

**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.