

Statement of Emergency

16 KAR 2:240E

This emergency administrative regulation is being promulgated in order to meet an imminent deadline for the promulgation of an administrative regulation that is established by state statute. During the 2023 legislative session, the General Assembly passed House Bill 319 and the Governor signed it into law on March 31, 2023. This legislation, which is slated to become effective on June 29, 2023, creates an interim certificate and gives the Education Professional Standards Board (EPSB) the authority to promulgate administrative regulations for the issuance of the certificate. As there are only ninety (90) days between the Governor signing this bill into law and its effective date, the ordinary administrative regulation process would not allow the EPSB time to promulgate an ordinary administrative regulation to be effective when the bill goes into effect. Therefore, the emergency regulation is necessary to establish the requirements for issuance of the interim certificate when the bill goes into effect. This emergency administrative regulation will be replaced by an ordinary administrative regulation because the interim certificate is available thru June 30, 2026. The ordinary administrative regulation is identical to this emergency administrative regulation.

Andy Beshear, Governor

Justin Mitchell, Chair
Education Professional Standards Board

1 EDUCATION AND LABOR CABINET

2 Education Professional Standards Board

3 (New Emergency Administrative Regulation)

4 16 KAR 2:240E. Interim Certificate

5 RELATES TO: KRS 161.020

6 STATUTORY AUTHORITY: HB 319 RS 2023

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020(1) requires educators to hold a
8 certificate of legal qualifications for the position, issued by the Education Professional Standards
9 Board (EPSB). Section 8 of HB 319 RS 2023 creates an interim certificate and authorizes the EPSB
10 to promulgate administrative regulations to issue the interim certificate.

11 Section 1. Interim Certificate. (1) A candidate shall be eligible for issuance of the one-year inter-
12 im certificate upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and sub-
13 mission of the following documentation:

14 (a) A bachelor's degree or higher as evidenced by an official transcript from a nationally or re-
15 gionally accredited institution of higher education;

16 (b) Confirmation from an employer of a minimum of four (4) years of work experience in the area
17 in which certification is being sought; and

18 (c) An offer of employment in a Kentucky school district in the area in which certification is be-
19 ing sought.

20 (3) An applicant for certification in the area of career and technical education may substitute an
21 additional four (4) years of work experience in the area in which certification is being sought to meet

1 the requirements of (1)(a) of this section.

2 (4) Work experience shall be considered in the area of certification if it includes the content
3 taught by the certificate.

4 (5) The interim certificate shall be issued for the certification area that aligns with the applicant's
5 work experience and job offer.

6 (6) The interim certificate shall be issued at the rank corresponding to the degree held by the
7 teacher applicant in accordance with the requirements established in KRS 161.1211 and 16 KAR
8 Chapter 8.

9 (7) An interim certificate shall not be valid after June 30, 2026.

10 Section 2. Renewal of the Interim Certificate. (1) A candidate shall be eligible for renewal of the
11 one-year interim certificate upon application to the EPSB, compliance with 16 KAR 2:010, Section
12 3(1), and evidence of employment in a Kentucky school district in the content area or areas indicated
13 on the initial certificate.

14 (2) The interim certificate may be renewed a maximum of two (2) times.

15 (3) The interim certificate shall not be renewed after June 30, 2026.

Date

Justin Mitchell, Board Chair
Education Professional Standards Board

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on August 23, 2023, at 10:00 a.m. in the State Board Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Todd Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky, 40601, phone 502-564-4474, fax 502-564-9321; email regcomments@education.ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

16 KAR 2:240E

Contact Person: Todd Allen, phone 502-564-4474, fax 502-564-9321; email regcomments@education.ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for issuance of the interim certificate.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the procedures for issuance and renewal of the interim certificate.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Section 8 of HB 319 RS 2023 creates an interim certificate and authorizes the EPSB to promulgate administrative regulations to issue the interim certificate.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets the requirements for the issuance and renewal of the interim certificate.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

(b) The necessity of the amendment to this administrative regulation:

(c) How the amendment conforms to the content of the authorizing statutes:

(d) How the amendment will assist in the effective administration of the statutes:

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 171 Kentucky school districts, and individuals pursuing the interim certificate.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Applicants for the interim certificate will have to submit the application and documentation required in the regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no fee established by the Education Professional Standards Board in this regulation and there is no fee for the issuance of a one-year certificate.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Compliance will result in issuance of the interim certificate for interested applicants. Districts will be able to hire holders of the interim certificate as a teacher of record.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There will be cost associated with the review and processing of applications for the interim certificate. At this time, it is unknown how many will pursue the certificate, so the cost is unknown.

(b) On a continuing basis: There will be continuing costs with the review and processing of the applications for the interim certificate, but it is unknown how many will pursue this certificate.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: General Fund and certification fees collected pursuant to 16 KAR 4:040.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: At this time, it is not expected that an increase in fees or funding will be necessary for the Education Professional Standards Board to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: Certification fees are established by 16 KAR 4:040. No additional fees are established by this regulation.

(9) TIERING: Is tiering applied? Tiering is not applicable to the requirements of this regulation as all applicants are required to meet the requirements of the certificate sought.

FISCAL NOTE

16 KAR 2:240E

Contact Person: Todd Allen, phone 502-564-4474, fax 502-564-9321; email regcomments@education.ky.gov

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Education Professional Standards Board and public-school districts.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. HB 319 RS 2023.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation is not expected to generate any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation is not expected to generate any revenue.

(c) How much will it cost to administer this program for the first year? There will be costs associated with the review and processing of applications, but it is unknown how many will pursue this certificate.

(d) How much will it cost to administer this program for subsequent years? There will be costs associated with the review and processing of applications, but it is unknown how many will pursue this certificate.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: At this time, it is unknown how many will pursue the interim certificate. It is anticipated that the current staff will be able to review and process the additional applications.

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated enti-

ties for the first year? None anticipated.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? None anticipated.

(c) How much will it cost the regulated entities for the first year? There are no costs created by this amendment.

(d) How much will it cost the regulated entities for subsequent years? There are no costs created by this amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation: As this is a new certificate it is unknown how many applicants will pursue the interim certificate.

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] There is not an expected major economic impact from this regulation as it does not create costs for the regulated entities and the cost to the Education Professional Standards Board are expected to be minimal.