

**61.846 Enforcement by administrative procedure -- Appeal.**

- (1) If a person enforces KRS 61.805 to 61.850 pursuant to this section, he shall begin enforcement under this subsection before proceeding to enforcement under subsection (2) of this section. The person shall submit a written complaint to the presiding officer of the public agency suspected of the violation of KRS 61.805 to 61.850. The complaint shall state the circumstances which constitute an alleged violation of KRS 61.805 to 61.850 and shall state what the public agency should do to remedy the alleged violation. The public agency shall determine within three (3) days, excepting Saturdays, Sundays, and legal holidays, after the receipt of the complaint whether to remedy the alleged violation pursuant to the complaint and shall notify in writing the person making the complaint, within the three (3) day period, of its decision. If the public agency makes efforts to remedy the alleged violation pursuant to the complaint, efforts to remedy the alleged violation shall not be admissible as evidence of wrongdoing in an administrative or judicial proceeding. An agency's response denying, in whole or in part, the complaint's requirements for remedying the alleged violation shall include a statement of the specific statute or statutes supporting the public agency's denial and a brief explanation of how the statute or statutes apply. The response shall be issued by the presiding officer, or under his authority, and shall constitute final agency action.
- (2) If a complaining party wishes the Attorney General to review a public agency's denial, the complaining party shall forward to the Attorney General a copy of the written complaint and a copy of the written denial within sixty (60) days from receipt by that party of the written denial. If the public agency refuses to provide a written denial, a complaining party shall provide a copy of the written complaint within sixty (60) days from the date the written complaint was submitted to the presiding officer of the public agency. The Attorney General shall review the complaint and denial and issue within ten (10) days, excepting Saturdays, Sundays, and legal holidays, a written decision which states whether the agency violated the provisions of KRS 61.805 to 61.850. In arriving at the decision, the Attorney General may request additional documentation from the agency. On the day that the Attorney General renders his decision, he shall mail a copy to the agency and a copy to the person who filed the complaint.
- (3)
  - (a) If a public agency agrees to remedy an alleged violation pursuant to subsection (1) of this section, and the person who submitted the written complaint pursuant to subsection (1) of this section believes that the agency's efforts in this regard are inadequate, the person may complain to the Attorney General.
  - (b) The person shall provide to the Attorney General:
    1. The complaint submitted to the public agency;
    2. The public agency's response; and
    3. A written statement of how the public agency has failed to remedy the alleged violation.
  - (c) The adjudicatory process set forth in subsection (2) of this section shall govern as if the public agency had denied the original complaint.

- (4) (a) A party shall have thirty (30) days from the day that the Attorney General renders his decision to appeal the decision. An appeal within the thirty (30) day time limit shall be treated as if it were an action brought under KRS 61.848.
- (b) If an appeal is not filed within the thirty (30) day time limit, the Attorney General's decision, as to whether the agency violated the provisions of KRS 61.805 to 61.850, shall have the force and effect of law and shall be enforceable in the Circuit Court of the county where the public agency has its principal place of business or where the alleged violation occurred.
- (5) A public agency shall notify the Attorney General of any actions filed against that agency in Circuit Court regarding enforcement of KRS 61.805 to 61.850.

**Effective:** July 14, 1992

**History:** Created 1992 Ky. Acts ch. 162, sec. 7, effective July 14, 1992.

**2012-2014 Budget Reference.** See State/Executive Branch Budget, 2012 Ky. Acts ch. 144, Pt. I, M, 9, (1) at 1142.