



## 2020 Election Frequently Asked Questions

This resource is intended to provide basic information on the election process for school board candidates, members, and school leaders. The text of election statutes and regulations controls over these “FAQ” items should be reviewed by candidates. The reader is referred to the [Kentucky Registry of Election Finance \(“Registry”\) website](#) for detailed guidance on election finance requirements (phone: 502-573-2226) and the Kentucky Secretary of State’s [web-based guidance information for school board candidates with sample forms](#).

Also note that the required nominating petition (SB 60A), and the “Affidavit For School Board Candidacy and Membership” are multi-copy forms that should ideally be obtained from the county clerk.

### **Covid-19 Considerations**

School board candidates must file the required papers with their county clerks. Based on the pending state of emergency, many (if not all) county clerks’ offices are not in a position to provide “in person” services or accept “in person” filings or have limited access to such services. Candidates should review the websites of their clerks for contact information and check for specific information on candidate filings **and should follow available instructions or contact county clerks by phone or e-mail well in advance of the June 2, 2020 filing deadline to arrange to obtain filing forms and to obtain guidance on how clerks will accept filings, including filings by mail.** While we cannot predict what steps may be taken and we will update this guidance regarding any changes, **candidates should not assume that the current June 2 filing deadline will be extended.** According to the Kentucky Attorney General, specific statutory law authorized the Governor’s recent extension of the primary election date but executive authority to order changes to the election process other than the time and place of an election is limited ([OAG 20-006](#)).

New requirements relating to electronic submission of election finance reports, including the KREF 001 that will take additional time for processing, are discussed immediately below. In addition, legislation enacted in 2018 requires candidates to submit transcripts reflecting completion of the twelfth grade or the results of twelfth grade equivalency examinations and candidates should allow for additional time to obtain such documents due to current limitations on available on-site school personnel. The required Affidavit needs to be signed executed and notarized. This could be accomplished “in person” while taking appropriate safety measures, or candidates may wish to explore greater flexibility provided under section (11) of [SB 150](#), that allows for notarization of documents in counterparts via video teleconference during the pending state of emergency.

Finally, the nominating petition requires the candidate to obtain two signatures of qualified voters as described in more detail below. This will also require some advance planning to allow for obtaining the signatures while avoiding direct “in person” contact.

### **New for this Year:**

As a result of 2019 legislation, **the Registry is required to process election finance reports electronically**. This includes entry and processing of the KREF 001 that is to be included with the initial filings with the county clerk. A Notice and Instructions for accessing the Registry’s electronic filing system may be [found here](#).

As stated in this Notice, “[i]n order to comply with the new mandatory electronic filing requirements, **ALL** candidates for office in 2020 must create an account in the Registry’s new electronic filing system and submit their KREF 001 form electronically to the Registry. See KRS 121.120(6)(i) and 121.180(1) & (16).” Please reference and follow the Registry’s instructions and links to complete this process. Access to the Registry’s “EFILE” system can be [found here](#). Note that this requires creation of web-based accounts and filling out and submitting the KREF 001 form electronically to the Registry. Per the Registry’s instructions, once the form is submitted and approved, the candidate should print it out and include it with other papers required to be filed (nominating petition and affidavit) with the county clerk. The candidate should print out an additional copy for his or her files. **Because this process involves submission and approval of the KREF 001 form we recommend that candidates should NOT wait until the last minute to file and should take care of this KREF 001 electronic reporting process well in advance of the June 2 deadline.**

## **Frequently Asked Questions**

**Q: When is the filing deadline and is there a fee?**

**A: The deadline is June 2, 2020 - no later than 4:00 p.m. local time.** A \$20.00 filing fee is due at the time the nominating petition is filed. KRS 118.365(5); KRS 118.255(2); KRS 64.012(1)(t). **The election is scheduled to be held November 3, 2020.**

**Q: What rules apply to the nominating petition?**

**A:** The petition must contain at least two (2) signatures of persons legally qualified to vote for the candidate. This requires signatures of qualified voters residing in the division of the county district seat up for election or within the territorial confines of an independent district where members are elected at-large. In addition to signing, each petitioner must list his or her birth date, date of signature, and residential address for the signature to be counted. The candidate must fill out the information at the outset of the form and sign petition where indicated. The petition must be filed with the county clerk.

**Q: Are there other documents required to be filed with the county clerk?**

**A:** Yes:

1. **“Statement of Spending Intent and Appointment of Campaign Treasurer” (KREF 001).** See above for new electronic reporting requirements. The candidate should follow the detailed instructions comporting with his or her individual circumstances relating to the appointment of the campaign treasurer, listing of campaign depository, and statement of spending intent. In general, based upon 2017 amendments to KRS 121.180 (SB 75), a candidate who intends to raise or spend \$3,000 or less (including the candidate’s own money) in his or her campaign is exempt from pre- and post-election election finance reporting. Candidates are urged to consult the Registry’s website as listed above and to carefully review and follow the instructions contained in the “welcome packet” associated with the level of funds they expect to raise. Detailed reporting as described in these Registry materials and described in governing statutes is required for those candidates who intend to raise and/or spend more than \$3,000 in the election. It is important to note that candidates who qualify for an exemption still are subject to general election finance laws, **some** of which will be described below.
2. **“Affidavit for School Board Candidacy and Membership” (SBE/SOS/06 - 01/18)** This form may be obtained from the county clerk or the Secretary of State , and should be signed, and notarized. A sample may be reviewed at the Secretary of State link listed above. The Affidavit is a sworn statement documenting the candidate meets the eligibility requirements for service on a school board as set forth in KRS 160.180
3. **“[T]ranscript evidencing completion of the twelfth grade or results of a twelfth grade equivalency examination...”** This language was added to KRS 160.180 by SB 101 in the 2018 session of the General Assembly and applies to filing for school board candidacy on or after April 4, 2018. KSBA has previously released [special guidance information on this requirement](#). As is the case with the new electronic KREF 001 reporting process, candidates should not wait to commence efforts to obtain copies of transcripts.

**Q: Are there limits on the acceptable amount of contributions?**

**A:** Yes. Under KRS 121.150(6), school board candidates or their committees cannot accept contributions more than \$2,000 per contributor in any one election. The same limits apply to contributions that individuals or committees who wish to make to a school board campaign. For detailed information on contribution limits, [consult this link](#). Note that there is something of an exception in that under KRS 121.150(22) a married couple may make a contribution via a single check that does not exceed the combined contribution limits of each individual if each spouse signs the check AND designates the amount of each contribution and the election to which each contribution applies in the memo line of the check. KRS 121.150 was amended in 2017 to increase the general contribution limit from any individual, committee or contributing organization from \$1,000 to \$2,000 in any one election.

**Q: Is it permissible for school board candidate campaigns to accept contributions from corporations?**

**A:** No. Kentucky law prohibits corporations, including professional service corporations (PSCs) from contributing to political campaigns. KRS 121.035. Kentucky Constitution, Section 150. Candidates should take care not to accept monetary or in-kind contributions from corporations. Per Registry guidance the corporate prohibition on contributions extends to non-profit corporations, PSCs or any other type of corporate classification or designation.

**Q: Do the contribution limits apply to “independent expenditures”?**

**A:** The definition of independent expenditure includes money of other things of value spent for communication which expressly advocates the election or defeat of a candidate which is made without any coordination, consultation, or cooperation with and which is not made in concert with or at the request or suggestion of the candidate or persons action on his or her behalf. KRS 121.015(12). While contribution limits do not apply to independent expenditures, there are reporting requirements and there can be no coordination with the candidate. This is a complex issue and questions should be directed to the Registry or personal counsel after consulting resources on the Registry’s website.

**Q: What about campaign committees?**

**A:** If a committee is formed to support your candidacy, it must register with and provide to the Registry the information required in KRS 121.170. It is the Committee’s responsibility to initiate contact with the Registry.

**Q: Where may I find the rules relating to campaign advertisements?**

**A:** See KRS 121.190 and resources on the Registry’s website. If advertising is paid for by the candidate or the candidate’s campaign committee it shall be identified only by the words “paid for by” followed by the name of the candidate or the candidate’s committee, whichever is applicable.

**Q: Does this “FAQ” information cover all applicable election finance requirements?**

**A:** No. This resource is intended to provide an overview of several of the most frequently asked questions and links to more in-depth information. In addition to the applicable statutes, and the Registry guidance information described above, candidates should consult the [“FAQ” resource issued by the Registry](#).

**Q: Do Kentucky School Laws impose limitations on school board candidate activities as relates to school district employees?**

**A:** Yes. Under KRS 161.164 school board candidates are prohibited from soliciting or accepting any political assessment, subscription, contribution, or service from an employee of the school district.

**Q: Are there special considerations relating to elections to school board seats in independent school districts?**

**A:** Yes. Because candidates for these seats run at-large confusion may occur when an election for an unexpired term is held during a regular November election. In such case, the district needs to communicate with the county clerk to make sure that the

candidates seeking election to the unexpired term are distinguished on the ballot from those candidates who are seeking election to a full term. In the same vein candidates for seats on independent boards need to indicate to the clerk when they file their papers whether they are running for a full term, or, if an unexpired term is to be filled, whether they are seeking election to the unexpired term. A candidate seeking election to an unexpired term may not this on his or her nominating petition as well.

**Q: Are filing deadlines affected if there is a vacancy soon after the June 2 filing deadline?**

**A:** Check with your board's attorney and your county clerk on this issue. KRS 118.375(2), provides that if a vacancy occurs after the filing deadline but not less than three months before the election, the filling deadline for that seat is extended to the second Tuesday in August. As applied to this year's election cycle, if there is a board vacancy after June 2, and before August 3 (three months before the November 3 election), the deadline is August 11 to file to run for the remainder of the term.

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