves. This disclosure must be made in writing or must be recorded in the minutes of a formal meeting or the board or commission. A member who is required to publicly disclose a direct or indirect interest is required to abstain from all decisions concerning his or her interest if the decision will affect him or her as a member of a business, profession, occupation, or group differently from other members of the business, profession, occupation or group.

EXAMPLES:

- A company owned by a member of the Horse Park Commission is prohibited from selling items to the Horse Park gift shop.
- If the brother of a member of the Executive Branch Ethics Commission wanted to provide legal services for the Commission, the member would be required to disclose his potential conflict of interest and abstain from voting on whether the Commission should contract with his brother.

Acceptance of Gifts

(1) Members of policy-making or regulatory boards and commissions are subject to the gift rules applicable to executive branch public servants found in KRS 11A.045(1).

(2) A board or commission member, and his or her spouse and dependent children, are prohibited from accepting gifts, including but not limited to travel expenses, meals, alcoholic beverages, and honoraria, totaling a value of more than $25 per source, in a single calendar year, from any person or business that is:
   (1) Doing business with
   (2) Regulated by
   (3) Seeking grants from
   (4) Involved in litigation against
   (5) Lobbying, or
   (6) Attempting to influence the actions of the board, commission, authority, or council on which the member serves.

Exceptions to the gifts law:

- A campaign contribution to a member's own campaign if in compliance with campaign finance laws
- A gift from a family member
- Door prizes, available to the public
- A gift or gratuity received by a member working directly on an economic incentive package or seeking to bring tourism to the state that was accepted in the performance of the member's official duty, and
- A ticket for admission to a sporting event if the member pays face value for the ticket or admission.

RELEVANT ADVISORY OPINIONS

Advisory Opinion 24-02: Ad Hoc members of the Kentucky State Board on Electric Generation and Transmission Siting are not subject to the requirements of KRS Chapter 11A as they do not fall within the definition of an "officer" or of a "public servant" as defined in KRS 11A.010.

Advisory Opinion 22-01: Executive Orders issued in 2008-454 and 2020-423 that include Members of the Kentucky Fish and Wildlife Commission are not enforceable by the Executive Branch Ethics Commission. Only the Governor has the authority to enforce Executive Orders that he or she issues.

Advisory Opinions 08-16, 09-12, and 09-21: The Commission previously determined in Advisory Opinions 08-16, 09-12, and 09-21 that an individual serving on a state regulatory board should not also serve in a leadership role of a professional association comprised of individuals regulated by the state board on which he or she serves. While the dual service in and of itself may not be a conflict of interest, depending on the nature of the professional association, the Commission found it likely that conflicts will arise on such a frequent basis that the board member would in reality not be able to function in both capacities. Generally, the professional associations exist, at least in part, for the purpose of lobbying the legislature and/or regulatory board, as well as to serve the interests of its members, which are the same people regulated by the state board. While the Commission believes that board members may belong to their professional associations, the Commission feels strongly that board members should no longer serve in leadership roles (e.g. voting members of the board) in their professional associations once they are appointed to their profession's regulatory board. Advisory Opinion 09-12 further determined, however, that other members of the Board who are not serving in a leadership role within the professional association seeking financial assistance may participate in such discussions and decisions.

DEALING WITH LOBBYISTS

During the 2019 legislative session, SB 6 made sweeping changes to the definition of who is required to register as a lobbyist. In 2020, the legislature passed SB 157 to clarify these provisions. As an Ethics Officer, you need to be aware of who is lobbying your agency and whether they are properly filed with the Executive Branch Ethics Commission. Contact Mickey Goff, the Commission's Lobbyist Coordinator to obtain a list of all lobbyists registered to lobby your agency: (502) 892-3404 or mickey.goff@ky.gov.

Provisions relating to Lobbying:

- KRS 11A.201 through KRS 11A.246
- 9 KAR 1:040
- Penalties: KRS 11A.990

What is Professional Lobbying?

Any person who receives compensation for his or her efforts to influence legislators, elected officials, 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, 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 if the decision will result in the expenditure of state funds of $5000 or more or would financially impact the person's client. The person does this by engaging in direct communication with:

1. An elected executive official;
2. The secretary of any cabinet listed in KRS 12.250;
3. Any executive agency official whether in the classified service or not; or
4. A member of the staff of any one of the officials listed in this paragraph.

What is an Executive Agency Decision?

An ***executive agency decision*** means a decision of an executive agency regarding the expenditure of state funds or funds of an executive agency with respect to the award of a contract, grant, lease, or other financial arrangement under which such 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; or
(f) Other public policy decisions.

However, Executive Agency Decisions must result in the expenditure of state funds of $5000 or more or would financially impact the person's client.

What does financial impact mean?
The term "financial impact" is defined by KRS 11A.211(5) to mean to have an effect on the financial position of the employer of the executive agency lobbyist or the real party in interest whether or not the impact is positive or negative.

Who should register as an EAL?
An EAL is any individual who is engaged by an employer *on a substantial issue*, as one of his or her main purposes, to influence executive agency decisions or to conduct executive agency activity by direct communication. This includes representing public interest entities formed for the purpose of promoting or otherwise influencing executive agency decisions.

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 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.

Definition of "engaged" or "engagement": ***Engage*** means to make any arrangement, and ***engagement*** means any arrangement made, 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.

<u>Contingency Arrangements</u>
Pursuant to KRS 11A.236, no person shall engage any person 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, including payment based on the awarding of a contract or payment of a percentage of a government contract awarded. No person shall accept any engagement 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, except for certain sales commissions, including payment based on the awarding of a contract or payment of a percentage of a government contract awarded. An employer who pays an executive agency lobbyist based on the awarding of a contract or payment of a percentage of a government contract awarded 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.

Who is an Employer of an EAL?
An ***employer*** means any ***person*** who employs or engages an executive agency lobbyist.

- A "person" is defined as an individual, proprietorship, firm, partnership, joint venture, joint stock company, syndicate, business, trust, estate, company, corporation, association, club, committee, organization, or group of persons acting in concert.

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?

1) Unpaid lobbyists.
2) A person who is attempting to influence a decision of an executive agency **that does not involve** the expenditure of state funds or the award of a contract, grant, lease, or other financial arrangement under which such funds are distributed or allocated.
3) 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, but whose main duties do not include lobbying.
4) A person whose state contacts do not involve "substantial" state spending. Decisions involving state spending of less than $5,000 per year are not considered "substantial."
5) A firm or individual merely submitting a bid or responding to a Request for Proposal for a contract.
6) A person whose contacts with state officials are for the sole purpose of gathering information contained in a public record. Example: A businessman who seeks a fuller explanation of bidding specifications but makes no effort to change or otherwise influence a state decision on the bids.
7) News, editorial, and advertising statements published in newspapers, journals, or magazines, or broadcast over radio or television;
8) The gathering and furnishing of information and news by bona fide reporters, correspondents, or news bureaus to news media;
9) Publications primarily designed for, and distributed to, members of bona fide associations or charitable or fraternal nonprofit corporations;
10) Professional services 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; or
11) Public comments submitted to an executive agency during the public comment period on administrative regulations or rules;
12) A person whose lobbying is done only during appearances before public meetings of executive agencies.
13) A person whose contacts are limited to those employees whose official duties do not include policy formulation, administrative or supervisory authority, or expenditure authorization. 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. (See KRS 11A.201(9), (10) and (14) for complete details.)

14) Officers or employees of federal, state or local governments or of state colleges and universities when acting within their official duties.
15) Persons exercising their constitutional right to assemble with others for their common good and petition state executive branch agencies for redress of grievances.
16) Persons 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.

Registration Fee
Each Employer of one or more lobbyists, and each Real Party in Interest, must pay a registration fee of **$750** upon the filing of an **Updated Registration Statement** due by **July 31** each year.

When should the EAL 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.

How to register?
File an Initial Registration Statement with the Commission. The Initial Registration Statement is filed electronically. Do not send fee payment at this time.

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.

The 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. Updated Registration Statements filed before July 1 will be rejected.

Are the Forms Audited?
The lobbyist filing forms are audited and compared with the Statements of Financial Disclosures filed by Executive Branch Officers. If there are discrepancies between the filings, for instance the officer indicated a gift valuing over $200 from a lobbyist and the lobbyist did not disclose the expenditure on his or her update filed with the Commission, the Commission may open an investigation pursuant to KRS 11A.080 and any penalties may apply under KRS 11A.100 and KRS 11A.990.

What are the Penalties?

- 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 $5,000. For the second and each subsequent violation, he shall be guilty of a Class D felony.
- 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 $100 per day, up to a maximum total fine of $1,000.
- 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.
- 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.

RELEVANT ADVISORY OPINIONS

Advisory Opinion 19-10: As long as the meetings are initiated by the executive branch agency and are open to any interested stakeholders in the resultant executive agency decision, the participation of members or representatives of interest groups and their legal counsel in regulation development stakeholder meetings initiated by Kentucky executive branch agencies would not qualify as "executive agency lobbying activity" as defined in KRS 11A.201, as amended by the Kentucky General Assembly on June 27, 2019. As long as the contact is limited to attending the open meetings of the executive branch agency, entities that send representatives to attend meetings initiated by executive branch agencies are not required to register as employers of executive agency lobbyists and their representatives are not required to register as executive agency lobbyists pursuant to KRS 11A.211.

Advisory Opinion 13-04: According to the Executive Branch Code of Ethics, "executive agency lobbying" occurs when, after initial contact with a private firm to express interest in a new business relationship is initiated by the staff of an executive branch agency rather than by the staff of the private firm, the private firm chooses to respond to the executive branch agency's expressed interest in the new business relationship.

LEGISLATIVE UPDATE

2026 LEGISLATIVE SESSION

KRS 11A.211(6)
Amended KRS 11A.211(6) to require a filing fee of $750.

2024 LEGISLATIVE SESSION

HB 8, Section 61
Section 61 authorized the Executive Branch Ethics Commission to increase the amount of the lobbyist registration fee provided under KRS 11A.211(6) for the purpose of funding a new online filing system.
The Commission approved raising the filing fee from $500 to $750 and that increase will provide the needed funds, along with a legacy grant, to pay for an online system of executive branch lobbyist registration, as mandated by statute. A contract for those services was signed with CIVIX on December 26, 2024.

2022 LEGISLATIVE SESSION

HB 334
Amend KRS 11A.060 to reorganize the Executive Branch Ethics Commission, terminating the current membership and increasing the number of members from five to seven, two of which would be appointed by the Governor with the Treasurer, Auditor of Public Accounts, Commissioner of Agriculture, Secretary of State, and Attorney General appointing one member each; amend KRS 11A.080 to require the Executive Branch Ethics Commission to make findings for complaints regarding whether they are grounded in fact, warranted by law, and filed in good faith. Supreme Court Case 2024-SC-0228-HB 334 redistributes the appointment power of the Executive Branch Ethics Commission's members from the Governor alone to all the separately elected constitutional officers.

2021 LEGISLATIVE SESSION

SB 6:
New Section of KRS Chapter 11A (KRS 11A.047) created concerning Transition Teams. Requires members of Transition Teams to follow certain ethical guidelines during their service on a Transition Team and to file disclosure statements to be adopted through regulation.
KRS 11A.050(1) added a new paragraph (e).

HB 226:
Includes members of the Kentucky Horse Racing Commission in the definition of "officer" in KRS 11A.010(7)(b) but exempts them from KRS 11A.040(6)-(10).

2020 LEGISLATIVE SESSION

SB 157:
KRS 11A.010(11)
KRS 11A.201 added new paragraph (5) and amended (8)(a)
KRS 11A.211(1)(f), (2), added new paragraph (3), and amended (4)
KRS 11A.233(2)(b)

2019 LEGISLATIVE SESSION

HB 81:
KRS 11A.010(7) & (9). Added new paragraph (21).

SB 6:
KRS 11A.040(6) & (7)
KRS 11A.050(1) & (3)
KRS 11A.080 by adding new paragraphs (5) & (6)
KRS 11A.110(3)
KRS 11A.201(7), (8), (9), and (16)
KRS 11A.211(1), (2), and (3)
KRS 11A.236(1)

2018 LEGISLATIVE SESSION

SB 150
KRS 11A.100(1)
KRS 13B.020(7) relating to KRS 11A.100
KRS 13B.050 relating to KRS 11A.080(4)(b)
KRS 13B.090(7) in reference to clear and convincing evidence standards

2017 LEGISLATIVE SESSION

HB 387
KRS 11A.080
KRS 11A.211

HB 484
Created a new section of KRS Chapter 45A, codified as KRS 45A.096 and 45A.097
KRS 45A.095(1) and (2)
KRS 45A.810(2)
KRS 11A.010(5)
KRS 11A.045(1)
KRS 11A.055(2) and added paragraph (3)

APPENDIX A

Kentucky Revised Statutes Chapter 11A

Executive Branch Code of Ethics

Current through October 2026

(UNOFFICIAL TEXT OF STATUTES FOR INFORMATIONAL PURPOSES ONLY)

CHECK WWW.LRC.KY.GOV FOR CODIFIED STATUTES

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

CHAPTER 11A
EXECUTIVE BRANCH CODE OF ETHICS

UNOFFICIAL TEXT OF STATUTES
FOR INFORMATION ONLY
(November 2024)

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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 herself 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, sisterin-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. Office of Claims and Appeals;
3. Board of Tax Appeals;
4. Board of Claims;
5. Crime Victims Compensation Board;
6. Kentucky Retirement Systems board of trustees;
7. Kentucky Teachers' Retirement System board of trustees;

8. The Kentucky Public Employees Deferred Compensation Authority board of trustees;

9. Public Service Commission;

10. Worker's Compensation Board and its administrative law judges;

11. The Kentucky Occupational Safety and Health Review Commission;

12. The Kentucky Board of Education;

13. The Council on Postsecondary Education;

14. County Employees Retirement System board of trustees;

15. Kentucky Public Pensions Authority; and

16. The Kentucky Horse Racing and Gaming Corporation;

(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(9);

(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: July 1, 2024

History: Amended 2024 Ky. Acts ch. 171, sec. 29, effective July 1, 2024. -- Amended 2021 Ky. Acts ch. 185, sec. 4, effective June 29, 2021; and ch. 200 sec. 5, effective June 29, 2021. -- Amended 2020 Ky. Acts ch. 79, sec. 11, effective April 1, 2021; and ch. 127, sec. 7, effective July 15, 2020. -- 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 -- Exceptions.

(1) A public servant, in order to further his or her own economic interests, or those of any other person, shall not knowingly disclose or use confidential information acquired in the course of his or her 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 or her 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 herself, or with any business in which he or she or a member of his or her family has any interest greater than five percent (5%) of the total value thereof.

(4) A public servant shall not knowingly himself or herself or through any business in which he or she owns or controls an interest of more than five percent (5%), or by any other person for his or her use or benefit or on his or her 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 or she is employed or which he or she 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 or she 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 or her 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 or her employment, knowingly by himself or herself or through any business in which he or she owns or controls an interest of at least five percent (5%), or by any other person for his or her use or benefit or on his or her 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 or she 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 or her 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 or she was directly involved during the last thirty-six (36) months of his or her tenure. This provision shall not prohibit an individual from returning to the same business, firm, occupation, or profession in which he or she was involved prior to taking office or beginning his or her term of employment, or for which he or she received, prior to his or her state employment, a professional degree or license, provided that, for a period of one (1) year, he or she personally refrains from working on any matter in which he or she was directly involved during the last thirty-six (36) months of his or her 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 or she was directly involved during the last thirty-six (36) months of his or her 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 or her 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) (a) Without the approval of his or her 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 or she supervises, unless the outside employer's relationship with the state agency is limited to the receipt of entitlement funds.
(b) The appointing authority shall review administrative regulations established under KRS Chapter 11A when deciding whether to approve outside employment for a public servant.
(c) 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.
(d) 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.

(12) The prohibitions imposed by subsections (6) to (10) of this section shall not apply to members of the Kentucky Horse Racing and Gaming Corporation.

(13) (a) This section shall not be construed to prohibit employees of the Department of

Agriculture who are not employed within the Kentucky Office of Agricultural Policy established in KRS 246.030 from participating in, applying for, or receiving funds, awards, or contracts administered by the Department of Agriculture through the Kentucky Office of Agricultural Policy.

(b) This subsection shall be retroactive to March 12, 2021.

Effective: March 27, 2025

History: Amended 2025 Ky. Acts ch. 102, sec. 2, effective March 27, 2025. -- Amended 2024 Ky. Acts ch. 171, sec. 30, effective July 1, 2024. -- Amended 2021 Ky. Acts ch. 200, sec. 6, effective June 29, 2021. -- 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 (3/27/2025). Under the authority of KRS 7.136(1), the reviser of statutes has corrected a formatting error in subsection (10) of this statute during codification. The words in the text were not changed. 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 July15, 1994.

11A.047 Definitions -- Transition team to promote orderly transfer of executive power and continuity in conduct of state government -- Executive Branch Ethics Commission to establish in administrative regulations standards of ethical conduct for transition team members -- Access to and confidentiality of nonpublic information -- Disclosure of positions held outside state government -- Financial conflicts of interest -- Standards of ethical conduct to be available on commission's Web site. (Effective June 29, 2021)

(1) As used in this section:

(a) "Agency" means any department, program cabinet, division, institution, board,

commission, office, or agency of state government;

(b) "Nonpublic information" means information relating to state government that a transition team member obtains as part of his or her participation on the transition team that such member knows or reasonably should know has not been made available to the general public, or is otherwise not available for public inspection under KRS 61.870 to 61.884;

(c) "Transition team" means a team created by a person newly elected to any office listed in KRS 11A.010(9)(a) to (g) to promote the orderly transfer of executive power and ensure continuity in the conduct of the affairs of state government in connection with the expiration of the term of office for any person elected to the offices listed under KRS 11A.010(9)(a) to (g) and the election and inauguration of another person to serve in any of the offices listed in KRS 11A.010(9)(a) to (g); and

(d) "Transition team member" means any person designated to serve on a transition team.

(2) A person newly elected to any office listed in KRS 11A.010(9)(a) to (g) may create a transition team for the purpose of promoting an orderly transfer of executive power and ensuring continuity in the conduct of affairs of state government by requesting and utilizing information provided by the administration of the outgoing official that had been elected to any office listed in KRS 11A.010(9)(a) to (g) prior to the expiration of his or her term of office.

(3) The commission shall establish by administrative regulation promulgated under KRS Chapter 13A standards of ethical conduct for transition team members. The standards of ethical conduct for transition team members shall include ethics requirements that:

(a) Apply to all transition team members;

(b) Address the role of transition team members who are:

1. Registered lobbyists under KRS 6.801 to 6.829 and KRS 11A.201 to 11A.246; or

2. Former lobbyists who were registered under KRS 6.801 to 6.829 and KRS 11A.201 to 11A.246 during the twelve (12) month period prior to becoming a transition team member.

(4) Each person elected to an office listed in KRS 11A.010(9)(a) to (g) shall designate a person or persons to lead his or her transition team or transition teams. Persons designated as transition team leaders shall, on a form prescribed by the commission by administrative regulation promulgated under KRS Chapter 13A, submit to the commission:

(a) A list of all transition team members;

(b) A description of how transition team members will comply with the provisions contained within this section; and

(c) Any additions to or departures from the list of transition team members as necessary to provide an accurate and up-to-date list.

(5) A transition team member shall:

(a) Seek authorization from the transition team leader designated by the person elected to the office listed in KRS 11A.010(9)(a) to (g) to oversee the transition team to which the transition team member is assigned before seeking access to any nonpublic

information as part of the transition process;

(b) Keep confidential any nonpublic information provided in the course of the duties of the transition team member with the transition team and exclusively use such information for the purposes of the transition; and

(c) Not use any nonpublic information provided in the course of transition duties, in any manner, for personal or private gain of the transition team member or any other party at any time during or after the transition.

(6) A transition team member shall not receive nonpublic information regarding matters that financially impact:

(a) The transition team member or his or her spouse;

(b) The transition team member's employer or his or her spouse's employer;

(c) The transition team member's lobbying clients;

(d) Any business in which the transition team member or his or her spouse is a board member;

(e) Any business in which the transition team member or his or her spouse is an officer;

(f) Any business in which the transition team member or his or her spouse is an owner of five percent (5%) or more of the business; or

(g) Any provider of non-state sources of funds received by the transition team member related to his or her transition team duties.

(7) Every transition team member shall disclose prior to serving on the transition team, and update as necessary during service on the transition team on a form prescribed by the commission by administrative regulation promulgated under KRS Chapter 13A:

(a) His or her current employer and the current employer of his or her spouse;

(b) Any business in which a transition team member or his or her spouse is a board member, an officer, or an owner of five percent (5%) or more of the business during the twelve (12) month period prior to becoming a transition team member;

(c) Any non-state sources of funds received for his or her services related to transition team duties;

(d) All positions the transition team member has held outside of state government for the twelve (12) month period prior to becoming a transition team member, including both paid and unpaid positions;

(e) Any contracts that the transition team member or his or her spouse has sought or received with state government during the twelve (12) month period prior to becoming a transition team member and affirmation that the transition team member and his or her spouse will not seek a contract with a state agency for which he or she received nonpublic information during the tenure of the administration;

(f) Whether the transition team member or his or her spouse has accepted any gift or payment exceeding twenty-five dollars ($25) or has accepted future employment from any party interested in seeking influence in state government during the twelve (12) month period prior to becoming a transition team member, or during service as a transition team member;

(g) A description of the transition team member's role in the transition, including a list of any policy issues on which the transition team member is expected to work, and a list of agencies with which the transition team member is expected to interact while serving on the transition team;

(h) Any issues from which each transition team member shall be recused while serving as a member of the transition team; and

(i) An affirmation that each transition team member does not have a financial conflict of interest that precludes transition team members from working on specified issues to which he or she has been assigned.

(8) The commission shall make the standards of ethical conduct for transition team members available to the public on its Web site.

Effective: June 29, 2021
History: Created 2021 Ky. Acts ch. 129, sec. 1, effective June 29, 2021.

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 an officer or 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; and

(e) Each candidate elected to serve as a public servant in a position listed in KRS 11A.010(9)(a) to (g) shall, within ten (10) days of taking the oath of office for the position to which he or she was elected, file a statement of financial disclosure with the commission for the calendar year in which the election was held.

(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 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 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 29, 2021

History: **Amended 2019 Ky. Act ch.__, sec. __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 seven (7) members, two (2) of whom shall be appointed by the Governor. Each of the following shall appoint one (1) member of the commission:

(a) Treasurer;

(b) Auditor of Public Accounts;

(c) Commissioner of Agriculture;

(d) Secretary of State; and

(e) Attorney General.

(3) On July 14, 2022, the terms of the existing members of the commission shall terminate and seven (7) new initial members shall be appointed by the officials listed under subsection (2) of this section. 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 and shall be appointed by the Treasurer, one (1) member shall serve a term of two (2) years and shall be appointed by the Auditor of Public Accounts, two (2) members shall serve a term of three (3) years, one (1) of whom shall be appointed by the Governor and one (1) of whom shall be appointed by the Commissioner of Agriculture, and three (3) members shall be appointed for terms of four (4) years, one (1) of whom shall be appointed by the Governor, one (1) of whom shall be appointed by the Secretary of State, and one (1) of whom shall be appointed by the Attorney General. Thereafter, all appointments shall be for staggered terms of four (4) years.

(4) The commission shall every two (2) years elect from its membership a chair and vice chair. In the absence of the chair or in the event of a vacancy in that position, the vice chair shall serve as chair.

(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 appointing authority who appointed him or her for cause only, including substantial neglect of duty and inability to discharge the powers and duties of office.

(8) A quorum shall consist of four (4) or more members. An affirmative vote of four (4) or more members shall be necessary for commission action.

(9) The commission shall meet at the call of the chair or a majority of its members.

(10) The commission shall be attached to the Finance and Administration Cabinet for administrative purposes only.

(11) The commission shall not be reorganized except by statute.

Effective: July 14, 2022

History: Amended 2022 Ky. Acts ch. 203, sec. 2, effective July 14, 2022. -- 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 -- Findings -- 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.

(d) For each complaint filed by a person other than the commission or a member of the commission, the commission shall make a finding as to whether the complaint is:

1. Well-grounded in fact;

2. Warranted by existing law; and

3. Filed for a good-faith argument or reason and not for any improper purpose, such as for political advantage, to harass or embarrass a person or persons, to cause delays, or to increase the costs of adjudicating a case before the commission.

(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: July 14, 2022

History: Amended 2022 Ky. Acts ch. 203, sec. 3, effective July 14, 2022. -- 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) 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.

Executive Agency Lobbying

11A.201 Definitions for KRS 11A.201 to 11A.246 and KRS 11A.990. (Effective April 1, 2021)

As used in KRS 11A.201 to 11A.246 and KRS 11A.990:

(1) "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;

(2) (a) "Expenditure" means any of the following that is made to, or for the benefit of an elected executive official, the secretary of a cabinet listed in KRS 12.250, an executive agency official, or a member of the staff of any of the officials listed in this paragraph:

1. A payment, distribution, loan, advance, deposit, reimbursement, or gift of money, real estate, or anything of value, including, but not limited to, food and beverages, entertainment, lodging, transportation, or honoraria;

2. A contract, promise, or agreement to make an expenditure; or

3. The purchase, sale, or gift of services or any other thing of value.

(b) "Expenditure" does not include a contribution, gift, or grant to a foundation or other charitable organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code. "Expenditure" does not include the purchase, sale, or gift of services or any other thing of value that is available to the general public on the same terms as it is available to the persons listed in this subsection. "Expenditure" does not include a payment, contribution, gift, purchase, or any other thing of value that is made to or on behalf of any elected executive official, the secretary of a cabinet listed in KRS 12.250, an executive agency official, or any member of the staff of any of the officials listed in this paragraph who works for a state agency for which the executive agency lobbyist is not registered to influence;

(3) "Employer" means any person who engages an executive agency lobbyist;

(4) "Engage" means to make any arrangement, and "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;

(5) "Financial impact" means to have an effect on the financial position of the employer of the executive agency lobbyist or the real party in interest whether or not the impact is positive or negative;

(6) (a) "Financial transaction" means a transaction or activity that is conducted or undertaken for profit and arises from the joint ownership, or the ownership, or part ownership in common of any real or personal property or any commercial or business enterprise of whatever form or nature between the following:

1. An executive agency lobbyist, his or her employer, a real party in interest, or a member of the immediate family of the executive agency lobbyist, his or her employer, or a real party in interest; and

2. Any elected executive official, the secretary of a cabinet listed in KRS 12.250, an executive agency official, or any member of the staff of any of the officials listed in this subparagraph.

(b) "Financial transaction" does not include any transaction or activity described in paragraph (a) of this subsection if it is available to the general public on the same terms;

(7) "Executive agency" means 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;

(8) "Executive agency decision" means a decision of an executive agency regarding the expenditure of funds of the state or of an executive agency 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 proposals, and other forms of solicitation in KRS Chapter 45A or 176;

(b) Drafting, adopting, or implementing a budget provision;

(c) Administrative regulations or rules;

(d) An executive order; or

(e) Legislation or amendments thereto;

(9) (a) "Executive agency lobbyist" means any person engaged to influence executive agency decisions or to conduct executive agency lobbying activity as one (1) of his or her main purposes regarding a substantial issue, including associations, coalitions, or public interest entities formed for the purpose of promoting or otherwise influencing executive agency decisions. The term "executive agency lobbyist" shall also include placement agents and unregulated placement agents.

(b) "Executive agency lobbyist" does not include an elected or appointed officer or employee of a federal or state agency, state college, state university, or political subdivision who attempts to influence or affect executive agency decisions in his or her fiduciary capacity as a representative of his or her agency, college, university, or political subdivision;

(10) (a) "Executive agency lobbying activity" means 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 (1) of the officials listed in this paragraph.

(b) "Executive agency lobbying activity" does not include any of the following:

1. The action of any person having a direct interest in executive agency decisions, if the person acting under Section 1 of the Kentucky Constitution, assembles together with other persons for their common good, petitions any person listed in paragraph (a) of this subsection for the redress of grievances or other proper purposes;

2. Contacts made for the sole purpose of gathering information contained in a public record;

3. Appearances before public meetings of executive agencies;

4. News, editorial, and advertising statements published in newspapers, journals, or magazines, or broadcast over radio or television;

5. The gathering and furnishing of information and news by bona fide reporters, correspondents, or news bureaus to news media described in subparagraph 4. of this paragraph;

6. Publications primarily designed for, and distributed to, members of bona fide associations or charitable or fraternal nonprofit corporations;

7. Professional services 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; or

8. Public comments submitted to an executive agency during the public comment period on administrative regulations or rules;

(11) "Executive agency official" means 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;

(12) "Aggrieved party" means a party entitled to resort to a remedy;

(13) "Elected executive official" means the Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, and Commissioner of Agriculture;

(14) "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;

(15) "Staff" means 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;

(16) "Real party in interest" means the person or entity on whose behalf an executive agency lobbyist is acting, if that person or entity is not the employer of the executive agency lobbyist;

(17) "Substantial issue" means contacts which are intended to influence a decision that involves one or more disbursements of state funds in an amount of at least five thousand dollars ($5,000) per year, or any budget provision, administrative regulation or rule, or legislative matter that financially impacts the executive agency lobbyist or his or her employer;

(18) "Placement agent" means an individual or firm who is compensated or hired by an employer or other real party in interest for the purpose of influencing an executive agency decision regarding the investment of the Kentucky Retirement Systems, the County Employees

Retirement System, or the Kentucky Teachers' Retirement System assets; and

(19) "Unregulated placement agent" means a placement agent who is prohibited by federal securities laws and regulations promulgated thereunder from receiving compensation for soliciting a government agency.

Effective: April 1, 2021

History: Amended 2020 Ky. Acts ch. 79, sec. 12, effective April 1, 2021; and ch. 127, sec. 8, effective July 15, 2020. -- Amended 2019 Ky. Acts ch. 74, sec. 5, effective June 27, 2019. -- Amended 2013 Ky. Acts ch. 106, sec. 2, effective June 25, 2013. -- Amended 2012 Ky. Acts ch. 75, sec. 2, effective April 11, 2012. -- Amended 2000 Ky. Acts ch. 417, sec. 6, effective December 1, 2000. -- Amended 1996 Ky. Acts ch. 172, sec. 1, effective July 15, 1996. -- Created 1993 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 45, effective September 16, 1993.

Legislative Research Commission Note (4/1/2021). This statute was amended by 2020 Ky. Acts chs. 79 and 127, which do not appear to be in conflict and have been codified together.

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.

11A.206 Requirements for executive agency lobbyists, their employers, and real parties in interest.

(1) An executive agency lobbyist, employer, or real party in interest shall not knowingly fail to register as required under KRS 11A.211.

(2) An executive agency lobbyist, employer, or real party in interest shall not knowingly fail to keep a receipt or maintain a record that KRS 11A.216 requires the person to keep or maintain.

(3) An executive agency lobbyist, employer, or real party in interest shall not knowingly fail to file a statement that KRS 11A.216 requires the person to file.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 172, sec. 2, effective July 15, 1996. -- Created 1993 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 46, effective September 16, 1993.

11A.211 Registration statements for executive agency lobbyists, their employers, and real parties in interest -- Fee -- Trust and agency account for commission operations -- Relationship of registration to state contracts.

(1) Each executive agency lobbyist, employer, and real party in interest shall file with the commission within ten (10) days following the engagement of an executive agency lobbyist, an initial registration statement showing all of the following:

(a) The name, business address, and occupation of the executive agency lobbyist;

(b) The name and business address of the employer and of any real party in interest on whose behalf the executive agency lobbyist is acting, if it is different from the employer. However, if a trade association or other charitable or fraternal organization that is exempt from federal income taxation under Section 501(c) of the Internal Revenue Code is the employer, the statement need not list the names and addresses of every member of the association or organization, so long as the association or organization itself is listed;

(c) A brief description of the executive agency decision to which the engagement relates;

(d) The name of the executive agency or agencies to which the engagement relates;

(e) Certification by the employer and executive agency lobbyist that the information contained in the registration statement is complete and accurate;

(f) Compensation paid to, or received by, each executive agency lobbyist, employer, and real party in interest as part of the engagement; and

(g) Certification that the employer and agent have complied with KRS 11A.236.

(2) In addition to the initial registration statement required by subsection (1) of this section, each executive agency lobbyist, employer, and real party in interest shall file with the commission, not later than the last day of July of each year, an updated registration statement that confirms the continuing existence of each engagement described in an initial registration statement, that lists the specific executive agency decisions the executive agency lobbyist sought to influence under the engagement during the period covered by the updated statement, and the compensation paid to, or received by, each executive agency lobbyist, employer, and real party in interest as part of the engagement, and with it any statement of expenditures required to be filed by KRS 11A.216 and any details of financial transaction required to be filed by KRS 11A.221.

(3) Compensation paid under subsection (1)(f) of this section shall be reported after it is received by, or paid to, each executive agency lobbyist, employer, and real party in interest as determined by the terms of the engagement, and shall be listed by theamount paid or received, the intervals on which the payment is paid or received, and shall include any other compensation received or paid as part of the engagement.

(4) If an executive agency lobbyist is engaged by more than one (1) employer, the executive agency lobbyist shall file a separate initial and updated registration statement for each engagement and list compensation paid to, or received by each executive agency lobbyist, employer, and real party in interest as part of the engagement. If an employer engages more than one (1) executive agency lobbyist,the employer shall file only one (1) updated registration statement under subsection (2) of this section, which shall contain the information required by subsection (2) of this section regarding all executive agency lobbyists engaged by the employer.

(5) (a) A change in any information required by subsection (1)(a), (b), (c), (d), or (2) of this section shall be reflected in the next updated registration statement filed under subsection (2) of this section.

(b) Within thirty (30) days following the termination of an engagement, the executive agency lobbyist who was employed under the engagement shall file written notice of the termination with the commission.

(6) Each employer of one (1) or more executive agency lobbyists, and each real party in interest, shall pay a registration fee of seven hundred fifty dollars ($750) upon the filing of an updated registration statement. All fees collected by the commission under the provisions of this subsection shall be deposited in the State Treasury in a trust and agency fund account to the

credit of the commission. These agency funds shall be used to supplement general fund appropriations for the operations of the commission and shall not lapse. No part of the trust and agency fund account shall revert to the general funds of this state.

(7) Upon registration pursuant to this section, an executive agency lobbyist shall be issued a card annually by the commission showing the executive agency lobbyist is registered. The registration card shall be valid from the date of its issuance throughthe thirty-first day of July of the following year.

(8) The commission shall review each registration statement filed with the commission under this section to determine if the statement contains all of the required information. If the commission determines the registration statement does not contain all of the required information or that an executive agency lobbyist, employer, or real party in interest has failed to file a registration statement, the commission shall send written notification of the deficiency by certified mail to the person who filed the registration statement or to the person who failed to file the registration statement regarding the failure. Any person so notified by the commission shall, not later than fifteen (15) days after receiving the notice, file a registration statement or an amended registration statement that includes all of the required information. If any person who receives a notice under this subsection fails to file a registration statement or an amended registration statement within the fifteen (15) day period, the commission may initiate an investigation of the person's failure to file. If the commission initiates an investigation pursuant to this section, the commission shall also notify each elected executive official and the secretary of each cabinet listed in KRS 12.250 of the pending investigation.

(9) In the biennial report published under KRS 11A.110(13), the commission shall, in the manner and form the commission determines, include a report containing statistical information on the registration statements filed under this section during the preceding biennium.

(10) If an employer who engages an executive agency lobbyist, or a real party in interest on whose behalf the executive agency lobbyist was engaged is the recipient of a contract, grant, lease, or other financial arrangement pursuant to which funds of the state or of an executive agency are distributed or allocated, the executive agency or any aggrieved party may consider the failure of the real party in interest, the employer, or the executive agency lobbyist to comply with this section as a breach of a material condition of the contract, grant, lease, or other financial arrangement.

(11) Executive agency officials may require certification from any person seeking the award of a contract, grant, lease, or financial arrangement that the person, his or her employer, and any real party in interest are in compliance with this section.

Effective: July 15, 2026

History: Amended 2026 Ky. Acts ch. 161, sec. 92, effective July 15, 2026. -- Amended 2020 Ky. Acts ch. 127, sec. 9, effective July 15, 2020. -- Amended 2019 Ky. Acts ch. 74, sec. 6, effective June 27, 2019. -- Amended 2017 Ky. Acts ch. 162, sec. 2, effective June 29, 2017. -- Amended 2006 Ky. Acts ch. 18, sec. 1, effective July 12, 2006. -- Amended 2000 Ky. Acts ch. 542, sec. 1, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 172, sec. 3, effective

July 15, 1996. -- Created 1993 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 47, effective September 16, 1993.

11A.216 Statements of expenditures.

(1) Each executive agency lobbyist, employer, and real party in interest shall file with the commission, with the updated registration statement required by KRS 11A.211(2), a statement of expenditures as specified in subsections (2) and (3) of this section. An executive agency lobbyist shall file a separate statement of expenditures under this section for each employer engaging him.

(2) (a) In addition to the information required by paragraph (b) of this subsection, a statement filed by an executive agency lobbyist shall show the total amount of expenditures made by the lobbyist during the reporting period covered by the statement by the executive agency lobbyist.

(b) 1. If, during a fiscal year, the real party in interest, the employer or any executive agency lobbyist he engaged made expenditures to or on behalf of a particular elected executive official, the secretary of a cabinet listed in KRS 12.250, a particular executive agency official, or a particular member of the staff of any of those officials, the real party in interest, employer, or executive agency lobbyist also shall state the name of the official or employee on whose behalf the expenditures were made, the total amount of the expenditures made, a brief description of the expenditures made, and the approximate date the expenditures were made.

2. Expenditures shall be reported on the expenditure statement for the reporting period that includes the date on which the expenditure was made.

(3) (a) In addition to the information required by subsection (2)(b) of this section, a statement filed by a real party in interest or an employer shall show the total amount of expenditures during the period covered by the statement. As used in this subsection, "expenditures" does not include the expenses of maintaining office facilities or support services for executive agency lobbyists.

(b) An employer or real party in interest shall not be required to show any expenditure on a statement filed under this subsection if the expenditure is reported on a statement filed under subsection (2)(a) or (b) of this section by an executive agency lobbyist engaged by the employer.

(4) Any statement required to be filed under this section shall be filed at the times specified in KRS 11A.211. Each statement shall cover expenditures made during the prior fiscal year.

(5) If it is impractical or impossible for an executive agency lobbyist, employer, or real party in interest to determine exact dollar amounts or values of expenditures, reporting of good faith estimates, based on reasonable accounting procedures, constitutes compliance with this section.

(6) Executive agency lobbyists, employers, and real parties in interest shall retain receipts or maintain records for all expenditures that are required to be reported pursuant to this section. These receipts or records shall be maintained for a period ending on the thirtieth day of June

of the second fiscal year after the year in which the expenditure was made.

(7) At least ten (10) days before the date on which the statement is filed, each employer, executive agency lobbyist, or real party in interest who is required to file an expenditure statement under subsection (2)(b) of this section shall deliver a copy of the statement, or the portion showing the expenditure, to the official or employee who is listed in the statement as having received the expenditure or on whose behalf it was made.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 542, sec. 2, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 172, sec. 4, effective July 15, 1996. -- Created 1993 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 48, effective September 16, 1993.

11A.221 Statements of financial transactions.

(1) Any executive agency lobbyist who has had any financial transaction with, or for the benefit of, an elected executive official, the secretary of a cabinet listed in KRS 12.250, an executive agency official, or any member of the staff of any of those officials shall describe the details of the transaction, including the name of the official or employee, the purpose and nature of the transaction, and the date it was made or entered into, in a statement filed with the commission with the updated registration statement required by KRS 11A.211(2). Each statement shall describe each financial transaction that occurred during the prior fiscal year.

(2) Except as provided in subsection (5) of this section, any employer who has had any financial transaction with or for the benefit of an elected executive official, the secretary of a cabinet listed in KRS 12.250, an executive agency official, or any member of the staff of any of those officials shall describe the details of the transaction, including the name of the official or employee, the purpose and nature of the transaction, and the date it was made or entered into, in a statement filed with the commission with the updated registration statement required by KRS 11A.211(2). The statement shall be filed at the times specified in KRS 11A.211. Each statement shall describe each financial transaction that occurred during the prior fiscal year.

(3) Except as provided in subsection (6) of this section, any real party in interest who has had any financial transaction with or for the benefit of any elected executive official, the secretary of a cabinet listed in KRS 12.250, an executive agency official, or any member of the staff of any of those officials shall describe the details of the transaction, including the name of the official or employee, the purpose and nature of the transaction, and the date it was made or entered into, in a statement filed with the commission with the updated registration statement required by KRS 11A.211(2). The statement shall be filed at the times specified in KRS 11A.211. Each statement shall describe each financial transaction that occurred during the prior fiscal year.

(4) At least ten (10) days before the date on which the statement is filed, each employer, executive agency lobbyist, or real party in interest who is required to file a statement describing a financial transaction under this section shall deliver a copy of the statement to the official or employee with whom or for whose benefit the transaction was made.

(5) An employer shall not be required to file any statement under this section or to deliver a copy of the statement to an official or employee with whom or for whose benefit the transaction was made if the financial transaction to which the statement pertains is reported by an

executive agency lobbyist engaged by the employer.

(6) A real party in interest shall not be required to file any statement under this section or to deliver a copy of the statement to an official or employee with whom or for whose benefit the transaction was made if the financial transaction to which the statement pertains is reported by an executive agency lobbyist who is acting on behalf of the real party in interest.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 542, sec. 3, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 172, sec. 5, effective July 15, 1996. -- Created 1993 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 49, effective September 16, 1993.

11A.226 Dispute resolution with respect to statements of expenditures and statements of financial transactions.

(1) If a dispute arises between an elected executive official, the secretary of a cabinet listed in KRS 12.250, an executive agency official, or any member of the staff of any of those officials and a real party in interest, an employer, or an executive agency lobbyist with respect to an expenditure or financial transaction alleged in a statement to be filed under KRS 11A.216 or 11A.221, the official, employee, real party in interest, employer, or executive agency lobbyist may file a complaint with the commission. The commission shall investigate the complaint.

(2) The complaint shall be filed at least three (3) days prior to the time the statement is required to be filed with the commission. The time for filing a disputed expenditure or financial transaction in any statement of expenditures or the details of a financial transaction shall be extended pending the final decision of the commission. This extension does not extend the time for filing the nondisputed portions of either type of statement. The commission shall notify the parties of its final decision by certified mail. If the commission decides the disputed expenditure or financial transaction should be reported, the employer, a real party in interest, or the executive agency lobbyist shall include the matter in an amended statement and file the amended statement not later than ten (10) days after receiving notice of the decision of the commission by certified mail.

(3) An employer, executive agency lobbyist, or real party in interest who files a false statement of expenditures or details of a financial transaction 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.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 172, sec. 6, effective July 15, 1996. -- Created 1993 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 50, effective September 16, 1993.

11A.231 Activities excepted from KRS 11A.211 and 11A.216.

(1) KRS 11A.211 and 11A.216 do not apply to efforts to influence executive agency decisions or conduct executive agency lobbying activity by any of the following:

(a) Appearances at public hearings of the committees or interim committees of the General Assembly, at court proceedings, at rule-making or adjudication proceedings, or at other public meetings;

(b) News, editorial, and advertising statements published in newspapers, journals, or magazines, or broadcast over radio or television;

(c) The gathering and furnishing of information and news by bona fide reporters, correspondents, or news bureaus to news media described in subsection (1)(b) of this section; or

(d) Publications primarily designed for and distributed to members of associations or charitable or fraternal nonprofit corporations.

(2) Nothing in KRS 11A.201 to 11A.246 requires the reporting of, or prohibits an elected executive official from soliciting or accepting, a contribution from or an expenditure by any person if the contribution or expenditure is reported in accordance with KRS Chapter 121.

Effective: March 16, 2005
History: Amended 2005 Ky. Acts ch. 105, sec. 15, effective March 16, 2005. -- Created 1993 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 51, effective September 16, 1993.

11A.233 Influencing decision on award of economic incentive package -- Disclosure statement by beneficiary.

(1) For purposes of KRS 11A.201 to 11A.246, the term "executive agency lobbyist" does not include 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 that 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 any other component of an economic incentive package.

(2) Notwithstanding subsection (1), before any board or authority within or attached to the Cabinet for Economic Development takes final action on any contract or agreement by which any bond, grant, lease, loan, assessment, incentive, inducement, or tax credit is awarded, the beneficiary of an economic incentive package shall file with the approving board or authority a disclosure statement which shall contain:

(a) The identity of the beneficiary of an economic incentive package and any person employed to act on its behalf in its dealings with the Cabinet for Economic Development or any board or authority within or attached to that cabinet regarding the matters to which the contract or agreement refers; and

(b) The details of any financial transaction as defined in KRS 11A.201(6)(a) between the beneficiary or any other person listed as an employee or agent of the beneficiary as required by paragraph (a) of this subsection and any agent or public servant of the Cabinet for Economic Development, any member of any board or authority within or attached to that cabinet, or any other public servant involved in the negotiation of the economic incentive package.

(3) After final action by the board or authority, the Cabinet for Economic Development shall file the disclosure statement described in subsection (2) of this section with the Executive Branch Ethics Commission, but the cabinet may delete information identifying the beneficiary of the economic-incentive package if the cabinet believes that identification would damage economic development.

(4) No beneficiary of an economic incentive package as referred to in this section shall engage any person to influence decisions of the Cabinet for Economic Development or the approving board or authority for compensation that is contingent in any way on the outcome of the decisions of the cabinet or the approving board or authority regarding contracts or agreements specified in subsection (2) of this section, and no person shall accept any engagement to influence these decisions or conduct lobbying activities related to these decisions for compensation that is contingent in any way on the outcome of the decisions of the cabinet or the approving board or authority regarding these contracts or agreements.

(5) Subsection (4) of this section does not prohibit, and shall not be construed to prohibit, any person from compensating that person's sales employees pursuant to any incentive compensation plan, such as commission sales, if the incentive compensation plan is the same plan used to compensate similarly-situated sales employees who are not engaged by the beneficiary of an economic incentive package in activities and functions referred to in this section.

Effective: July 15, 2020
History: Amended 2020 Ky. Acts ch. 127, sec. 10, effective July 15, 2020. -- Created 1994 Ky. Acts ch. 450, sec. 37, effective July 15, 1994.

11A.236 Prohibition against lobbying on a contingency basis -- Exception for incentive compensation plans and placement agents. (Effective April 1, 2021)

(1) Except as provided in subsection (2) of this section, no person shall engage any persons 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, including payment based on the awarding of a contract or payment of a percentage of a government contract awarded, and no person shall accept any engagement 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, including payment based on the awarding of a contract or payment of a percentage of a government contract awarded. An employer who pays an executive agency lobbyist based on the awarding of a contract or payment of a percentage of a government contract awarded 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.

(2) Subsection (1) of this section does not prohibit, and shall not be construed to prohibit:

(a) Any person from compensating his or her sales employees pursuant to an incentive compensation plan, such as commission sales, if the incentive compensation plan is the same plan used to compensate similarly situated sales employees who are not executive agency lobbyists; or

(b) Any person from engaging a placement agent to influence investment decisions of the Kentucky Retirement Systems, County Employees Retirement System, and the Kentucky Teachers' Retirement System for compensation that is contingent on the outcome of

investment decisions by the retirement systems' boards of trustees. The provisions of this paragraph shall not apply to unregulated placement agents.

Effective: April 1, 2021

History: Amended 2020 Ky. Acts ch. 79, sec. 13, effective April 1, 2021. -- Amended 2019 Ky. Acts ch. 74, sec. 7, effective June 27, 2019. -- Amended 2012 Ky. Acts ch. 75, sec. 3, effective April 11, 2012. -- Created 1993 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 52, effective September 16, 1993.

Legislative Research Commission Note (4/11/2012). The phrase "board of trustees" in subsection (2)(b) of this statute has been changed in codification to "boards of trustees." This manifest clerical or typographical error has been corrected by the Reviser of Statutes under the authority of KRS 7.136(1)

11A.241 Commission's duties with respect to executive agency lobbying.

(1) The commission shall keep on file the statements required by KRS 11A.211, 11A.216, and 11A.221. These statements are public records and open to public inspection, and the commission shall computerize them so the information contained in them is readily accessible to the general public. The commission shall provide copies of the statements to the public on request and may charge a reasonable fee not to exceed the cost of copying and delivering the statement.

(2) Not later than the last day of August of each year, the commission shall compile from the registration statements filed with it a complete and updated list of registered executive agency lobbyists and their employers, and real parties in interest and distribute the list to each elected executive branch official and the secretary of each cabinet listed in KRS 12.250, who shall distribute the list to the appropriate personnel under their jurisdiction. The commission shall provide copies of the list to the public upon request and may charge a reasonable fee not to exceed the cost of copying and delivering the list.

(3) The commission shall maintain a list of all executive agency lobbyists. The commission shall provide copies of the list to the public on request and may charge a reasonable fee not to exceed the cost of copying and delivering the document.

(4) The commission shall prescribe and make available an appropriate form for the filings required by KRS 11A.211, 11A.216, and 11A.221. The form shall contain the following notice in boldface type: "ANY PERSON WHO KNOWINGLY FILES A FALSE STATEMENT IS IN VIOLATION OF STATE LAW AND SUBJECT TO FINES AND OTHER PENALTIES."

(5) Any rules adopted by the commission to implement KRS 11A.201 to 11A.246 shall be adopted by administrative regulations promulgated in accordance with KRS Chapter 13A.

(6) The commission shall publish a handbook that explains in clear and concise language the provisions of KRS 11A.201 to 11A.246 and make it available free of charge to executive agency lobbyists, employers, real parties in interest, and any other interested persons.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 542, sec. 4, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 172, sec. 7, effective July 15, 1996. -- Created 1993 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 53, effective September 16, 1993.

11A.246 Authorization for compliance investigations by Attorney General and his designees.

The Attorney General and any assistant or special counsel designated by him may investigate compliance with KRS 11A.201 to 11A.246.

Effective: September 16, 1993
History: Created 1993 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 54, effective September 16, 1993.

Penalties

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.

APPENDIX B

Kentucky Administrative Regulations

Executive Branch Code of Ethics

Current as of October 2026

Executive Branch Ethics Commission
Capital Complex East
1025 Capital Center Drive
Frankfort, KY 40601
(502) 564-7954

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) "Acting" means a public servant who is designated to serve in an officer position temporarily.

(2) "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.

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

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

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

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

(7) "Constitutional Officer" is defined by KRS 11A.010(9)(a) through (g).

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

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

(10) "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.

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

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

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

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

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

Section 2.

(1) Newly appointed or acting officers shall file the statement of financial disclosure required by KRS 11A.050(1)(a) on the New Hire form EBEC-SFD-103 effective at the time of his or her start date within thirty (30) days of their start date.

(2) Currently serving officers and sworn constitutional officers shall file the statement of financial disclosure required by KRS 11A.050(1)(a) and (b) on the Annual form EBEC-SBE-101 between January 1 and April 15 of each year in which he or she serves in an officer position or as a constitutional officer. The Annual form shall be completed for the calendar year preceding the due date.

(3) Currently serving officers and sworn constitutional officers who have filed as a candidate for constitutional office shall file the statement of financial disclosure required by KRS 11A.050(d) on the Annual form EBEC-SBE-101 by the February 15 that falls after he or she has filed as a candidate. These individuals will only file one form by February 15 to fulfill the requirements of KRS 11A.050(1)(a), (b), and (d) for the year in which they file as a candidate.

(4) Individuals who are not currently serving officers or sworn constitutional officers who have filed as a candidate for constitutional office shall file the statement of financial disclosure required by KRS 11A.050(1)(d) on the Candidate form EBEC-SBE-104 by the February 15 that falls after he or she has filed as a candidate.

(5) Former officers and constitutional officers who have left office shall file the statement of financial disclosure required by KRS 11A.050(1)(c) on the Leaver form EBEC-SBE-102 effective at the date of departure from state service within thirty (30) days of leaving service in an officer position or constitutional office.

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) The following material is incorporated by reference:

(a) "Statement of Financial Disclosure" ANNUAL EBEC-SFD-101 (Rev. 05/2020)

(b) "Statement of Financial Disclosure" LEAVER EBEC-SFD-102 (Rev. 05/2020);

(c) "Statement of Financial Disclosure" NEW HIRE EBEC-SFD-103 (Rev. 05/2020); and

(d) "Statement of Financial Disclosure" CANDIDATE EBEC-SFD-104 (Rev. 05/2020).

(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; 47 Ky.R. 90; eff. 1-5-2021.)

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 deter-mines 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; Cert. eff. 2-21-2023.)

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. If the respondent fails to file a timely answer, then the commission may:

(1) Accept the failure to answer as an admission of the allegations in the initiating order;

(2) 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;

(3) Enter a final order of default against the respondent; and

(4) 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; TAm eff. 4-2- 2021.)

9 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) 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) If a filer submitted the initial registration statement form to the commission, then during the proceeding July 1 through July 30 following the initial registration and each year thereafter, the updated registration form required by KRS 11A.211(2) shall be filed on the applicable Updated Registration Statement as follows:

(a) For the executive agency lobbyist on:

1. The combined form EBEC-EAL-202; or

2. EBEC-EAL-203;

(b) For the employer of the executive agency lobbyist on form EBEC-EAL-204; and

(c) For the real party in interest on form EBEC-EAL-205.

(2) 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" - EBEC-EAL-201 (Rev. 05/2020);

(b) "Updated Registration Statement - Executive Agency Lobbyist" - EBEC-EAL-202 (Rev.05/2020);

(c) "Updated Registration Statement - Employer of Executive Agency Lobbyist" - EBECEAL-203 (Rev.05/2020);

(d) "Updated Registration Statement -Executive Agency Lobbyist/Employer Combined" - EBEC-EAL-204 (Rev.05/2020);

(e) "Updated Registration Statement - Real Party in Interest" - EBEC-EAL-205 (Rev.05/2020);

(f) "Termination Notification as Executive Agency Lobbyist" - EBEC-EAL-206 (Rev.05/2020); and

(g) "Commonwealth of Kentucky Registration Card Executive Agency Lobbyist", 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; 47 Ky.R. 91; eff. 1-5-2021.)

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; Crt eff. 1-28-2020.)

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; Cert eff. 3- 18-2024.)

APPENDIX C:

EXECUTIVE ORDER 2008-454

EXECUTIVE ORDER 2009-882

EXECUTIVE ORDER 2016-377

EXECUTIVE ORDER 2020-423

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

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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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EXECUTIVE ORDER

Secretary of State
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Kentucky

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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.

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GOVERNOR

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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

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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

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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

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.

STEVEN L. BESHEAR, GOVERNOR
Commonwealth of Kentucky

TREY GRAYSON
Secretary of State

ANDY BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2020-423
May 27, 2020

RELATING TO REORGANIZATION OF
THE EXECUTIVE BRANCH ETHICS COMMISSION

WHEREAS, the proper operation of democratic government requires that the public must have confidence in the integrity of its government and public officials;

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

WHEREAS, in 2008 the Executive Branch Ethics Commission recommended that two (2) of the Governor's appointments to the Commission come from nominations made by the Attorney General and the Auditor of Public Accounts, to increase and strengthen the independence of the Commission. Governor Steve Beshear followed the recommendation in paragraphs 2(B) and 2(C) of Executive Order 2008-454;

WHEREAS, in 2016, in Executive Order 2016-377 Governor Matthew Bevin rescinded Paragraphs 2(B) and 2(C) of Executive Order 2008-454 so that he, the Governor, could appoint all new members to the Commission without any input from the Attorney General and the Auditor of Public Accounts; and

WHEREAS, improved economy, efficiency, and administration will result from reorganizing the Executive Branch Ethics Commission in order to require that two members shall be chosen from nominees submitted by the Attorney General and Auditor of Public Accounts.

NOW, THEREFORE, I, ANDY 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 12.028 and 12.080, do hereby Declare, Order and Direct the following pertaining to standards of ethical conduct in the Executive Branch of state government:

ANDY BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2020-423
May 27, 2020

1. Executive Order 2016-377, dated June 24, 2016, is hereby rescinded, declared null and void, and is no longer in effect.

2. The Executive Branch Ethics Commission, as created under KRS 11A.060, is hereby abolished, and the terms of members serving on the Commission prior to the filing of this Order shall cease to exist.

3. The Executive Branch Ethics Commission is hereby created and shall consist of five (5) members appointed by the Governor as follows:

    a. The Governor shall appoint three (3) members.

    b. The Governor shall appoint one (1) additional member from a list of three (3) nominees submitted by the Attorney General. Appointments under this provision shall be made in accordance with KRS 12.070(3);

    c. The Governor shall appoint one (1) additional member from a list of three (3) nominees submitted by the Auditor of Public Accounts. Appointments under this provision shall be made in accordance with KRS 12.070(3);

    d. 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 paragraph; and

    e. David Karem, Crit Luallen, and Roger Crittenden are hereby appointed as members of the Executive Branch Ethics Commission. Please issue commissions to them. David Karem and Crit Luallen shall both serve terms of four (4) years; Roger Crittenden shall serve for a term of three (3) years; the appointee chosen from the nominees submitted by the Attorney General shall serve for a term of two (2) years; and the appointee chosen from the nominees submitted by the Auditor of Public Accounts shall serve for a term of one (1) year. Thereafter, all appointees shall serve four-year terms.

4. The Attorney General and the Auditor of Public Accounts shall submit their lists of three (3) nominees to the Governor within fourteen (14) days of the date of this Order.

5. All other provisions of law and statute that apply to the Executive Branch Ethics Commission shall remain in full force and effect.

ANDY BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2020-423
May 27, 2020

This Order is effective immediately upon filing with the Secretary of State.

ANDY BESHEAR, Governor
Commonwealth of Kentucky

MICHAEL G. ADAMS
Secretary of State

APPENDIX D

ADDITIONAL ETHICS-RELATED STATUTES:

KRS 13B.020(7): The provisions of KRS 13B.030(2)(b) requiring the use of hearing officers from the Attorney General's Office shall not apply to administrative hearings held under KRS 11A.100 or 18A.095.

KRS 13B.050(5): The Notice of Hearing Requirements shall not apply to notices issued under KRS 11A.080(4)(b) when a party fails to file an answer or otherwise fails to participate.

KRS 18A.045(2): Requires members of the Personnel Board to adhere to KRS 11A.045(1) {Gifts}; KRS 11A.040(4) {contract or agreements with own agency}; and KRS 11A.005(2)(c) {conflicts?}. (eff. 4-13-10)

KRS 45A.096: Definitions for KRS 45A.096 and 45A.097, including the definition for "prohibited source." (eff. 6-29-17)

KRS 45A.097: Governmental body's acceptance of donation and gifts and consideration of establishing commemoration, memorial, naming rights, or sponsorships. (eff. 6-29-17)

KRS 45A.340: Conflicts of interest of public officers and employees involved in public procurement.

KRS 45A.550: Provides definitions for terms used in KRS 11A.130, specifically for "privatize," "privatization contract," and "services."

KRS 45A.554: States that KRS 11A.130 does not apply to privatization contracts awarded before July 15, 1998. (eff. 7-15-98)

KRS 61.645(6)(b): Provides that a member of the Kentucky Retirement Systems board of trustees shall be removed from office upon a finding of a violation of any provision of KRS 11A.020 or 11A.040. (not sure when this specific provision was added)

KRS 148.257: Provides that notwithstanding KRS 11A.020 and KRS 11A.040, persons designated as "craftspersons" by the commissioner of Parks, who are considered to be interim state employees, may sell their products to Parks' gift shops, so long as the materials for making those products were not purchased with state funds. (eff. 7-12-06)

KRS 164.013(8): Permits anyone employed by the Council on Higher Education (now CPE) prior to May 30, 1997, to accept immediate employment with any governmental entity or any postsecondary education organization or institution in the Commonwealth and to carry out any duties assigned by that entity, notwithstanding KRS 11A.040.)

KRS 164.367(1): States that the term "business" as used in this section has the meaning defined in KRS 11A.010. (eff. 6-26-07)

KRS 175B.015(7)(a): Makes members of the Kentucky Public Transportation Infrastructure Authority "public servants" subject to KRS Chapter 11A.

KRS 175B.030(5)(a): Makes Kentucky members of a KY/IN bi-state public transportation infrastructure authority "public servants" subject to KRS Chapter 11A.

KRS 175B.035(7)(a): Makes members of a public infrastructure project authority "public servants" subject to KRS Chapter 11A. .

KRS 200.707(5)(c): Requires each member of a community early childhood council that applies for a competitive grant from the Early Childhood Development Authority to certify that no program, agency, or individual that may receive part of an award would constitute a conflict of interest under KRS Chapter 11A for the council member. And requires issues concerning conflicts of interest to be submitted to EBEC for resolution.

KRS 257.194(4): Prohibits members of the Kentucky Livestock Care Standards Commission from being "lobbyists" as defined by KRS 11A.010. (eff. 7-15-10)

KRS 342.837: Requires the board, manager, and employees of the Employers' Mutual Insurance Authority to "comply with the code of ethics applicable to the Executive Branch pursuant to KRS Chapter 11A." (eff. 4-4-94)

KRS Chapter 47, 2010 Budget, Appendix B: Provides an exception (like that contained in KRS 11A.055(2)) for the Adopt-A-Highway Litter Program so that the Transportation Cabinet and the Energy and Environment Cabinet may receive, accept, and solicit contributions in support of the program, regardless of the source.

ADDITIONAL ETHICS-RELATED REGULATIONS:

200 KAR 5:302, Section 3(4)(c): Relating to delegation of authority (Finance Cabinet) to declare and dispose of surplus property; requires an agency head requesting delegation of such authority to assure that disposition shall be in accordance with all applicable federal and state laws and regulations, including specifically the Executive Branch Code of Ethics.

200 KAR 21:010, Section 1(3)(d): Relating to the prequalification of underwriters and bond counsel for state bond issues (Finance Cabinet); requires a request for qualifications to include a requirement that " the firm certify that it has complied with and is not prohibited by the Executive Branch Code of Ethics, KRS 11A.001 to 11A.990, from entering into a contract with the Commonwealth of Kentucky."

502 KAR 5:020, Section 5(1) & (2): Requires a director of the Kentucky State Police to file a completed Statement of Financial Disclosure with the Human Resources Branch Commander, "with a copy forwarded to the Executive Branch Ethics Commission," by April 15 of the following year. The second provision appears to require the same be done within 30 days of the director's separation from the Department of State Police.

503 KAR 3:010, Section 3: Requires gifts from basic law enforcement training course recruits to Department of Criminal Justice Training staff members to conform to the Executive Branch Code of Ethics, specifically KRS 11A.040.

503 KAR 3:040, Section 3: Requires gifts from telecommunications academy trainees to Department of Criminal Justice Training staff members to conform with KRS Chapter 11A, the Executive Branch Code of Ethics.

503 KAR 3:110, Section 3: Requires gifts from Certified Court Security Officers academy trainees to Department of Criminal Justice Training staff members to conform with KRS Chapter 11A, the Executive Branch Code of Ethics.

600 KAR 6:020, Section 1: Addresses Transportation Cabinet employees' responsibilities when engaged in the procuring of engineering or related services or in the implementation of the provisions of KRS 45A.800 to 45A.835. While the regulation does not specifically mention the Code, the regulation indicates that it relates to, and receives statutory authority from, KRS Chapter 11A as well as KRS 45A.800-45A.835.

600 KAR 6:040, Section 5(1)(d): Provides for the removal of prequalified engineering or engineering-related services firms (Transportation Cabinet) from the list of prequalified firms for violating the "Executive Branch Ethics Law contained in KRS Chapter 11A."

600 KAR 6:060, Section 1(9): Requires that each member of a Professional and Engineering-related Services Selection Committee (Transportation Cabinet) complies with the "Executive Branch Code of Ethics established in KRS Chapter 11A."

APPENDIX E:
NOTABLE ADVISORY OPINIONS BY TOPICS OF INTEREST

CATEGORY	ADVISORY OPINIONS
Boards & Commissions	**AO 05-16** **AO 09-12** **AO 09-21**
Conflicts of Interest	**AO 09-09** **AO 12-05** **AO 18-02** **AO 21-04** **AO 21-08**
Duty of Public Servant to Refuse to Comply with Illegal Orders	**AO 13-02**
Exceptions to the Gift Rule to allow for Economic Incentive Awards	**AO 15-01** **AO 17-08, Exception 2017-4** **AO 19-03, Exception 2019-1** **AO 19-04, Exception 2019-2** **AO 20-01, Exception 2020-1** **AO 21-01, Exception 2021-1**
Fundraising	**AO 13-03** **AO 16-09** **AO 19-07**
Gifts of Travel Expenses [Pre KRS 45A.097]	**AO 12-04** **AO 09-31**
Lobbying Activity	**AO 13-04** **AO 19-10**
"Major Management" Defined	**AO 17-05**
Outside Employment	**AO 09-03** **AO 09-08** **AO 15-04** **AO 19-01** **AO 19-08** **AO 19-09** **AO 21-02**
"Person" and "Business" Defined	**AO 16-04**
Post-Employment for Non-Officers	**AO 09-16** **AO 16-04** **AO 21-05**
Post-Employment for Officers	**AO 07-29** **AO 19-11** **AO 20-02** **AO 21-07**
"Regulated by" Defined	**AO 19-02**
Rewards Points	**AO 07-37**
"Salaried Board Members" Defined	**AO 19-05** **AO 19-06**

APPENDIX F:
SIGNIFICANT COURT OPINIONS

- ***Beshear, etc., et al., v. Coleman, etc., et al.,*** **2024-SC-0228-DG (HB 334 declared to be unconstitutional)…….**

- ***Executive Branch Ethics Commission v. Grimes,*** **2024-CA-0630-MR *(*Imposed the 5-year statute of limitations in KRS 413.120(2) to prosecution of ethical violations within KRS 11A.020*)……**

- ***Executive Branch Ethics Commission v. Atkinson, et al.*****, 339 S.W.3d 472 (Ky. App. 2010) (Jurisdiction) . . . . . .**

- ***Executive Branch Ethics Commission v. Wooten, et. al.,*** **465 S.W.3d 453 (Ky. App. 2014) (Nepotism) . . . . . .**

- ***Executive Branch Ethics Commission v. Stephens*****, 92 S.W.3d 69 (Ky. 2002) (Exhaustion of Remedies) . . . . . .**

- ***Flint v. Executive Branch Ethics Commission,*** **981 S.W.2d 132 (Ky. App. 1998) (Knowledge of Law) . . . . . .**

- ***Huffman v. Executive Branch Ethics Commission,*** **2010 WL 1508188 (Ky. App.) (Misuse of Time/Resources) . . . . . .**

- ***Turbyfill v. Executive Branch Ethics Commission,*** **303 S.W.3d 124 (Ky. App. 2010) (Ethics Violations cannot be pardoned) . . . . . .**

- ***Terry Farmer v. Executive Branch Ethics Commission,*** **2016 WL 3661893 (Ky. App.) (Misuse of state resources and disclosure of confidential information for economic interests) . . . . . .**

- ***Paul F. Fauri v. Executive Branch Ethics Commission*****, 20 F. Supp. 2d 1071 (US Dist. Ct. E.D. Ky). . . . . .**