

### **325.360 Proceedings for violations of this chapter.**

- (1) The board may conduct investigations of suspected violations of this chapter or the administrative regulations promulgated by the board to determine whether there is probable cause to institute proceedings against any person or firm for any violation under this chapter, but an investigation under this section shall not be a prerequisite to proceedings. In aid of these investigations, the board or its designee may issue subpoenas to compel witnesses to testify and to produce evidence. Subpoenas may be served in person or by certified mail, return receipt requested.
- (2) The board may designate a member, or any other person of appropriate competence, to serve as investigating officer to conduct an investigation. Upon completion of an investigation, the investigating officer shall report to the board. The board shall then find probable cause or lack of probable cause, or it shall request that the investigating officer investigate further. Until there has been a determination of probable cause, the findings of the investigating officer, the testimony and documents gathered in the investigation, and the fact of pendency of the investigation shall be treated as confidential information and shall not be disclosed to any person except law enforcement authorities and, to the extent deemed necessary in order to conduct the investigation, the subject of the investigation, persons whose complaints are being investigated, and witnesses questioned in the course of the investigation.
- (3) Upon a finding of probable cause, the board shall direct that a complaint be issued pursuant to this section setting forth appropriate charges and a date for a hearing that shall be conducted in accordance with KRS Chapter 13B. Upon a finding of a lack of probable cause, the board shall dismiss the matter either with or without prejudice.
- (4) In any case where probable cause has been determined pursuant to this section, the board may request the affected party to informally resolve the matter through mediation or otherwise.
- (5) A person or firm, after having been served with the notice of hearing and complaint as provided for in subsection (3) of this section, shall file a written response within twenty (20) days from the date of service. If the respondent licensee fails to file a timely response or fails to appear at the hearing, the board may hear evidence against the respondent and may enter a final order as shall be justified by the evidence.
- (6) In a hearing under this section, the respondent may appear in person or, in the case of a firm, through a partner, shareholder, or other person with an ownership interest.
- (7) The evidence supporting the complaint shall be presented by the investigating officer, by a board member designated for that purpose, or by counsel. A board member who presents the evidence, or who has conducted the investigation of the matter under this section, shall not participate in the board's decision of the matter.
- (8) In a hearing under this section before the board or in acting upon the recommended order of a hearing officer, a vote of a majority of all members of the board then in office, other than a member disqualified by reason of subsection (7) of this section,

shall be required to sustain any charge and to impose any penalty with respect thereto.

- (9) Any person adversely affected by any order of the board may obtain a review thereof by filing a written petition for review with the Franklin Circuit Court in accordance with KRS Chapter 13B.
- (10) On rendering a final order, the board shall examine its records to determine whether the respondent is authorized or licensed to practice as a certified public accountant in any other state. If the board determines that the respondent is authorized or licensed to practice in any other state, the board shall notify the board of accountancy of the other state of its action by mail within thirty (30) days of rendering the final order.
- (11) The board may exchange information relating to proceedings resulting in disciplinary action against licensees with the boards of accountancy of other states and with other public authorities or private organizations having an interest in the information.

**Effective:** June 26, 2007

**History:** Amended 2007 Ky. Acts ch. 50, sec. 6, effective June 26, 2007. -- Amended 2000 Ky. Acts ch. 99, sec. 11, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 318, sec. 296, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 248, sec. 9, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 285, sec. 10, effective July 13, 1990. -- Amended 1984 Ky. Acts ch. 117, sec. 13, effective July 13, 1984. -- Amended 1980 Ky. Acts ch. 114, sec. 85, effective July 15, 1980. -- Amended 1976 Ky. Acts ch. 116, sec. 12. -- Amended 1974 Ky. Acts ch. 315, sec. 65. -- Created 1946 Ky. Acts ch. 210, sec. 11.