Andy Beshear Governor



Jason E. Glass, Ed.D. Commissioner of Education and Chief Learner

KENTUCKY DEPARTMENT OF EDUCATION 300 Sower Boulevard • Frankfort, Kentucky 40601 Phone: (502) 564-3141 • www.education.ky.gov



Mary Pat Regan

Acting Secretary, Education and

Workforce Development Cabinet

January 6, 2022

Senator Stephen West, Co-Chair Representative David Hale, Co-Chair c/o Emily Caudill, Regulation Compiler Administrative Regulation Review Subcommittee Legislative Research Commission 029, Capitol Annex Frankfort KY 40601

Re: 16 KAR 1:030. Procedures for educator certificate surrender, revocation, suspension, reinstatement, and reissuance, and for application denial.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 16 KAR 1:030, the Education Professional Standards Board proposes the attached amendment to 16 KAR 1:030.

Sincerely,

Cassie L. Trueblood Policy Advisor and Special Counsel

Suggested Amendment Education and Workforce Development Cabinet Education Professional Standards Board

16 KAR 1:030. Procedures for educator certificate surrender, revocation, suspension, reinstatement, and reissuance, and for application denial.

Page 1

NECESSITY, FUNCTION, & CONFORMITY

Line 10

After "certificate", insert semicolon. Delete the following: . The EPSB is authorized to

Line 11

After "renew", insert "<u>a certificate</u>". After "conditions upon", insert "<u>a certificate</u>".

Page 3

Section 2(2)(d)

Line 3

After "within", insert "<u>thirty (30)</u>". Delete "30".

Page 4

Section 2(4)(c)

Line 20

After "at any time", insert ", in accordance with KRS 161.120(8)".

Page 5

Section 3(3)

Line 6

After "hearing", insert ", in accordance with KRS 161.120(5)(b)".

Page 7

Section 5(5) Line 1 After "NASDTEC Clearinghouse", insert "<u>, which</u>". Delete the following: . The clearinghouse

Page 7

Section 6(1) Line 5 After "218A.010", insert the following: shall be subject to the following requirements: Delete the period.

Page 8 Section 6(2) Line 4

After "218A.010", insert the following: shall be subject to the following requirements:

Delete the period.

Page 10 Section 9(1) Line 14 After "(1)", insert the following: <u>In accordance with KRS 161.120(9)</u>, Lowercase "The". After "modify", insert comma.

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KENTUCKY PERSONNEL BOARD

1025 Capital Center Drive, Suite 105 Frankfort, Kentucky 40601 Phone (502) 564-7830

Fax (502) 695-5799

http://personnelboard.ky.gov www.kentucky.gov

Mark A. Sipek **Executive Director and Secretary**

> **Stafford Easterling** General Counsel

January 7, 2022

Ms. Emily Caudill, Regulations Compiler Legislative Research Commission 029, Capitol Annex 702 Capitol Avenue Frankfort, Kentucky 40601

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 101 KAR 1:335, 101 KAR 1:345, 101 KAR 1:365, 101 KAR 1:367, 101 KAR 1:375, 101 KAR 1:395, and 101 KAR 1:400, the Personnel Board proposes the suggested attached substitutes for the 101 regulations as stated.

Sincerely.

Mark A. Sipek **Executive Director** Personnel Board



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Andy Beshear Governor

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GENERAL GOVERNMENT CABINET Personnel Board

101 KAR 1:335. Employee actions.

RELATES TO: KRS 18A.075(1)[, 18A.0751(1), (4)][, 18A.115(4)]

STATUTORY AUTHORITY: KRS 18A.075, 18A.0751(1), (4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.075(1) requires the Personnel Board to promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 **through[te]** 18A.200. KRS 18A.0751(1) and (4) require the Personnel Board to promulgate administrative regulations for the classified service governing demotion, transfer, reinstatement, [reemployment,] and discipline. [KRS 18A.115(4) establishes requirements governing the promotion of a career employee to a position exempted from classified service.] This administrative regulation establishes the method for determining an employee's work station, the requirements governing a demotion, transfer, or reinstatement of an employee, and requirements relating to written reprimands.

Section 1. [Definition. "Class series" means a group of positions that are similar as to the duties performed and have:

(1) Varying levels of:

(a) Discretion;

(b) Responsibility; and

(c) Minimum requirements of training, experience, or skill; and

(2) Schedules of compensation that are commensurate with minimum requirements. Section 2.] Work Station.

(1) The official work station of an employee assigned to an office shall be the street address where the office is located.

(2) The official work station of a field employee shall be that address to which the employee is assigned at the time of appointment to the employee's current position.

(3) Except as <u>established[provided]</u> by Sections <u>2</u>, 3, <u>and</u> 4[, and 5] of this administrative regulation, an appointing authority may assign an employee to work at a site other than his or her <u>current</u> work station if the:

(a) Site is within the employee's county of employment; and

(b) Assignment is not a transfer, demotion, or reinstatement.

Section 2.[Section 3.] Demotion. (1) A demotion for cause shall be intra-agency.

(2) Voluntary demotion.

(a) A voluntary demotion shall be made if an employee with status requests a voluntary demotion on the Voluntary Transfer/ Demotion/ <u>Promotion Employee</u> [Salary Retention] Agreement Form <u>incorporated by reference</u> [prescribed] by the Personnel Cabinet in 101 KAR 2:034.

(b) The form shall include:

1. [A statement of the reason for the request;

2.] The effective date of the demotion;

2.[3.] The position from which the employee requests demotion;

3.[4.] The position to which the employee will be demoted;

<u>4. The pay grade, salary, and work week for the position to which the employee will be de-</u> moted; and

5. A statement that the employee waives the right to appeal the demotion.

(c) The agency shall forward a copy of the <u>form</u> [request] to the <u>Personnel Cabinet</u> Secretary [of Personnel].

(3) A voluntary demotion shall be interagency or intra-agency.

<u>Section 3.[Section 4.]</u> Transfers. (1) The transfer of an employee with status shall conform to the requirements established in this section.

(2)(a) A transfer shall be on a voluntary or involuntary basis.

(b) An appointing authority shall establish <u>cause</u> [a reasonable basis] for selecting an employee for involuntary transfer.

(c) If an employee has not requested a transfer in writing, a transfer shall be deemed involuntary.

(3) Involuntary transfer, same county.

(a) Prior to the effective date of an involuntary transfer to a position with a work station in the same county, an employee shall receive a written notice of involuntary transfer.

(b) The notice shall:

1. Indicate that the employee:

a. Has been selected for transfer; and

b. Is required to report to the new work station; and

2. State the:

a. New work station;

b. Reason for the transfer;

c. Effective date of the transfer; and

d. Right of the employee to appeal the transfer to the board within sixty (60) <u>calendar</u> days of receipt of the notice of involuntary transfer, excluding the date the notice is received.

(c) A copy of the notice shall be forwarded to the <u>Personnel Cabinet</u> Secretary [of Personnel].

(d) An employee shall report to the new work station upon the date *stated[specified]* in the notice.

(4) Involuntary transfer, out of county. If an involuntary transfer is to a position with a work station in a different county:

(a) An employee shall be entitled to travel [and moving] expenses as <u>established[provided]</u> by 200 KAR 2:006;

(b) An employee shall receive a written notice of involuntary transfer at least thirty (30) <u>calen-</u> <u>dar</u> days prior to the effective date of the transfer; <u>and</u>

(c) The notice shall contain:

1. The information established [specified] in subsection (3)(b) of this section; and

2. A statement that the employee is entitled to[:-a.] reimbursement of travel expenses incurred [within] thirty (30) <u>calendar</u> days <u>following [of]</u> the effective date of the <u>transfer</u> [notice; and

b. Moving expenses, if any].

(5) An involuntary transfer shall be intra-agency.

(6) Voluntary transfer.

(a) Prior to a voluntary transfer, an employee with status shall request a voluntary transfer on the Voluntary Transfer/ Demotion/ <u>Promotion Employee</u> [Salary Retention] Agreement Form <u>in-</u> <u>corporated by reference</u> [prescribed] by the Personnel Cabinet <u>in 101 KAR 2:034</u>.

(b) The form shall include:

1. [A statement of the reason for the request;

2.] The effective date of the transfer;

<u>2.[3.]</u> The position <u>number and job classification</u> [, including identifying number,] from which the employee requests a transfer;

<u>3.[4.]</u> The position <u>number and job classification</u> [, including identifying number,] to which the employee requests a transfer;

<u>4. The pay grade, salary, and work week for the position to which the employee will be trans</u>ferred; and

5. A statement that the employee waives the right to appeal the transfer.

(c) The agency shall forward a copy of the <u>form</u> [request] to the <u>Personnel Cabinet</u> Secretary [of Personnel].

(7) A voluntary transfer shall be interagency or intra-agency.

<u>Section 4.[Section 5.]</u> Reinstatement. (1) A request for reinstatement shall be submitted by the appointing authority to the <u>Personnel Cabinet</u> Secretary [of Personnel].

(2) The request shall include a finding that the candidate for reinstatement:

(a) Meets the current qualifications for the job classification to which the employee is being reinstated; and

(b) Has previously held status at that grade level or higher.

(3) If the reinstatement is to a <u>job</u> classification outside of the <u>job</u> classification [series] where the employee has previously held status, the candidate shall pass the appropriate examination, **<u>if applicable</u>**, prior to reinstatement.

(4) The request for reinstatement shall contain a copy of the board's order ordering reinstatement, if applicable.

<u>Section 5.[Section 6.]</u> Written Reprimand. (1) An employee or former employee may petition the Personnel Cabinet Secretary for removal of a written reprimand and all related documentation from the employee's official personnel file after a period of three (3) years <u>from the date of the written reprimand</u>.

(a) An employee's request shall not be granted if the employee has received any disciplinary action or written reprimand in the three (3) years prior to the request for removal.

(b) A petition for removal shall:

1. Be made by the employee [,] and be dated and signed; and

2. Include[*the following information*]:

a. The employee's current position <u>number</u>, job classification, agency, work phone number, and work address;

b. The employee's immediate supervisor at the time of the petition for removal;

c. The date the written reprimand was issued;

d. A statement by the employee that the employee has not received any disciplinary actions or written reprimands in the three (3) years prior to the petition; and

e. A statement that the information contained in the petition is correct and complete to the best of the employee's knowledge, and that the employee has provided <u>notification</u> [a copy] of the petition to the employee's current appointing authority.

(c) The petition for removal shall be mailed by first-class mail, [or] hand-delivered to the office of the Personnel Cabinet Secretary, or submitted electronically as **allowed**[permitted] by the Personnel Cabinet Secretary.

(2) A petition for removal of a written reprimand shall be <u>approved by[subject to the ap-</u> proval of] the Personnel Cabinet Secretary <u>before the reprimand removal.</u>

(a) The Personnel Cabinet Secretary shall approve or deny the petition for removal within thirty (30) <u>calendar</u> days of receipt of the petition.

(b) If the petition is denied, the Personnel Cabinet Secretary shall notify the employee in writing and provide justification for denial. The decision by the secretary with respect to the petition shall be final and not appealable to the Personnel Board.

(c) If the petition is approved, the Personnel Cabinet Secretary shall notify the employee and the appointing authority of the employee's agency in writing of the approval.

(3) Upon removal from an employee's official personnel file maintained by the Personnel Cabinet, a written reprimand shall be handled as established in this subsection.

(a) The written reprimand shall be delivered to the Office of Legal Services and remain in the custody and care of the Office of Legal Services.

(b) The Office of Legal Services shall maintain the <u>written reprimand</u> [document] as confidential work-product materials for the availability or use in any future legal proceeding.

(c) If no legal proceeding involving the employee's personnel file has been filed within five (5) years of receipt, the written reprimand shall be permanently destroyed.

(d) Upon removal from the official personnel file, but prior to destruction, a written reprimand shall not be considered as part of any personnel action.

(e) The employing agency shall be notified by the Personnel Cabinet of the removal of a written reprimand from an employee's official personnel file.[

Section -7. Incorporation by Reference. (1) "Voluntary Transfer/Demotion/ Salary Retention Agreement Form", March 2011, Personnel Cabinet, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Cabinet, State Office Building 501 High Street, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]

CONTACT PERSON: Stafford Easterling General Counsel, Personnel Board, 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky 40601, phone (502) 564-7830, fax (502) 695-5799, email stafford.easterling@ky.gov.

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GENERAL GOVERNMENT CABINET Personnel Board

101 KAR 1:345. Disciplinary actions.

RELATES TO: KRS 18A.020, 18A.075, 18A.0751, 18A.095, 29 U.S.C. 201

STATUTORY AUTHORITY: KRS <u>18A.075 (1)</u> [Chapter 13A], 18A.0751

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.075 requires the Personnel Board to promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 **through[te]** 18A.200. KRS 18A.0751 **requires[specifies-that]** the Personnel Board **to** promulgate comprehensive administrative regulations for the classified service governing dismissals, suspensions, fines, and other disciplinary measures. This administrative regulation **es-tablishes[describes]** conditions for instituting disciplinary measures and the manner of notification. [KRS 18A.095 relates specifically to dismissals, suspensions and other penalizations. KRS 18A.020 relates, in part, to written reprimands. This administrative regulation will replace 101 KAR 1:340 which includes repetition of statutory language which is being repealed.]

Section 1. General Provision. Appointing authorities may discipline employees for lack of good behavior or the unsatisfactory performance of duties.

Section 2. Dismissal. (1) The notice required by KRS 18A.095(6) and (7) may be combined *if[provided]* all requirements *of this administrative regulations* are satisfied.

(2) When the employee is notified, copies of the notice of intent to dismiss and the notice of dismissal or other penalization shall be forwarded to the [Commissioner of] Personnel Cabinet Secretary [on the same date notice is delivered to the employee].

Section 3. Demotion. When the employee is notified, copies of the notice of demotion shall be forwarded to the [Commissioner of] Personnel Cabinet Secretary [on the same date notice is delivered to the employee].

Section 4. Suspension. (1) A suspension shall not exceed thirty (30) working days.

(2) An employee <u>on initial probation</u> [without status] may also be suspended for a period not to exceed thirty (30) days and shall be entitled to the same provisions of notice contained in KRS 18A.095(8) with the exception of the right of appeal.

(3) When the employee is notified, copies of the notice of suspension shall be forwarded to the [Commissioner of] Personnel Cabinet Secretary [on the same date notice is delivered to the employee].

Section 5. Disciplinary Fine. (1) A disciplinary fine shall not exceed ten (10) days' pay. The fine shall be computed on the basis of the employee's current salary. The fine shall not conflict with

requirements of the Fair Labor Standards Act of 1938, 29 U.S.C. 201, or other minimum wage reguirements established by legislative or executive authority.

(2) Prior to imposition of a disciplinary fine, the employee shall be notified <u>in writing of the</u> <u>amount of the fine</u> by the appointing authority [in writing of the amount of the fine].

(3) An employee <u>on initial probation</u> [without status] may also be fined for a period not to exceed ten (10) days and shall be entitled to the same provisions of notice contained in KRS 18A.095(8) with the exception of the right of appeal.

(4) When the employee is notified, copies of the notice of disciplinary fine shall be forwarded to the [Commissioner of] Personnel Cabinet Secretary [on the same date notice is delivered to the employee].

Contact person: Stafford Easterling General Counsel, Personnel Board, 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky 40601, phone (502) 564-7830, fax (502) 695-5799, email stafford.easterling@ky.gov.

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GENERAL GOVERNMENT CABINET Personnel Cabinet

101 KAR 1:365. Appeal and hearing procedures.

RELATES TO: KRS Chapter 13B, 18A.075, 18A.0751, 18A.095, <u>344.030</u> STATUTORY AUTHORITY: KRS <u>13</u>B.170, 18A.075, 18A.0751

NECESSITY, FUNCTION, AND CONFORMITY: <u>KRS 13B.170 authorizes an agency to promulgate administrative regulations to carry out the provisions of KRS Chapter 13B and enact administrative hearing procedures.</u> KRS 18A.075 *requires[provides that]* the Personnel Board *to[shall]* promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 *through[te]* 18A.200. KRS 18A.0751 *requires[provides that]* the Personnel Board *to[shall]* promulgate comprehensive administrative regulations providing for the procedures to be utilized by the board in the conduct of hearings. This administrative regulation establishes Personnel Board hearing procedures.

Section 1. Definitions. (1) "Because of sex" or "on the basis of sex" is defined by KRS 344.030(8).

(2) "Qualified individual with a disability" is defined by KRS 344.030(1).

(3) "Reasonable accommodation" is defined by KRS 344.030(6).

(4) "Religion" is defined by KRS 344.030(7).

(5) "Undue hardship" is defined by KRS 344.030(9).

Section 2. An appeal of an action alleged to be based on discrimination shall be governed by the terms defined in Section 1 of this administrative regulation.

Section 3. Filing. (1) An appeal or a document relating to an appeal shall be filed with the Personnel Board through the office of the executive director within the time period <u>estab-</u><u>lished[set forth]</u> in KRS 18A.095[after receiving notification of the penalization or after becoming aware of the penalization through the exercise of due diligence].

(2)(a) An appeal, motion, request, objection, exception, response, witness list, or other document may be filed by a party with the board by means of facsimile transmission <u>or other electronic means including email</u>.

(b) If a party transmits a document to the board by facsimile transmission <u>or other electronic</u> <u>means</u>, <u>the party[they]</u> [he] shall attempt to transmit the document to all parties by <u>the same</u> <u>method</u> [facsimile transmission].

(3) To be timely filed, a document transmitted by facsimile <u>or other electronic means</u> shall be received by the board within the statutory or regulatory times <u>established[specified]</u> for filing and be received by the board no later than midnight on the last day for filing.

(4) The <u>submission of an</u> original <u>copy</u> of a facsimile transmission <u>or email</u> shall <u>not be re-</u> <u>quired</u>, <u>unless</u> <u>requested[upon request]</u>. (5)[be received by the Personnel Board no later than three (3) business days after transmission or the document transmitted shall be voided unless good cause is shown.

(5) The date of filing of a document filed by facsimile transmission shall be the date the original of the document was received by the board, if the board fails to receive the facsimile transmission.

(6)] A state employee shall not use state time, equipment, materials, or personnel in pursuing an appeal without the advance written permission of an appointing authority in their employing agency.

(6)[(7)] An appeal shall be heard in <u>Franklin County</u>[Frankfort], Kentucky.

Section 4. Designation of Hearing Officer. (1) Unless otherwise directed by the board, the executive director shall assign a hearing officer or officers to an appeal.

(2) If more than one (1) hearing officer is assigned, one (1) shall be designated as chief hearing officer.

(3) If an appeal will be heard by the full board, [the chairman of] the board shall designate a [serve as the] chief hearing officer.

Section 5. Continuances. (1) A continuance of a scheduled hearing may be granted by a hearing officer for good cause.

(2) <u>The hearing officer **shall have[has]**</u> the discretion to require that a request for continuance **shall[must]**[A request for a continuance shall]:

(a) Be written;

(b) State the reason for the request;

(c) Include proposed dates for rescheduling the hearing; and

(d) Be filed with the board.[;] [and

(e) Be mailed to all parties at least ten (10) days prior to the scheduled hearing.]

(3) The hearing officer shall have[has] the discretion to require that any objection to a re-

guest for continuance shall[must][An objection to a request for a continuance shall]:

(a) Be written;

(b) State the reason for the objection to the request for continuance; and

(c) Be filed with the board.[; and

(d) Be mailed to all parties at least five (5) days prior to the scheduled hearing.]

(4)(a) At the direction of the hearing officer, the executive director <u>may/shall</u>] execute and transmit to all parties an interim order either granting or denying the request for continuance.

(b) If the request for continuance is granted, the interim order shall state the date on which the hearing has been rescheduled or that the hearing has been continued generally.

Section 6. Prehearing Procedures. (1) A motion, request, or filing shall be in writing, filed with the board through the office of the executive director, and served on all parties.

(2) Unless an interim order provides for review by the board prior to the conclusion of a hearing, <u>which shall only be granted at the sole discretion of the hearing officer</u>, the board shall review an interim order when it considers the recommended order, record, and exceptions.

(3) If an employee retains counsel subsequent to filing <u>an</u> [his] appeal, <u>that[their]</u> [his] attorney <u>may be required to[shall]</u> file a written entry of appearance.

(4) An employee shall notify all parties and the board in writing of a change of address.

(5)(a) A Kentucky Personnel Board subpoena form shall be available in the office of the executive director and shall be issued by the executive director.

(b) Preparation and service of the subpoena and compliance with the subpoena shall be the responsibility of the party requesting the subpoena.

(6) A deposition may be taken in an extraordinary circumstance and upon authorization by the hearing officer. A request to take a deposition shall be filed at least fifteen (15) <u>calendar</u> days prior to the scheduled hearing. An objection to the request shall be filed prior to the scheduled hearing.

(7) <u>At the discretion of the</u> [Upon agreement of all parties and approval by the] hearing officer, two (2) or more appeals <u>that</u> [which] involve the same or similar facts may be consolidated. Upon motion of a party, or upon <u>the hearing officer's[their][his]</u> own motion, the hearing officer may join other parties as necessary to appropriately consider the matter.

(8) An agreed settlement shall be submitted in writing for review by the Personnel Cabinet Secretary and final action by the board.

Section 7. Conduct of Hearing. (1) Unless the appeal is heard by the full board, the hearing officer assigned shall hear the appeal.

(2) A party shall provide <u>at least</u> four (4) copies of an exhibit that is to be introduced as evidence. <u>The parties may exchange documents through appropriate electronic means, including email.</u> The hearing officer shall have the discretion to appropriately fashion the evidentiary record at all times. [Copies shall be prepared prior to the hearing.]

Section 8. Board Review and Action. (1) A response to a written exception to a recommended order may be filed by a party within <u>fifteen (15)</u> [five (5)] <u>calendar</u> days after the date the written exception is filed with the board. A response shall be:

(a) In writing; and

(b) Served on all parties.

(2) At the request of a party or on its own motion, the board may permit oral arguments before the full board. A request for oral argument shall be:

(a) In writing; and

(b) Filed with the board within fifteen (15) days of issuance of a recommended order.

(3) A final order shall be prepared, executed, and entered at the direction of the board by the secretary to the board.

Section 9. Incorporation by Reference. (1) The following forms are incorporated by reference:

(a) "Kentucky Personnel Board Appeal Form (1-[/]2018)"; and

(b) "Kentucky Personnel Board Subpoena Form (2-[/]90)".

(2) These forms may be inspected, copied, or obtained at the office of the Personnel Board, 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: Stafford Easterling General Counsel, Personnel Board, 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky 40601, phone (502) 564-7830, fax (502) 695-5799, email stafford.easterling@ky.gov. .

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GENERAL GOVERNMENT CABINET Personnel Board

101 KAR 1:367. Standards of conduct and technology governing <u>recording</u> [electronic media and still photography coverage of] board proceedings.

RELATES TO: KRS 18A.075, 18A.0751, 18A.095

STATUTORY AUTHORITY: KRS Chapter 13A, 18A.0751

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.075 requires the Personnel Board to promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 *through[to]* 18A.200. KRS 18A.0751 *requires[specifies that]* the Personnel Board *to* promulgate comprehensive administrative regulations provisions for the procedures to be utilized by the board in the conduct of hearings. This administrative regulation *establishes provisions for[will govern any and all]* recordings [the use of electronic media and still photography coverage] of [board] Personnel Board proceedings.

Section 1. Equipment, [and] Personnel, [-] and Location. (1) The Personnel Board, its hearing officers, and staff may[shall have the discretion to] determine the appropriate and permissible:

(a) [(1) The appropriate and permissible] Equipment used for recording Personnel Board proceedings;

(b) [(2) The appropriate and permissible] Personnel allowed to record Personnel Board proceedings; and

(c) Location or locations[(3) The appropriate and permissible location(s)] for the equipment and personnel allowed to record Personnel Board proceedings.

(2) The Personnel Board, its hearing officers, and staff *shall operate so as[may use the discretion afforded them primarily]* to ensure that the process of recording Personnel Board proceedings does not produce distracting sound or light, which would unduly disrupt the orderly conduct of those proceedings.[(1) Not more than one (1) portable television camera (film camera – sixteen (16) mm sound on film (self-blimped) or video tape electronic camera), operated by not more than one (1) camera person, shall be permitted in any board proceeding. Not more than two (2) television cameras, operated by not more than one (1) camera person each, shall be permitted in any meeting of the board.

(2) Not more than one (1) still photographer, utilizing not more than two (2) still cameras with not more than two (2) lenses for each camera and related equipment for print purposes shall be permitted in any board proceeding.

(3) Not more than one (1) audio system for radio broadcast purposes shall be permitted in any board proceeding. Audio pickup for all media purposes shall be accomplished from existing audio systems present in the hearing room. If no technically suitable audio system exists in the hearing room, microphones and related wiring essential for media purposes shall be unobtrusive and shall be located in places designated in advance of any proceeding by the presiding hearing officer.

(4) Requests for coverage, which need not be in any particular form, shall be made to the presiding hearing officer. Subject to the provisions of subsection (5) of this section, approval of such requests shall be regarded as approval of coverage for the print (photographs) or broadcast (radio and television) media generally.

(5) Any "pooling" arrangements among the media required by these limitations on equipment and personnel shall be the sole responsibility of the media without calling upon the hearing officer to mediate any dispute as to the appropriate media representative or equipment authorized to cover a particular proceeding. In the absence of advance media agreement on disputed equipment or personnel issues, the hearing officer shall exclude all contesting media personnel from a proceed-ing.

Section 2. Sound and Light Criteria. (1) Only television photographic and audio equipment which does not produce distracting sound or light shall be employed to cover board proceedings. Specifically, such photographic and audio equipment shall produce no greater sound or light, when such equipment is in good working order than the following equipment:

(a) Ikegami	HL-74A, HL-53, HL-77, HL-33,
	HL-34, HL-35, HL-51, HL-79,
	HL-78A, HL-79A, HL-79D, ITC-
	350, ITC-240
(b) RCA	TK76, TK78
(c) Sony	DXC-1600 Trinicon, BVP-200,
	BVP- 3000, DXC-1640
(d) ASACA	ACC-2006
(e) Hitachi	SK80, SK90
(f) Hitachi	FP-3030, FP3060A, FP-205, FP-
	4 05, GP7
(g) Philips	LDK-25
(h) Sony BVP-	ENG Camera
200	
(i) Fernseh	Video Camera
(j) JVC-8800u	ENG Camera
(k) AKAI	CVC-150, VTS-150
(I) Panasonic	WV-3085, NV-3085, AK-750,
	WV-3800
(m) JVC	GC-4800u, KY-2000

No artificial lighting device of any kind shall be employed in connection with the television camera.

(2) Only still camera equipment which does not produce distracting sound or light shall be employed to cover judicial proceedings. Specifically, such still camera equipment shall produce no greater sound or light than a thirty-five (35) mm Leica "M" Series Rangefinder camera, including blimped still reflect cameras, e.g., Nikon F2 or F3, which meet this sound and light criteria. No artificial lighting device of any kind shall be employed in connection with a still camera.

(3) It shall be the affirmative duty of media personnel to demonstrate to the hearing officer adequately in advance of any proceeding that the equipment sought to be utilized meets the sound and light criteria enunciated herein. A failure to obtain advance approval for equipment shall preclude its use in any proceeding.

Section 3. Location of Equipment Personnel. (1) Television camera equipment shall be positioned in such location in the hearing room as shall be designated by the hearing officer. The area designated shall provide reasonable access to coverage. If areas remote from the hearing room which permit reasonable access to coverage are provided, all television camera and audio equipment shall be positioned only in such area. Video tape recording equipment which is not a component part of a television camera shall be located in an area remote from the hearing room.

(2) A still camera photographer shall position himself in such location in the hearing room as shall be designated by the hearing officer. The area designated shall provide reasonable access to coverage. Still camera photographers shall assume a fixed position within the designated area and, once a photographer has established himself in a shooting position, he shall act so as not to call at-

tention to himself through further movement. Still camera photographers shall not be permitted to move about in order to obtain photographs of board proceedings.

(3) Broadcast media representatives shall not move about the hearing room while proceedings are in session, and microphones or taping equipment once positioned as required by Section 1(3) of this administrative regulation shall not be moved during the proceeding.]

<u>Section 2.[Section 4.]</u> Movement During Proceedings. <u>At the discretion of the board, recording</u> [News media photographic or audio] equipment shall not be placed in or removed from the hearing room except prior to commencement or after adjournment of proceedings each day, or during a recess. [Neither television film magazines nor still camera film or lenses shall be changed in the hearing room except during a recess in the proceeding.

Section 5. Hearing Room Light Sources. With the concurrence of the hearing officer, modifications and additions may be made in light sources existing in the hearing room, provided such modifications or additions are installed and maintained without public expense.]

<u>Section 3.[Section 6.]</u> Conferences of Counsel. To protect the attorney-client privilege and the effective right to counsel, there shall be no audio pickup or broadcast of conferences <u>that</u> [which] occur in the hearing room between attorneys and their clients, between co-counsel of a client, or between counsel and the hearing officer held at the bench.

<u>Section 4.[Section 7.]</u> Use of Media Material. <u>Unless specifically **allowed[permitted]** by the board, none of the <u>recordings [film, video tape, still photographs or audio reproductions]</u> developed during or by virtue of coverage of a board proceeding shall be admissible as evidence in the proceeding out of which it arose, any proceeding subsequent or collateral thereto, or upon any rehearing or appeal of **<u>the[such]</u>** proceedings.</u>

<u>Section 5.[Section 8.]</u> Confidentiality. (1) In order to protect the legally recognized interests in confidentiality of individuals, any party may move to exclude electronic media or still photographers from the hearing room during all or any portion of a hearing. [The hearing officer shall not unreasonably refuse such a request.]

(2) The hearing officer, on <u>the hearing officer's[their][his]</u> own motion, may exclude electronic media or still photographers from the hearing room during all or a portion of a hearing[*in* their][his][sound discretion].

<u>Section 6.[Section 9.]</u> <u>Applicability[Board Meetings]</u>. <u>(1)</u> This administrative regulation shall apply to <u>all Personnel Board proceedings[meetings of the full board</u>].

(2) If[Where] this administrative regulation is to be applied to a meeting of the full board, <u>the</u> discretion afforded the board [any function of the hearing officer] as <u>established in this adminis</u>-<u>trative regulation[set out herein]</u> shall be <u>exercised</u> [performed] by the <u>chair or vicechair[chairman or vice-chairman]</u> of the board or, in <u>the[their]</u> absence <u>of the chair or vicechair</u>, the member of the board who is moderating the board meeting.

(3) If[Where] this administrative regulation is to be applied to any other Personnel Board proceeding, the discretion afforded the board as **established in this administrative regulation**[set **out herein**] shall be exercised by the hearing officer **or**[**and/or**] member of Personnel Board staff.

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GENERAL GOVERNMENT CABINET Personnel Board

101 KAR 1:375. Employee grievances and complaints.

RELATES TO: KRS 18A.075, 18A.0751, 18A.095[, 18A.095]

STATUTORY AUTHORITY: KRS 18A.075[Chapter 13A], 18A.0751

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.075 and 18A.0751 requires the Personnel Board to adopt comprehensive administrative regulations consistent with the provisions of KRS 18A.005 **<u>through[te]</u>** 18A.200. KRS 18A.0751(1)(i) requires the Personnel Board to promulgate an administrative regulation governing employee grievances and complaints. This administrative regulation establishes the requirements governing employee grievances and complaints.

Section 1. <u>Definition. "Grievance" means[Definitions; Grievance. A grievance</u> <u>is]</u>[Definition. "Grievance" means] a complaint filed by an employee <u>that[which]</u> concerns some aspect of <u>the employee's[their]</u> [his or her] conditions of employment:

(1) Over which the[their][the employee's] cabinet or agency has control;[-] and

(2) **That[Which]** has occurred, or of which the employee has become aware[$_7$] through the exercise of due diligence, [$_7$] within thirty (30) days prior to filing.

Section 2. General Provisions. (1) An employee in the classified service who believes that <u>they</u> <u>have[he or she has]</u> been subjected to unfair or unjust treatment concerning <u>the employ-</u> <u>ee's[their]</u> conditions of employment may file a grievance. <u>A grievance shall be</u> in accordance with this <u>administrative regulation[procedure][administrative regulation]</u>.

(2) A grievance concerning an action <u>that</u> [which] is appealable directly to the board pursuant to KRS 18A.095 may also be filed with the cabinet or agency. The filing of a grievance with the cabinet or agency shall not:

(a) [: (a)] Prohibit the employee from also filing an appeal with the board;[;] or

(b)[(b)] Extend the statutory appeal period.

(3) An employee <u>utilizing *the[this]*</u> procedure <u>established in this administrative regulation</u> shall be entitled to file a grievance without interference, coercion, discrimination, or reprisal.

(4) An appointing authority shall inform its employees of the provisions of this administrative regulation [r] or any modifications in the levels of review that have been approved by the Personnel Board for the employee's cabinet or agency pursuant to Section 4(3)(4)) of this administrative regulation.

[(5)(a) The Personnel Cabinet shall provide to the employees, through the appointing authorities, a grievance form to be used for the filing a grievance.

(b) "Grievance Form (Revised October 2011)" is incorporated by reference.

(c) This form may be inspected, copied, or obtained at the Personnel Board, 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m., Monday through Friday.] Section 3. Procedures. (1) A grievance shall be filed <u>on a Grievance Form</u> [on a Grievance Form] with an employee's immediate supervisor within thirty (30) days following occurrence or the employee becoming aware, through the exercise of due diligence, of the action that is the subject of the grievance. If the action or conduct of the first line supervisor is the basis of an employee's grievance, the grievance may be filed with the second line supervisor.

(2) An employee shall state in writing the basis of <u>the employee's[their]</u>[the] grievance or complaint together with the corrective action desired. If an employee wishes to submit additional information or documentation, <u>the employee[they]</u> [the employee] may attach it to the Grievance Form.

(3) If a grievance is filed that alleges discrimination on the basis of race, color, religion, national origin, sex, disability, or age forty (40) or over, the recipient of this grievance shall immediately notify the cabinet or agency EEO coordinator to comply with the affirmative action plan.

(4) Interviews to evaluate or investigate the grievance outside of normal work hours with the grievant or other employees shall entitle *employee participants[them]* to compensatory time.

(5) Interviews to evaluate or investigate the grievance held with the grievant or other employees shall not require the use of leave time.

(6) Parties may have a representative present at each step of the grievance procedure.

Section 4. Grievance Levels. (1) Except as provided by Section 3(1) of this administrative regulation, the immediate supervisor shall, upon investigation, issue findings and a decision in writing to the employee within ten (10) work days after receipt of the grievance. If the responding supervisor is unable to resolve the complaint to the satisfaction of the employee, the employee may request review of the grievance, *which shall be requested* within five (5) work days of receipt of the decision by the next appropriate level.

(2) The next line supervisors shall each have five (5) work days to respond to the grievance. The employee **<u>shall have[has]</u>**[shall have] five (5) work days after each intermediate supervisory review to decide to appeal the grievance to the next level.

(3) If the line supervisors are unable to resolve the grievance to the satisfaction of the employee, the employee may request review of the grievance, *which shall be requested* within five (5) work days of receipt of the decision of the final line supervisor by the appointing authority for a final determination. The appointing authority, upon investigation, shall issue findings and a final determination in writing to the employee within twenty (20) work days.

(4) Unless the time limits have been extended by agreement of the parties, failure of supervisory or management personnel to respond within <u>the established[prescribed]</u> time limits shall automatically advance the grievance to the next review level.

(5) An intermediate grievance level may be waived. *Waiver shall be* by written agreement of the parties.

<u>Section 5. Incorporation by Reference. (1) "Grievance Form", October 2011, is incorporated by reference.</u>

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Board, 1025 Capital Center Driver, Suite 105, Frankfort, Kentucky <u>40601, Monday through Friday, 8 a.m. to 4:30 p.m.</u>[Section 5. Incorporation by Reference. (1) "Grievance Form", October 2011, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Board, 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]

CONTACT PERSON: Stafford Easterling General Counsel, Personnel Board, 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky 40601, phone (502) 564-7830, fax (502) 695-5799, email <u>stafford.easterling@ky.gov</u>.

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GENERAL GOVERNMENT CABINET Personnel Board

101 KAR 1:395. Restoration from military duty.

RELATES TO: KRS 61.371 - 61.379<u>, 413.160</u>

STATUTORY AUTHORITY: KRS [Chapter 13A,]61.379

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.379 <u>requires[directs]</u> the Personnel Board to <u>promulgate[adopt]</u> administrative regulations to carry out the provisions of KRS 61.371 <u>through[to]</u> 61.379. <u>This administrative regulation establishes the procedure for</u> <u>employment restoration following military duty.</u>[This administrative regulation will replace 101 KAR 1:390 which includes repetition of statutory language which is being repealed.]

Section 1. Restoration from Military Duty. (1) If an employee advises <u>the employ-</u> <u>ee's[their][his]</u> employer that <u>the employee is[they-are][he is]</u> leaving <u>their[his]</u> position to perform military duty, the employer shall advise the employee in writing of <u>the employ-</u> <u>ee's[their][his]</u> rights under KRS 61.371 <u>through[te]</u> 61.379.

(2) An employee who returns from military duty and is denied restoration of employment shall be advised in writing of **the[such]** denial by the employer.

(3) The required notice of denial by the employer shall include the employee's right to appeal to the <u>Kentucky Personnel Board</u> [state personnel board] within the time limits <u>estab-</u> <u>Lished[prescribed]</u> by KRS 413.160.

(4) Appeals filed under this section shall be heard by the <u>Board</u> [board] pursuant to 101 KAR 1:365.

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GENERAL GOVERNMENT CABINET Personnel Board

101 KAR 1:400. Promotion.

RELATES TO: KRS 18A.075, 18A.0751, 18A.115

STATUTORY AUTHORITY: KRS [Chapter 13A,] 18A.075, 18A.0751

NECESSITY, FUNCTION, AND CONFORMITY: KRS <u>18A.075</u> [18A.057] requires the Personnel Board to promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 <u>**through[tej**</u> 18A.200. KRS 18A.0751 <u>**requires[directs]**</u> that comprehensive administrative regulations be promulgated by the Personnel Board for the classified service governing promotion. **[KRS_18A.115 relates to promotion of career employees.]**[The amendment to] This administrative regulation <u>establishes the requirements governing promotion of a classified</u> <u>employee[is required to conform to Senate Bill 61 (1994 session), and to the requirements of KRS 18A.112, 13A.200, and 13A.222]</u>.

Section 1. Promotion. (1) *Each agency*[*Agencies*] shall consider an applicant's qualifications, record of performance, conduct, seniority, and performance evaluations in the selection of an employee for a promotion.

(2) Promotions may be interagency or intra-agency.[

(3)(a) An employee in the classified service, other than a career employee, may be promoted to a position in the unclassified service.

(b) He shall not have reversion rights to a position in the classified service.

(c) An employee who was promoted or changed as a result of other action, with no break in service, from a position in the classified service to a position in the unclassified service prior to July 15, 1986, shall retain the reversion rights he held at the time of promotion or other action.]

Section 2. Promotion Documentation. (1) Prior to a promotion in the classified service, an employee with status shall request a promotion on the Voluntary Transfer/Demotion/Promotion Employee Agreement Form incorporated by reference by the Personnel Cabinet in 101 KAR 2:034.

(2) The form shall include:

(a) The effective date of the promotion;

(b) The position number and job classification from which the employee is promoting;

(c) The position number and job classification to which the employee is promoting;

(d) The pay grade, salary, and work week for the position to which the employee will be promoted; and

(e) A statement that the employee waives the right to appeal the promotion.

(3) The agency shall forward a copy of the form to the Personnel Cabinet Secretary.

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January 3, 2022

Andy Beshear Governor

Julie M. Campbell Administrator

(C)

Senator Stephen West, Co-Chair Representative David Hale, Co-Chair c/o Emily Caudill, Regulation Compiler Administrative Regulation Review Subcommittee Legislative Research Commission 029, Capitol Annex Frankfort KY 40601

Re: 201 KAR 12:082E – Education Requirements and School Administration.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 12:082E, the Kentucky Board of Cosmetology proposes the attached amendments to 201 KAR 12:082E.

Sincerely,

Julie M. Campbell, Board Administrator

Kentucky Board of Cosmetology

Final, 1-3-2022

SUGGESTED SUBSTITUTE to Emergency Amended After Comments Version

BOARDS AND COMMISSIONS Board of Cosmetology

201 KAR 12:082E. Education requirements and school administration.

EFFECTIVE: December 14, 2021 Previous versions -

Emergency Amendment: 48 Ky.R. 1468

RELATES TO: KRS 317A.020, 317A.050, 317A.090 STATUTORY AUTHORITY: KRS 317A.060, 317A.090

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060(1)(h) requires the board to promulgate administrative regulations governing the hours and courses of instruction at schools of cosmetology, esthetic practices, and nail technology.[.] KRS 317A.090 establishes licensing requirements for schools of cosmetology, esthetic practices, and nail technology. This administrative regulation establishes requirements for the hours and courses of instruction, reporting, education requirements, and administrative functions required for students and faculty for schools of cosmetology, esthetic practices, and nail technology.

Section 1. Subject Areas. The regular courses of instruction for cosmetology students shall contain courses relating to the subject areas identified in this section.

- (1) Basics:
- (a) History and Career Opportunities;
- (b) Life Skills;
- (c) Professional Image; and
- (d) Communications.
- (2) General Sciences:
- (a) Infection Control: Principles and Practices;
- (b) General Anatomy and Physiology;
- (c) Skin Structure, Growth, and Nutrition;
- (d) Skin Disorders and Diseases;
- (e) Properties of the Hair and Scalp;
- (f) Basic Chemistry; and
- (g) Basics of Electricity.
- (3) Hair Care:
- (a) Principles of Hair Design;
- (b) Scalp Care, Shampooing, and Conditioning;
- (c) Hair Cutting;
- (d) Hair Styling;
- (e) Braiding and Braid Extensions;
- (f) Wig and Hair Additions;
- (g) Chemical Texture Services; and
- (h) Hair Coloring.
- (4) Skin Care:
- (a) Hair Removal;
- (b) Facials; [and]
- (c) Facial Makeup; and[-]
- (d) Application of Artificial Eyelashes.

- (5) Nails:
- (a) Manicuring;
- (b) Pedicuring;
- (c) Nail Tips and Wraps;
- (d) Monomer Liquid and Polymer Powder Nail Enhancements; and
- (e) Light Cured Gels.
- (6) Business Skills:
- (a) Preparation for Licensure and Employment;
- (b) On the Job Professionalism; and
- (c) Salon Businesses.

Section 2. A school <u>or program of instruction of any practice *licensed or permitted[listed]* in <u>KRS Chapter 317A or 201 KAR Chapter 12</u> [of cosmetology, esthetic practices, and nail technology] shall teach the students about the various supplies and equipment used in the usual salon practices.</u>

Section 3. Instructional Hours.

(1) A cosmetology student shall receive not less than 1,500 hours in clinical class work and scientific lectures with a minimum of:

(a) 375 lecture hours for science and theory;

(b) 1,085 clinic and practice hours; and

(c) Forty (40) hours on the subject of applicable Kentucky statutes and administrative regulations.

(2) A cosmetology student shall not perform chemical services on the public until the student has completed a minimum of 250 hours of instruction.

Section 4. Training Period for Cosmetology Students, Nail Technician Students, Esthetician Students, and Apprentice Instructors.

(1) A training period for a student shall be no more than <u>eight (8)[ten (10)]</u> hours per day, forty (40) hours per week.

(2) A student shall be allowed thirty (30) minutes per eight (8) hour day or longer for meals or a rest break. This thirty (30) minute period shall not be credited toward a student's instructional hours requirement.

Section 5. Laws and Regulations.

(1) At least one (1) hour per week shall be devoted to the teaching and explanation of the Kentucky law as set forth in KRS Chapter 317A and 201 KAR Chapter 12.

(2) Schools <u>or programs of instruction of any practice</u> *licensed or permitted[listed]* in KRS <u>Chapter 317A or 201 KAR Chapter 12</u> [of cosmetology, esthetic practices, and nail technology,] shall provide a copy of KRS Chapter 317A and 201 KAR Chapter 12 to each student upon enrollment.

Section 6. Nail Technician Curriculum. The nail technician course of instruction shall include the following:

(1) Basics:

- (a) History and Opportunities;
- (b) Life Skills;
- (c) Professional Image; and
- (d) Communications.
- (2) General Sciences:
- (a) Infection Control: Principles and Practices;

(b) General Anatomy and Physiology;

(c) Skin Structure and Growth;

(d) Nail Structure and Growth;

(e) Nail Diseases and Disorders;

(f) Basics of Chemistry;

(g) Nail Product Chemistry; and

(h) Basics of Electricity.

(3) Nail Care:

(a) Manicuring;

(b) Pedicuring;

(c) Electric Filing;

(d) Nail Tips and Wraps;

(e) Monomer Liquid and Polymer Powder Nail Enhancements;

(f) UV and LED Gels; and

(g) Creative Touch.

(4) Business Skills:

(a) Seeking Employment;

(b) On the Job Professionalism; and

(c) Salon Businesses.

Section 7. Nail Technology Hours Required.

(1) A nail technician student shall receive no less than 450 hours in clinical and theory class work with a minimum of:

(a) 150 lecture hours for science and theory;

(b) Twenty-five (25) hours on the subject of applicable Kentucky statutes and administrative regulations; and

(c) 275 clinic and practice hours.

(2) A nail technician student shall have completed sixty (60) hours before providing services to the general public. Clinical practice shall be performed on other students or mannequins during the first sixty (60) hours.

Section 8. Apprentice Instructor Curriculum. The course of instruction for an apprentice instructor <u>of any practice *licensed or permitted[listed]* in KRS Chapter 317A or 201 KAR Chapter 12 shall include no less than 750 hours, 425 hours of which shall be in direct contact with students. 325 hours of the required theory instruction may be taken in person or online, in the following areas:</u>

(1) Orientation;

- (2) Psychology of student training;
- (3) Introduction to teaching;
- (4) Good grooming and professional development;

(5) Course outlining and development;

(6) Lesson planning;

(7) Teaching techniques (methods);

(8) Teaching aids, audio-visual techniques;

(9) Demonstration techniques;

(10) Examinations and analysis;

(11) Classroom management;

(12) Recordkeeping;

(13) Teaching observation;

(14) Teacher assistant; and

(15) Pupil teaching (practice teaching).

Section 9. Supervision. An apprentice instructor shall be under the immediate supervision and instruction of a licensed instructor during the school day. An apprentice instructor shall not assume the duties and responsibilities of a licensed supervising instructor.

Section 10. Instructors Online Theory Course. All online theory instruction completed to comply with Section 8 of this administrative regulation shall be administered from an approved digital platform at a licensed Kentucky school of cosmetology, esthetic practices, or nail technology.

Section 11. Additional Coursework. Apprentice Esthetics and Nail Technology Instructors shall also complete an additional fifty (50) hours of advanced course work in that field within a two (2) year period prior to the instructor examination.

Section 12. Schools may enroll persons for a special supplemental course in any subject.

Section 13. Esthetician Curriculum. The regular course of instruction for esthetician students shall consist of courses relating to the subject areas identified in this section. (1) Basics:

- (a) History and Career Opportunities;
- (b) Professional Image; and
- (c) Communication.
- (2) General Sciences:
- (a) Infection Control: Principles and Practices;
- (b) General Anatomy and Physiology;
- (c) Basics of Chemistry;
- (d) Basics of Electricity; and
- (e) Basics of Nutrition.
- (3) Skin Sciences:
- (a) Physiology and Histology of the Skin;
- (b) Disorders and Diseases of the Skin;
- (c) Skin Analysis; and
- (d) Skin Care Products: Chemistry, Ingredients, and Selection.
- (4) Esthetics:
- (a) Treatment Room;
- (b) Basic Facials;
- (c) Facial <u>Massage</u> [Message];
- (d) Facial Machines;
- (e) Hair Removal;
- (f) Advanced Topics and Treatments; [and]
- (g) Application of Artificial Eyelashes; and
- (h)[(g)] Makeup.
- (5) Business Skills:
- (a) Career Planning;
- (b) The Skin Care Business; and
- (c) Selling Products and Services.

Section 14. Esthetician Hours Required.

(1) An esthetician student shall receive no less than 750 hours in clinical and theory class work with a minimum of:

(a) 250 lecture hours for science and theory;

(b) Thirty-five (35) hours on the subject of applicable Kentucky statutes and administrative regulations; and

(c) 465 clinic and practice hours.

(2) An esthetician student shall have completed 115 hours before providing services to the general public. Clinical practice shall be performed on other students or mannequins during the first 115 hours.

Section 15. Blow Drying Services License Subject Areas. The regular courses of instruction for blow drying services license students shall contain courses relating to the subject areas identified in this section.

(1) Basics:

(a) History and Career Opportunities;

(b) Life Skills;

(c) Professional Image; and

(d) Communications.

(2) General Sciences:

(a) Infection Control: Principles and Practices;

(b) General Anatomy and Physiology of head, neck, and scalp;

(c) Skin Disorders and Diseases of head, neck, and scalp;

(d) Properties of the Hair and Scalp; and

(e) Basics of Electricity.

(3) Hair Care:

(a) Principles of Hair Design;

(b) Scalp Care, Shampooing, and Conditioning;

(c) Hair Styling;

(d) Blow drying;

(e) Roller Placement;

(f) Finger waves or[/] pin curls;

(g) Thermal curling;

(h) Flat iron styling;

(i) Wig and Hair Additions; and

(j) Long hair styling.

(4) Business Skills:

(a) Preparation for Licensure and Employment;

(b) On the Job Professionalism; and

(c) Salon Businesses.

Section 16. Blow Drying Services License Hours Required.

(1) A blow drying services license student shall receive no less than 400 hours in clinical and theory class work with a minimum of:

(a) 150 lecture hours for science and theory;

(b) Twenty-five (25) hours on the subject of applicable Kentucky statutes and administrative regulations; and

(c) 275 clinic and practice hours.

(2) A blow drying services license student shall have completed sixty (60) hours before providing services to the general public. Clinical practice shall be performed on other students or mannequins during the first sixty (60) hours.

Section 17. Extracurricular Events. Each cosmetology, nail technician, and esthetician student shall be allowed up to sixteen (16) hours for field trip activities pertaining to the profession of study, sixteen (16) hours for attending educational programs, and sixteen (16) hours for charitable activities relating to the field of study, totaling not more than forty-eight (48) hours and not to exceed eight (8) hours per day. Attendance or participation shall be reported to the board within

ten (10) business days of the field trip, education show, or charitable event on the Certification of Student Extracurricular Event Hours form.

Section 18. Student Records. Each school shall:

(1) Maintain a <u>legible and</u>[legible and] accurate daily attendance record <u>used only for the</u> <u>verification and tracking of the required contact hours for education</u>[used only for the verification and tracking of the required contact hours for education] for all full-time students, parttime students, and apprentice instructors <u>with records that shall be recorded using a digital</u> *biometric time keeping program as follows:*

(a) All beginning, end, break, and lunch times shall be recorded; and

(b) All instructors shall comply with the biometric time keeping system.

[with records that shall be recorded using a digital biometric time keeping program as follows:

(a) All beginning, end, break, and lunch times shall be recorded;

(b) All instructors shall comply with the biometric time keeping system; and

(c) Previously licensed schools will have six (6) months from the effective date of this administrative regulation to comply.]

(2) Keep a record of each student's practical work and work performed on clinic patrons;

(3) Maintain a detailed record of all student enrollments, withdrawals, and dismissals for a period of five (5) years; and

(4) Make records required by this section available to the board and its employees upon request.

Section 19. Certification of Hours.

(1) Schools shall forward to the board digital certification of a student's hours completed within ten (10) business days of a student's withdrawal, dismissal, completion, or the closure of the school.

(2) No later than the 10th day of each month, a licensed school shall submit to the board via electronic delivery a certification of each student's total hours obtained for the previous month and the total accumulated hours to date for all students enrolled. Amended reports shall not be accepted by the board without satisfactory proof of error. Satisfactory proof of error shall require, at a minimum, a statement signed by the school manager certifying the error and the corrected report.

Section 20. No Additional Fees. Schools shall not charge students additional fees beyond the contracted amount.

Section 21. Instructor Licensing and Responsibilities.

(1) A person employed by a [cosmetology, nail technology, or esthetic practices] school <u>or</u> <u>program</u> for the purpose of teaching or instruction shall be licensed by the board as an instructor and shall post his or her license as required by 201 KAR 12:060.

(2) A licensed instructor or apprentice instructor shall supervise all students during a class or practical student work.

(3) An instructor or apprentice instructor shall render services only incidental to and for the purpose of instruction.

(4) Licensed schools shall not permit an instructor to perform services in the school for compensation during school hours.

(5) An instructor shall not permit students to instruct or teach other students in the instructor's absence.

(6) Except as provided in subsection (7) of this section, schools may not permit a demonstrator to teach in a licensed school.

(7) A properly qualified, licensed individual may demonstrate a new process, preparation, or

appliance in a licensed school if a licensed instructor is present.

(8) Licensed schools <u>or programs</u> of <u>instruction in any practice</u> *licensed or permitted[listed]* in KRS Chapter 317A or 201 KAR Chapter 12 [cosmetology, esthetic practices, and nail technology] shall, at all times, maintain a minimum faculty to student ratio of one (1) instructor for every twenty (20) students enrolled and supervised.

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(10) Within ten (10) business days of the termination, employment, and other change in school faculty personnel, a licensed school shall notify the board of the change.

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(a) A high school diploma,

(b) A General Educational Development (GED) diploma; or

(c) Results from the Test for Adult Basic Education indicating a score equivalent to the successful completion of the twelfth grade of high school.

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(1) In writing from the student to the school; and

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(5) Schools and students shall comply with Section 4 of this *administrative* regulation on accessible hours.

(6) No student shall accrue more than the total required theory instruction hours outlined in the [above] instructional sections in emergency alternative education time as established in Sections 3(1)(a), 7(1)(a), 14(1)(a) and 16(1)(a) of this administrative regulation.

(7) **The** board may determine eligibility for accruals based on duration of **the** crisis and applicable time limits for alternative emergency education availability.

<u>Section 34.</u> [Section 33.] Incorporation by Reference. The following material is incorporated by reference:

(1)(a) "Certification of Student Extracurricular Event Hours", October 2018;

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(c) "Program <u>Hour</u>[Hour] Transfer <u>Request</u>[Request] Form", <u>April 2020[January 2019]</u>[April 2020].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Cosmetology, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the board's Web site at kbc.ky.gov.[(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Cosmetology, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]

CONTACT PERSON: Julie M. Campbell, Board Administrator, 1049 US Hwy 127 S. Annex #2, Frankfort, Kentucky 40601, phone (502) 564-4262, email julie.campbell@ky.gov.





January 3, 2022

Andy Beshear Governor

Julie M. Campbell Administrator

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Senator Stephen West, Co-Chair Representative David Hale, Co-Chair c/o Emily Caudill, Regulation Compiler Administrative Regulation Review Subcommittee Legislative Research Commission 029, Capitol Annex Frankfort KY 40601

Re: 201 KAR 12:082– Education Requirements and School Administration.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 12:082, the Kentucky Board of Cosmetology proposes the attached amendments to 201 KAR 12:082.

Sincerely,

Julie M. Campbell, Board Administrator

Kentucky Board of Cosmetology

Final, 1-3-2022

SUGGESTED SUBSTITUTE to Ordinary Version

BOARDS AND COMMISSIONS Board of Cosmetology

201 KAR 12:082. Education requirements and school administration.

RELATES TO: KRS 317A.020, 317A.050, 317A.090 STATUTORY AUTHORITY: KRS 317A.060, 317A.090

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060(1)(h) requires the board to promulgate administrative regulations governing the hours and courses of instruction at schools of cosmetology, esthetic practices, and nail technology.[-] KRS 317A.090 establishes licensing requirements for schools of cosmetology, esthetic practices, and nail technology. This administrative regulation establishes requirements for the hours and courses of instruction, reporting, education requirements, and administrative functions required for students and faculty for schools of cosmetology, esthetic practices, and nail technology.

Section 1. Subject Areas. The regular courses of instruction for cosmetology students shall contain courses relating to the subject areas identified in this section.

- (1) Basics:
- (a) History and Career Opportunities;
- (b) Life Skills;
- (c) Professional Image; and
- (d) Communications.
- (2) General Sciences:
- (a) Infection Control: Principles and Practices;
- (b) General Anatomy and Physiology;
- (c) Skin Structure, Growth, and Nutrition;
- (d) Skin Disorders and Diseases;
- (e) Properties of the Hair and Scalp;
- (f) Basic Chemistry; and
- (g) Basics of Electricity.
- (3) Hair Care:
- (a) Principles of Hair Design;
- (b) Scalp Care, Shampooing, and Conditioning;
- (c) Hair Cutting;
- (d) Hair Styling;
- (e) Braiding and Braid Extensions;
- (f) Wig and Hair Additions;
- (g) Chemical Texture Services; and
- (h) Hair Coloring.
- (4) Skin Care:
- (a) Hair Removal;
- (b) Facials; [and]
- (c) Facial Makeup<u>; and[-]</u>
- (d) Application of Artificial Eyelashes.
- (5) Nails:
- (a) Manicuring;
- (b) Pedicuring;

(c) Nail Tips and Wraps;

(d) Monomer Liquid and Polymer Powder Nail Enhancements; and

(e) Light Cured Gels.

(6) Business Skills:

(a) Preparation for Licensure and Employment;

(b) On the Job Professionalism; and

(c) Salon Businesses.

Section 2. A school <u>or program of instruction of any practice *licensed or permitted[listed]* in <u>KRS Chapter 317A or 201 KAR Chapter 12</u> [of cosmetology, esthetic practices, and nail technology] shall teach the students about the various supplies and equipment used in the usual salon practices.</u>

Section 3. Instructional Hours.

(1) A cosmetology student shall receive not less than 1,500 hours in clinical class work and scientific lectures with a minimum of:

(a) 375 lecture hours for science and theory;

(b) 1,085 clinic and practice hours; and

(c) Forty (40) hours on the subject of applicable Kentucky statutes and administrative regulations.

(2) A cosmetology student shall not perform chemical services on the public until the student has completed a minimum of 250 hours of instruction.

Section 4. Training Period for Cosmetology Students, Nail Technician Students, Esthetician Students, and Apprentice Instructors.

(1) A training period for a student shall be no more than <u>eight (8)[ten (10)]</u> hours per day, forty (40) hours per week.

(2) A student shall be allowed thirty (30) minutes per eight (8) hour day or longer for meals or a rest break. This thirty (30) minute period shall not be credited toward a student's instructional hours requirement.

Section 5. Laws and Regulations.

(1) At least one (1) hour per week shall be devoted to the teaching and explanation of the Kentucky law as set forth in KRS Chapter 317A and 201 KAR Chapter 12.

(2) Schools <u>or programs of instruction of any practice</u> *licensed or permitted[listed]* in KRS <u>Chapter 317A or 201 KAR Chapter 12</u> [of cosmetology, esthetic practices, and nail technology,] shall provide a copy of KRS Chapter 317A and 201 KAR Chapter 12 to each student upon enrollment.

Section 6. Nail Technician Curriculum. The nail technician course of instruction shall include the following:

(1) Basics:

- (a) History and Opportunities;
- (b) Life Skills;
- (c) Professional Image; and
- (d) Communications.
- (2) General Sciences:
- (a) Infection Control: Principles and Practices;
- (b) General Anatomy and Physiology;
- (c) Skin Structure and Growth;
- (d) Nail Structure and Growth;

(e) Nail Diseases and Disorders;

(f) Basics of Chemistry;

(g) Nail Product Chemistry; and

(h) Basics of Electricity.

(3) Nail Care:

(a) Manicuring;

(b) Pedicuring;

(c) Electric Filing;

(d) Nail Tips and Wraps;

(e) Monomer Liquid and Polymer Powder Nail Enhancements;

(f) UV and LED Gels; and

(g) Creative Touch.

(4) Business Skills:

(a) Seeking Employment;

(b) On the Job Professionalism; and

(c) Salon Businesses.

Section 7. Nail Technology Hours Required.

(1) A nail technician student shall receive no less than 450 hours in clinical and theory class work with a minimum of:

(a) 150 lecture hours for science and theory;

(b) Twenty-five (25) hours on the subject of applicable Kentucky statutes and administrative regulations; and

(c) 275 clinic and practice hours.

(2) A nail technician student shall have completed sixty (60) hours before providing services to the general public. Clinical practice shall be performed on other students or mannequins during the first sixty (60) hours.

Section 8. Apprentice Instructor Curriculum. The course of instruction for an apprentice instructor <u>of any practice *licensed or permitted[listed]* in KRS Chapter 317A or 201 KAR Chapter 12</u> shall include no less than 750 hours, 425 hours of which shall be in direct contact with students. 325 hours of the required theory instruction may be taken in person or online, in the following areas:

(1) Orientation;

(2) Psychology of student training;

(3) Introduction to teaching;

(4) Good grooming and professional development;

(5) Course outlining and development;

(6) Lesson planning;

(7) Teaching techniques (methods);

(8) Teaching aids, audio-visual techniques;

(9) Demonstration techniques;

(10) Examinations and analysis;

(11) Classroom management;

(12) Recordkeeping;

(13) Teaching observation;

(14) Teacher assistant; and

(15) Pupil teaching (practice teaching).

Section 9. Supervision. An apprentice instructor shall be under the immediate supervision and

instruction of a licensed instructor during the school day. An apprentice instructor shall not assume the duties and responsibilities of a licensed supervising instructor.

Section 10. Instructors Online Theory Course. All online theory instruction completed to comply with Section 8 of this administrative regulation shall be administered from an approved digital platform at a licensed Kentucky school of cosmetology, esthetic practices, or nail technology.

Section 11. Additional Coursework. Apprentice Esthetics and Nail Technology Instructors shall also complete an additional fifty (50) hours of advanced course work in that field within a two (2) year period prior to the instructor examination.

Section 12. Schools may enroll persons for a special supplemental course in any subject.

Section 13. Esthetician Curriculum. The regular course of instruction for esthetician students shall consist of courses relating to the subject areas identified in this section. (1) Basics:

- (a) History and Career Opportunities;
- (b) Professional Image; and
- (c) Communication.
- (2) General Sciences:
- (a) Infection Control: Principles and Practices;
- (b) General Anatomy and Physiology;
- (c) Basics of Chemistry;
- (d) Basics of Electricity; and
- (e) Basics of Nutrition.
- (3) Skin Sciences:
- (a) Physiology and Histology of the Skin;
- (b) Disorders and Diseases of the Skin;
- (c) Skin Analysis; and
- (d) Skin Care Products: Chemistry, Ingredients, and Selection.
- (4) Esthetics:
- (a) Treatment Room;
- (b) Basic Facials;
- (c) Facial Massage [Message];
- (d) Facial Machines;
- (e) Hair Removal;
- (f) Advanced Topics and Treatments; [and]
- (g) Application of Artificial Eyelashes; and
- <u>(h)[(g)] Makeup.</u>
- (5) Business Skills:
- (a) Career Planning;
- (b) The Skin Care Business; and
- (c) Selling Products and Services.
- Section 14. Esthetician Hours Required.
- (1) An esthetician student shall receive no less than 750 hours in clinical and theory class work with a minimum of:
 - (a) 250 lecture hours for science and theory;
- (b) Thirty-five (35) hours on the subject of applicable Kentucky statutes and administrative regulations; and
 - (c) 465 clinic and practice hours.
 - (2) An esthetician student shall have completed 115 hours before providing services to the

general public. Clinical practice shall be performed on other students or mannequins during the first 115 hours.

Section 15. Blow Drying Services License Subject Areas. The regular courses of instruction for blow drying services license students shall contain courses relating to the subject areas identified in this section.

(1) Basics:

(a) History and Career Opportunities;

(b) Life Skills;

(c) Professional Image; and

(d) Communications.

(2) General Sciences:

(a) Infection Control: Principles and Practices;

(b) General Anatomy and Physiology of head, neck, and scalp;

(c) Skin Disorders and Diseases of head, neck, and scalp;

(d) Properties of the Hair and Scalp; and

(e) Basics of Electricity.

(3) Hair Care:

(a) Principles of Hair Design;

(b) Scalp Care, Shampooing, and Conditioning;

(c) Hair Styling;

(d) Blow drying;

(e) Roller Placement;

(f) Finger waves or[/] pin curls;

(g) Thermal curling;

(h) Flat iron styling;

(i) Wig and Hair Additions; and

(j) Long hair styling.

(4) Business Skills:

(a) Preparation for Licensure and Employment;

(b) On the Job Professionalism; and

(c) Salon Businesses.

Section 16. Blow Drying Services License Hours Required.

(1) A blow drying services license student shall receive no less than 400 hours in clinical and theory class work with a minimum of:

(a) 150 lecture hours for science and theory;

(b) Twenty-five (25) hours on the subject of applicable Kentucky statutes and administrative regulations; and

(c) 275 clinic and practice hours.

(2) A blow drying services license student shall have completed sixty (60) hours before providing services to the general public. Clinical practice shall be performed on other students or manneguins during the first sixty (60) hours.

Section 17. Extracurricular Events. Each cosmetology, nail technician, and esthetician student shall be allowed up to sixteen (16) hours for field trip activities pertaining to the profession of study, sixteen (16) hours for attending educational programs, and sixteen (16) hours for charitable activities relating to the field of study, totaling not more than forty-eight (48) hours and not to exceed eight (8) hours per day. Attendance or participation shall be reported to the board within ten (10) business days of the field trip, education show, or charitable event on the Certification of Student Extracurricular Event Hours form.

Section 18. Student Records. Each school shall:

(1) Maintain a <u>legible and</u>[legible and] accurate daily attendance record <u>used only for the</u> <u>verification and tracking of the required contact hours for education</u>[used only for the verification and tracking of the required contact hours for education] for all full-time students, parttime students, and apprentice instructors <u>with records that shall be recorded using a digital</u> *biometric time keeping program as follows:*

(a) All beginning, end, break, and lunch times shall be recorded; and

(b) All instructors shall comply with the biometric time keeping system.

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(b) All instructors shall comply with the biometric time keeping system; and

(c) Previously licensed schools will have six (6) months from the effective date of this administrative regulation to comply.]

(2) Keep a record of each student's practical work and work performed on clinic patrons;

(3) Maintain a detailed record of all student enrollments, withdrawals, and dismissals for a period of five (5) years; and

(4) Make records required by this section available to the board and its employees upon request.

Section 19. Certification of Hours.

(1) Schools shall forward to the board digital certification of a student's hours completed within ten (10) business days of a student's withdrawal, dismissal, completion, or the closure of the school.

(2) No later than the 10th day of each month, a licensed school shall submit to the board via electronic delivery a certification of each student's total hours obtained for the previous month and the total accumulated hours to date for all students enrolled. Amended reports shall not be accepted by the board without satisfactory proof of error. Satisfactory proof of error shall require, at a minimum, a statement signed by the school manager certifying the error and the corrected report.

Section 20. No Additional Fees. Schools shall not charge students additional fees beyond the contracted amount.

Section 21. Instructor Licensing and Responsibilities.

(1) A person employed by a [cosmetology, nail technology, or esthetic practices] school <u>or</u> <u>program</u> for the purpose of teaching or instruction shall be licensed by the board as an instructor and shall post his or her license as required by 201 KAR 12:060.

(2) A licensed instructor or apprentice instructor shall supervise all students during a class or practical student work.

(3) An instructor or apprentice instructor shall render services only incidental to and for the purpose of instruction.

(4) Licensed schools shall not permit an instructor to perform services in the school for compensation during school hours.

(5) An instructor shall not permit students to instruct or teach other students in the instructor's absence.

(6) Except as provided in subsection (7) of this section, schools may not permit a demonstrator to teach in a licensed school.

(7) A properly qualified, licensed individual may demonstrate a new process, preparation, or appliance in a licensed school if a licensed instructor is present.

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(b) "Enrollment Correction Application", October 2018; and

(c) "Program <u>*Hour*[Hour</u>] Transfer <u>*Request*[Request</u>] Form", <u>*April 2020[January 2019]*[April 2020]</u>.

(2) <u>This material may be inspected, copied, or obtained, subject to applicable copyright</u> <u>Iaw, at the Kentucky Board of Cosmetology, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on <u>the board's Web site at kbc.ky.gov.</u>[(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Cosmetology, 111 St. James Court, Suite A, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]</u>

CONTACT PERSON: Julie M. Campbell, Board Administrator, 1049 US Hwy 127 S. Annex #2, Frankfort, Kentucky 40601, phone (502) 564-4262, email julie.campbell@ky.gov.

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TOURISM, ARTS AND HERITAGE CABINET

Andy Beshear Governor #1 Sportsman's Lane Frankfort, Kentucky 40601 Phone (502) 564-3400 Fax (502) 564-0506 Mike Berry Secretary

Rich Storm Commissioner

January 6, 2022

Senator Stephen West, Co-Chair Representative David Hale, Co-Chair c/o Emily Caudill, Regulation Compiler Administrative Regulation Review Subcommittee Legislative Research Commission 029, Capitol Annex Frankfort KY 40601

Re: <u>301 KAR 2:082.</u> Transportation and holding of live exotic wildlife; 301 KAR 3:010 Public use of wildlife management areas; and 301 KAR 3:026. Wildlife Management Areas for mobility-impaired individuals.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 2:082, Transportation and holding of live exotic wildlife; 301 KAR 3:010 Public use of wildlife management areas; and 301 KAR 3:026. Wildlife Management Areas for mobility-impaired individuals, proposes the attached amendment to 301 KAR 2:082; 301 KAR 3:010; and 301 KAR 3:026.

Sincerely,

Beth Frazee

Beth Frazee, Program Coordinator Kentucky Fish and Wildlife Resources 1 Sportsmen's Lane, Frankfort, KY 40601



REVISED:

1/5/2022 2:13 PM Suggested Amendment Tourism, Arts and Heritage Cabinet Department of Fish and Wildlife Resources

(AMENDED AFTER COMMENTS version)

301 KAR 2:082. Transportation and holding of live exotic wildlife.

Page 1 RELATES TO Line 5

After "KRS", insert "<u>13B,</u>".

Line 6

After "150.235,", insert "<u>258.065, 258.085</u>". Delete "285.065, 285.085".

Page 1

NECESSITY, FUNCTION, & CONFORMITY

Line 16

After "disease and", insert "<u>that</u>". Delete "which".

Page 3

Section 3(1)(a)

Line 15

After "applicant", insert "<u>shall</u>". Delete "must".

Page 3

Section 3(1)(b)

Line 17

After "applicant", insert "<u>shall</u>". Delete "must".

Page 4

Section 3(3)

Line 1

After "holder", insert "shall".

Delete "must".

Page 10

Section 5(2)(b)4. Line 10

> After "department", insert "<u>; and</u>". Delete period.

Page 11 Section 6(4)(a) Line 15 Before "The owner", delete "(a)".

Page 11

Section 6(4)(a)1. Line 16 Before "Veterinary", insert "<u>(a)</u>". Delete "1."

Page 11

Section 6(4)(a)2. Line 17 Before "Acquisition", insert "<u>(b)</u>". Delete "2."

Page 11 Section 6(4)(a)3. Line 18 Before "Any other", insert "<u>(c)</u>". Delete "3."

Page 12

Section 6(8)

Line 14

After "animal", insert "<u>shall</u>".

Delete "must".

Line 15

After "intact", insert comma.

Line 17

After "902 KAR 2:070", insert comma.

Page 15

Section 7(5)

Line 13

After "canaria)", insert semicolon.

Page 17

Section 9(1)

Line 12

After "purposes of this", insert "administrative".

Page 17

Section 10(1)(a)

Line 18

Before "The department", delete "(a)".

Page 17

Section 10(1)(a)1.

Line 20

Before "Is convicted", insert "<u>(a)</u>". Delete "1.".

Page 18

Section 10(1)(a)1.a.

Line 1

Before "KRS", insert "<u>1</u>.". Delete "a.". After "150;", insert the following: <u>2. 301 KAR Chapters 1 through 5</u> Delete the following: b. Any department regulation

Page 18

Section 10(1)(a)1.c. Line 3 Before "Any federal", insert "<u>3.</u>". Delete "c.".

Page 18 Section 10(1)(a)2.

Line 4

Before "Provides", insert "<u>(b)</u>". Delete "2.".

Page 18

Section 10(1)(a)3.

Line 7

Before "Acquires", insert "<u>(c)</u>". Delete "3.".

Line 9

After "Section 7;", insert "or".

Page 18

Section 10(1)(a)4.

Line 9

Before "Fails", insert "<u>(d)</u>". Delete "4.". After "of this", insert "<u>administrative</u>".

Page 18

Section 10(2)(a)1.b.

Line 18

After "b.", insert the following: <u>301 KAR Chapters 1 through 5</u> Delete the following: Any department regulation

Page 19

Section 10(2)(a)2.

Line 2

After "reports", insert comma.

Page 19

Section 10(2)(a)3.

Line 4

After "5(1);", insert "<u>or</u>".

Page 19

Section 10(2)(a)4. Line 5 After "provision of this", insert "administrative".

Page 19

Section 10(3)(a)

Line 10

Before "An applicant", delete "(a)".

Line 12

After "applications", insert "shall be".

Page 19

Section 10(3)(a)1. Line 13 Before "The initial", insert "<u>(a)</u>". Delete "1.".

Page 19

Section 10(3)(a)2. Line 14 Before "A second", insert "<u>(b)</u>". Delete "2.". After "(3) years;", insert "<u>and</u>".

Page 19

Section 10(3)(a)3. Line 15 Before "A third", insert "(c)". Delete "3.". After "(5) years", insert period. Delete semicolon.

Page 20

Section 10(4)(a)2.

Line 1

After "letter or this", insert "administrative".

Page 20

Section 10(4)(a)3.

Line 3

After "reason", insert the following:

necessary to protect public health, public safety, native ecosystems, or native wildlife

Delete the following: for which the Commissioner deems appropriate

Page 20

Section 11(a)

Line 18

Before "An individual", insert "<u>(1)</u>". Delete "(a)".

NOTE TO REGULATIONS COMPILER: Please re-number remaining subsections accordingly.

Page 21 Section 12(1)(c) Line 11 After "edition", insert period. Delete semicolon.

Page 21 Section 12(2)

Line 14

After "4:30 p.m.", insert the following:

<u>or online at:</u>

- (a) <u>https://fw.ky.gov/Wildlife/Documents/annualtransportapp.pdf</u> for the <u>"Annual Transportation Permit Application";</u>
- (b) <u>https://fw.ky.gov/Wildlife/Documents/indtransportapp.pdf</u> for the "Individual Transportation Permit Application"; and
- (c) <u>https://fw.ky.gov/Wildlife/Documents/capprohibitedreport.pdf</u> for the "Captive Wildlife Prohibited Species Report form".





TOURISM, ARTS AND HERITAGE CABINET KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES

Andy Beshear Governor #1 Sportsman's Lane Frankfort, Kentucky 40601 Phone (502) 564-3400 Fax (502) 564-0506 Mike Berry Secretary

Rich Storm Commissioner

January 6, 2022

Senator Stephen West, Co-Chair Representative David Hale, Co-Chair c/o Emily Caudill, Regulation Compiler Administrative Regulation Review Subcommittee Legislative Research Commission 029, Capitol Annex Frankfort KY 40601

Re: 301 KAR 2:082. Transportation and holding of live exotic wildlife; 301 KAR 3:010 Public use of wildlife management areas; and 301 KAR 3:026. Wildlife Management Areas for mobility-impaired individuals.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 2:082, Transportation and holding of live exotic wildlife; 301 KAR 3:010 Public use of wildlife management areas; and 301 KAR 3:026. Wildlife Management Areas for mobility-impaired individuals, proposes the attached amendment to 301 KAR 2:082; 301 KAR 3:010; and 301 KAR 3:026.

Sincerely,

Beth Frazee

Beth Frazee, Program Coordinator Kentucky Fish and Wildlife Resources 1 Sportsmen's Lane, Frankfort, KY 40601



REVISED:

1/5/2022 2:41 PM Suggested Amendment Tourism, Arts and Heritage Cabinet Department of Fish and Wildlife Resources

301 KAR 3:010. Public use of wildlife management areas.

Page 1 RELATES TO Line 5 After "KRS", insert "<u>13B,</u>".

Page 1

NECESSITY, FUNCTION, & CONFORMITY Line 13

After "uses", insert comma.

Page 1 Section 1(1)

Line 16 After "entice", insert comma.

Page 2 Section 1(6) Line 9 After "llama", insert comma.

Page 2 Section 1(7) Line 11 After "life, wildlife", insert comma.

Page 2 Section 1(8) Line 12 After "bicycle", insert comma.

Page 2 Section 1(10) Line 16

After "drive", insert comma.

Page 2

Section 1(11)(a)

Line 18

After "license", insert comma.

Page 3

Section 2(1) Line 2 After "limits", insert comma.

Page 4

Section 2(5)(e) Line 15 After "Bait", insert "shall". Delete "does".

Page 5

Section 3(4) Line 10 After "deer", insert comma.

Page 6

Section 5

Line 18

After "department", insert "in this administrative regulation".

Page 7

Section 6(2)

Line 7

After "(2)", insert the following:

An applicant shall use the "Wildlife Management Area Use Permit Application."

Delete the remainder of subsection (2) in its entirety.

Page 7 Section 6(4)(c) Line 20

After "danger", insert comma.

Page 9 Section 9(2)

Line 18

After "obtained", insert the following:

, subject to applicable copyright law,

Line 19

After "Wildlife", insert "<u>Resources</u>".



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TOURISM, ARTS AND HERITAGE CABINET KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCE

Andy Beshear Governor #1 Sportsman's Lane Frankfort, Kentucky 40601 Phone (502) 564-3400 Fax (502) 564-0506 Mike Berry Secretary

Rich Storm

Commissioner

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Sincerely,

Beth Frazee

Beth Frazee, Program Coordinator Kentucky Fish and Wildlife Resources 1 Sportsmen's Lane, Frankfort, KY 40601



REVISED:

1/5/2022 2:54 PM Suggested Amendment Tourism, Arts and Heritage Cabinet Department of Fish and Wildlife Resources

301 KAR 3:026. Wildlife Management Areas for mobility-impaired individuals.

Page 1

NECESSITY, FUNCTION, & CONFORMITY

Line 11

After "regulation," insert "<u>establishes requirements to simplify</u>". Delete "simplifies".

Line 12

After "individuals and", insert "<u>promote</u>". Delete "promotes".

Page 2

Section 2(1)

Line 4

After "(1)", insert the following:

<u>A person shall qualify for a mobility-impaired access permit application if one</u> (1) of the following requirements is met. The person:

Delete beginning with "If a person" through "department:".

Page 2 Section 2(1)(c)

Line 9

After "wheelchair or", insert "needs". Delete "must use". After "crutches", delete comma.

Page 2

Section 2(1)(d)

Line 11

After "disease to", delete "such".

Page 3 Section 2(2)(a) Line 1 After ""from a motor vehicle", insert "<u>if</u>". Delete "when".

Page 3 Section 2(2)(b) Line 5

After "gated" insert comma. Delete "or". After "ungated", insert comma. After "traffic", insert comma. After "but", insert the following: <u>the individual shall do so</u>

Page 3

Section 2(2)(b)4. Line 11 After "areas", insert "<u>that</u>". Delete "which." After "roads", insert "<u>from</u>".

Page 3

Section 2(2)(b)5.

Line 13

After "recommendations", insert comma.

Line 14

After "(1) person", delete comma.

Page 4

Section 3(4)

Line 12

After "participating in", insert "<u>these</u>". Delete "such".

Page 4

Section 5(2) Line 18

After "Department", insert "<u>of</u>". Delete "for".



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MOTOR VEHICLE COMMISSION

200 Mero St. Floor 3 West Frankfort, Kentucky 40622 Phone: (502) 573-1000 Fax: (502) 227-8082 mvc.ky.gov January 3, 2022

	D
Andy	Beshear
(Governor

Senator Stephen West, Co-Chair Representative David Hale, Co-Chair c/o Emily Caudill, Regulations Compiler Administrative Regulation Review Subcommittee Legislative Research Commission 029, Capitol Annex 702 Capitol Avenue

Frankfort, Kentucky 40601

Re: 605 KAR 1:071 ; 605 KAR.1:211; 605 KAR 1:131 <mark>; 605 KAR 1:051</mark> ; 605 KAR 1:191 and 605 KAR 1:091.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 605 KAR 1:071 ; 605 KAR 1:211; 605 KAR 1:131 ; 605 KAR 1:051 ; 605 KAR 1:191 and 605 KAR 1:091 , the Kentucky Motor Vehicle Commission proposes the attached staff suggested amendments to 605 KAR 1:071 ; 605 KAR 1:211; 605 KAR 1:131 ; 605 KAR 1:051 ; 605 KAR 1:191 and 605 KAR 1:091.

Sincerely,

hlosk. Cassade

Carlos Cassady, Executive Director



An Equal Opportunity Employer M/F/D

Subcommittee Substitute

TRANSPORTATION CABINET Motor Vehicle Commission (As Amended at ARRS)

605 KAR 1:051. Dealer and salesman.

RELATES TO: KRS 190.010, 190.030

STATUTORY AUTHORITY: KRS 190.010, 190.030, 190.073

NECESSITY, FUNCTION, AND CONFORMITY: KRS 190.030 requires **[that]** a salesman's license **to [shall]** indicate for whom the salesman works and to be displayed upon request. This administrative regulation establishes the relationship between the dealership and salesman and implements statutory requirements to facilitate accurate recordkeeping by the Motor Vehicle Commission.

Section 1. (1) All activity of a licensed motor vehicle salesman shall be pursuant to the salesman's employment by the licensee whose name appears on the salesman's license.

(2) A salesman shall not establish a place of business separate from the location for which his employer holds a license.

(3) A salesman shall not hold himself out to be a licensed dealer or conduct himself in any manner which would lead a prospective purchaser to believe he is a licensed dealer.

(4) A salesman shall not advertise the sale or purchase of a motor vehicle. This subsection shall not prohibit licensed motor vehicle dealers from identifying or including salesmen in advertisements of the dealership.

Section 2. **If [In the event]** a salesman changes his place of employment to another dealership, he shall return his license to the commission.

Section 3. Every dealer licensee shall display in a conspicuous place in the dealership office a copy of the license of each salesman employed by the dealership. Upon the termination of employment of a salesman, the licensee shall, within ten (10) days, notify the commission of the termination and return to the commission the dealer's copy of the salesman's license.

Section 4. (1) A dealer shall apply for a motor vehicle salesman license for each person acting or intending to act as a salesman. The application shall be submitted by completing a salesman application through the dealer's on-line account at Ky.gov Login. The dealer shall provide the name, home address, social security number, date of birth of the salesman, and the employment history of the salesman in the motor vehicle industry identifying the name and address of any previous motor vehicle dealerships at which the salesman was employed. If the salesman does not have prior experience in the motor vehicle industry, the dealer shall so state.

(2) The employing dealer shall furnish a current photograph of the salesman for identification purposes.

(3) The employing dealer shall require the salesman to authorize the commission to make inquiries or investigations concerning the salesman's employment and criminal records. The employing dealership shall remit the required fee for a criminal background check if requested by the commission.

Section 5. (1) The following individuals shall be required to obtain a salesman's license: (a) Each natural person holding a motor vehicle dealer license:

(b) Each general partner actively involved in the day-to-day operation of a general or limited partnership holding a motor vehicle dealer license;

(c) The president, chief executive officer, chief operating officer, or equivalent of a corporation holding a motor vehicle dealer license; and

(d) Each manager, or, if member-managed, each member actively involved in the day-to-day operation of a limited liability company holding a motor vehicle dealer license.

(2) All motor vehicle dealers shall have at least one (1) salesperson per licensed location.

Section 6. If any of the individuals in Section 5(1)[(1-4)] are physically located and conduct business at more than one (1) location, the individual shall procure a salesman's license for each location. Otherwise, the individual shall procure a license for the location in Kentucky where he is located or a primary location in Kentucky if he is located outside the state.

[Section 7. Incorporation by Reference. Dealer on-line account, salesman license application available at Ky.gov Login.]

CONTACT PERSON: Suzanne Baskett, Executive Staff Advisor, Kentucky Motor Vehicle Commission, 200 Mero Street, Frankfort, Kentucky 40601, phone (502) 573-1000, fax (502) 227-8082, email Suzanne.Baskett@ky.gov.





MOTOR VEHICLE COMMISSION

200 Mero St. Floor 3 West Frankfort, Kentucky 40622 Phone: (502) 573-1000 Fax: (502) 227-8082 mvc.ky.gov January 3, 2022

Andy Beshear Governor

Senator Stephen West, Co-Chair Representative David Hale, Co-Chair c/o Emily Caudill, Regulations Compiler Administrative Regulation Review Subcommittee Legislative Research Commission 029, Capitol Annex 702 Capitol Avenue

Frankfort, Kentucky 40601

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Sincerely,

losk. Cassadi

Carlos Cassady, Executive Director



An Equal Opportunity Employer M/F/D

Staff-suggested Amendment

Version 12/16/2021 TRANSPORTATION CABINET Motor Vehicle Commission

605 KAR 1:071. Change of ownership.

Page 2 Section 5 Line 12 After "controlling owner of", insert "<u>a</u>".

Page 6 TIERING statement Second sentence

After "because all", delete "nonprofit".



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MOTOR VEHICLE COMMISSION

200 Mero St. Floor 3 West Frankfort, Kentucky 40622 Phone: (502) 573-1000 Fax: (502) 227-8082 mvc.ky.gov January 3, 2022

Andy	Beshear
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Sincerely,

nlosk. Cassady

Carlos Cassady, Executive Director



An Equal Opportunity Employer M/F/D

Staff-suggested Amendment

Version 12/16/2021 TRANSPORTATION CABINET Motor Vehicle Commission

605 KAR 1:091. Motor vehicle dealership names.

Page 1 STATUTORY AUTHORITY paragraph

Line 6

After "190.030,", insert "<u>190.040, 190.073</u>". Delete "040, 073".

Page 1

Section 1(2)

Line 19

After "shall be", delete "considered".



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MOTOR VEHICLE COMMISSION

200 Mero St. Floor 3 West Frankfort, Kentucky 40622 Phone: (502) 573-1000 Fax: (502) 227-8082 mvc.ky.gov January 3, 2022

Andy Beshear Governor

Senator Stephen West, Co-Chair Representative David Hale, Co-Chair c/o Emily Caudill, Regulations Compiler Administrative Regulation Review Subcommittee Legislative Research Commission 029, Capitol Annex 702 Capitol Avenue Frankfort, Kentucky 40601

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Sincerely,

inlosk. Cassadi

Carlos Cassady, Executive Director



An Equal Opportunity Employer M/F/D

Staff-suggested Amendment

Version 12/16/2021 TRANSPORTATION CABINET Motor Vehicle Commission

605 KAR 1:131. Procedures.

Page 1 Section 2 Line 14 After "appointed attorney.", delete "-".

Page 2 Section 7(1)(a) Line 12

After "involves the commission", insert "".



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MOTOR VEHICLE COMMISSION

200 Mero St. Floor 3 West Frankfort, Kentucky 40622 Phone: (502) 573-1000 Fax: (502) 227-8082 mvc.ky.gov January 3, 2022

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Sincerely,

inlask. Cassade

Carlos Cassady, Executive Director



An Equal Opportunity Employer M/F/D

Subcommittee Substitute

TRANSPORTATION CABINET Motor Vehicle Commission (As Amended at ARRS)

605 KAR 1:191. Motor vehicle advertising.

RELATES TO: KRS 190.010-190.990

STATUTORY AUTHORITY: KRS 190.015, 190.020, 190.030, 190.040, 190.058, 190.073 NECESSITY, FUNCTION, AND CONFORMITY: KRS 190.040(1)(i) requires that a motor vehicle dealer shall not engage in ["]false or misleading advertising.["] KRS 190.073 <u>requires</u> [authorizes] the Motor Vehicle Commission to ["]promulgate administrative regulations for the purpose of carrying out the provisions of KRS Chapter 190. This administrative regulation establishes examples of what constitutes ["]false or misleading advertising. ["]

Section 1. Definitions. (1) "Advertising" means any oral, written, or graphic statement, whether physical or electronic, which offers vehicles for sale or lease or that indicates the availability of vehicles, including any statements or representation made in a newspaper, pamphlet, circular, other publication, in radio or television, social media, on the internet, or contained in any notice, handbill, sign, billboard poster, bill catalog, letter, or business card.

(2) "Bait advertising" means:

(a) An alluring but insincere offer to sell or lease a product, to obtain leads to persons interested in buying merchandise of the type advertised and to switch consumers from the advertised product to another product for a higher price or on a basis more advantageous to the dealer; or

(b) Advertising a new motor vehicle at a price that does not include all equipment listed as standard equipment by the manufacturer without disclosing that fact, or failing to disclose any of that equipment for the purpose of advertising a low price and ["]baiting["] the customer into charges above the advertised price.

(3) "Clear and conspicuous" means a statement, representation, or term differing from other statements, representations, or terms being made so as to be readily noticeable to the person to whom it is being disclosed either by its size, sound, length of time, color, placement in the ad, or other features.

(4) "Demonstrator" <u>or "program"</u> means a vehicle of the current or preceding model year that has never been the subject of a retail sale, and that has been used by dealership personnel for demonstrating performance ability.

(5) "Executive vehicle" <u>or [and]</u> "official vehicle" mean, if so advertised, a vehicle that has been used exclusively by an executive or executives of the dealer franchisee.

Section 2. A licensee shall not use misleading or bait advertising. A practice shall not be pursued by an advertiser if the practice will discourage the sale of the advertised product with the intent and purpose of selling other merchandise instead.

Section 3. (1) An advertisement for the sale or lease of new and used vehicles placed by or on behalf of a licensee shall clearly and conspicuously identify the dealership by including in the text of the advertisement the business name as it appears on the dealer's license. In a classified newspaper or similar on-line advertisements, the licensee may, as an alternative, use the word *["]*dealer*["]* in the text of the advertisement.

(2) The advertisement of any dealership inventory on a non-company social media account shall be considered an advertisement placed on behalf of the dealership subject to these regulations and the provisions of KRS Chapter 190.
(3) A new or used motor vehicle dealer advertising the sale or lease of new or used motor vehicles at more than one (1) licensed location shall use in the text of the advertisement the business name for each advertised location as the name appears on the dealer's license for the locations where the advertised vehicles are located.

(4) A new motor vehicle dealer advertising the sale or lease of new motor vehicles at more than one (1) licensed location shall specifically identify the makes of vehicles available at each advertised location.

Section 4. (1) Except as established in subsection (2) of this section, if a specific new motor vehicle is advertised by a dealer as being for sale, that vehicle shall be:

(a) In the possession of the dealer;

(b) Shown; and

(c) Sold as advertised, illustrated, or described at the advertised price and terms, at the advertised address.

(2) The advertisement for the sale or lease of a specific new motor vehicle that is not in stock on the date of the advertisement shall:

(a) State:

1. ["]Not in stock["];

2. ["]Order yours now["]; or

3. Other phrases of similar import that clearly indicate the vehicle is not available for immediate delivery; and

(b) Disclose a reasonable estimate of the period of time in which delivery will be made.

(3) If an advertisement pertains to one (1) specific vehicle only, this fact shall be disclosed in the advertisement. Listing a stock number shall be adequate disclosure.

Section 5. The following statements shall not be used in advertising by a dealer, unless the statements are absolutely true with no qualifications:

(1) Statements such as:

(a) ["]Write your own deal["];

(b) ["]Name your own price["];

(c) ["]Name your own monthly payments["];

(d) ["]Appraise your own car["]; or

(e) Statements with similar meaning;

(2) Statements such as:

(a) [---]Everybody financed[---];

(b) ["]No credit rejected["];

(c) ["]We finance anyone["]; or

(d) Other statements representing or implying that no prospective credit purchaser will be rejected because of his inability to qualify for credit;

(3) Statements representing that no other dealer grants greater allowances for trade-ins, however stated; and

(4) Statements implying that because of its large sales volume, a new vehicle dealer is able to purchase vehicles for less than another dealer selling the same make of vehicles.

(5)(a) Claims such as ["]first["], ["]argest["], ["]biggest["], <u>or words of similar import</u> shall not be used unless they are valid at the time <u>the</u> [such] claims are made.

(b) If <u>the</u> [such] claims are qualified with regard to area, location, time, or other limitations, upon the direction of the commission, the dealer shall incorporate within the advertisement the terms of <u>the</u> [such] qualification.

Section 6. Retail advertising shall not state or imply that the dealer:

(1) Is selling vehicles in a manner other than through normal retail channels, including use of

terms [*including*] such as ["]wholesale["], ["]factory sale["], ["]factory discount["]; or

(2) Has a special relationship or connection to the manufacturer that other dealers do not have, including use of terms such as ["]factory outlet["], ["]factory branch["], <u>or</u> [and] similar terms used in connection with the manufacturer's name.

Section 7. It shall be false or misleading advertising to advertise the sale of a vehicle having only a Kentucky salvage title unless the advertisement conspicuously discloses that the vehicle has a salvage title and that the vehicle cannot be registered and operated on the roadways in Kentucky unless the vehicle is repaired and issued a rebuilt title.

Section 8. <u>Because</u> [Since] the amount of trade-in allowance will vary depending on the condition, model, and age of a buyer's vehicle, no specific trade-in amount or range of amounts shall be used in advertising.

Section 9. (1) An asterisk (*) may be used to give additional information about a word or term. (2) Use of one (1) or more footnotes or asterisks which, alone or in combination, contradict, confuse, materially modify, or unreasonably limit a principal message of the advertisement shall not be used.

Section 10. (1) Any disclosure appearing in advertisements shall clearly and conspicuously feature all necessary information in a manner that can be read and understood or that can be heard and understood.

(2) The minimum duration of printed language in a television advertisement shall be five (5) seconds for every three (3) lines.

Section 11. If an advertisement contains an offer of a discount on a new vehicle, the amount of the discount shall be stated by reference to the actual dollar figure of the manufacturer's suggested retail price of the vehicle plus the retail price of dealer-added options.

Section 12. The words ["]free["], ["]gift["], or words of similar import may be used in advertising only if the advertiser is offering an unconditional gift.

Section 13. The manufacturer's suggested retail price (MSRP) dollar figure of a new motor vehicle if advertised in local media by a manufacturer, distributor, or regional advertisement council or association shall include all costs and charges for the vehicle advertised including destination charges if those charges are uniform regardless of destination throughout the state.[;] Destination charges subject to variance within the state and dealer preparation charges may be excluded from the price, if the advertisement conspicuously states that the costs and charges are excluded.

(1) If the price of a vehicle is advertised in local media by a licensee, the vehicle shall be fully identified as to year, make, model, and if new or used.

(2) The stated price shall include all charges that the customer is required to pay for the vehicle, including ["]freight["] or ["]destination charges["], ["]dealer preparation["], ["]dealer handling["], ["]additional dealer profit["], ["]additional dealer margin["], and ["]undercoating or rustproofing["] if the vehicle is already so equipped.

(3) The advertised price at which the dealer is advertising a particular motor vehicle shall be the price before consideration for a down-payment, a trade-in allowance, or other similar allowances.

Section 14. If the words [--]ist[-] or [-]sticker[-] or words of similar import are used in a new motor vehicle advertisement, the words shall only refer to the actual dollar figure of the

manufacturer's suggested retail price (MSRP) plus the retail price of dealer-added options.

Section 15. If any advertisement relates to a lease, the advertisement shall clearly and conspicuously disclose that the advertisement is for the lease of a vehicle.

Section 16. A dealer offering to sell a demonstrator, program, official, or executive vehicle shall clearly and conspicuously identify former use.

(1) A demonstrator shall be offered for sale as such only by a dealer who holds a valid sales agreement or franchise for the sale of the same line make of motor vehicle.

(2) A vehicle advertised as official or executive vehicles shall not have been sold or leased to a retail customer prior to the appearance of the advertisement.

Section 17. Motor vehicle financing shall not be advertised at a reduced interest rate if the cost thereof would be directly or indirectly borne by the buyer unless the advertisement discloses that rate shall affect the negotiated price of the vehicle to the buyer.

Section 18. In any action pursuant to this administrative regulation, truth shall be an absolute defense.

CONTACT PERSON: Suzanne Baskett, Executive Staff Advisor, Kentucky Motor Vehicle Commission, 200 Mero Street, Frankfort, Kentucky 40601, phone (502) 573-1000, fax (502) 227-8082, email Suzanne.Baskett@ky.gov.



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MOTOR VEHICLE COMMISSION

200 Mero St. Floor 3 West Frankfort, Kentucky 40622 Phone: (502) 573-1000 Fax: (502) 227-8082 mvc.ky.gov January 3, 2022

Andy	Beshear
-	Governor

Senator Stephen West, Co-Chair Representative David Hale, Co-Chair c/o Emily Caudill, Regulations Compiler Administrative Regulation Review Subcommittee Legislative Research Commission 029, Capitol Annex 702 Capitol Avenue Frankfort, Kentucky 40601

Re: 605 KAR 1:071 ; 605 KAR 1:211; 605 KAR 1:131 ; 605 KAR 1:051 ; 605 KAR 1:191 and 605 KAR 1:091.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 605 KAR 1:071 ; 605 KAR 1:211; 605 KAR 1:131 ; 605 KAR 1:051 ; 605 KAR 1:191 and 605 KAR 1:091 , the Kentucky Motor Vehicle Commission proposes the attached staff suggested amendments to 605 KAR 1:071 ; 605 KAR 1:211; 605 KAR 1:131 ; 605 KAR 1:051 ; 605 KAR 1:191 and 605 KAR 1:091.

Sincerely,

inlosk: Cassady

Carlos Cassady, Executive Director



An Equal Opportunity Employer M/F/D

Staff-suggested Amendment

Version 12/16/2021 TRANSPORTATION CABINET Motor Vehicle Commission

605 KAR 1:211. Nonprofit motor vehicle dealer requirements and licensing.

Page 1 RELATES TO paragraph Line 5 After "(29), (30)", insert """. Delete ";".

Page 1 STATUTORY AUTHORITY paragraph

Line 6

After "190.032", insert "''. Delete ";".

Page 1 NECESSITY, FUNCTION, AND CONFORMITY paragraph Line 7

After "FUNCTION", insert "".".

Andy Beshear Governor



Mary Pat Regan Acting Secretary, Education and Workforce Development Cabinet

Jason E. Glass, Ed.D. Commissioner of Education and Chief Learner

KENTUCKY DEPARTMENT OF EDUCATION 300 Sower Boulevard • Frankfort, Kentucky 40601 Phone: (502) 564-3141 • www.education.ky.gov

January 6, 2022

Senator Stephen West, Co-Chair Representative David Hale, Co-Chair c/o Emily Caudill, Regulation Compiler Administrative Regulation Review Subcommittee Legislative Research Commission 029, Capitol Annex Frankfort, KY 40601

Re: <u>702 KAR 1:191</u>. District employee quarantine leave.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 702 KAR 1:191, the Kentucky Board of Education proposes the attached amendment to 702 KAR 1:191.

Sincerely,

M.Allew

Todd G. Allen General Counsel

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1/4/22

SUGGESTED SUBSTITUTE

EDUCATION AND WORKFORCE DEVELOPMENT CABINET Kentucky Board of Education Department of Education

702 KAR 1:191. District employee quarantine leave.

RELATES TO: KRS 156.160, 160.290, <u>160.291,</u> 161.155 STATUTORY AUTHORITY: KRS 156.070, 156.160

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160 requires the Kentucky Board of Education to promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance, including regulations for the protection of the physical welfare and safety of public school children, as well as the pay of teachers during absence because of sickness or quarantine. KRS 156.070 provides the Kentucky Board of Education with the management and control of the common schools and all programs operated in those schools. KRS 160.291 authorizes fringe benefit payments by local boards of education which are deemed to be for services rendered for the benefit of the common schools. This administrative regulation establishes paid quarantine leave to employees in the event of quarantine due to infectious or contagious disease exposure.

Section 1. Quarantine Leave. (1) Each district board of education shall adopt policies providing each eligible full or part-time employee in the school district <u>at least ten (10) days paid leave</u> <u>per school year for[paid leave during the period the employee is ordered to]</u> quarantine due to <u>exposure to a reportable</u> infectious or contagious disease <u>under 902 KAR 2:020 or any other</u> <u>infectious or contagious disease designated as reportable to a local health department or</u> <u>the Department for Public Health by a valid order or administrative regulation of the local</u> <u>health department serving the school district or the Department for Public</u> <u>Health[exposure]</u>. This leave shall be in addition to any other leave provided by statute or board policy.

(2) In order to be eligible for leave under this section, the employee shall:

(a) Be ordered to quarantine by a licensed treating physician, physician [physician's] assistant, or advanced practice registered nurse, the Department for Public Health, or a local health department due to exposure to a reportable infectious or contagious disease under 902 KAR 2:020 or any other infectious or contagious disease designated as reportable to a local health department or the Department for Public Health by a valid order or administrative regulation of the local health department serving the school district or the Department for Public Health [exposure by a treating medical professional, a public health department, or the Department for Public Health]; and

(b) Have exhausted all accumulated sick leave provided to the employee pursuant to KRS 161.155 and local board of education policies, or be ineligible to utilize accumulated sick leave provided to the employee pursuant to KRS 161.155 and local board of education policies.

(3) A school district <u>shall[may]</u> require the employee to provide written documentation from the entity ordering the employee to quarantine due to exposure to <u>a reportable</u> infectious or contagious disease <u>under 902 KAR 2:020 or any other infectious or contagious disease</u> <u>designated as reportable to a local health department or the Department for Public Health</u> <u>by a valid order or administrative regulation of the local health department serving the</u> <u>school district or the Department for Public Health</u>. (4) A school district, at its discretion, may determine quarantine leave pursuant to <u>this</u> [the] section is unnecessary <u>if</u> [when] an employee can fulfill his or her job duties remotely during the quarantine period.

(5) Leave granted pursuant to this section **shall be on a day-by-day basis, as needed, and** shall not accumulate or carry over year-to-year, and shall not be transferrable to any other classification of paid leave established by KRS 161.155, KRS 161.154, or local board of education policy.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

CONTACT PERSON: Todd G. 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.

Andy Beshear Governor



Mary Pat Regan Acting Secretary, Education and Workforce Development Cabinet

Jason E. Glass, Ed.D. Commissioner of Education and Chief Learner

KENTUCKY DEPARTMENT OF EDUCATION 300 Sower Boulevard • Frankfort, Kentucky 40601 Phone: (502) 564-3141 • www.education.ky.gov

January 3, 2022

Senator Stephen West, Co-Chair Representative David Hale, Co-Chair c/o Emily Caudill, Regulation Compiler Administrative Regulation Review Subcommittee Legislative Research Commission 029, Capitol Annex Frankfort, KY 40601

Re: 702 KAR 7:065. Designation of agent to manage middle and high school interscholastic athletics.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 702 KAR 7:065, the Kentucky Board of Education proposes the attached amendment to 702 KAR 7:065.

Sincerely,

Delin Todd G. Allen

General Counsel

attachment





Final, 12-27-2021

SUGGESTED SUBSTITUTE

EDUCATION AND WORKFORCE DEVELOPMENT CABINET Kentucky Board of Education Department of Education

702 KAR 7:065. Designation of agent to manage middle and high school interscholastic athletics.

RELATES TO: KRS 61.805 - 61.850, 156.070(2), 160.380, 160.445, 20 U.S.C. 1681 STATUTORY AUTHORITY: KRS 156.070(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070(1) requires the Kentucky Board of Education to manage and control the common schools, including interscholastic athletics in the schools. KRS 156.070(2) authorizes the board to designate an agency to manage athletics. This administrative regulation designates an agent for middle and high school athletics; establishes the financial planning and review processes for the agent; and incorporates by reference the bylaws, procedures, and rules of the agent.

Section 1. Definitions. (1) "Contact <u>Drill</u>" means that drills are run at Level 3, [thud, or] Level 4, <u>or Level 5</u> [live action].

(2) "KBE" means Kentucky Board of Education.

(3) "KHSAA" means Kentucky High School Athletics Association.

(4) "Level 0" or "air" means that players run a drill unopposed [and] without contact.

(5) "Level 1" or "bags" means that a drill is run with [against] a bag or against another soft contact surface.

(6) "Level 2" or "control" means that:

(a) A drill is run at an [the] assigned speed until the moment of contact;

(b) One (1) player is predetermined the winner by the coach;

(c) Contact remains above the waist:[-] and

(d) Players stay on their feet.

(7) "Level 3" or "Control to Ground" means that:

(a) A drill is run at an assigned non-competitive speed or with players pre-engaged;

(b)[,] There is a pre-determined winner; and

(c)[] Players are allowed to take their opponent to the ground in a controlled manner.

(8) "Level 4" or "thud" means that:

(a) A drill is run at a competitive [the assigned] speed through the moment of contact;

(b) There is no [not a] predetermined winner;

(c) Contact is [remains] above the waist;

(d) Players stay on their feet:[] and

(e) A quick whistle ends the drill.

(9)[(8)] "Level 5 ["Level 4"] or "live [action]" means that a drill is run at a competitive speed in game-like conditions [and is the only time that players are taken to the ground].

(10)[(9)] "Non-Contact <u>Drill</u> " means that drills are run at Level 0, [air;] Level 1, [bags;] or Level 2[- control].

(11)[(10)] "OCR" means the United States Department of Education, Office for Civil Rights.

Section 2. The KHSAA shall be the Kentucky Board of Education's agent to manage interscholastic athletics at the middle and high school level in the common schools and private schools desiring to associate with KHSAA or to compete with a common school. Section 3. To remain eligible to maintain the designation as the agent to manage interscholastic high school athletics, the KHSAA shall:

(1) Accept four (4) at-large members appointed by the Kentucky Board of Education to its high school Board of Control;

(2) Sponsor an annual meeting of its member high schools;

(3) Provide for each member high school to have a vote on the KHSAA Constitution and bylaw changes submitted for consideration;

(4) Provide for high school regional postseason tournament net revenues to be distributed to the member high schools in that region participating in that sport, utilizing a share approach determined by the high schools within that region playing that sport;

(5) Provide for students desiring to participate at the high school level (regardless of the level of play) to be enrolled in at least grade seven (7);

(6) Require its governing body to annually establish goals and objectives for its commissioner and perform a self-assessment and submit the results annually to the KBE by December 31;

(7) Advise the Department of Education of all legal action brought against the KHSAA;

(8) Permit a board of control member to serve a maximum of two (2) consecutive four (4) year terms with no region represented for more than eight (8) consecutive years;

(9) Employ a commissioner and evaluate that person's performance annually by October 31, and establish all staff positions upon recommendation of the commissioner;

(10) Permit the commissioner to employ other personnel necessary to perform the staff responsibilities;

(11) Permit the Board of Control to assess fines on a member high school;

(12) Utilize a trained independent hearing officer instead of an eligibility committee for a high school athletic eligibility appeal;

(13) Establish a philosophical statement of principles to use as a guide in a high school eligibility case;

(14) Conduct continual cycles of field audits of the association's entire high school membership, which provides that each high school is audited regarding each school's compliance with 20 U.S.C. Section 1681 (Title IX) and submit annual summary reports, including the highlighting of any potential deficiencies in OCR compliance to the Kentucky Board of Education;

(15) As a condition precedent to high school membership, require each member high school and superintendent to annually submit a written certification of compliance with 20 U.S.C. Section 1681 (Title IX);

(16) Conduct all meetings related to high school athletics in accordance with KRS 61.805 through 61.850;

(17) Provide written reports of any investigations into possible violations of statute, administrative regulation, KHSAA Constitution, KHSAA Bylaws, or other rules governing the conduct of high school interscholastic athletics conducted by KHSAA or their designees to the superintendent and principal of the involved school district and school before being made public;

(18) Not punish or sanction, in any manner, a school, student, coach, or administrator for allowing a student to play in an athletic contest or practice with the team during a time when an order of a court of competent jurisdiction permits the student to participate or otherwise stays or enjoins enforcement of a KHSAA final decision on eligibility; and

(19) Require any student enrolled initially in grade seven (7) through twelve (12) who is repeating a grade for any reason, to be ineligible, during the school year that the grade is repeated, to compete in an interscholastic athletics competition at any level.

Section 4. To remain eligible to maintain the designation as the agent to manage interscholastic athletics at the middle school level, the KHSAA shall implement the following requirements for all participants in middle school interscholastic athletics, distribute these requirements to all middle schools, and publish via the KHSAA Web site:

(1) Require that these provisions apply to all middle school interscholastic athletics. The following indicates that a team is representative of a school and classified as middle school athletics:

(a) The contest, event, or tournament is sponsored by a school or combined group of schools;

(b) Competitors wear a school-issued uniform;

(c) The contest, event, or tournament is sponsored by an outside entity as a school entry event, which is advertised or promoted as a school event, whether or not an entry fee is required;

(d) A school entity pays an entry fee, for the student or team, including payment by booster organizations;

(e) A school representative accompanies the student-athlete or transports the student-athlete to the contest, event, or tournament;

(f) A designated or hired member of a school coaching staff, whether paid or unpaid, is present and offering instruction, advice, evaluation, or refinement of skills or exercising other duties defined as coaching within the sport rules;

(g) Transportation to or from the contest, event, or tournament utilizes school provided or approved transportation;

(h) Competitors in the contest, event, or tournament wear apparel identifying them by the name of the school, including the formal name, informal name, or team nickname;

(i) Competitors in the contest, event, or tournament are provided promotional or other resources by the school including school media recognition, signage, and items indicative of school representation;

(j) Competition in a contest, event, or tournament has, in any form, jurisdiction of the local school board or school-based decision-making body, including financial or other approval control; or

(k) Competition in a contest, event, or tournament is covered by any school or school system provided or procured insurance policy;

(2) Require that any head or assistant coach, whether paid or unpaid, desiring to coach interscholastic athletics at the middle school level:

(a) Meet the requirements of KRS 156.070(2)(g)2;

(b) Meet the requirements of KRS 160.380(5) and (6); and

(c) Provide to the school documentation of successful completion of a C.P.R. course including the use of an automatic external defibrillator and the first aid training, conducted by an instructor or program approved by a college or university, the American Red Cross, the American Heart Association, or other bona fide accrediting agency that is approved by the KHSAA based upon industry standards. The certification shall be updated as required by the approving agency;

(3) Require adherence to the following items regarding safety, sports medicine, and risk minimization for all interscholastic athletics at the middle school level:

(a) Each student, before trying for a place on a middle school athletic team, shall provide an annual medical examination, in accordance with KRS 156.070(2)(e), and shall use the KHSAA form PPE01, with PPE02 being optional for the health care provider;

(b) All participants at the middle school level shall adhere to all sports medicine and risk minimization policies in use at the high school level that may be supplemented by the school, school district, conference, or association including:

1. Heat index and heat illness programs;

Wrestling weight management programs;

3. Concussion and other head injury policies including policies for minimizing impact exposure and concussion risks;

4. The following football drill work and practice activity limitations:

a. Football contact and non-contact practice shall use the appropriate clothing and equipment for the level of drill, including:

(i) A drill conducted in helmets-only shall be a Level 0, [air,] or Level 1[, bags];

(ii) A drill conducted in shells (shorts, shoulder pads, and helmets) shall be a non-contact drill; and

(iii) A contact drill shall be conducted in full equipment;

b. Middle school football shall practice a minimum of eleven (11) days before engaging another group or opponent in full contact, using the following minimum schedule:

(i) Five (5) days in helmets;

(ii) Followed by three (3) days in helmets and shoulder pads; and

(iii) Concluding with three (3) days in full equipment practice; and

c. Contact drills shall not be conducted more than twenty-one (21) days before the first regular-season contest;

d. <u>The</u> [Beginning July 1, 2020,] the first regular season interscholastic contest shall not be played before the Saturday preceding week seven (7) of the National Federation of High Schools Standardized Procedure for Numbering Calendar Weeks;

5. The following baseball pitching limitations shall apply to all interscholastic play at the middle school level including scrimmages, regular season, and post season games:

a. The pitch count shall be based on pitches thrown for strikes (including foul balls), balls, balls in play, and outs;

b. Warm-up pitches allowed before each inning, warm-up pitches allowed by the umpire in case of injury or game delay, and plays attempted against the batter-runner or any runner at first, second, or third base shall not count against this limit;

c. A pitcher at any level who reaches the pitch count limit in the middle of an at-bat shall be allowed to finish that hitter;

d. The required calendar rest shall begin on the day following the date on which the game began, or a resumed game began regardless of the conclusion time of the game; and

e. The rest periods shall be based on the following total pitches:

(i) Maximum pitches - eighty-five (85);

(ii) Fifty-six (56) pitches or more - three (3) calendar days rest;

(iii) Thirty-six (36) to fifty-five (55) pitches - two (2) calendar days rest;

(iv) Twenty (20) to thirty-five (35) pitches - one (1) calendar day rest; and

(v) One (1) to nineteen (19) pitches - no mandated rest;

6. Students seeking to play or practice, including scrimmages, regular season, and post season games, in the sport of fastpitch softball, shall be required to wear face protection, commercially manufactured for softball facial protection and worn as intended by the manufacturer, when playing the positions of first base, third base, and pitcher; and

7. Teams participating in middle school athletics as defined by subsection (1) of this section shall use KHSAA licensed officials in the sports of baseball, basketball, field hockey, football, soccer, softball, and volleyball;

(4) Create a permanent Middle School Athletics Advisory Committee. This committee shall:

(a) <u>Report regularly, not less than annually to [Be autonomous with respect to]</u> the Board of Control of the KHSAA with the Board of Control obligated to make a recommendation to the Kentucky Board of Education with respect to annually proposed regulatory changes;

(b) Be composed of no less than three (3) middle school representatives from each Supreme Court district as well as no less than three (3) at large representatives from throughout the state;

(c) Provide an opportunity for nonprofit athletic groups, parents, and others to participate and provide input on the sport, athletic event, or athletes involved in interscholastic activities through local school districts;

(d) Meet not less than twice annually to review current programs and policies, make recommendations for improvements to and participation in middle school interscholastic activities, as well as any changes in statute, administrative regulation, or policy related to middle school interscholastic athletics, and assist in the development of model guidelines for schools, districts, conferences, and associations to be used in implementing a middle school athletic program; and

(e) Report regularly, not less than annually, to the commissioner of the KHSAA and issue, in conjunction with the commissioner, a formal written report annually to the KBE with recommendations for changes in statute, administrative regulation, or policy;

(5) Require any organization conducting a school-based event at the middle school level to submit the following, which shall be published and listed on the KHSAA Web site:

(a) Annual financial reports of all sanctioned and approved events sponsored by the organization; and

(b) Documentation of financial accountability including verification of federal status and tax documents including an annual IRS Form 990;

(6) Provide notice to the middle schools related to any program conducted by KHSAA related to educating school administrators about the provisions of 20 U.S.C. 1681, Title IX;

(7) Provide educational materials and a mechanism to facilitate the monitoring and tracking capabilities for the middle schools to ensure compliance with the provisions of KRS 160.445 and other requirements for coaches at the middle school level;

(8) Require that any student who turns:

(a) Fifteen (15) years of age before August 1 of the current school year shall not be eligible for interscholastic athletics in Kentucky in competition against students exclusively enrolled in grades eight (8) and below;

(b) Fourteen (14) years of age before August 1 of the current year shall not be eligible for interscholastic athletics in Kentucky in competition against students exclusively enrolled in grades seven (7) and below; and

(c) Thirteen (13) years of age before August 1 of the current school year shall not be eligible for interscholastic athletics in Kentucky in competition against students exclusively enrolled in grades six (6) and below;

(9) Require each school, school district, conference, or association of schools to develop rules and limitations regarding student participation at the middle school level to include:

(a) A defined age limitation for participating students;

(b) A policy regarding the participation of students below grade six (6);

(c) A limitation on practice time before the season in any sport or sport activity which shall not exceed the practice time adopted for play at the high school level;

(d) A limitation on the number of school-based scrimmages and regular season, school based contests in each sport or sport-activity, which shall not include post season contests and shall not exceed the allowable number of contests for that sport or sport-activity at the high school level; and

(e) A limitation on the length of the regular competitive season in each sport or sport-activity, not including any post season activities, which shall not exceed the length for that sport or sport-activity at the high school level;

(10) Conduct all meetings related to middle school athletics in accordance with KRS 61.805 through 61.850;

(11) Issue an annual report to the KBE on the status of interscholastic athletics at the middle school level, including any recommendations for changes in statute, administrative regulation, or policy;

(12) Allow a school or school district to join a conference or association that has developed rules for any particular sport or sport-activity to satisfy the requirements of this administrative regulation; and

(13) The period of June 25 to July 9, inclusive, shall be a dead period for middle school athletics. During the dead period:

(a) Students shall not receive coaching or training from school personnel, whether salaried or non-salaried;

(b) School facilities, uniforms, nicknames, transportation, or equipment shall not be used;

(c) School funds shall not be expended in support of interscholastic athletics; and

(d) A postseason wrap-up activity, celebration, or recognition event relating to a spring sports team at a school may be held.

Section 5. Financial Planning and Review Requirements. (1) KHSAA shall annually submit the following documents to the KBE by October 31:

(a) Draft budget for the next two (2) fiscal years, including the current year;

(b) End-of-year budget status report for the previous fiscal year;

(c) Revisions to the KHSAA Strategic Plan as a result of an annual review of the plan by the KHSAA governing body;

(d) A summary report of operations including summaries of financial, legal, and administrative actions taken and other items ongoing within KHSAA. This report shall also include a summary of items affecting:

1. Athletic appeals and their disposition, including the name of the individual, grade, school, and the action taken by KHSAA;

2. Eligibility rules;

3. Duties of school officials;

4. Contests and contest limitations;

5. Requirements for officials and coaches; and

6. Results of a biennial review of its bylaws that results in a recommendation for a change, directing any proposals for change in association rules to be considered for a vote by the member schools at the next legislative opportunity; and

(e) A review of all items which have been submitted to the membership for approval through the processes established in the KHSAA Constitution and the result of the voting on those issues.

(2) The KHSAA shall annually submit at the next meeting of the Kentucky Board of Education following receipt and adoption by the Board of Control, audited financial statements with the KHSAA Commissioner's letter addressing exceptions or notes contained in management correspondence if any.

Section 6. Forms. The forms incorporated by reference in this administrative regulation shall be filed:

(1) Using the paper form; or

(2) Using the electronic forms found on the Kentucky High School Athletic Association Web site at www.khsaa.org.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "KHSAA Constitution", <u>7/2021</u> [7/2020];

(b) "KHSAA Bylaws", <u>7/2021</u> [7/2020];

(c) "KHSAA Due Process Procedure", 7/2021 [6/2017];

(d) "KHSAA Board of Control and Officials Division Policies", 7/2021 [7/2020];

(e) KHSAA Form BA101- Baseball Pitching Limitation", 6/2016;

(f) KHSAA Form GE01, "Application for Membership", 5/2020;

(g) KHSAA Form GE04, "Athletic Participation Form, Parental and Student Consent and Release for High School Level (grades 9 - 12) Participation", 7/2020;

(h) KHSAA Form DP02, "Request for Statutory Waiver of Bylaw 2", 6/2018;

(i) KHSAA Form DP06, "Application for Athletic Eligibility for Domestic Students", 7/2020;

(j) KHSAA Form DP07, "Application for Athletic Eligibility for Students having J-1 or F-1 Status", 7/2020;

(k) KHSAA Form DP08, "Application for Non U.S. Student Athletic Eligibility for Students Not having J-1/F-1 Status ", 7/2020;

(I) KHSAA Form DP16, "Request for Waiver of 20 Day Notice", 6/2018;

(m) KHSAA Form DP17, "Add. Info for Appeal", 6/2018;

(n) KHSAA Form DP18 "Waiver – 15 Day Exceptions", 6/2018;

(o) "KHSAA Form GE14- Contract for Athletic Contests", 7/2020;

(p) "KHSAA Form GE19-Title IX Procedures Verification", 5/2011;

(q) KHSAA Form GE20, "Heat Index Measurement and Record", 4/2014;

(r) KHSAA Form PPE01/Physician Clearance, "PPE01-Physician Clearance Form (Grades 6-12)", 7/2020;

(s) KHSAA Form PPE02/Physical Exam, "PPE02 Physical Exam Form (Grades 6-12)", 7/2021 [7/2020];

(t) KHSAA Form PPE/Supplemental, "PPE- Physical Exam History Supplemental Form for Athletes With Special Needs (Grades 6 - 12)", 7/2019; and

(u) "KHSAA Form MS01- Athletic Participation Parental and Student Consent and Release for Middle School (grades 5-8) Participation", 7/2020.

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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.



EDUCATION and WORKFORCE DEVELOPMENT CABINET Department for Libraries & Archives

Andy Beshear

Governor

Jacqueline Coleman

Lieutenant Governor

January 6, 2022

P.O. Box 537 300 Coffee Tree Road Frankfort, KY 40601 Phone 502-564-8300 FAX 502-564-5773 <u>http://kdla.ky.gov</u>

Mary Pat Regan Acting Secretary

Terry Manuel Commissioner

Senator Stephen West, Co-Chair Representative David Hale, Co-Chair Administrative Regulation Review Subcommittee Capitol Annex 702 Capitol Avenue Frankfort, Kentucky 40601

Senator West and Representative Hale:

After discussions with Administrative Regulation Review Subcommittee staff, the Department for Library and Archives proposes the attached suggested substitutes to 725 KAR 1:010, 725 KAR 1:020, 725 KAR 1:030, 725 KAR 1:040, 725 KAR 1:050, and 725 KAR 1:061.

Sincerely,

-DocuSigned by: Bith Millurn

Beth Milburn

Beth Milburn, Deputy Commissioner Department for Libraries and Archives 300 Coffee Tree Road Frankfort, Kentucky 40601



SUGGESTED SUBSTITUTE

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EDUCATION AND WORKFORCE DEVELOPMENT CABINET Department for Libraries and Archives Archives and Records Management Division

725 KAR 1:010. Records officers; duties.

RELATES TO: KRS Chapter 171 STATUTORY AUTHORITY: KRS 171.450

NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.450 requires the department to **promulgate[prescribe]** administrative regulations governing the procedures for <u>retention scheduling</u> of <u>public records</u>, disposal of public records, and for the transfer of public records to the State Archives <u>or[and]</u> Records Centers. This administrative regulation <u>establishes[is to assure]</u> uniformity and continuity <u>with regard to public records[in these procedures]</u>.

Section 1. Each constitutional, statutory, and executive authority of state and local government shall designate a member of the staff as records officer, whose duty shall be to represent <u>that[his]</u> unit of government in its relations with the <u>Archives and Records Management Divi-</u> <u>sion[Public Records Division]</u>.

Section 2. Duties and responsibilities of each records officer <u>shall be as established in sub-</u> section (1) of this section.[are as follows:]

(1) <u>The records officer[He]</u> shall assist the <u>Archives and Records Management Division[Division of Archives and Records]</u> in inventorying, analyzing, and scheduling disposition of records of <u>the records officer's[his]</u> unit of government, or in any manner [as] approved by the agency head that[as] <u>could[may]</u> tend to establish an efficient system of records management.

(2) <u>The records officer</u>[He] shall keep a record of the destruction of public records, noting the authorization for **[said]** destruction and the amount <u>and date span</u> of records destroyed. [He shall make an annual report of this record to a designated superior and to the Director of the Public Records Division.]

<u>Section 3. The records officer shall keep a record of the transfer of public records to the State</u> <u>Archives and Records Centers, including the records transferred, date of transfer, and location in</u> the State Archives and Records Centers.

Section <u>4</u>[3]. <u>(1) A state or local agency shall not destroy any original records after the records are microfilmed, digitized, duplicated, or reformatted without written approval[No original documents may be destroyed by any political unit of state or local government after being microfilmed or otherwise duplicated without written approval</u>] of the Department for Libraries and Archives, <u>as estab-lished in the Destruction of Public Records: A Procedural Guide</u>.

(2) **The records officer[He]** shall keep a record of the destruction of public records, noting the authorization for **[said]** destruction and the amount of records destroyed. **The records of-**

ficer[He] shall make an annual report of this record to a designated superior and to the *State Archivist[Director of the Public Records Division*].

<u>Section 5. Incorporation by Reference. (1) "Destruction of Public Records: A Procedural</u> Guide", November 2021, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601, Monday through Friday, 9 a.m. to 4 p.m.

CONTACT PERSON: Terry Manuel, Commissioner, Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601. phone 502-564-8303. fax 502-564-5773, email Terry.Manuel@ky.gov.

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EDUCATION AND WORKFORCE DEVELOPMENT CABINET Department for Libraries and Archives Archives and Records Management Division

725 KAR 1:020. Recording and reproducing public records.

RELATES TO: KRS 61.870, *171.420(3)[141.420(3)]*, 171.450(1)(c), 171.600, 171.670 STATUTORY AUTHORITY: KRS 171.450(1)(c), 171.660

NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.450(1)(c) requires the department to establish standards and procedures for recording, managing, *[and]* preserving, *[public records,]* and *reproducing[for the reproduction of]* public records. KRS 171.660 requires that [a] state and local agencies shall reproduce and preserve public records according to administrative regulations promulgated by the department. KRS 171.420(3) *requires[provided that]* the <u>State Libraries, Archives, and Records Commission[State Archives and Records Commission]</u> *to[shall]* be the final authority for the disposition of all public records in Kentucky. This administrative regulation establishes the standards to be followed for the recording or reproducing <u>of</u> public records.

Section 1. Recording shall be done on paper, <u>microform[microfilm]</u>, or in a digital format.

Section 2. If the recording is done on paper, it shall be done on thirty-two (32) weight, 100 percent linen paper[or its equivalent in accordance with specifications established by the Na-tional Institute of Standards and Technology].

Section 3. If the recording is done on microfilm, microfiche, or some other type of microform, the agency shall follow the standards and procedures in Microfilming and Digital Imaging of <u>Public Records</u>: A Procedural Guide.

Section 4. If the recording is in a digital format or reformatted to<u>a</u> digital image, the agency shall follow the standards in Microfilming and Digital Imaging<u>of Public Records</u>: A Procedural Guide, Policy Memorandum on the Storage of Public Records as Scanned Images, and Ensuring [the] Long-term Accessibility and Usability of <u>Textual</u> Records Stored as Digital Images: Guide-lines for State and Local Government Officials.

Section 5. (1) A state or local agency shall not destroy any original records after the records are microfilmed, digitized, duplicated, or reformatted without written approval of the State Ar-chivist[-and Records Administrator] as established in 725 KAR 1:030.

(2) A state or local agency shall follow the retention and disposition schedules established by the <u>State Libraries</u>, <u>Archives</u>, and <u>Records Commission</u>[<u>State Archives and Records Commission</u>] in 725 KAR 1:061.

Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Microfilming and Digital Imaging of Public Records: A Procedural Guide", January 2010;

(b) "Policy Memorandum on the Storage of Public Records as Scanned Images, PM 2010-01", January 2010; and

(c) "Ensuring [the-]Long-term Accessibility and Usability of <u>Textual</u> Records Stored as Digital Images: Guidelines for State and Local Government Officials", January 2010.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at <u>Archives and Records Management Division[Public Records Division]</u>, Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601, Monday through Friday, <u>9:00 a.m.[8 a.m.]</u> to <u>4:00 p.m.[4:30 p.m.]</u>

CONTACT PERSON: Terry Manuel, Commissioner, Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601. phone 502-564-8303. fax 502-564-5773. email Terry.Manuel@ky.gov.

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EDUCATION AND WORKFORCE DEVELOPMENT CABINET Department for Libraries and Archives Archives and Records Management Division

725 KAR 1:030. Scheduling public records for retention and disposal; procedures.

RELATES TO: KRS 171.450

STATUTORY AUTHORITY: KRS 171.450, 171.580

NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.450(1)(a) and (b) <u>require[requires]</u> the department to establish procedures for the compilation and submission to the department of lists and schedules of public records proposed for disposal and to establish procedures for the disposal or destruction of public records authorized for disposal or destruction. KRS 171.580 authorizes the department to accept for deposit in the State Archives <u>Center</u> the records of any state or local agency that are determined by the department to have sufficient historical or other value[-to warrant their procedures for the scheduling of public records for retention and disposal and for the uniform destruction of public records]. <u>This administrative regulation estables</u> <u>Lishes provisions for the retention and disposal of public records</u>.

Section 1. State and local agencies shall follow the procedures for scheduling public records for retention and disposal described in Records Retention Scheduling: A Procedural Guide.

Section 2. State and local agencies shall follow the procedures for disposing of eligible public records described in Destruction of Public Records: A Procedural Guide.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Records Retention Scheduling: A Procedural Guide", July 2008; and

(b) "Destruction of Public Records: A Procedural Guide", July 2008.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at <u>Archives and Records Management Division[Public Records Division]</u>, Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601, Monday through Friday, <u>9:00 a.m.[8 a.m.]</u> to <u>4:00 p.m.[4:30 p.m.]</u>

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EDUCATION AND WORKFORCE DEVELOPMENT CABINET Department for Libraries and Archives Archives and Records Management Division

725 KAR 1:040. Collection and distribution of reports and publications.

RELATES TO: KRS 171.500

STATUTORY AUTHORITY: KRS 171.450

NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.450 requires the department to establish procedures for collection and distribution by the central depository of all reports and publications issued by any department, board, commission, officer, or other agency of the commonwealth for general public distribution. This administrative regulation establishes collection and distribution procedures for reports and publications.

Section 1. Definitions. (1) "Department" is defined by[in] KRS 171.410(2).

(2) "Division" <u>means[is]</u> Archives and Records Management Division[Public Records Division] in the Department for Libraries and Archives.[

(3) "Nonstate publication" means a brochure, public agency press release, internal procedure manual, internal newsletter, inter- and intraoffice correspondence and memorandum, and mate-rial designated by law as confidential.

(4) "Publication number" means a unique identifier assigned to state publications in the department's collection.]

(3)[(5)] "Records officer" **means[is]** the public agency employee who represents <u>that[his]</u> unit of government in its relations with the division, as **<u>established[</u>defined]** in 725 KAR 1:010.

(4)[(6)] "State publication" means a publication in any format that is produced by the authority of, or at the total or partial expense of, a state agency, and is required to be distributed under law by the agency, is publicly distributed outside the agency,[-or] is displayed on a public agency **Web site[website]**,[Web site] or is made available electronically by any other means.

Section 2. (1) The records officer of each agency or department of state government shall be responsible for depositing with the Department for Libraries and Archives, <u>Archives and Records</u> <u>Management Division</u>[Public Records Division], three (3) copies of each report and publication issued on paper by that agency for general public distribution or one (1) electronic copy. Publications shall be forwarded to the division on the date of issue.

(2) The records officer of each agency shall be responsible for depositing with the division one (1) copy of each state publication held in electronic format or issued for general public distribution on the agency's Web site.

(a) Each publication [Publications] shall be forwarded to the division on the date of issue.

(b) The agency[Agencies] shall forward electronic publications to the division in Adobe Portable Document Format (PDF)[, as attachments to an email message, or as documents on a disc].

(c) Agencies shall follow the guidelines contained in <u>Kentucky Information Technology</u> <u>Standards (KITS), https://cgp.ky.gov/sites/COTPUBDOCS/Standards/KITS Report.pdf</u> ["Enterprise Standards: 2000 Software Domain Category: 2330 Electronic Documents: NonAlterable."].

Section 3. (1) Each agency shall notify the division in writing of the name of its records officer, as the agency employee who represents <u>that[his]</u> unit of government in its relations with the division *[, within thirty (30) days after the effective date of this administrative regulation and upon any change of that personnel thereafter*]. The records officer shall <u>submit to[furnish]</u> the division in writing, *[with]* a complete list of the agency's current state publications in all formats, annually, at the end of each fiscal year, and upon request.

(2) If a records officer is unsure whether <u>or not</u> particular published material constitutes a state publication, the records officer may consult the <u>Archives and Records Management Divi</u><u>sion[division's coordinator of state publications]</u>.

Section 4. (1) Once submitted, state publications in all formats shall be reviewed for addition to the State Publications Collection at the department. Nonstate publications or paper copies in excess of the required three (3) *may[shall]* be discarded.

(2) Once added to the State Publications Collection, publications shall be [assigned a publication number and]listed on the department's Web site for general public access.

[Section 5. Incorporation by Reference. (1) "Enterprise Standards: 2000 Software Domain Category: 2330 Electronic Documents: Non Alterable" is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:00 p.m.4:30 p.m.]

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EDUCATION AND WORKFORCE DEVELOPMENT CABINET Department for Libraries and Archives Archives and Records Management Division

725 KAR 1:050. Records management program.

RELATES TO: KRS Chapter 171

STATUTORY AUTHORITY: KRS 171.450(2), 171.520

NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.450(2) requires that the department shall enforce the provisions of KRS 171.410 <u>through[te]</u> 171.740 by <u>promulgation of[appropriate</u> *rules and]* administrative regulations. KRS 171.520 requires the department to <u>establish[prescribe]</u> the policies and principles to be followed by state and local agencies in the conduct of their records management programs.[*j*] to ensure the maintenance and security of records deemed appropriate for preservation.[*j*] to facilitate the segregation and disposal of records of temporary value and to promote the effective and economical use of space, equipment, and supplies needed for the purpose of creating, maintaining, and servicing records. KRS 171.520 [*alse*] authorizes the department to administer and grant any money appropriated to it for providing and improving records management programs of state and local agencies. This [proposed-]administrative regulation <u>establishes[is to assure]</u> uniform policies <u>for[in]</u> the administration of grants to local governments for the improvement of records management programs.

Section 1. Eligibility of Applicants. Any local government office interested in improving the management and preservation of its public records may apply for a grant under the local records program by completing <u>the Local Records Program Grant</u> Application[forms available through the department]. For the purposes of this program, a local government office <u>shall</u> <u>constitute a[should conform to the definition of]</u> "public agency" as <u>defined by[cited in]</u> KRS 61.870(1).

Section 2. Application Procedures. All applications <u>shall[must]</u> be submitted on the <u>Local</u> <u>Records Program Grant Application[official application form]</u> and include a detailed project description, plan of work, and budget request. <u>Supporting documentation, such as the Invita-</u> <u>tion for Bid Proposal are established in the Local Records Program Grant Guidelines.</u> Entries on the application form and any required supporting documents <u>shall[should]</u> be typed and completed as fully as possible, with additional sheets attached if necessary. In signing the application and in accepting a grant award, applicants agree, in carrying out their projects, to abide by <u>the criteria established in this administrative regulation[specific conditions set by</u> <u>the department]</u>.

Section 3. Categories for Funding. Any project **[which seeks]** to improve the management and preservation of local public records **<u>shall[will]</u>** be considered. Categories for funding include, **<u>for example[but are not limited to]</u>**: (1) Security microfilming vital (critical for the functioning of the office) or historically significant records *following the standards and procedures in Microfilming and Digital Imaging of Pub-lic Records: A Procedural Guide[using <u>Archives and Records Management Division</u>][Public Records Division]<i>[standards]*. Security microfilming carried out with local records grant funds must be done through a micrographics laboratory or <u>vendor[service bureau</u>] certified <u>according</u> *to the criteria established in the Microfilming and Digital Imaging of Public Records: A Procedural Guide[by the department]* and officially recognized by the <u>State Libraries, Archives, and Records Commission[State Archives and Records Commission]</u>. A list of the names of currently certified laboratories <u>or vendors may[can]</u> be obtained from the <u>department's web site</u> (<u>https://kdla.ky.gov/records/recmgmtservices/Pages/LocalRecordsProgramGrants.aspx)[dep</u> *artment];[.*]

(2) Rerecording projects, for rerecording damaged records or records[originally recorded with a nonpermanent process and] now losing their image, using archivally acceptable methods of recording on paper or microfilm;[-]

(3) Document preservation projects, to carry out preservation or conservation measures on endangered records of major historical significance;[-]

(4) Purchasing document conservation supplies;[-]

(5) Establishing a local government records management program or archives. This **may[could]** include hiring or partially subsidizing the salary of a qualified archivist who will work with department personnel in initiating a specific, time-limited project[according to department standards]. Requests for salary support <u>shall be evaluated based on this administra-</u> tive regulation[will be evaluated on a case-by-case basis]. <u>These[Such]</u> funds are not designed for ongoing support, and they <u>shall not[cannot]</u> be used to replace salary funds already being expended by the local government. They <u>may[can]</u> be used as <u>short-term[short term]</u> salary supplements:[-]

(6) Arranging and describing archival holdings, according to <u>generally accepted profession</u>al standards of records management and archival theory and practice[standards <u>or[and/or] formats approved by the department]</u>.[.]

(7) Purchasing supplies and equipment <u>that[which]</u> promote preservation of or access to archival materials, including acid-free boxes and folders, shelving, <u>and</u> cabinets<u>; and[.][, and equipment to read microfilm</u>.

(8) Improving storage conditions, rehabilitating storage are-as, installing physical security systems, or providing for adequate environmental conditions in areas where records are stored.]

(8)[(9)] Codification of ordinances for cities and counties, <u>according to procedures in Policy</u> <u>Memorandum on Approved Codification Services Vendors and Codification Grant Appli-</u> <u>cants/Recipients[using a codification services vendor approved by the department]</u>. Funds <u>shall be[are]</u> available for production of initial codes but not for code supplements.

Section 4. Grant Award Periods. Grants <u>shall be[are]</u> awarded on a state fiscal year basis[, and applicants are encouraged to design projects which can be completed during that period. Applicants with longer term needs are encouraged to identify phases into which their projects can conveniently be divided, and they are urged to carry out their work in stages, each of which could be eligible for grant support in future grant cycles, pending satisfactory completion of each stage]. Section <u>5.[6.]</u> Grant Review Criteria. In reviewing applications and recommending the funding of specific projects, reviewers judge the projects by criteria, which <u>includes[may include the</u> following]:

(1) Urgency of the problem, <u>such as</u> significance and age of the records. The commission and other evaluation groups <u>shall consider first[will pay special attention to those</u>] local government applicants with critical records problems and to those with older records and with chronologically complete groupings of records;[-]

(2) Value as a model and type for size and geographical location of the local government. The program **<u>shall promote[strives to assure]</u>** equity in the geographic distribution of grant projects. The program **<u>shall include[includes]</u>** projects in various types and sizes of local governments, **with[and]** a major goal **[is]** to provide model projects in all areas of the state**:[.**]

(3) Soundness of the proposed methods. The methods of handling the records **shall[should]** conform to generally accepted professional standards of records management and archival theory and practice;[-]

(4) Commitment of local government resources to the project. The commission and other evaluation groups **shall[will]** give preference to local governments **that[which]** commit some local resources to the proposed projects. **[Such]**Support **may[might]** take the form of adequate office, storage, or working space; personnel; supplies; equipment; or a monetary contribution. Evidence of previous concern or commitment of support to improved local records management and preservation **shall[will]** also be important factors in the reviewers' evaluation;**[**-**]**

(5) Commitment by the local government to maintain the <u>program[pro-gram]</u> or the lasting benefit of a specific project. This **may[could]** include provisions for maintaining the accuracy and currency of a grant-funded code of ordinances with annual supplements, providing adequate storage space, designating of a person or persons responsible for maintaining and adding to a local archives, adhering to all standards for archival microfilming, or being willing to assume the cost of future security microfilming of relevant records**:**[-]

(6) Adequate security and protection of records. Local governments shall:

(a) 1. [should] House records in secure, fire-resistant[fire resistant] facilities;[7] or

<u>2.[should]</u> State how the proposed project will safeguard the records in question.

(b) Applicants <u>shall comply with[should take into account the requirements of]</u> KRS 171.710 regarding the safeguarding of public records;[-]

(7) Compliance with all legal requirements regarding custody and public access. This **shall[would]** include complying with the requirements of the state's Open Records Law (KRS 61.870-876) and providing access to the general public in an area with proper security and supervision; **and**[-]

(8) Commitment by the local government to a comprehensive records management program. This **shall[would]** include regular legal disposition of [obsolete-]records in accordance[accord] with the records <u>retention[control]</u> schedules covering the records of a local government agency, and **may[might]** also include files control, segregation of inactive or noncurrent material from active files, selective microfilming (where appropriate), and training of records personnel in records management techniques.

Section <u>6.[5.]</u> Grant Review and Evaluation. Applications <u>shall be[are]</u> reviewed by the Local Records Grant Review Committee and <u>ranked recommendations shall be presented to</u> the <u>State Libraries, Archives, and Records Commission[State Archives and Records Commission]</u>. <u>The</u> <u>State Libraries, Archives and Records Commission shall make[Recommendations of these</u> <u>groups are forwarded to the commissioner of the department who makes]</u> the final decision on grant awards <u>using the criteria established in Section 5 of this administrative regulation</u>.

<u>Section 7. Informal Appeals. (1) An applicant aggrieved by a decision of the State Li-</u> <u>braries, Archives and Records Commission may file an informal appeal with commissioner</u> of the department.

(2) Procedures.

(a) A formal letter of appeal shall be sent via email or postal mail to the commissioner of the department within three (3) working days of receipt of notice of rejection.

(b) The appeal shall include a brief description of why the applicant believes the decision of the State Libraries, Archives, and Records Commission is in error. The appeal shall be based solely upon alleged error by the State Libraries, Archives, and Records Commission. New information shall not be submitted with the appeal.

(c) The commissioner of the department shall make decision within two (2) working days of receipt of letter of appeal.

Section **<u>8.</u>[7.]** Local governments **<u>that</u>[which]** are awarded grants shall enter into a grant contract[agreement] with the department. **<u>The grant shall establish</u>[which shall specify**] performance and reporting requirements. Failure to fulfill the requirements **<u>shall[can]</u>** result in the return of the grant to the department.

Section **9.[8.]** Selection of Codification Services Vendors. The department, in approving established codification services vendors to participate in codification work funded with local records grants, **shall[wants to]** ensure[insure] that basic criteria and professional standards are met. Criteria **such as[which may include, but are not limited to,]** the following **shall be[are]** used as essential measures to approve prospective codification services vendors:

(1) Corporate stability <u>or[and/or]</u> a history of reliable service, preferably to client governments in Kentucky;[-]

(2) Experienced legal and editorial staff conversant with local government law and the technical and editorial requirements <u>to[which must]</u> be met in producing accurate, usable codes of ordinances;[-]

(3) Access to online[on-line] statutory databases[data bases]; and[.][

(4) Modern word processing or computer assisted composition and typesetting capacity.]

(4)[(5)] The ability to provide code supplement services on a continuing basis[, through the use of subsection (4) of this section].

<u>Section 10. Codification Services Vendor</u>[9.] Applications from prospective codification services vendors <u>shall be[are]</u> reviewed by [<u>an ad hoc advisory committee to</u>] the State <u>Libraries</u>, <u>Archives</u>, and Records Commission <u>using the criteria established in Section 9 of this administrative regulation</u>.

<u>Section 11. Incorporation by Reference. (1) The following material is incorporated by ref</u>erence:

(a) "Local Records Program Grant Application", October 2021;

(b) "Invitation for Bid Proposal", October 2021;

(c) "Local Records Program Grant Guidelines", November 2021;

(d) "Microfilming and Digital Imaging of Public Records: A Procedural Guide", January 2010;

(e) "Policy Memorandum on Approved Codification Services Vendors and Codification Grant Applicants/Recipients, PM 2021-11", November 2021; and

(f) "Codification Services Vendor Application", December 2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601, Monday through Friday, 9 a.m. to 4 p.m.

CONTACT PERSON: Terry Manuel, Commissioner, Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601. phone 502-564-8303. fax 502-564-5773. email Terry.Manuel@ky.gov.

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EDUCATION AND WORKFORCE DEVELOPMENT CABINET Department for Libraries and Archives Archives and Records Management Division

725 KAR 1:061. Records retention schedules; authorized schedules.

RELATES TO: KRS 171.420(3), 171.450

STATUTORY AUTHORITY: KRS 171.450

NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.420(3) <u>requires[provides_that]</u> the <u>State Libraries, Archives, and Records Commission[State_Archives_and_Records_Commission]</u> <u>to[shall]</u> be the final authority for the disposition of all public records in Kentucky. KRS 171.450(1)(a) requires the department to establish procedures for the compilation and submission to the department of lists and schedules of public records proposed for disposal. KRS 171.450(2) requires the department to promulgate administrative regulations to enforce the provision of KRS 171.410 <u>through[te]</u> 171.740. This administrative regulation <u>establish-es[identifies]</u> records retention and disposition schedules [approved_by the commission] that state and local agencies shall follow for retention and disposition of public records.

Section 1. Schedules. (1) A Kentucky state government agency shall comply with:

(a) Records Retention Schedule, General Schedule for State Agencies;

(b) Records Retention Schedule, General Schedule for Electronic and Related Records; and

(c) The <u>approved</u> applicable schedule for the specific agency from among the following:

1. Records Retention Schedule, Department of Agriculture:

2. Records Retention Schedule, Auditor of Public Accounts;

3. Records Retention Schedule, Economic Development Cabinet;

4. Records Retention Schedule, Education and Workforce Development Cabinet;

5. Records Retention Schedule, Energy and Environment Cabinet;

6. Records Retention Schedule, Finance and Administration Cabinet;

7. Records Retention Schedule, General Government;

8. Records Retention Schedule, Office of the Governor;

9. Records Retention Schedule, Cabinet for Health and Family Services;

10. Records Retention Schedule, Justice and Public Safety Cabinet;

11. Records Retention Schedule, Department of Law;

12. Records Retention Schedule, Labor Cabinet;

13. Records Retention Schedule, Legislative Branch;

14. Records Retention Schedule, Office of the Lieutenant Governor;

15. Records Retention Schedule, Personnel Cabinet;

16. Records Retention Schedule, Public Protection Cabinet;

17. Records Retention Schedule, Office of the Secretary of State;

18. Records Retention Schedule, Tourism, Arts and Heritage Cabinet;

19. Records Retention Schedule, Transportation Cabinet; or

20. Records Retention Schedule, Department of the Treasury.

(2) State universities and the Kentucky Community and Technical College System shall comply with the Records Retention Schedule, State University Model.

(3) Kentucky local government agencies shall comply with:

(a) Records Retention Schedule, Local Government General Records Schedule;

(b) Records Retention Schedule, General Schedule for Electronic and Related Records; and

(c) The <u>approved</u> applicable schedule for the specific agency from among the following:

1. Records Retention Schedule, Area Development District;

2. Records Retention Schedule, County Attorney;

3. Records Retention Schedule, County Clerk;

- 4. Records Retention Schedule, County Coroner;
- 5. Records Retention Schedule, County Judge Executive;
- 6. Records Retention Schedule, County Sheriff;
- 7. Records Retention Schedule, County Treasurer;

8. Records Retention Schedule, County Jailer;

9. Records Retention Schedule, Lexington Fayette Urban County Government;

10. Records Retention Schedule, Public Library and Library Board;

11. Records Retention Schedule, Local Health Department;

12. Records Retention Schedule, Louisville Metro Government;

13. Records Retention Schedule, Municipal Government;

14. Records Retention Schedule, Public School District (K-12/Central Office); or

15. Records Retention Schedule, Kenton County Airport Board.

Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Records Retention Schedule, General Schedule for State Agencies", 2014;

(b) "Records Retention Schedule, General Schedule for Electronic and Related Records", 2014;

(c) "Records Retention Schedule, Department of Agriculture", 2014;

(d) "Records Retention Schedule, Auditor of Public Accounts[Ac-counts]", 2014;

(e) "Records Retention Schedule, Economic Development Cabinet", 2014;

(f) "Records Retention Schedule, Education and Workforce Development Cabinet", 2014;

(g) "Records Retention Schedule, Energy and Environment Cabinet", 2014;

(h) "Records Retention Schedule, Finance and Administration Cabinet", 2014;

(i) "Records Retention Schedule, General Government", 2014;

(j) "Records Retention Schedule, Office of the Governor", 2014;

(k) "Records Retention Schedule, Cabinet for Health and Family Services", 2014;

(I) "Records Retention Schedule, Justice and Public Safety Cabinet", 2014;

(m) "Records Retention Schedule, Department of Law", 2014;

(n) "Records Retention Schedule, Labor Cabinet", 2014;

(o) "Records Retention Schedule, Legislative Branch", 2014;

(p) "Records Retention Schedule, Office of the Lieutenant Governor", 2014;

(q) "Records Retention Schedule, Personnel Cabinet", 2014;

(r) "Records Retention Schedule, Public Protection Cabinet", 2014;

(s) "Records Retention Schedule, Office of the Secretary of State", 2014;

(t) "Records Retention Schedule, Tourism, Arts and Heritage Cabinet", 2014;

(u) "Records Retention Schedule, Transportation Cabinet", 2014;

(v) "Records Retention Schedule, Department of the Treasury", 2014;

(w) "Records Retention Schedule, State University Model", 2014;

(x) "Records Retention Schedule, Local Government General Records Schedule", 2014;

(y) "Records Retention Schedule, Area Development District", 2014;

(z) "Records Retention Schedule, County Attorney", 2014;

(aa) "Records Retention Schedule, County Clerk", 2014;

(bb) "Records Retention Schedule, County Coroner", 2014;

(cc) "Records Retention Schedule, County Judge Executive", 2014;

(dd) "Records Retention Schedule, County Sheriff", 2014;

(ee) "Records Retention Schedule, County Treasurer", 2014;

(ff) "Records Retention Schedule, County Jailer", 2014;

(gq) "Records Retention Schedule, Lexington Fayette Urban County Government", 2014;

(hh) "Records Retention Schedule, Public Library and Library Board", 2014;

(ii) "Records Retention Schedule, Local Health Department", 2014;

(jj) "Records Retention Schedule, Louisville Metro Government", 2014;

(kk) "Records Retention Schedule, Municipal Government", 2014;

(II) "Records Retention Schedule, Public School District (K-12/Central Office)", 2014; and

(mm) "Records Retention Schedule, Kenton County Airport Board", 2014.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at <u>the</u> Archives and Records Management Division, Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601, Monday through Friday, <u>9:00 a.m.[8 a.m.]</u> to <u>4:00 p.m.[4:30 p.m.]</u>

Contact person: Terry Manuel, Commissioner, Kentucky Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601. Phone 502-564-8303. Fax: 502-564-5773. Email: Terry.Manuel@ky.gov.



EDUCATION and WORKFORCE DEVELOPMENT CABINET Department for Libraries & Archives

Andy Beshear

Governor

Jacqueline Coleman Lieutenant Governor

P.O. Box 537 300 Coffee Tree Road Frankfort, KY 40601 Phone 502-564-8300 FAX 502-564-5773 http://kdla.ky.gov

Mary Pat Regan Acting Secretary

Terry Manuel Commissioner

January 6, 2022

Senator Stephen West, Co-Chair Representative David Hale, Co-Chair Administrative Regulation Review Subcommittee Capitol Annex 702 Capitol Avenue Frankfort, Kentucky 40601

Senator West and Representative Hale:

After discussions with Administrative Regulation Review Subcommittee staff, the Department for Library and Archives proposes the attached suggested substitutes to 725 KAR 2:015 and 725 KAR 2:080.

Sincerely,

-DocuSigned by: Bith Millurn

Beth Milburn

Beth Milburn, Deputy Commissioner Department for Libraries and Archives 300 Coffee Tree Road Frankfort, Kentucky 40601



SUGGESTED SUBSTITUTE

Final Version: 1/5/2022 11:10 AM

EDUCATION AND WORKFORCE DEVELOPMENT CABINET Department for Libraries and Archives Division of Library Services

725 KAR 2:015. Public library facilities construction.

RELATES TO: KRS Chapter 13B, 171.027, 171.125, 173.040, 173.340, 173.480, 173.725, <u>198B.032</u> [198B.020], 198B.050, 227.300, 322.010(3), 323.010(1), (2), 323.020, Chapters 341, 342, 344, 42 U.S.C. 12101

STATUTORY AUTHORITY: KRS 171.027

NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.027 <u>requires[establishes]</u> The Public Library Facilities Construction Fund to assist local public libraries and other governing bodies in debt service payments relating to library construction or renovation projects. KRS 171.027 requires the Department for Libraries and Archives to promulgate administrative regulations to establish: (1) the application process; (2) the criteria for project selection; (3) the minimum level of local participation required; and (4) the process to be followed in the construction of facilities. This administrative regulation <u>establishes</u>: (1) <u>definitions[defines terms]</u>; (2) [states] general requirements for eligibility; (3) [establishes] application procedures for the applicant and the department; (4) [establishes] the construction process; and (5) <u>procedures[provides]</u> for the payment of funds.

Section 1. Definitions. (1) "Application packet" means the packet of materials KDLA sends to each applicant library, containing:

(a) A copy of the MOA currently being used;

(b) A copy of this administrative regulation;

(c) The criteria used to determine minimum matching requirements; and

(d) Other relevant material needed for completion of an application for assistance.

(2) "Architect" is defined by KRS 323.010(2).

(3) "Available local revenue" means *[, as determined by the public library and approved by* **KDLA**, *]* the annual local funds available to pay down debt, not expected to decrease the level of normal and customary programs and services offered by the public library.

(4) "Award of assistance" means the annual grant payment awarded, for a period of not more than twenty (20) years, to a local public library to pay down debt incurred to construct or renovate a local public library facility.

(5) "Construction <u>grant</u> coordinator" means a [specialized] consultant <u>designated</u> [employed] by KDLA for the purpose of coordinating and consulting with Kentucky public libraries on construction <u>grant</u> issues.

(6) "Engineer" means "professional engineer" as defined by KRS 322.010(3).

(7) "KDLA" means the Kentucky Department for Libraries and Archives.

(8) "Local board" means:

(a) The local public library board of trustees established under KRS 173.040, 173.340, 173.480, or 173.725; or

(b) The official local governing body responsible for the operations of a local public library.

(9) "MOA" or "memorandum of agreement" means the written, long-term agreement between KDLA and a library awarding a PLFC Fund Grant to pay down debt incurred to finance a library facilities construction or renovation project, including each term and condition agreed to and stipulated by each party on the memorandum of agreement.

(10) "PLFC fund grant" means the annual grant awarded by KDLA, over a period of not more than

twenty (20) years, to a local public library or governing body to assist in the payment of debt incurred to construct or renovate local public library facilities.

(11) "Public library" is defined by KRS 171.125(2).

(12) "Punch list" means an inventory of work that remains to be completed and signed by the owner, the architect, and the contractor, to show that they agree the items on the list represent the work that remains to be done.

(13) "Responsible bidder" means a person, business, or organization that has the capability in all respects to perform fully the contract requirements, and the integrity and reliability **to[which will]** assure good faith performance.

(14) "State librarian" means the official *established[described]* at KRS 171.130.

(15) "Written building program" means a textual description, often in bullet-point form, of the proposed facility and the spaces within the facility. It will **establish construction items such as[delineate]** square footages, building systems, building materials **and[&]** finishes, space adjacencies, utility **and[&]** data requirements, furniture needs, **and** collection spaces[**.ete**].

Section 2. Stipulations and Conditions. (1) A public library building shall be constructed in compliance with the *[following]*:

(a) Uniform State Building Code, KRS 198B.050, as administered by the Kentucky Office of Housing, Buildings and Construction, KRS <u>198B.032</u> [198B.020];

(b) Standards of Safety related to fire prevention and protection, KRS 227.300;

(c) The Americans With Disabilities Act of 1990, 42 U.S.C. 12101;

(d) Workers' Compensation and Unemployment Insurance, KRS Chapters 341 and 342; and

(e) State Prevailing Wage Law, KRS 337.505 through 337.550; and]

(e) [(f)] The Civil Rights Act, KRS Chapter 344.

(2) The local board of a public library applying for assistance from the PLFC fund shall comply with the [*following*]KDLA requirements <u>established in paragraphs (a) through (i) of this subsection.[:]</u>

(a) A building or renovation shall be planned, and construction shall be supervised by an architect or engineer whose credentials have been confirmed by KDLA.

(b) A contract for an architectural or construction service shall be in a standard form used by the American Institute of Architects[-].

<u>1.</u> Information about American Institute of Architects forms and where they may be obtained is available on the Institute's <u>Web site</u>, *www.aia.org*,[, www.aia.org,] and on the Web site of the Kentucky Society of the American Institute of Architects, *www.aiaky.org*[, www.aiaky.org].

<u>2.</u> An architect shall maintain professional liability insurance, including errors and omission insurance, in accordance with the limits <u>established[set forth]</u> in the construction grant contract.

(c) Each plan *for construction that supports an open floorplan and is supportive of a functionally flexible library[and site selected for construction]* shall be approved by KDLA.

(d) The site and facility shall be owned by the local board. KDLA shall approve an alternative facility ownership or use arrangement if it is determined by KDLA to be in the best interest of the state, the local board, and the population served by that library. An applicant shall request KDLA approval for a proposed site prior to purchasing the site. A letter indicating approval or disapproval shall be sent to the local board by KDLA. Property not approved shall be ineligible for construction funds. A building owned by a local county or city government shall be approved if an authoritative letter is obtained establishing the local board's right of possession and use of the building for at least twenty (20) years.

(e) Purchase of an existing building for conversion to library use shall qualify for a PLFC fund grant if:

1. A structural engineer or architect certifies that the building is structurally sound and suitable for conversion;

2. The existing building is of open construction, supportive of a functionally flexible library; and

3. The service and economic considerations for conversion outweigh the service and economic considerations for construction of a new building.

(f) A library building constructed using KDLA funds shall:

1. Remain open to the public; and

2. Maintain appropriately-qualified library personnel.

(g) An application shall include:

1. A written building program; and

2. A current long-range plan.

(h) A project shall:

1. Demonstrate a plan for future growth; and

2.a. Meet KDLA minimum standards for a public library facility; or

b. Be included in a countywide master facility plan designed to meet KDLA minimum standards within a reasonable time, with reference to the Kentucky State Data Center's ten (10) year median population projection.

(i) A local board shall provide free countywide library services, without discrimination, to the citizens of the county in which the public library facility is located.

Section 3. Application for Assistance. (1) <u>Preceding each fiscal year</u> [Each fall preceding a fiscal year] that funding is available through the PLFC fund, KDLA shall distribute an ["] Intent to Apply["] notice to every public library in the Commonwealth. A library intending to apply for assistance for the following fiscal year shall submit to KDLA a Notification of Intent to Apply.

(2) KDLA shall send the following to each public library requesting fund assistance:

(a) Notification of the amount of funds available for PLFC grants; and

(b) An application packet.

(3) An incomplete or late application shall not be considered unless the delay will not interfere with the awarding of the PLFC grants and there is a documented, unusual circumstance <u>as estab</u>lished in subsection (4) of this section.

(4) An unusual circumstance shall include a delay by a third party in certifying that the proposed site is not located [on a historic site, or] in a flood plain[] or other documented circumstance beyond the control of the local board.

Section 4. Review of Applications for Assistance From the PLFC Fund. (1) KDLA shall establish a construction review committee to:

(a) Review applications; and

(b) Recommend to the state librarian the applicants considered eligible for a PLFC fund award.

(2) The committee shall be composed of five (5) members.[, as follows:]

(a) The state librarian shall appoint two (2) <u>Division of Library Services</u> [Field Services Division] consultants, to serve a term of one (1) year.[;]

(b) The <u>state librarian</u> [Director of Field Services] shall appoint two (2) members each of whom has been involved, within the previous eight (8) years, in the completion of a building project valued at a minimum of \$500,000. Each member shall be a:

1. Library director;

2. Trustee; or

3. Staff member.[;]

(c) The construction grant coordinator shall serve:

1. For the duration of his or her position; and

2. As nonvoting chair of the committee.[; and]

(d) The <u>state librarian</u> [Director of Field Services] shall appoint a replacement for a member unable to complete his or her term.
(3) KDLA shall establish <u>the Construction Review Committee – Preliminary Score Sheet to</u> rank the PLFC fund award:

[(a) Procedures for the construction review committee; and (b) A ranking system for the PLFC fund award.].

(4) The criteria for award shall be:

(a) Need:

1. Assessment of existing facilities and service;

2. Analysis of population data;

3. Minimum square footage;

4. Available local revenue; and[

5. General policies established for state assistance under the Public Library Services Improvement and Equalization Fund; and]

5. [6] State library and library association standards:[-]

(b) Planning: the extent to which the proposed facility addresses the applicant library's longrange plan for services;[-]

(c) Partnerships: the extent to which the project strengthens the applicant library's relationship with other organizations in the service area:[-]

(d) Project budget: <u>the [The]</u> extent to which the applicant library's project budget addresses anticipated expenditures, including at least five (5) percent for contingency:[-]

(e) Local <u>contribution to the annual debt retirement shall be as **established in subparagraphs 1**. <u>through 3. of this paragraphs.[follows:][match, if required: the extent to which the local board of</u> a county with adequate income to qualify for matching assistance under the PLFC fund shows funds available to match the state award and to complete the project.]</u>

<u>1. For applicant libraries with annual revenue from all sources of less than [one hundred thou-</u> sand dollars []\$100,000[]], a minimum yearly contribution to the annual debt retirement payments for this project shall be [one thousand dollars []\$1,000.[];]

2. For applicant libraries with annual revenue from all sources of at least [one hundred thousand dollars (]\$100,000[}] but less than [five hundred thousand dollars (]\$500,000[}], a minimum yearly contribution to the annual debt retirement payments for this project shall be [ten thousand dollars (]\$10,000.[]; or]

<u>3. For applicant libraries with annual revenue from all sources of [five hundred thousand dol-</u> <u>lars []</u>\$500,000[]] or greater, a minimum yearly contribution to the annual debt retirement payments for this project shall be [thirty thousand dollars []\$30,000;[f-]

(f) Sustainability: the extent to which the local board can realistically afford to operate the proposed project;[-]

(g) Completeness of application: the extent to which the applicant library has fairly and accurately provided required information on the application form: **and[.]**

(h) Timeliness of meeting required reporting deadlines: the extent to which the applicant library has filed the KDLA annual report and Department for Local Government reports on or before the designated deadlines in the past two (2) years.

(5) The state librarian shall take one (1) of the following actions, based on the recommendation of the construction review committee:

(a) Approve the application and offer an award of assistance;

(b) Approve the application at a reduced level or based upon funds availability;

(c) Approve the application with restrictive conditions; or

(d) Reject the application.

(6) KDLA shall notify each applicant, in writing, of the result of the state librarian's action approving or rejecting the application.

Section 5. Informal Appeals. (1) An applicant aggrieved by a decision of the state librarian may

file an informal appeal with KDLA.

(2) Procedures.

(a) The local board shall notify KDLA of its intent to appeal:

1. Within twenty-one (21) days of the date of the letter of notification;

2. In writing;

3. Stating the basis for appeal; and

4. By registered mail to the state librarian, return receipt requested.

(b) Upon receipt of a notice of intent to appeal, the state librarian shall:

1. Convene a board of appeals composed of three (3) members<u>. The board shall be composed of</u>. [, one (1) each having been nominated by:]

a. <u>One (1) public library user nominated by the State Libraries, Archives, and Records Commis</u>sion; [The State Advisory Council on Libraries;]

b. One (1) public library director nominated by the Kentucky Public Library Association; and [The Kentucky Library Association; and]

c. <u>One (1) certified public library trustee nominated by the State Board for the Certification of Librarians; and</u> [The Trustees Round Table; and]

2. Designate one (1) of the appointees to serve as chair.

(c) The board of appeals shall notify the appellant and the state librarian, in writing, of the date and place of the hearing. Within twenty-one (21) calendar days after the hearing, the appeals board shall notify the state librarian and the local board of its recommendation.

(d) The state librarian shall consider the recommendation of the appeals board and shall, within fourteen (14) calendar days of receipt, <u>either adopt the recommendation without comment or adopt the recommendation with modifications. If the appeals board's decision is modified, the state librarian shall provide a written explanation of the *rationale[rational]* for the modifications to the libraries impacted by the decision. [render a final decision.]</u>

(3) A party aggrieved by a final decision of the state librarian may file a formal appeal. *An appeal shall be* in accordance with KRS Chapter 13B.

Section 6. Award of Assistance. (1) The state librarian shall notify each eligible library of:

(a) The amount of assistance it will receive; and

(b) The requirements to be met in order to accept the award.

(2)[-] KDLA may make an award to a public library **<u>if</u>[as long as]** the total of all awards of assistance do not exceed the amount of PLFC funding that is available. An award of assistance shall be subject to availability of funds appropriated for this purpose in each biennium.

(3) Within thirty (30) days of receipt of notice of the award, the public library board shall notify KDLA of acceptance or rejection of the award of assistance. A public library not responding within thirty (30) days shall be declared ineligible and the award of assistance withdrawn and redistributed to the eligible recipients. Upon written request within the original thirty (30) day period, the state librarian may grant a single thirty (30) day extension if extenuating circumstances exist. Extenuating circumstances with:

(a) Finalizing the terms of financing;

(b) Obtaining title to the property;

(c) Obtaining surveys of the property; and

(d) Similar circumstances beyond the control of the local board.

Section 7. Procedures After Acceptance. (1) After a local board decides to accept an award of assistance, the local board shall:

(a) Establish a building committee, the meetings of which shall be attended by the regional librarian and the construction grant coordinator, if possible; and

(b) Complete the following:

1. An agreed-upon MOA between KDLA and the local board, signed by both;

2. The building committee membership list and schedule of meeting dates;

3. Holding company contract, if needed;

4. Construction plans approved by KDLA; and

5. Other documentation, *[as specified by KDLA*] such as financial documents and engineering reports necessary to ensure compliance with this administrative regulation.[

(2) Files for the project shall be kept at KDLA as directed in the appropriate public record retention schedule.]

(2) [(3)] Funds for projects receiving assistance shall be distributed according to a payment and reporting schedule contained in the MOA between KDLA and the local board.

Section 8. Construction Procedures. (1) The local board shall retain an attorney to act as advisor on contracts and other legal matters during the term of the construction project.[

(2) The project architect shall submit, to the U.S. Department of Labor, a list of construction trades that may be involved in order to establish the wage rate which the contractor shall be required to pay.]

(2) [(3)] The architect shall proceed with the working drawings and specifications for submission to KDLA for final approval by KDLA before the project is advertised for bids.

(3) [(4)] After KDLA has approved the working drawings, the plans shall be completed and advertised publicly for construction bids. The advertisement shall include notice that a builder's risk policy shall be required as part of the construction contract.[

(5) The bid opening date shall be coordinated with KDLA and the local library.

(6) The contract shall be awarded to the "lowest and best" responsible bidder, as mutually determined by the local board, the architect, and KDLA.]

(4) [(7)] The architect shall notify the construction <u>grant</u> coordinator at least one (1) week before the building is ready for inspection and punch list. The completed building shall be inspected by KDLA's designated official. A KDLA representative may make site visits during the project term.[

(8) A copy of each change order, invoice, and documentation of payment made shall be kept by the library in accordance with the Local Government General Records Retention Schedule established by KDLA and submitted to KDLA if requested.]

(5) [(9)] KDLA may, upon request of the local board, assist in selecting and ordering the furniture and equipment for the project in accordance with state law governing state agency advertisement, bidding, and purchase from a state price contract. [A prospective vendor shall furnish a bid and performance bond for each purchase over \$50,000.]

(6) [(10)] Each payment to a contractor or supplier shall be made promptly, upon approval by the architect. <u>Retainage shall comply with KRS 371.410.</u> [Before substantial completion of the project, the board shall withhold ten (10) percent as retainage. After substantial completion of the project, the retainage may be reduced to five (5) percent if certified by the architect and approved by the board. If, after receipt of the punchlist, a reason for reduction of the retainage is certified, in writing, by the architect and approved by the board, the retainage may be reduced below five (5) percent. The minimum lump sum amount retained shall be twice the estimated cost to correct the punch list items.]

Section 9. Expenditure of Funds. (1) Funds from a PLFC grant shall be used only to pay a cost directly related to the construction or renovation of a local public library facility.

(2) A cost may include:

- (a) Site acquisition;
- (b) Architectural and engineering services;
- (c) Financial and legal services; and

(d) Equipment.

(3) Site acquisition cost shall be limited to the lesser of:

(a) The actual cost of acquiring a site; or

(b) The fair market value of the site as determined by a *licensed realtor[qualified appraiser* approved by KDLA].

(4) Construction cost shall:

(a) Include fixed or movable equipment; and

(b) Not include consumable supplies.

Section 10. Incorporation by Reference. (1) The following material is incorporated by reference: (a) "Memorandum of Agreement", <u>7/21;</u> [10/06;]

(b) "Notification of Intent to Apply for State Fiscal Year ____ Public Library Facility Construction Funds", 7/21; [6/06;]

(c) "Public Library Facility Construction Fund Application for Fiscal Year____ Construction Grants", 7/21: and

(d) "Construction Review Committee - Preliminary Score Sheet", 9/21.[8/06; and

(d) "Local Government General Records Retention Schedule", 9/99.]

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Libraries and Archives, 300 Coffee Tree Road, [Box 537,] Frankfort, Kentucky 40601 [40602-0537], Monday through Friday, <u>9 a.m. to 4 p.m.</u> [8 a.m. to 4:30 p.m.]

CONTACT PERSON: Beth Milburn, Deputy Commissioner, PO Box 537, 300 Coffee Tree Road, Frankfort, Kentucky 40602-0537, phone 502-564-8325, email beth.milburn@ky.gov.

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EDUCATION AND WORKFORCE DEVELOPMENT CABINET Department for Libraries and Archives Division of Library Services

725 KAR 2:080. Interstate Library Compact.

RELATES TO: KRS 171.221 STATUTORY AUTHORITY: KRS 171.221

NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.221 authorizes the Department for Libraries and Archives to enter into agreements with other states for the purpose of providing cooperative library services. [*The function of*] This administrative regulation *establishes provisions for provid-ing cooperative library services*[*is to establish such an agreement*].

Section 1. <u>Definitions.</u> (1) "Compact administrator" means the state librarian as <u>estab-</u> lished[designated] in KRS 171.130.

(2) "Public library agency" means public library as defined by KRS 171.125(2).

<u>Section 2. Any one (1) or more public library agencies in a party state in cooperation with</u> <u>any public library agency or agencies in one (1) or more other party states may establish and</u> <u>maintain an interstate library district upon approval by the compact administrator.</u>

Section <u>3.[2.]</u> Incorporation by Reference. (1) "Interstate Library Compact" (1998), is incorporated by reference.

(2) It may be inspected, copied, or obtained at the Department for Libraries and Archives, 300 Coffee Tree Road, Frankfort, Kentucky 40601, telephone (502) 564-8300, Monday through Friday, $\underline{9}[8]$ a.m. to $4[\div30]$ p.m.

CONTACT PERSON: Beth Milburn, Deputy Commissioner, PO Box 537, 300 Coffee Tree Road, Frankfort, Kentucky 40602-0537, phone 502-564-8325, email beth.milburn@ky.gov.

Andy Beshear Governor



January 5, 2021

Senator Stephen West, Co-Chair Representative David Hale, Co-Chair c/o Emily Caudill, Regulation Complier Administrative Regulation Review Subcommittee Legislative Research Commission 029, Capitol Annex Frankfort, Kentucky 40601

C JAN

Re: 804 KAR 004:221. Alternating proprietorship agreements.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 804 KAR 004:221, Alternating proprietorship agreements, the Department of Alcoholic Beverage Control proposes the attached amendment to 804 KAR 004:221.

Sincerely,

Joshua Newton | General Counsel Department of Alcoholic Beverage Control 500 Mero Street 2NE33 Frankfort, Kentucky 40601

Department of Alcoholic Beverage Control | Mayo-Underwood Building | 500 Mero Street, 2NE33 | Frankfort, Kentucky 40601 Telephone: (502) 564-4850 | Fax: (502) 564-1442



Ray A. Perry Secretary

Allyson Taylor Commissioner

Final, 12-16-2021

SUGGESTED SUBSTITUTE

PUBLIC PROTECTION CABINET Department of Alcoholic Beverage Control

804 KAR 4:221. Alternating proprietorship agreements.

RELATES TO: KRS 243.220

STATUTORY AUTHORITY: KRS 241.060

NECESSITY, FUNCTION, AND CONFORMITY: KRS 241.060(1) authorizes the board to promulgate reasonable <u>administrative</u> regulations governing procedures relative to the applications for and revocations of licenses, and the supervision and control of the use, manufacture, sale, transportation, storage, advertising, and trafficking of alcoholic beverages. This <u>administrative</u> regulation provides for the sharing of a licensed premises between two (2) or more licensees in accordance with an alternating proprietorship agreement.

Section 1. Definition. "Alternating proprietorship agreement" means a written agreement under which two <u>(2)</u> or more licensees share possession or ownership of a licensed premises and alternate exclusive use of the premises over the term of the agreement.

Section 2. A licensed premises <u>shall[may]</u> meet the requirements of KRS 243.220 if it is owned or possessed for a term not less than the license period by two <u>(2)</u> or more eligible licenses under an <u>authorized</u> alternating proprietorship agreement.

Section 3. A licensee **shall[may]** not enter into an alternating proprietorship agreement with any **person who holds a Kentucky alcoholic beverage license that the licensee is prohibited from holding under Kentucky law[other licensee with whom the licensee would have a prohibited interlocking substantial interest under 804 KAR 4:015]**.

Section 4. Licensees who share a licensed premises in accordance with an alternating proprietorship agreement shall individually meet <u>all[any]</u> requirements of their licenses[, including, but not limited to, production and record-retention requirements].

Section 5. This administrative regulation shall not be interpreted to relate to direct shipper licenses.

Section 6. Federal Law. This administrative regulation shall not exempt a person from complying with any applicable federal laws.

CONTACT PERSON: Joshua Newton, General Counsel, Department of Alcoholic Beverage Control, 500 Mero Street, 2 NE #226, Frankfort, Kentucky 40601, phone (502) 782-0770, fax (502) 564-4850, email Joshua.Newton@ky.gov.



Andy Beshear Governor PUBLIC PROTECTION CABINET Department of Insurance P.O. Box 517 Frankfort, Kentucky 40602-0517 1-800-595-6053 http://insurance.ky.gov

January 5, 2022

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Ray A. Perry Secretary

Sharon P. Clark Commissioner

Senator Stephen West, Co-Chair Representative David Hale, Co-Chair c/o Emily Caudill, Regulation Compiler Administrative Regulation Review Subcommittee Legislative Research Commission 029, Capitol Annex Frankfort KY 40601

Re: **806 KAR 12:010.** Advertising of accident and sickness benefits

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 806 KAR 12:010, the Department of Insurance proposes the attached amendment to 806 KAR 12:010.

Sincerely,

Abigail Gall, Regulations Coordinator Department of Insurance 500 Mero Street Frankfort, KY 40601



SUGGESTED SUBSTITUTE

PUBLIC PROTECTION CABINET

Department of Insurance

Division of Health and Life Insurance and Managed Care

(Amendment)

806 KAR 12:010. Advertising of accident and sickness benefits.

RELATES TO: KRS <u>304.3-200,</u> 304.3-240, 304.12-010, 304.12-020, 304.12-060, 304.12-120, 304.12-130, <u>304.99</u>

STATUTORY AUTHORITY: KRS 304.2-110(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code, as established in KRS 304.1-010. This administrative regulation clarifies the minimum standards for advertising as established in KRS 304.12-010 and 304.12-020.

Section 1. Definitions. (1) "Exception" means:

(a) Any provision in a policy in which coverage for a specified hazard is [entirely] eliminated; or [and]

(b) A statement of risk not assumed under the policy.

(2) "Limitation" means any provision that restricts coverage under the policy other than an exception or a reduction.

(3) "Reduction" means:

(a) Any provision *in a policy* that reduces the amount of the benefit; and

(b) A risk of loss is assumed but payment upon the occurrence of the loss is limited to some amount or period less than <u>what</u> would be otherwise payable had the reduction clauses not been used.

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Section 2. <u>Scope. The provisions of this administrative regulation shall: (1) Be [expressly]</u> limited to a life or health insurer issuing any policy; *[as defined in Section 3(2) of this* <u>administrative regulation</u>,] and

(2) Apply to individual and group accident and sickness insurance advertisements; and
(3) Apply to agents and brokers to the extent that an agent and broker are responsible for the advertisement of any policy.

<u>Section 3.</u> (1) An insurance advertisement [for the purpose of this administrative regulation] shall include:

(a) Printed and published material and descriptive literature of an insurer used in newspapers, magazines, radio and TV scripts, and billboards and similar displays;

(b) Descriptive literature and sales aids of all kinds issued by an insurer for presentation to members of the public, including circulars, leaflets, booklets, depictions, illustrations, and form letters; and

(c) Prepared sales talks, presentations, *[and]* material for use by agents and brokers, and representations made by agents and brokers.

(2) <u>A</u> policy [for the purpose of the advertisement regulations] shall include any policy, plan, certificate, contract, agreement, statement of coverage, rider, or endorsement that provides accident or sickness benefits or medical, surgical, or hospital expense benefits, whether on a cash indemnity, reimbursement, or service basis, except if issued in connection with another kind of insurance other than life, and except disability and double indemnity benefits included in life insurance and annuity contracts.

(3) Insurer [for the purpose of the advertisement regulations] shall include any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyds, fraternal benefit society, and any other legal entity engaged in the advertisement of a policy.

[Section 4.[Section 3.] This administrative regulation shall apply to agents and brokers to the extent that an agent and broker are responsible for the advertisement of any policy.]

<u>Section 4[5].[Section 4.]</u> (1) Advertisements shall: (a) Be truthful and not misleading in fact or in implication; and

(b) Not use words or phrases, [the meaning of] which are[is] clear only by:

1. Implication; or

2.[by] Familiarity with insurance terminology[, shall not be used].

(2) <u>(a)</u> Words, phrases, or illustrations shall not be used in a manner that misleads or has the capacity and tendency to deceive as to the extent of any policy benefit payable, loss covered, or premium payable. An advertisement relating to any policy benefit payable, loss covered, or premium payable shall be sufficiently complete and clear to avoid deception or the capacity and tendency to deceive.

(b)[(a)] The words and phrases "all," "full," "complete," "comprehensive," "up to," "as high as," "this policy will pay your hospital and surgical bills," [or] "this policy will replace your income," or similar words and phrases:

<u>1.</u> Shall not be used so as to exaggerate any benefit beyond the terms of the policy: <u>[]</u> and

2. May be used only in a manner that fairly describes a benefit.

(c)[(b)] A policy covering only one (1) disease or a list of specified diseases shall not be advertised <u>in a manner that implies</u>[as to imply] coverage beyond the terms of the policy. Synonymous terms shall not be used to refer to any disease as to imply broader coverage than is the fact.

(d)[(e)] The benefits of a policy that pays varying amounts for the same loss occurring under different conditions or that pays benefits only if a loss occurs under certain conditions shall not be advertised without disclosing the limited conditions under which the benefits referred to are provided by the policy.

(e)[(d)] Phrases similar to "this policy pays \$1,800 for hospital room and board expenses" shall be incomplete without indicating the maximum daily benefit and the maximum time limit for hospital room and board expenses.

(3) If an advertisement refers to any dollar amount, period of time for which any benefit is payable, cost of policy, *[or]* specific policy benefit, or the loss for which a benefit is payable, it shall also disclose those exceptions, reductions, and limitations affecting the basic provisions of the policy without which the advertisement would have the capacity and tendency to mislead or deceive. <u>Required disclosures include:</u>

(a) If a policy contains a time period between the effective date of the policy and the effective date of coverage under the policy [or a time period between the date of coverage under the policy]

or a time period between the date a loss occurs and the date benefits begin to accrue for the loss, an advertisement shall disclose the existence of the periods<u>; and [-]</u>

(b) An advertisement shall disclose the extent to which any loss is not covered if the cause of the loss is traceable to a condition existing prior to the effective date of the policy. If a policy does not cover losses traceable to preexisting conditions, the advertisement of the policy shall not state or imply that the applicant's physical condition or medical history will not affect the issuance of the policy or payment of a claim. This <u>requirement</u> shall limit [the] use of the phrase "no medical examination required" and similar phrases.

<u>Section 5/6/.[Section 5.]</u> An advertisement that refers to renewability, cancelability, or termination of a policy, that refers to a policy benefit, or that states or illustrates time or age in connection with eligibility of applicants or continuation of the policy, shall disclose the provisions relating to renewability, cancelability, and termination and any modification of benefits, losses covered, or premiums because of age or for other reasons, in a manner that shall not minimize or render obscure the qualifying conditions.

<u>Section 6[7].[Section 6.</u>] All information required to be disclosed by this administrative regulation shall be stated: (1) Conspicuously and in close conjunction with the statements to which the information relates; or

(2) Under appropriate captions of prominence that shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the context of the advertisement so as to be confusing or misleading.

<u>Section 7/8/.[Section 7.]</u> Testimonials used in advertisements shall be genuine, represent the current opinion of the author₁[$_{7}$] be applicable to the policy advertising, and be accurately reproduced. The insurer, in using a testimonial shall make as its own all of the statements contained in the advertisement. *[* $_{7}$ and *]* All <u>of</u> the advertisement, including the statements, shall be subject to *[all of]* the provisions of this administrative regulation.

Section 8/9/.[Section 8.] An advertisement relating to the dollar amounts of claims paid, the number of persons insured, or similar statistical information relating to any insurer or policy shall

not be used unless it accurately reflects all of the relevant facts. The advertisement shall not imply that statistics are derived from the policy advertised unless that is the fact.

<u>Section 9/10</u>.[Section 9.] An offer in an advertisement of free inspection of a policy or offer of a premium refund shall not be a cure for misleading or deceptive statements contained in the advertisement.

<u>Section 10/11/.[Section 10.]</u> (1) If a choice of the amount of benefits is referred to, an advertisement shall disclose that the amount of benefits provided depends upon the plan selected, and that the premium will vary <u>in conjunction</u> with the amount of the benefits.

(2) If an advertisement refers to various benefits that could be contained in two (2) or more policies, other than group master policies, the advertisement shall disclose that the benefits are provided only through a combination of the policies.

<u>Section 11/12</u>.[Section 11.] An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits $f_{\overline{r}}$ or otherwise falsely disparage competitors, policies, services, or business methods.

<u>Section 12[13].[Section 12.]</u> (1) An advertisement that is intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond <u>those</u> [these] limits.

(2) Advertisements by direct mail insurers shall indicate that the insurer is licensed in a specified state or states only, or is not licensed in a specified state or states, by use of language similar to "This company is licensed only in State A" or "This company is not licensed in State B."

<u>Section 13[14].[Section 13.]</u> The identity of the insurer shall be made clear in all of the <u>insurer's[insurers]</u> advertisements. An advertisement shall not use a trade name, service make, slogan, symbol, or other device that has the capacity and tendency to mislead or deceive as to the true identity of the insurer.

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<u>Section 14[15].[Section 14.]</u> An advertisement of a particular policy shall not state or imply that prospective policyholders become group or quasi-group members [1] and as members, enjoy special rates or underwriting privileges [1] unless that is the fact.

<u>Section 15[16].[Section 15.]</u> An advertisement shall not state or imply that a particular policy or combination of policies is an introductory, initial, or special offer $f_{\overline{i}}$ and that the applicant shall receive advantages by accepting the offer $f_{\overline{i}}$ unless that is the fact.

<u>Section 16[17].[Section 16.]</u> (1) An advertisement shall not state or imply that an insurer or a policy has been approved, or <u>that</u> an insurer's financial condition has been examined and found to be satisfactory by a governmental agency, unless that is the fact.

(2) An advertisement shall not state or imply that an insurer or a policy has been approved or endorsed by any individual, group of individuals, society, association, or other organization, unless that is the fact.

<u>Section 17[18].[Section 17.]</u> An advertisement shall not contain: (1) Untrue statements with respect to the time within which claims are paid: f_{f_1} or

(2) Statements that imply that claim settlements will be liberal or generous beyond the terms of the policy.

<u>Section 18/19</u>.[Section 18.] An advertisement shall not contain statements that are untrue in fact or by implication misleading with respect to the insurer's assets, corporate structure, financial standing, age, or relative position in the insurance business.

Section 19/20].[Section 19.] (1) Each insurer shall maintain at its home or principal office a complete file containing every printed, published, or prepared advertisement of individual policies, and typical printed, published, or prepared advertisements of blanket, franchise, and group policies, disseminated in this or any other state, whether or not licensed in the other state, with a notation attached to each advertisement that shall indicate the manner and extent of distribution and the form number of any policy advertised. The file shall be subject to regular and periodical

inspection by the Department of Insurance. All advertisements shall be maintained by the insurer for a period of not less than three (3) years.

(2) <u>A life or health [Each]</u> insurer required to file an annual statement, in accordance with KRS 304.3-240, that issues any policy *[as described in Section 3(2) of this administrative regulation]* [which is now or which becomes subject to the provisions of this administrative regulation]*[s]*-shall file with the *department[Department of Insurance]*, together with its annual statement, a certificate executed by an authorized officer of the insurer stating that to the best of his or her knowledge, information, and belief, the advertisements that were disseminated by the insurer during the preceding statement year complied or were made to comply in all respects with the provisions of KRS Chapter 304.

Section 20[21].[Section 20.] [(1) The provisions of this administrative regulation shall not be expressly limited to a particular type of insurance and shall be applied to all insurance on subjects of risk located in or to be performed in Kentucky.

(2)] Any person, firm, corporation, or association who knowingly aids and abets an insurer in the violation of this administrative regulation or the applicable provisions of the Insurance Code shall be subject to the penalties established by KRS Subtitle 304.99.

Section 21/22]. Incorporation by Reference. (1) [The following material is incorporated by reference:

(2)[(3)] This material may be inspected, copied or obtained, subject to applicable copyright law, at the Department of Insurance, Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the department's Web site at: https://insurance.ky.gov/ppc/CHAPTER.aspx.

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Ray A. Perry Secretary

Sharon P. Clark Commissioner

PUBLIC PROTECTION CABINET Department of Insurance P.O. Box 517 Frankfort, Kentucky 40602-0517 1-800-595-6053 http://insurance.ky.gov

January 5, 2022

Andy Beshear Governor

Senator Stephen West, Co-Chair Representative David Hale, Co-Chair c/o Emily Caudill, Regulation Compiler Administrative Regulation Review Subcommittee Legislative Research Commission 029, Capitol Annex Frankfort KY 40601

Re: **806 KAR 14:007.** Rate and form filing for health insurers.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 806 KAR 14:007, the Department of Insurance proposes the attached amendment to 806 KAR 14:007.

Sincerely,

Abigail Gall, Regulations Coordinator Department of Insurance 500 Mero Street Frankfort, KY 40601



Suggested Amendment **Public Protection Cabinet Department of Insurance** Division of Health and Life Insurance and Managed Care

806 KAR 14:007. Rate and form filing for health insurers.

Page 1

RELATES TO

Line 6

After "304.4-010,", insert "304.12-020,".

Page 1 **STATUTORY AUTHORITY** Line 8

After "304.2-110(1)", insert ", 304.14-420".

Page 1

NECESSITY, FUNCTION, & CONFORMITY Line 11

After "304.1-010.", insert the following:

KRS 304.14-420 requires the commissioner to promulgate administrative regulations to establish minimum standards for the readability and intelligibility of insurance contracts.

Page 2

Section 1(5)

Line 4

After "means", insert ": (a) Any ". After "rider,", insert "or".

Line 5

After "endorsement", insert semicolon. Delete comma. After "and", insert "(b) Includes advertising". After "long-term care,", insert "short-term". Delete "short term". After "nursing", insert comma. After " products", delete ", including advertising".

Page 2

Section 1(6)

Line 7

After "(6)", insert quotation marks. After "plan", insert quotation marks. Page 3 Section 2(6)(a) Line 1

After "(6)", delete "(a)".

Line 2

After "form", insert period. Delete "; and (b)". Lowercase "other".

Page 3

Section 2(7) Line 4 After "listing", insert "<u>: (a)</u>". Capitalize "all".

Line 5

After "each form", insert semicolon. After "and", insert "(b)". Delete "listing". Capitalize "all".

Page 3

Section 2(11)

Line 16

After "A form", insert "<u>that contains</u>". Delete the following:

filed for approval by the department shall not contain

Line 17

After "material", insert the following: shall be filed separately from all other forms

Page 4

Section 5(1)

Line 14

After "rate", insert "filing".

Page 5

Section 5(2) Line 7 After "subject to a", insert "<u>filed-only</u>".

Delete "filed only".

Page 5

Section 6

Line 11

After "includes a form", insert "<u>that</u>". Delete "which".

Page 6 Section 7(1)(a) Line 6 After "17:070,", insert "Section". Delete "Sections 3 and".

Page 6

Section 7(1)(c) Line 9 After "Section", insert "<u>4</u>". Delete "2".

Page 7

Section 10(1)(e)

Line 8

After "HIPMC-F", delete hyphen.



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CABINET FOR HEALTH AND FAMILY SERVICES Office of the Secretary

Andy Beshear Governor 275 East Main Street, 4W-C Frankfort, KY 40621 www.chfs.ky.gov Eric C. Friedlander Secretary

Kelli Rodman Executive Director

January 4, 2022

Senator Stephen West, Co-Chair Representative David Hale, Co-Chair c/o Emily Caudill Administrative Regulation Review Subcommittee Legislative Research Commission 029, Capitol Annex Frankfort KY 40601

Re: 900 KAR 12:005

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 900 KAR 12:005, the Office of Health Data and Analytics proposes the attached agency amendment to 900 KAR 12:005. Please feel free to contact me at (502) 564-6746, ext. 3429, or via email at Lucie.Estill@ky.gov.

Sincerely,

Jucie Estat

Lucie Estill Executive Staff Advisor Office of Legislative and Regulatory Affairs



KENTUCKY CABINET FOR HEALTH AND FAMILY SERVICES

AGENCY AMENDMENT

CABINET FOR HEALTH AND FAMILY SERVICES Office of Health Data and Analytics

900 KAR 12:005. Telehealth Terminology and Requirements.

Page 2

Section 2(1)(e) and (f) Lines 19 through 23

After the notation, "(e)", delete paragraph (e) in its entirety, and delete the notation, "(f)". Renumber the remaining paragraphs accordingly.

Page 3

Section 2 renumbered (e)1. Line 1 After "code", delete ""02"".

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CABINET FOR HEALTH AND FAMILY SERVICES Office of the Secretary

Andy Beshear Governor 275 East Main Street, 4W-C Frankfort, KY 40621 www.chfs.ky.gov Eric C. Friedlander Secretary

January 4, 2022

Senator Stephen West, Co-Chair Representative David Hale, Co-Chair c/o Emily Caudill Administrative Regulation Review Subcommittee Legislative Research Commission 029, Capitol Annex Frankfort KY 40601

Re: 906 KAR 1:180

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 906 KAR 1:180, the Cabinet for Health and Family Services proposes the attached amendments to 906 KAR 1:180.

Sincerely,

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Lucie Estill Executive Staff Advisor Office of Legislative and Regulatory Affairs

Attachments



KENTUCKY CABINET FOR HEALTH AND FAMILY SERVICES

Suggested Amendment Cabinet for Health and Family Services Office of Inspector General Division of Health Care

906 KAR 1:180. Operation and services; personal services agencies.

Page 1 NECESSITY, FUNCTION, & CONFORMITY Line 9

After "requires the", insert the following: <u>Secretary of the Cabinet for Health and Family Services</u> Delete "cabinet".

Pages 2-4

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Section 1(9) Lines 19-23, 1-23, & 1-9

> After "self-administration of medication", insert the following: in accordance with Section 7(1)(b) of this administrative regulation.

Delete the remainder of subsection (9) in its entirety.

Page 5

Section 3(1) Line 13 After "(1)", insert "<u>A</u>". Delete "No".

Line 14

After "shall", insert "not".

Page 7

Section 5(1)(d) Line 20 After "document", insert "<u>that</u>". Delete "which".

Page 13 Section 7(1)(b)

Line 7

After "medication", insert the following":

, in accordance with the following requirements:

<u>1. A client's medication shall:</u>

a. Be prepared or directed in accordance with KRS

<u>216.710(9)(a)2 by:</u>

- (i) The client's designated representative; or
- (ii) A licensed health-care professional who is not an owner, manager, or employee of the personal services agency;
- <u>b. Except for ointments, be preset in a medication organizer or be a</u> <u>single dose unit; and</u>
- <u>c. Include the client's name on the medication organizer or</u> <u>container in which the single dose unit is stored;</u>
- 2. A personal services agency direct care staff person may:
 - <u>a. Remind a client when to take medications and observe to ensure</u> <u>that the client takes the medication as directed;</u>
 - b. Hand the client's medication to the client. If the client is unable to open the medication, the staff person may open the unit dose or medication organizer, remove the medication from a medication organizer, and close the medication organizer for the client;
 - <u>c. Assist a client in consuming oral medication, including tablets,</u> <u>capsules, or liquid medication, by:</u>
 - (i) Placing the dose in a container and placing the container to the mouth of the client;
 - (ii) Placing the medication in the client's hand or mouth; or
 - (iii) Following the written instructions of the client's designated representative or licensed health care professional for how to enable the client to take his or her medication; or
 - (iv) Steady or guide a client's hand while applying ointments; and
- 3. Facilitating the self-administration of medication shall not include:
 - a. Instilling eye, ear, or nasal drops;
 - <u>b. Mixing, compounding, converting, or calculating medication</u> <u>doses;</u>
 - <u>c. The preparation of syringes for injection or the administration of</u> <u>medications by any injectable route;</u>
 - <u>d. Administration of medications through intermittent positive</u> pressure breathing machines or a nebulizer;
 - e. Administration of medications by way of a tube inserted in a cavity of the body;

f. Administration of parenteral preparations;

- g. Administration of irrigations or debriding agents used in the treatment of a skin condition; or
- h. Administration of rectal, urethral, or vaginal preparations

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CABINET FOR HEALTH AND FAMILY SERVICES_ Office of the Secretary

Andy Beshear Governor 275 East Main Street, 4W-C Frankfort, KY 40621 www.chfs.ky.gov Eric C. Friedlander Secretary

January 4, 2022

Senator Stephen West, Co-Chair Representative David Hale, Co-Chair c/o Emily Caudill Administrative Regulation Review Subcommittee Legislative Research Commission 029, Capitol Annex Frankfort KY 40601

Re: 910 KAR 4:010

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 910 KAR 4:010, the Cabinet for Health and Family Services proposes the attached amendments to 910 KAR 4:010.

Sincerely,

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Lucie Estill Executive Staff Advisor Office of Legislative and Regulatory Affairs

Attachments



KENTUCKY CABINET FOR HEALTH AND FAMILY SERVICES

Subcommittee Substitute

CABINET FOR HEALTH AND FAMILY SERVICES Department for Aging and Independent Living Office of Dementia Services (As Amended at ARRS)

910 KAR 4:010. Alzheimer's and dementia services curriculum review and approval.

RELATES TO: KRS **[Chapter]** 216.710-216.716, 216.935-216.939, Pub.L. 116-131 STATUTORY AUTHORITY: 194A.050(1), 216.713

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216.713 requires the Cabinet for Health and Family Services to establish the submission and approval process for training curriculum utilized by agencies that provide services to individuals who exhibit symptoms of Alzheimer's disease or other dementias. *This administrative regulation establishes the process for submitting curricula for cabinet approval that will meet the minimum training requirements for direct-care staff serving individuals exhibiting symptoms of Alzheimer's or other dementias.*

Section 1. Definitions. (1) "Department" means the Department for Aging and Independent Living or "DAIL".

(2) "Provider agency" means a home health agency, personal services agency, or assisted-living community that employs, directly or by contract, aides or other non-licensed personnel whose work involves extensive contact with individuals who exhibit symptoms of Alzheimer's disease or other dementias.

Section 2. Curriculum Approval. Curriculum approval shall be granted when it meets the requirements of 216.713(1)-(3).

Section 3. Submission of Curriculum. (1) All provider agencies shall submit to the department the agency's proposed training curriculum:

(a) Upon development of the curriculum and prior to implementation of the training;

(b) By notification of the standardized curriculum being utilized and verifying the curriculum is being utilized in its entirety without alterations; or

(c) If the training was in place prior to July 15, 2021, the provider agency may continue to use the curriculum until the curriculum is either:

1. Officially approved by the department for permanent use; or

2. Determined not to meet the criteria for approval by the department.

(2) <u>Unaltered</u>, standardized curricula[,] <u>used</u> [<u>utilized</u>] by provider agencies [that are not altered], may be utilized prior to official approval by the department[,] if submitted pursuant to <u>paragraph</u> [<u>subsection</u>] (b) or (c) of <u>subsection (1) of</u> this section.

(3) The provider agency may submit curriculum for review by:

(a) Mail to the Department for Aging and Independent Living, Office of Dementia Services, 275 E Main St. 3 E-E, Frankfort, Kentucky 40621;

(b) Hand delivered to the department; or

(c) By electronic submission.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.