

Andy Beshear
Governor

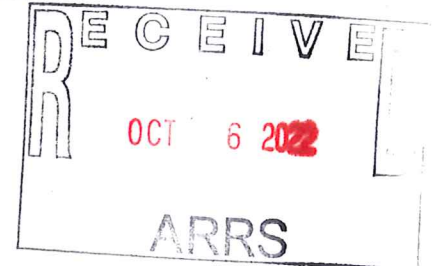


Jamie Link
Secretary, Education and
Labor Cabinet

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



October 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 9:100**. Alternative Route to Certification Institute.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 16 KAR 9:100, the Education Professional Standards Board proposes the attached amendment to 16 KAR 9:100.

Sincerely,

Cassie L. Trueblood
Policy Advisor and Special Counsel

EDUCATION AND LABOR CABINET
Education Professional Standards Board
Final Version: 10/3/2022 12:48 PM

16 KAR 9:100. Alternative route to Certification Institute.

RELATES TO: KRS 161.028, 161.030, 161.048

STATUTORY AUTHORITY: KRS 161.028, 161.030, 161.048(1)(e)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.048(1)(e) requires[directs] the Education Professional Standards Board (EPSB) to promulgate[adopt] administrative regulations establishing standards and procedures for the Alternative Route to Certification Institute and the approval criteria for these programs. This administrative regulation establishes the required elements of the alternative route to certification and the application review process.

Section 1. Institute Providers.

- (1) A provider[Providers who are] not currently accredited by the EPSB in accordance with 16 KAR 5:010, may[are recommended to] demonstrate a partnership with an institution[partnerships with institutions] of higher education accredited by the EPSB and a school district or cooperative[school districts or cooperatives] recognized by the Kentucky Department of Education.
- (2) A provider[Providers] shall submit an application to the EPSB in accordance with the Guidelines for Submitting an Application to Provide an Alternative Route to Certification Institute (Option 7).

Section 2. Application Review.

- (1) An application[Applications] to provide an alternative route to certification institute shall be submitted to EPSB staff.
- (2) EPSB staff shall complete an initial review to ensure that the application addresses the requirements of KRS 161.048(8) and the Guidelines for Submitting an Application to Provide an Alternative Route to Certification Institute (Option 7).
 - (a) If EPSB staff determines that the application addresses the requirements of this subsection, the application[, it] shall be forwarded to an external review team.
 - (b) If EPSB staff determines that the application does not address all the requirements of this subsection, staff shall notify the provider of the deficiencies.
- (3) An external review team of trained reviewers appointed[identified] by EPSB pursuant to subsection (4) of this section, staff shall review the application in accordance with KRS 161.048(8) and the Guidelines for Submitting an Application to Provide an Alternative Route to Certification Institute (Option 7).
- (4) The external review team shall be comprised of:
 - (a) One (1) representative from an EPSB accredited postsecondary institution;
 - (b) One (1) representative from a Kentucky education cooperative; and
 - (c) One (1) representative from a Kentucky public school district.
- (5) The external review team shall review the application to provide an alternative route to certification institute and determine the quality of the application based on compliance with subsection (2) of this section. The review team shall recommend acceptance or denial of the application to the EPSB and shall include a supporting rationale for the recommendation.
- (6) The EPSB shall review the external review team's recommendation, shall approve or deny each application, and shall transmit the decision and rationale for the decision to the provider.
- (7) The provider may revise and resubmit a plan that has been denied.

(8) Any approval granted by the EPSB shall specify the period of approval of the institute, which shall not exceed two (2) years for initial approval. A provider~~[Providers]~~ may apply for an extension of approval as established~~[outlined]~~ in Section 3 of this administrative regulation.

Section 3. Continuance of Program Approval.

(1) An institute provider may apply for continuance of an approved alternative route to certification institute for an additional period of time not to exceed seven (7) years. The request for continuance shall specify any changes in program components that have occurred since the institute received prior EPSB approval and that are planned for implementation in subsequent training periods.

(2) The request for continuance shall provide specific examples of demonstrating program quality as established in this section and the application required by this administrative regulation. The request for continuance shall include~~[set forth]~~ statistical information related to teacher retention for all prior candidates who have completed the institute. Standards for program approval established~~[and program quality specified]~~ under this administrative regulation shall be maintained under any program extension.

Section 4. Revocation for Cause.

(1) If an area of concern or an allegation of misconduct arises after an institute has been approved, staff shall bring a complaint to the EPSB for initial review.

(2) After review of the allegations in the complaint, the EPSB may refer the matter to the external review team for further investigation.

(3)(a) Notice of the EPSB's decision to refer the matter and the complaint shall be sent to the provider.

(b) Within thirty (30) days of receipt of the complaint, the provider shall respond to the allegations in writing and provide information~~[evidence]~~ pertaining to the allegations in the complaint to the EPSB.

(4)(a) The external review team shall review any evidence supporting the allegations and any information submitted by the provider.

(b) The external review team may conduct on-site evaluations to evaluate the quality of the program~~[programs]~~.

(c) Upon completion of the review, the external review team shall issue a report recommending to the EPSB continued approval of the institute or revocation of institute approval if the institute no longer meets the standards and requirements for approval established in this administrative regulation.

(5) The provider shall receive a copy of the external review team's report and may file a response to the recommendation.

(6)(a) The recommendation from the external review team and the provider's response shall be presented to the EPSB.

(b) The EPSB shall consider the findings and recommendations of the external review team and make a final determination regarding the approval of the institute.

Section 5. Reconsideration~~[Appeals Process]~~.

(1) If a provider seeks reconsideration~~[appeal]~~ of an EPSB decision, the provider shall submit a request~~[appeal]~~ within thirty (30) days of receipt of the EPSB official notification. A provider shall submit the request~~[appeal]~~ on the grounds that:

(a) A prescribed standard was disregarded;

(b) A procedure was not followed; or

(c) Evidence of compliance in place at the time of the review and favorable to the provider was not considered.

(2) ~~A[An appeals]~~ panel of no fewer than three (3) members shall be appointed by the EPSB chair from members of the EPSB who do not have a conflict of interest regarding the provider or institute. The ad hoc committee shall recommend action on the request[appeal] to the full EPSB.

~~[(3) The consideration of the appeal shall be in accordance with KRS Chapter 13B.]~~

Section 6. Data Reports.

(1) The EPSB shall maintain data reports related to the following:

- (a) Approval status of all EPSB approved Option 7 programs;
- (b) Contact information for the person responsible for the institute;
- (c) Year of last program review;
- (d) Tables relating the institute total enrollment disaggregated by ethnicity and gender for the last three (3) years;
- (e) Tables relating the institute faculty disaggregated by the number of full-time equivalents (FTE), ethnicity, and gender for the last three (3) years;
- (f) Table of the number of program completers for the last three (3) years;
- (g) Table relating pass rates on the required assessments;
- (h) Table relating program completer satisfaction with the preparation program; and
- (i) Table relating new teacher (under three (3) years) and supervisor satisfaction with the preparation program.

(2) A provider[Providers] shall report to the EPSB staff at the end of each school year continuous improvement efforts relating to the institute.

Section 7. Temporary Provisional Certificate.

(1) An eligible candidate who meets the requirements of KRS 161.048 (8)(a)1. ~~through[-]~~ 4. and 16 KAR 2:010, Section 3(1), shall be issued a one (1)[-] year provisional teaching certificate.

(2) The candidate shall apply to the EPSB and provide:

- (a) Official transcripts of all college work undertaken by the candidate establishing proof of a bachelor's degree or graduate degree and grade point average;
- (b) Proof of a passing score on the admission assessments as established in 16 KAR 5:020, unless the applicant holds a terminal degree;
- (c) Proof of a passing score on the academic content assessment, as established in 16 KAR 6:010, in the area in which certification is being sought;
- (d) Verification by the institute provider of completion of half of the requisite institute hours; and
- (e) Evidence of employment in a Kentucky school district or nonpublic school in the content area of the certification.

(3) The temporary provisional certificate may be renewed for a maximum of two (2) additional years.

(4) A candidate shall be eligible for first renewal of the temporary provisional certificate upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and [successful completion of the following requirements]:

(a) Verification of completion of:

- 1. 240 hour institute for elementary or K-12 certification; or
- 2. 180 hour institute for middle or high school certification; and[-]

(b) Evidence of employment in a Kentucky school district or nonpublic school in the content area of the certification.

Section 8. Professional Certificate.

- (1) Upon completion of all program requirements **established in this administrative regulation**~~[of the alternative route to certification institute]~~, the applicant may apply for the professional certificate.
- (2) Prior to issuance of the professional certificate, the candidate shall obtain a passing score on the pedagogy assessment, as established in 16 KAR 6:010, for the certificate being sought.
- (3) Upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and verification that a candidate has met all eligibility requirements for certificate issuance, the EPSB shall issue the candidate a professional certificate.

Section 9. Incorporation by Reference.

- (1) ~~[The following material is incorporated by reference:]~~"Guidelines for Submitting an Application to Provide an Alternative Route to Certification Institute **(Option 7)**", 2022, **is incorporated by reference.**
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

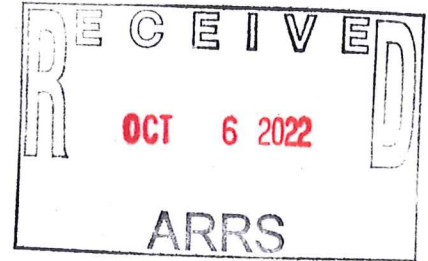
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Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 16 KAR 9:110. Expedited route to certification.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 16 KAR 9:110, the Education Professional Standards Board proposes the attached amendment to 16 KAR 9:110.

Sincerely,

Cassie L. Trueblood
Policy Advisor and Special Counsel

SUGGESTED SUBSTITUTE

**EDUCATION AND LABOR CABINET
Education Professional Standards Board**

16 KAR 9:110. Expedited route to certification.

RELATES TO: KRS 161.028, 161.030, 161.048

STATUTORY AUTHORITY: KRS 161.028, 161.030, 161.048(1)(e)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.048(1)(e) requires~~directs~~ the Education Professional Standards Board (EPSB) to promulgate~~adopt~~ administrative regulations establishing standards and procedures for the alternative routes to certification. This administrative regulation establishes the standards and procedures of the Option 9 expedited route to certification.

Section 1. Route Providers. (1) Expedited routes to certification shall be provided by a Kentucky public school district, certified non-public school, or group ~~of~~ districts in partnership with a college or university with an accredited educator preparation provider (EPP) recognized by the EPSB.

(2) The expedited route program shall only include the EPP's existing undergraduate initial certification educator preparation programs approved by the EPSB.

(3) A Provider~~Providers~~ shall submit an application to the EPSB that includes:

(a) An agreement between the district or group of districts and the EPP to collaborate on the expedited route program;~~;~~

(b) An understanding between the district and EPP that the expedited route program shall not negatively impact the accreditation of the EPP;~~;~~

(c) Contact information for the EPP leader and the district or group of districts leader;~~;~~

(d) Description of when the expedited route program is offered, the method of delivery, and the certification areas included;~~;~~

(e) A process to maintain regular communication between the employing school and EPP so that the EPP and employing school may assist the resident as needed and address identified areas of improvement; and~~;~~

(f) Explanation of how the district or group of districts in cooperation with the EPP shall address the program requirements contained in Sections 2, 3 and 4 of this administrative regulation.

Section 2. Residency. (1) A candidate~~All candidates~~ for the expedited route to certification shall meet the admission requirements established in 16 KAR 5:020.

(2) A candidate~~Candidates~~ shall be employed in a classified position with the district while completing coursework from the EPP expedited route program.

(3) A resident shall not have responsibility for the supervision or instruction of P-12 students without the direct supervision of a certified educator.

(4) The district in consultation with the EPP shall ensure that the resident receives training on the Professional Code of Ethics for Kentucky School Certified Personnel established in 16 KAR 1:020.

(5) The resident shall adhere to the Professional Code of Ethics for Kentucky School Certified Personnel established in 16 KAR 1:020.

(6) The district shall provide coaching and mentoring of the resident throughout the program.

(7) The requirements of this administrative regulation may be fulfilled as part of the resident's classified employment with the district.

(8) If the resident is no longer employed in a~~district terminates the resident from~~ classified

position/employment], the EPP may transfer the resident to a traditional preparation program but the resident shall no longer be enrolled in the expedited route.

~~(9)~~~~[(8)]~~ A student/Students wishing to transfer from another route to the expedited route shall be in good standing with their EPP.

~~(10)~~~~[(9)]~~ A student/Students transferring to the expedited route shall ~~[be required to]~~ complete the field experience and student teaching established/outlined in Sections 3 and 4 of this administrative regulation.

Section 3. Field Experience. (1) Prior to the completion of/During the first two (2) years of ~~[the]~~ residency, the district shall ensure that the candidate has completed/shall complete a minimum of two hundred (200) clock hours of field experiences in a variety of primary through grade 12 school settings that/which allow the candidate to participate in the following:

(a) Engagement with diverse populations of students that/which include:

1. Students from a minimum of two (2) different ethnic or cultural groups of which the candidate would not be considered a member;

2. Students from different socioeconomic groups;

3. English language learners;

4. Students with disabilities; and

5. Students from across elementary, middle school, and secondary grade levels;

(b) Observation in schools and related agencies, including:

1. Family Resource Centers; or

2. Youth Service Centers;

(c) Student tutoring;

(d) Interaction with families of students;

(e) Attendance at school board and school-based council meetings;

(f) Participation in a school-based professional learning community; and

(g) Opportunities to assist teachers or other school professionals.

(2) The district shall maintain and share with the EPP electronic records that confirm all residents have fulfilled the field experiences required in subsection (1) of this section.

Section 4. Student Teaching. (1) During the third year of the residency, the district shall provide opportunities for the resident/student teacher to assume major responsibility for the full range of teaching duties, including extended co-teaching experiences, in a real school situation under the guidance of qualified personnel from the district and EPP. The EPP and the school district shall make reasonable efforts to place residents in settings that provide opportunities for the resident to develop and demonstrate the practical skills, knowledge, and professional dispositions essential to help all P-12 students learn and develop.

(2) The resident shall be placed in an instructional/a setting that is consistent with his or her planned certification content and grade range.

(3) The placement shall provide the resident with the opportunity to engage with diverse populations of students.

~~(4) [The third year of residency shall be in instructional settings that correspond to the grade levels and content areas of the resident's certification program. Specifically:~~

~~(a) Residents pursuing a primary through grade 12 certificate shall have their student teaching balanced between an elementary school placement and middle school or high school placement.~~

~~(b) Residents pursuing an elementary certificate shall have their student teaching balanced between a placement in primary through grade 3 and a placement in grade 4 or grade 5.~~

~~(c) Residents seeking dual certification in either middle school or secondary content areas shall have equal placements in both content areas.~~

—~~(5)~~] The district shall place the resident with a cooperating teacher or teachers who have:

- (a) A valid teaching certificate or license for each grade and subject taught;
- (b) At least three (3) years of teaching experience as a certified educator; and
- (c) Completed the cooperating teacher training in Section 1 of 16 KAR 5:040.

~~(5)~~~~(6)~~] A teacher assigned to a teaching position on the basis of a provisional or emergency certificate issued by the EPSB shall not be eligible for serving as a cooperating teacher.

~~(6)~~~~(7)~~] The district or group of districts shall share with the EPP and file an electronic report with the EPSB ~~that~~~~[which]~~ identifies the following:

- (a) Each resident completing the third year;
- (b) The resident's assigned school;
- (c) The cooperating teacher assigned to each resident;
- (d) The cooperating teacher's area of certification; and
- (e) The cooperating teacher's years of experience as a certified or licensed educator.

~~(7)~~~~(8)~~] The EPP shall assign a supervisor to the third-year resident. The supervisor shall conduct a minimum of four (4) observations of the resident in the actual teaching situation.

~~(8)~~~~(9)~~] The observations may be remote.

~~(9)~~~~(10)~~] The observation reports shall be filed as a part of the resident's~~[student teacher]~~ record ~~[and used as a validation of the supervisory function]~~.

~~(10)~~~~(11)~~] The EPP supervisors shall be available to work with the resident and personnel in the district regarding any problems that may arise relating to the student teaching situation.

~~(11)~~~~(12)~~] The EPP supervisors shall complete the university supervisor training in Section 4 of 16 KAR 5:040.

~~(12)~~~~(13)~~] The district shall maintain and share with the EPP electronic records that confirm that all third-year residents meet the requirements of this section.

Section 5. Application Review.

(1) An application~~[Applications]~~ to provide an expedited route to certification shall be submitted to EPSB staff.

(2) EPSB staff shall complete an initial review to ensure that the application addresses the requirements of KRS 161.048(10) and this administrative regulation.

(a) If EPSB staff determines that the application addresses the requirements, it shall be forwarded to the EPSB for review at an EPSB meeting.

(b) If EPSB staff determines that the application does not address all the requirements, staff shall notify the provider of the deficiencies.

(3) The EPSB shall review the application, shall approve or deny each application based on its compliance with KRS 161.048(10) and this administrative regulation, and shall transmit the decision and rationale for the decision to the provider.

(4) The provider may revise and resubmit a plan that has been denied.

(5) Any approval granted by the EPSB shall specify the period of approval, which shall not exceed three (3) years for initial approval. A provider~~[Providers]~~ may apply for an extension of approval as established~~[outlined]~~ in Section 6 of this administrative regulation.

Section 6. Continuance of Program Approval. (1) An expedited route provider may apply for continuance of an approved expedited route program for an additional period of time not to exceed seven (7) years. The request for continuance shall specify any changes in program components that have occurred since the program received prior EPSB approval and that are planned for implementation in subsequent training periods.

(2) The request for continuance shall provide specific examples of demonstrating program quality as established in this section and the application required by this administrative regulation. The request for continuance shall include~~[set forth]~~ statistical information related to teacher retention for all prior candidates who have completed the program. Standards for program approval

~~[and program quality]~~ specified under this administrative regulation shall be maintained under any program extension.

Section 7. Revocation for Cause. (1) If an area of concern or an allegation of misconduct arises after approval, staff shall bring a complaint to the EPSB for initial review.

(2) After review of the allegations in the complaint, the EPSB may refer the matter for further investigation.

(3)(a) Notice of the EPSB's decision to refer the matter and the complaint shall be sent to the provider.

(b) Within thirty (30) days of receipt of the complaint, the provider shall respond to the allegations in writing and provide information[evidence] pertaining to the allegations in the complaint to the EPSB.

(4)(a) Staff shall review any evidence supporting the allegations and any information submitted by the provider.

(b) Staff may conduct on-site evaluations to evaluate the quality of the program[programs].

(c) Upon completion of the review, staff shall issue a report recommending to the EPSB continued approval of the expedited route program or revocation of the expedited route program if it no longer meets the ~~[standards and]~~ requirements for approval.

(5) The provider shall receive a copy of staff's report and may file a response to the recommendation.

(6)(a) The recommendation from staff and the provider's response shall be presented to the EPSB.

(b) The EPSB shall consider the report and the provider's response and make a final determination regarding the approval of the institute.

Section 8. Reconsideration[Appeals—Process]. (1) If a provider seeks reconsideration[appeal] of an EPSB decision, the provider shall submit a request[appeal] within thirty (30) days of receipt of the EPSB official notification. A provider shall submit the request[appeal] on the grounds that:

(a) A prescribed standard was disregarded;

(b) A procedure was not followed; or

(c) Evidence of compliance in place at the time of the review and favorable to the provider was not considered.

(2) ~~A[An appeals]~~ panel of no fewer than three (3) members shall be appointed by the EPSB chair from members of the EPSB who do not have a conflict of interest regarding the provider or program. The ad hoc committee shall recommend action on the request[appeal] to the full EPSB.

~~[(3) The consideration of the appeal shall be in accordance with KRS Chapter 13B.]~~

Section 9. Data Reports. (1) The EPSB shall maintain data reports related to the following:

(a) Approval status of all EPSB approved expedited route programs;

(b) Contact information for the person responsible for the expedited route program;

(c) Year of last program review;

(d) Tables relating the program total enrollment disaggregated by ethnicity and gender for the last three (3) years;

(e) Tables relating the program faculty disaggregated by the number of full-time equivalents (FTE), ethnicity, and gender for the last three (3) years;

(f) Table of the number of program completers for the last three (3) years;

(g) Table relating pass rates on the required assessments;

(h) Table relating program completer satisfaction with the preparation program; and

(i) Table relating new teacher (under three (3) years) and supervisor satisfaction with the preparation program.

(2) A provider~~Providers~~ shall report to the EPSB staff at the end of each school year continuous improvement efforts relating to the expedited route program.

Section 10. Professional Certificate. (1) Upon completion of all program requirements in this administrative regulation~~of the expedited route~~, and compliance with the assessment requirements established in 16 KAR 6:010, the resident may apply for the professional certificate.

(2) Upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and verification that a candidate has met all eligibility requirements for certificate issuance, the EPSB shall issue the candidate a professional certificate.

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.

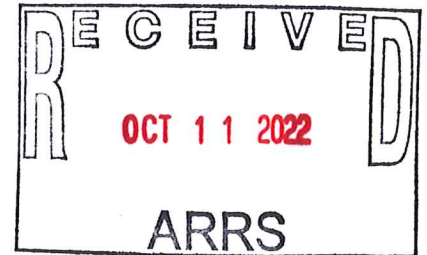
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COMMONWEALTH OF KENTUCKY
STATE BOARD OF ELECTIONS
October 11, 2022



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: **31 KAR 3:031**, "Voting precinct and address of overseas voter whose last place of residence is in the Commonwealth is no longer a recognized residential address"; 31 KAR 4:071, "Recanvass procedures"; 31 KAR 4:131, "Delivery and return of absentee ballots transmitted to covered voters via facsimile or electronically"; 31 KAR 4:141, "Submission of the federal postcard application via electronic mail"; 31 KAR 4:170, "Exceptions to prohibition on electioneering"; 31 KAR 4:196, "Consolidation of Precincts and Precinct Election Officers"; 31 KAR 4:201, "Chain of Custody for Records During an Election Contest"; 31 KAR 4:210, "Establishment of Risk-Limiting Audit Pilot Program"; 31 KAR 5:011, "Use of the federal write-in absentee ballot"; 31 KAR 5:026, "Ballot Standards and Election Security".

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by: 31 KAR 3:031; 31 KAR 4:071; 31 KAR 4:131; 31 KAR 4:141; 31 KAR 4:170; 31 KAR 4:196; 31 KAR 4:201; 31 KAR 4:210; 31 KAR 5:011; 31 KAR 5:026, the State Board of Elections proposes the attached amendments to 31 KAR 3:031; 31 KAR 4:071; 31 KAR 4:131; 31 KAR 4:141; 31 KAR 4:170; 31 KAR 4:196; 31 KAR 4:201; 31 KAR 4:210; 31 KAR 5:011; 31 KAR 5:026.

Sincerely,

A handwritten signature in blue ink, appearing to read "TAB", with a horizontal line extending to the right.

Taylor Austin Brown
General Counsel
State Board of Elections
140 Walnut Street
Frankfort, Kentucky 40601

140 WALNUT STREET
FRANKFORT, KY 40601-3240

The word "Kentucky" in a stylized script font, with "UNBRIDLED SPIRIT" in a smaller, sans-serif font below it.
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SUGGESTED SUBSTITUTE

STATE BOARD OF ELECTIONS

31 KAR 3:031. Voting precinct and address of overseas voter whose last place of residence in the Commonwealth is no longer a recognized residential address.

RELATES TO: KRS 117A.010(1)(e), 117A.040

STATUTORY AUTHORITY: KRS 117.015(1)(a), KRS 117A.030(2), 117A.040(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117A.040(2) requires the State Board of Elections to promulgate administrative regulations covering the procedures under KRS 117A.040 for assigning an address for voting purposes for an overseas voter whose last place of residence is no longer a recognized residential address. KRS 117A.030(2) authorizes the State Board of Elections to promulgate the administrative regulations necessary to implement KRS Chapter 117A. This administrative regulation establishes the procedures under KRS 117A.040 for assigning an address for voting purposes for an overseas voter whose last place of residence is no longer a recognized residential address.

Section 1. Definition. "Overseas voter" is defined by KRS 117A.010(6).

Section 2. Voting Precinct and Address of Overseas Voter Whose Last Place of Residence in the Commonwealth is No Longer a Recognized Residential Address. If the last place of residence in the Commonwealth of Kentucky of an overseas voter who is eligible to vote in the Commonwealth, or the last place of residence of the parent or legal guardian of a voter described by KRS 117A.010(1)(e), is no longer a recognized residential address, the county clerk shall:

(1) In consultation with federal, state and local government agencies, as necessary, determine and designate in the statewide voter registration database the voting precinct, school board district, city, and, if any, ward~~[, if any,]~~ in which the voter's last place of residence, or the last place of residence of the parent or legal guardian of a voter described by KRS 117A.010(1)(e), would have been located if the address were still a recognized residential address; and

(2) Designate the voter's residential address in the statewide voter registration database as "Overseas."

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 782-9499, email TaylorA.Brown@ky.gov.

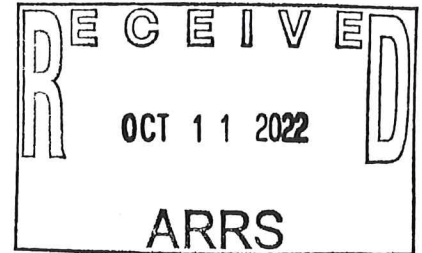
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Re: 31 KAR 3:031, "Voting precinct and address of overseas voter whose last place of residence is in the Commonwealth is no longer a recognized residential address"; 31 KAR 4:071, "Recanvass procedures"; 31 KAR 4:131, "Delivery and return of absentee ballots transmitted to covered voters via facsimile or electronically"; 31 KAR 4:141, "Submission of the federal postcard application via electronic mail"; 31 KAR 4:170, "Exceptions to prohibition on electioneering"; 31 KAR 4:196, "Consolidation of Precincts and Precinct Election Officers"; 31 KAR 4:201, "Chain of Custody for Records During an Election Contest"; 31 KAR 4:210, "Establishment of Risk-Limiting Audit Pilot Program"; 31 KAR 5:011, "Use of the federal write-in absentee ballot"; 31 KAR 5:026, "Ballot Standards and Election Security".

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by: 31 KAR 3:031; 31 KAR 4:071; 31 KAR 4:131; 31 KAR 4:141; 31 KAR 4:170; 31 KAR 4:196; 31 KAR 4:201; 31 KAR 4:210; 31 KAR 5:011; 31 KAR 5:026, the State Board of Elections proposes the attached amendments to 31 KAR 3:031; 31 KAR 4:071; 31 KAR 4:131; 31 KAR 4:141; 31 KAR 4:170; 31 KAR 4:196; 31 KAR 4:201; 31 KAR 4:210; 31 KAR 5:011; 31 KAR 5:026.

Sincerely,

A handwritten signature in black ink, appearing to read "TAB", followed by a horizontal line.

Taylor Austin Brown
General Counsel
State Board of Elections
140 Walnut Street
Frankfort, Kentucky 40601

140 WALNUT STREET
FRANKFORT, KY 40601-3240

The logo for the Commonwealth of Kentucky, featuring the word "Kentucky" in a stylized font with a horse head silhouette above it, and the tagline "UNBRIDLED SPIRIT" below it.
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SUGGESTED SUBSTITUTE

STATE BOARD OF ELECTIONS

31 KAR 4:071. Recanvass procedures.

RELATES TO: KRS 117.305, 118.425, 242.110, 242.120

STATUTORY AUTHORITY: KRS 117.015(1)(a), 117.305(5), (6), (7), 242.120(3), (4), (5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to properly carry out its duties. KRS 117.305(5) and KRS 242.120(3) require the State Board of Elections to prescribe forms to be used by county boards of elections to report all recanvassed votes, KRS 117.305(6) and KRS 242.120(4) require that the board promulgate administrative regulations to set reporting standards for recanvass reports, and KRS 117.305(7) and KRS 242.120(5) require that the board promulgate administrative regulations to establish the proper procedures for conducting a recanvass for each type of voting system approved by the board and in use in Kentucky. This administrative regulation establishes the reporting forms to be used in the event of a recanvass, reporting standards for an election if a recanvass is requested and received in a timely manner, and establishes the proper procedures for conducting a recanvass on the approved voting systems in use in Kentucky.

Section 1.

- (1) The Recanvass of Official Count and Record of Election Totals form, SBE 49A, shall be used by the county board of elections to report all recanvassed votes, except for local option elections.
- (2) The Recanvass of Official Count and Record of Election Totals for Local Option Election form, SBE 49B, shall be used by the county board of elections to report recanvassed votes for local option elections.
- (3) The county board of elections shall state the name of the county in which the recanvass is being conducted, the date of the report, the date of the election, the office for which the recanvass is being made, the name of each candidate for the office being recanvassed, and the machine votes, absentee votes, provisional votes, and total votes for each candidate. The report shall be signed by each member of the county board of elections.
- (4) For a recanvass of a local option election, the county board of elections shall state the name of the county in which the recanvass is being conducted, the date of the report, the date of the local option election, the proposition for which the recanvass is being made, the names of the leaders of the committees favoring or opposing the proposition being recanvassed, and the machine votes, absentee votes, and vote totals for "yes" or "no" votes. The report shall be signed by each member of the county board of elections.

Section 2.

- (1) The county board of elections shall file its recanvass report, SBE 49A, immediately upon completion of the recanvass for those vote totals reported to the Secretary of State, pursuant to KRS 118.425(3).
- (2) The county board of elections shall file its recanvass report, SBE 49A, immediately upon completion of the recanvass for the vote totals reported to the county clerk, pursuant to 118.425(2).
- (3) The county board of elections shall file its recanvass report for a local option election, SBE 49B, immediately upon completion of the recanvass for the vote totals reported to the county clerk, pursuant to KRS 242.110.

Section 3. If KRS 117.305(1) or KRS 242.120(2)(a) requires a recanvass, the provisions established in this section shall apply.

- (1) In a general election, the county board of elections shall only check and tabulate the votes of the candidate requesting a recanvass and each opposing candidate seeking the same office.

- (2) In a partisan primary, the county board of elections shall only check and tabulate the votes of the candidate requesting a recanvass and each opposing candidate of the same political party seeking the same office.
- (3) In a nonpartisan election, the county board of elections shall only check and tabulate the votes of the candidate requesting a recanvass and each opposing candidate seeking the same office.
- (4) In a local option election, the county board of elections shall check and tabulate the "yes" and "no" votes.

Section 4. A county board of elections shall recanvass the votes recorded depending on the machine and voting method utilized, as follows:

- (1) If an electronic voting system with a central tabulation system is used, the recanvass shall be taken:
 - (a) By clearing the system, such as by setting the tabulation system to zero and retabulating the votes recorded on the memory cartridges on election day by using the central tabulation system; or
 - (b) By comparing the results printout printed from each voting machine on election day with the county-wide recapitulation sheet.
- (2) If an electronic voting system without a central tabulation system is used, the recanvass shall be taken by comparing the results printout printed from each voting machine on election day with the county-wide recapitulation sheet.
- (3) Paper ballots, which were judged to be valid by the county board of elections on election day and which were not counted using a central tabulation system but were hand-counted on election day, shall be recanvassed by utilizing the same procedure actually used to count those paper ballots on election day following the procedures for the uniform definition of a vote established by 31 KAR 6:030.

Section 5. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "Recanvass of Official Count and Record of **Election[Elections]** Totals", SBE 49A, 04/22; and
 - (b) "Recanvass of Official Count and Record of **Election[Elections]** Totals for Local Option Election", SBE 49B, 04/22.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.
- (3) This material may also be obtained on the board's Web site at <https://elect.ky.gov>.**

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 782-9499, email TaylorA.Brown@ky.gov.

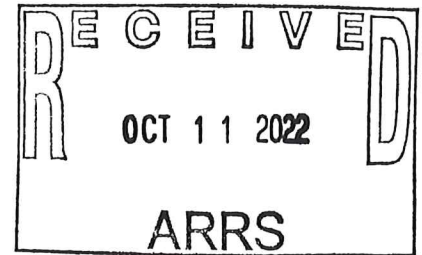
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Richard.House@ky.gov

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General Counsel
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COMMONWEALTH OF KENTUCKY
STATE BOARD OF ELECTIONS
October 11, 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: 31 KAR 3:031, "Voting precinct and address of overseas voter whose last place of residence is in the Commonwealth is no longer a recognized residential address"; 31 KAR 4:071, "Recanvass procedures"; **31 KAR 4:131**, "Delivery and return of absentee ballots transmitted to covered voters via facsimile or electronically"; 31 KAR 4:141, "Submission of the federal postcard application via electronic mail"; 31 KAR 4:170, "Exceptions to prohibition on electioneering"; 31 KAR 4:196, "Consolidation of Precincts and Precinct Election Officers"; 31 KAR 4:201, "Chain of Custody for Records During an Election Contest"; 31 KAR 4:210, "Establishment of Risk-Limiting Audit Pilot Program"; 31 KAR 5:011, "Use of the federal write-in absentee ballot"; 31 KAR 5:026, "Ballot Standards and Election Security".

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by: 31 KAR 3:031; 31 KAR 4:071; 31 KAR 4:131; 31 KAR 4:141; 31 KAR 4:170; 31 KAR 4:196; 31 KAR 4:201; 31 KAR 4:210; 31 KAR 5:011; 31 KAR 5:026, the State Board of Elections proposes the attached amendments to 31 KAR 3:031; 31 KAR 4:071; 31 KAR 4:131; 31 KAR 4:141; 31 KAR 4:170; 31 KAR 4:196; 31 KAR 4:201; 31 KAR 4:210; 31 KAR 5:011; 31 KAR 5:026.

Sincerely,

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Taylor Austin Brown
General Counsel
State Board of Elections
140 Walnut Street
Frankfort, Kentucky 40601

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FRANKFORT, KY 40601-3240

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SUGGESTED SUBSTITUTE

STATE BOARD OF ELECTIONS

31 KAR 4:131. Delivery and return of absentee ballots transmitted to covered voters via facsimile or electronically.

RELATES TO: KRS 117.085, 117.086, 117A.030, 117A.080, 117A.120, 117A.130, 52 U.S.C. 20302

STATUTORY AUTHORITY: KRS 117.015(1)(a), KRS 117.079, 117.086(1)(b), 117A.030(2), (4)-(6), 117A.130, 52 U.S.C. 20302(e)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.079 requires the State Board of Elections, as circumstances warrant and with the concurrence of the Attorney General, to promulgate necessary administrative regulations to preserve the absentee voting rights of residents of Kentucky who are covered voters as defined in KRS 117A.010. KRS 117.086(1)(b) authorizes the State Board of Elections to promulgate administrative regulations establishing security requirements for the transmission of voted absentee ballots. 52 U.S.C. 20302(e) requires the states to provide not less than one (1) means of electronic communication for use by absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the state to request voter registration applications and absentee ballot applications, for use by the state to send voter registration applications and absentee ballot applications, and for the purpose of providing related voting, balloting, and election information to uniformed services voters and overseas voters. KRS 117A.030(4) requires the State Board of Elections to establish an electronic transmission system through which a covered voter may apply for and receive voter registration materials, military-overseas ballots, and other information authorized under KRS Chapter 117A. KRS 117A.030(5) requires the State Board of Elections to develop standardized absentee-voting materials, including privacy and transmission envelopes and their electronic equivalents, authentication materials, and voting instructions, to be used with the military-overseas ballot of a voter authorized to vote in any jurisdiction in the Commonwealth. KRS 117A.030(6) requires the State Board of Elections to prescribe the form and content of a declaration for use by a covered voter to swear or affirm specific representations pertaining to the voter's identity, eligibility to vote, status as a covered voter, and timely and proper completion of a military-overseas ballot. KRS 117A.130 requires the State Board of Elections, in coordination with local election officials, to implement an electronic free-access system by which a covered voter may determine by telephone, electronic mail, or Internet whether the voter's federal postcard application or other registration or military-overseas ballot has been received. KRS 117A.030(2) authorizes the State Board of Elections to promulgate the administrative regulations necessary to implement KRS Chapter 117A. This administrative regulation establishes the procedures for the county clerk to follow when transmitting a military-overseas ballot to a covered voter via facsimile or electronically and for a covered voter to follow when filling out and returning a military-overseas ballot that was transmitted to the covered voter via facsimile or electronically, incorporates by reference standardized absentee-voting materials and a declaration to be used by covered voters, and implements the electronic free-access system pursuant to KRS 117A.130.

Section 1. Definitions.

- (1) "Covered voter" is defined by KRS 117A.010(1).
- (2) "Federal postcard application" is defined by KRS 117A.010(3).
- (3) "Instructions to Voter" means the Instructions for Voting to a Covered Voter Who Has Been Faxed or Electronically Transmitted a Military-Overseas Ballot, SBE 46A.
- (4) "Military-overseas ballot" is defined by KRS 117A.010(5).
- (5) "Transmission sheet" means the Official Election Materials – Electronic Transmission Cover Sheet prescribed by the Federal Voting Assistance Program.

Section 2. Delivering a Military-Overseas Ballot to a Covered Voter Via Facsimile or Electronically.

(1) If the county clerk receives a properly completed federal postcard application from a covered voter who is eligible to vote in the jurisdiction and who requests that balloting materials be transmitted to the covered voter via facsimile or electronically, then for each election in which the covered voter is eligible to vote, the county clerk shall:

(a) Prepare a copy of the military-overseas ballot and mark the original, blank military-overseas ballot, "Faxed to Covered Voter," if the covered voter requested the military-overseas ballot to be transmitted to the covered voter via facsimile, or "Electronically Transmitted to Covered Voter," if the covered voter requested the military-overseas ballot to be transmitted to the covered voter electronically;

(b) Complete the county clerk's portion of the Instructions to Voter;

(c) If the covered voter has requested that the blank absentee ballot be transmitted through the Federal Voting Assistance Program, complete the Transmission Sheet; and

(d) Transmit the copy of the military-overseas ballot, Instructions to Voter, Voter Verification and Declaration, Voter Assistance Form, and Transmission Sheet, if the covered voter has requested that the military-overseas ballot be transmitted through the Federal Voting Assistance Program, to the covered voter via the method requested by the covered voter.

(2) The original blank military-overseas ballot shall be retained and not reused.

(3) A properly completed federal postcard application shall be treated as an application for a military-overseas ballot for all elections held after the date of the application through the next regular election or December 31 of the year of the application, whichever is later, unless the covered voter specifies a shorter time period.

Section 3. Ballot Security Requirements for Returning a Military-Overseas Ballot Transmitted to a Covered Voter Via Facsimile or Electronically. When a covered voter receives a military-overseas ballot via facsimile or electronically:

(1) If the covered voter requires assistance in voting, the covered voter and the person who assists the covered voter shall complete the Voter Assistance Form, except the "Section to be Completed by Precinct Election Officer";

(2) The covered voter shall mark the military-overseas ballot and seal it in an envelope;

(3) The covered voter shall complete and sign the Voter Verification and Declaration;

(4) The covered voter shall place the Voter Verification and Declaration, Voter Assistance Form, if the voter received assistance in voting, and the envelope containing the military-overseas ballot in a separate envelope and seal it;

(5) The covered voter shall print the covered voter's name, voting address, and precinct number on the back of the outer envelope;

(6) The covered voter shall sign across the back flap of the outer envelope;

(7) The covered voter shall print "Absentee Ballot" on the front of the outer envelope, without obstructing the address area; and

(8) The covered voter shall mail the envelope to the county clerk.

Section 4. Electronic Free-Access System. Each county clerk shall either participate in the electronic free-access system established by the State Board of Elections or establish a local electronic free-access system by which a covered voter may determine by telephone, electronic mail, or Internet whether the voter's federal postcard application or other registration or military-overseas ballot application has been received and accepted and whether the voter's military-overseas ballot has been received.

Section 5. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Instructions for Voting to a Covered Voter Who Has Been Faxed or Electronically Transmitted a Military-Overseas Ballot", SBE 46A, *[rev.]* July 2014;

(b) "Voter Assistance Form", SBE 31, 04/2022; *[and]*

(c) "Voter Verification and Declaration", SBE 46B, *[rev.]* July 2014;

(d) "Transmission Cover Sheet", Federal Voting Assistance Program, 2017; and

(e) "Federal Postcard Application", Federal Voting Assistance Program, 2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material may also be obtained on:

(a) The board's Web site at <https://elect.ky.gov>; or

(b) The Federal Voting Assistance Program Web site at <https://fvap.gov>.

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 782-9499, email TaylorA.Brown@ky.gov.

Voter Registration and Absentee Ballot Request

Federal Post Card Application (FPCA)

This form is for absent Uniformed Service members, their families, and citizens residing outside the United States. It is used to register to vote, request an absentee ballot, and update your contact information. See your state's guidelines at FVAP.gov.

Print clearly in blue or black ink, please see back for instructions.

1. Who are you? Pick one.

I request an absentee ballot for all elections in which I am eligible to vote AND: ☐ I am on active duty in the Uniformed Services or Merchant Marine -OR- ☐ I am an eligible spouse or dependent. ☐ I am a U.S. citizen living outside the country, and I intend to return. ☐ I am a U.S. citizen living outside the country, and my intent to return is uncertain. ☐ I am a U.S. citizen living outside the country, I have never lived in the United States.

Last name _____ Suffix (Jr., II) _____ ☐ Mr. ☐ Miss
☐ Mrs. ☐ Ms.
First name _____ Previous names (if applicable) _____
Middle name _____ Birth date (MM/DD/YYYY) _____
Social Security Number _____ Driver's license or State ID# _____

2. What is your address in the U.S. state or territory where you are registering to vote and requesting an absentee ballot?

Your voting materials will not be sent to this address. See instructions on the other side of form.

Street address _____ Apt # _____
City, town, village _____ State _____
County _____ ZIP _____

3. Where are you now? You MUST give your CURRENT address to receive your voting materials.

Your mailing address. (Different from above) _____ Your mail forwarding address. (If different from mailing address) _____

4. What is your contact information? This is so election officials can reach you about your request.

Provide the country code and area code with your phone and fax number. Do not use a Defense Switched Network (DSN) number.

Email: _____ Phone: _____
Alternate email: _____ Fax: _____

5. What are your preferences for upcoming elections?

A. How do you want to receive voting materials from your election office? (Select One) ☐ Mail ☐ Email or online ☐ Fax
B. What is your political party for primary elections? _____

6. What additional information must you provide?

Puerto Rico and Vermont require more information, see back for instructions. *Additional state guidelines* may be found at FVAP.gov. You may also use this space to clarify your voter information.

7. You must read and sign this statement.

I swear or affirm, under penalty of perjury, that:

- The information on this form is true, accurate, and complete to the best of my knowledge. I understand that a material misstatement of fact in completion of this document may constitute grounds for conviction of perjury.
- I am a U.S. citizen, at least 18 years of age (or will be by the day of the election), eligible to vote in the requested jurisdiction, and
- I am not disqualified to vote due to having been convicted of a felony or other disqualifying offense, nor have I been adjudicated mentally incompetent; or if so, my voting rights have been reinstated; and
- I am not registering, requesting a ballot, or voting in any other jurisdiction in the United States, except the jurisdiction cited in this voting form.

Sign here

X

Today's date
(MM/DD/YYYY)

You can vote wherever you are.

1. Fill out your form completely and accurately.

- Your U.S. address is used to determine where you are eligible to vote absentee. For military voters, it is usually your last address in your state of legal residence. For overseas citizens, it is usually the last place you lived before moving overseas. You do not need to have any current ties with this address. DO NOT write a PO Box # in section 2.
- Most states allow you to provide a Driver's License number or the last 4 digits of your SSN. New Mexico, Tennessee, and Virginia require a full SSN.
- If you cannot receive mail at your current mailing address, please specify a mail forwarding address.
- Many states require you to specify a political party to vote in primary elections. This information may be used to register you with a party.
- **Section 6 Requirements:** If your voting residence is Vermont, you must acknowledge the following by writing in section 6: "I swear or affirm that I have taken the Vermont Voter's Oath." If your voting residence is in Puerto Rico, you must list your mother's and father's first name.
- We recommend that you complete and submit this form every year while you are an absentee voter.

2. Remember to sign this form!

3. Return this form to your election official. You can find their contact information at FVAP.gov.

- Remove the adhesive liner from the top and sides. Fold and seal tightly. If you printed the form, fold it and seal it in an envelope.
- All states accept this form by mail and many states accept this form by email and fax. See your state's guidelines at FVAP.gov.

Agency Disclosure Statement

The public reporting burden for this collection of information, OMB Control Number 0704-0503, is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or burden reduction suggestions to the Department of Defense, Washington Headquarters Services, at whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. DO NOT SUBMIT YOUR FORM TO THE E-MAIL ADDRESS ABOVE.

Privacy Advisory

When completed, this form contains personally identifiable information and is protected by the Privacy Act of 1974, as amended.

Questions?
Email: vote@fvap.gov

(Fill in the address of your election office.
The address can be found online at FVAP.gov.)

To

NO POSTAGE NECESSARY IN THE U.S. MAIL - DMM 703.8.0

OFFICIAL ABSENTEE BALLOTING MATERIAL - FIRST CLASS MAIL



International airmail postage is required if not mailed using the U.S. Postal Service, APO/FPO/DPO system, or diplomatic pouch.

(Your name and mailing address)

From

U.S. Postage Paid
39 USC 3406
PAR AVION





Transmission Cover Sheet

To:	
City/County Board of Elections	
Fax Number	
City	
State	

From:	
Last Name	
First Name	
Middle Name	
Telephone Number	
Fax Number	
Email Address	

Additional Information:

If a VOTED BALLOT is being faxed or emailed, sign below: "I understand that by faxing or emailing my voted ballot I am voluntarily waiving my right to a secret ballot"	
Signature: _____	Date: _____

Number of pages being transmitted, including this sheet: _____

Not all forms can be sent electronically. Please check the FVAP.gov website or the [Voting Assistance Guide](#) to verify which forms can be sent electronically to your Election Official.

Fax: Send directly to your Election Official. If you are unable and need fax assistance send to: 703-693-5527/DSN 223-5527 or 1-800-368-8683 or check FVAP.gov for international fax numbers. If you need to fax and do not have access to a fax machine you can email your forms to fax@fvap.gov.

Email: If your forms can be emailed, DO NOT USE FAX@FVAP.GOV. Email them directly to your election official. Email addresses for your election official can be found at FVAP.gov.

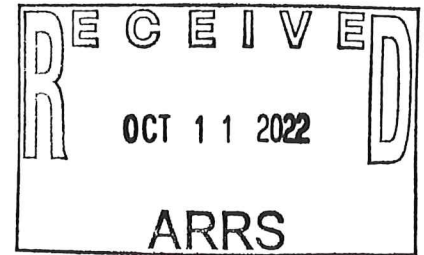
Karen Sellers
Executive Director
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Richard House
Assistant Director
Richard.House@ky.gov

Taylor Brown
General Counsel
TaylorA.Brown@ky.gov

COMMONWEALTH OF KENTUCKY
STATE BOARD OF ELECTIONS
October 11, 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: 31 KAR 3:031, "Voting precinct and address of overseas voter whose last place of residence is in the Commonwealth is no longer a recognized residential address"; 31 KAR 4:071, "Recanvass procedures"; 31 KAR 4:131, "Delivery and return of absentee ballots transmitted to covered voters via facsimile or electronically"; **31 KAR 4:141**, "Submission of the federal postcard application via electronic mail"; 31 KAR 4:170, "Exceptions to prohibition on electioneering"; 31 KAR 4:196, "Consolidation of Precincts and Precinct Election Officers"; 31 KAR 4:201, "Chain of Custody for Records During an Election Contest"; 31 KAR 4:210, "Establishment of Risk-Limiting Audit Pilot Program"; 31 KAR 5:011, "Use of the federal write-in absentee ballot"; 31 KAR 5:026, "Ballot Standards and Election Security".

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Sincerely,

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General Counsel
State Board of Elections
140 Walnut Street
Frankfort, Kentucky 40601

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FRANKFORT, KY 40601-3240

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FAX (502) 573-4369
OR (502) 696-1952

SUGGESTED SUBSTITUTE

STATE BOARD OF ELECTIONS

31 KAR 4:141. Submission of the federal postcard application via electronic mail.

RELATES TO: KRS 116.045(4)(e), 117.079, 117.085, 117A.030(4), 117A.050(3), 117A.060(3), 52 U.S.C. 20302(e)

STATUTORY AUTHORITY: KRS 116.045(4)(e), 117.079, 117.086(1)(b), 52 U.S.C. 20302(e)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.079 requires the State Board of Elections, as circumstances warrant and with the concurrence of the Attorney General, to promulgate necessary administrative regulations to preserve the absentee voting rights of residents of Kentucky who are covered voters as defined in KRS 117A.010. 52 U.S.C. 20302(e) requires the states to provide not less than one (1) means of electronic communication for use by absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the state to request voter registration applications and absentee ballot applications, for use by the state to send voter registration applications and absentee ballot applications, and for the purpose of providing related voting, balloting, and election information to uniformed services voters and overseas voters. KRS 116.045(4)(e) authorizes the State Board of Elections to approve methods of registration for any person to register to vote or change his or her party affiliation. KRS 117.086(1)(b) authorizes the board to promulgate administrative regulations establishing security requirements for the transmission of voted absentee ballots. This administrative regulation authorizes covered voters to submit federal postcard applications via electronic mail and establishes the procedures for the county clerk to follow when a federal postcard application is submitted via electronic mail.

Section 1. Definitions.

- (1) "Covered voter" is defined by KRS 117A.010(1).
- (2) "Federal postcard application" is:
(a) Defined by KRS 117A.010(3); and
(b) Incorporated by reference in 31 KAR 4:131.
- (3) "Military-overseas ballot" is defined by KRS 117A.010(5).

Section 2. County Clerk's Electronic Mailing Address. The county clerk shall use the county clerk's electronic mailing address provided or recognized by the Kentucky Department of Transportation to send to and receive from covered voters: voter registration applications, military-overseas ballot applications, military-overseas ballots, and related voting, balloting, and election information.

Section 3. Federal Postcard Applications Submitted Via Electronic Mail.

- (1) A covered voter may submit a federal postcard application to the county clerk via electronic mail to register, reregister, and to apply for a military-overseas ballot.
- (2) The county clerk shall treat a federal postcard application submitted by a covered voter via electronic mail in the same manner as a federal postcard application submitted via the electronic transmission system established under KRS 117A.030(4).

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 782-9499, email TaylorA.Brown@ky.gov.

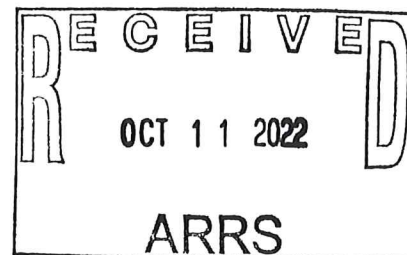
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Assistant Director
Richard.House@ky.gov

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COMMONWEALTH OF KENTUCKY
STATE BOARD OF ELECTIONS
October 11, 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: 31 KAR 3:031, "Voting precinct and address of overseas voter whose last place of residence is in the Commonwealth is no longer a recognized residential address"; 31 KAR 4:071, "Recanvass procedures"; 31 KAR 4:131, "Delivery and return of absentee ballots transmitted to covered voters via facsimile or electronically"; 31 KAR 4:141, "Submission of the federal postcard application via electronic mail"; **31 KAR 4:170**, "Exceptions to prohibition on electioneering"; 31 KAR 4:196, "Consolidation of Precincts and Precinct Election Officers"; 31 KAR 4:201, "Chain of Custody for Records During an Election Contest"; 31 KAR 4:210, "Establishment of Risk-Limiting Audit Pilot Program"; 31 KAR 5:011, "Use of the federal write-in absentee ballot"; 31 KAR 5:026, "Ballot Standards and Election Security".

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by: 31 KAR 3:031; 31 KAR 4:071; 31 KAR 4:131; 31 KAR 4:141; 31 KAR 4:170; 31 KAR 4:196; 31 KAR 4:201; 31 KAR 4:210; 31 KAR 5:011; 31 KAR 5:026, the State Board of Elections proposes the attached amendments to 31 KAR 3:031; 31 KAR 4:071; 31 KAR 4:131; 31 KAR 4:141; 31 KAR 4:170; 31 KAR 4:196; 31 KAR 4:201; 31 KAR 4:210; 31 KAR 5:011; 31 KAR 5:026.

Sincerely,

A handwritten signature in black ink, appearing to read "TAB", with a horizontal line extending to the right.

Taylor Austin Brown
General Counsel
State Board of Elections
140 Walnut Street
Frankfort, Kentucky 40601

140 WALNUT STREET
FRANKFORT, KY 40601-3240

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SUGGESTED SUBSTITUTE

STATE BOARD OF ELECTIONS

31 KAR 4:170. Exceptions to prohibition on electioneering.

RELATES TO: KRS 117.015, 117.235

STATUTORY AUTHORITY: KRS 117.015(1)(a), 117.235(3)(d)~~[117.235(3)(e)]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to properly carry out its duties. KRS 117.235(3)(d)~~[(e)]~~ authorizes the board to establish exceptions to the prohibition on electioneering through administrative regulations. This administrative regulation establishes these exceptions.

Section 1. Definitions.

- (1) "Bumper sticker" means a sticker that measures within fourteen (14) inches by five (5) inches for display on a vehicle bearing a printed message soliciting votes for or against any bona fide candidate or ballot question in a manner which expressly advocates the election or defeat of the candidate or expressly advocates the passage or defeat of the ballot question.
- (2) "Electioneering" is defined by KRS 117.235(3)(d).
- (3) "Polling place" means a voting place established in accordance with the provisions of KRS 117.065.
- (4) "Voting room" means a room in which votes are polled as established in~~[accordance with the provisions of]~~ KRS 117.235(1).

Section 2. Exceptions to Electioneering. Electioneering shall not include:

- (1) A bumper sticker pursuant to KRS 117.235(3)(d)~~[affixed to a person's vehicle while parked within or passing through a distance of 100][300][feet of any polling place on the day of any election for a reasonable amount of time in which to vote];~~ or
- (2) A voter's use of a personal telecommunications device, computer, or other information technology system, in the voting room to record or transmit electronically an image of his or her own personal likeness and ballot, if the voter does not use the picture:
 - (a) To solicit signatures to a petition or solicit votes for or against any bona fide candidate or ballot question in a manner that expressly advocates the election or defeat of the candidate or expressly advocates the passage or defeat of the ballot question; and
 - (b) Within a distance of 100 feet of any entrance to a building in which a voting machine is located if that entrance is:
 1. Unlocked; and
 2. Used by voters on election day.

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 782-9499, email TaylorA.Brown@ky.gov.

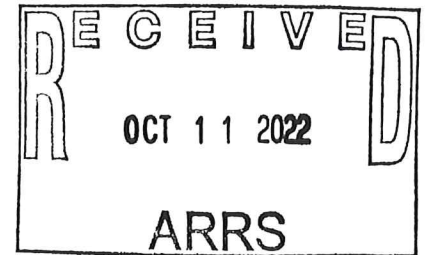
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COMMONWEALTH OF KENTUCKY
STATE BOARD OF ELECTIONS
October 11, 2022



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: 31 KAR 3:031, "Voting precinct and address of overseas voter whose last place of residence is in the Commonwealth is no longer a recognized residential address"; 31 KAR 4:071, "Recanvass procedures"; 31 KAR 4:131, "Delivery and return of absentee ballots transmitted to covered voters via facsimile or electronically"; 31 KAR 4:141, "Submission of the federal postcard application via electronic mail"; 31 KAR 4:170, "Exceptions to prohibition on electioneering"; 31 KAR 4:196, "Consolidation of Precincts and Precinct Election Officers"; 31 KAR 4:201, "Chain of Custody for Records During an Election Contest"; 31 KAR 4:210, "Establishment of Risk-Limiting Audit Pilot Program"; 31 KAR 5:011, "Use of the federal write-in absentee ballot"; 31 KAR 5:026, "Ballot Standards and Election Security".

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by: 31 KAR 3:031; 31 KAR 4:071; 31 KAR 4:131; 31 KAR 4:141; 31 KAR 4:170; 31 KAR 4:196; 31 KAR 4:201; 31 KAR 4:210; 31 KAR 5:011; 31 KAR 5:026, the State Board of Elections proposes the attached amendments to 31 KAR 3:031; 31 KAR 4:071; 31 KAR 4:131; 31 KAR 4:141; 31 KAR 4:170; 31 KAR 4:196; 31 KAR 4:201; 31 KAR 4:210; 31 KAR 5:011; 31 KAR 5:026.

Sincerely,

A handwritten signature in black ink, appearing to read "Taylor Austin Brown".

Taylor Austin Brown
General Counsel
State Board of Elections
140 Walnut Street
Frankfort, Kentucky 40601

140 WALNUT STREET
FRANKFORT, KY 40601-3240

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SUGGESTED SUBSTITUTE

STATE BOARD OF ELECTIONS

31 KAR 4:196. Consolidation of Precincts and Precinct Election Officers.

RELATES TO: KRS 117.066, **118.710, 118.720, 118.730**

STATUTORY AUTHORITY: KRS 117.015(1)(a), **117.066(3)**

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to properly carry out its duties. KRS 117.066(3) requires the State Board of Elections to promulgate administrative regulations to provide for a form on which a county board of elections may petition the State Board of Elections to allow for the consolidation of precincts and the consolidation of precinct election officers at any voting location where voters of more than one (1) precinct vote. This administrative regulation establishes that form.

Section 1. A county board of elections shall petition the State Board of Elections to allow the consolidation of precincts and the consolidation of precinct election officers at any voting location where voters of more than one (1) precinct vote, by filing with the State Board of Elections, the ~~[""]~~**]**Petition to Consolidate Precincts and Precinct Election Officers,**[""]** Form SBE 74 no later than ninety (90) days before a primary or general election, or ten (10) days after a proclamation is issued under KRS 118.710 or 118.720, or a writ of election is issued under KRS 118.730. The State Board of Elections ~~may~~**shall reserve the right to]** request, at any time, from any county, a resubmission of ~~a timely filed~~**any]** petition to consolidate precincts and precinct election officers **if the petition is found to be deficient or incomplete upon review by the State Board of Elections.**

Section 2. The submission of Form SBE 74 shall be accompanied by no less than one **(1)** map scalable to a sheet of 8.5 x 11 inch paper of the county showing the location of any consolidated precincts comprising a county-wide vote center.

Section 3. Incorporated by Reference.

(1) "Petition to Consolidate Precincts and Precinct Election Officers", Form SBE 74, 04/2022, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material may also be obtained on the board's Web site at <https://elect.ky.gov>.

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 782-9499, email TaylorA.Brown@ky.gov.

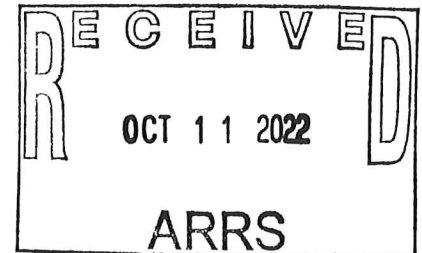
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COMMONWEALTH OF KENTUCKY
STATE BOARD OF ELECTIONS
October 11, 2022



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: 31 KAR 3:031, "Voting precinct and address of overseas voter whose last place of residence is in the Commonwealth is no longer a recognized residential address"; 31 KAR 4:071, "Recanvass procedures"; 31 KAR 4:131, "Delivery and return of absentee ballots transmitted to covered voters via facsimile or electronically"; 31 KAR 4:141, "Submission of the federal postcard application via electronic mail"; 31 KAR 4:170, "Exceptions to prohibition on electioneering"; 31 KAR 4:196, "Consolidation of Precincts and Precinct Election Officers"; 31 KAR 4:201, "Chain of Custody for Records During an Election Contest"; 31 KAR 4:210, "Establishment of Risk-Limiting Audit Pilot Program"; 31 KAR 5:011, "Use of the federal write-in absentee ballot"; 31 KAR 5:026, "Ballot Standards and Election Security".

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by: 31 KAR 3:031; 31 KAR 4:071; 31 KAR 4:131; 31 KAR 4:141; 31 KAR 4:170; 31 KAR 4:196; 31 KAR 4:201; 31 KAR 4:210; 31 KAR 5:011; 31 KAR 5:026, the State Board of Elections proposes the attached amendments to 31 KAR 3:031; 31 KAR 4:071; 31 KAR 4:131; 31 KAR 4:141; 31 KAR 4:170; 31 KAR 4:196; 31 KAR 4:201; 31 KAR 4:210; 31 KAR 5:011; 31 KAR 5:026.

Sincerely,

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Taylor Austin Brown
General Counsel
State Board of Elections
140 Walnut Street
Frankfort, Kentucky 40601

140 WALNUT STREET
FRANKFORT, KY 40601-3240

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SUGGESTED SUBSTITUTE

STATE BOARD OF ELECTIONS

31 KAR 4:201. Chain of custody for records during an election contest.

RELATES TO: KRS 120.205, 120.215

STATUTORY AUTHORITY: KRS 117.015(1)(a), 120.205, 120.215

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to properly carry out its duties. KRS 120.205 and KRS 120.215 require the State Board of Elections to promulgate administrative regulations to provide for a form ~~that~~on which documents any individuals transporting all voting equipment, ballots, boxes, precinct rosters, and other voting records related to an election contest involving an election of a Governor and Lieutenant Governor or a member of the General Assembly. This administrative regulation establishes that form.

Section 1. ~~If in the event that~~ a board is established under KRS 120.205 or KRS 120.215 to try a contested election of a Governor and Lieutenant Governor or a member of the General Assembly, the possession of all components of a voting system, ballots, ballot boxes, precinct rosters, and any other voting records sent for by the board shall not transfer unless the transfer is:

- (1) Documented in writing on Form SBE 75, ["Election Contest Chain-of-Custody; and
- (2) In compliance with the directions on the form.["]

Section 2. Incorporated by Reference.

- (1) "Election Contest Chain-of-Custody", Form SBE 75, 08/2022[04/2022], is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.
- (3) This material is also available on the board's Web site at <https://elect.ky.gov>.

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 782-9499, email TaylorA.Brown@ky.gov.

Changes to Material Incorporated by Reference

SBE 75

Voting Site Location

After "A separate form must", insert "be".

To Be Completed by Person(s) Transferring Election Materials:

After "Upon initial inspection,", insert "did".
Delete "do".

To Be Completed by Person(s) Receiving Delivery of Election Materials:

Before "Were all locking mechanisms", insert "Are".
Delete "Were".

Lower Left Corner

After "SBE 75", insert "08/2022".
Delete "04/2022".



KENTUCKY STATE BOARD OF ELECTIONS

Election Contest Chain-of-Custody

Voting Site Location: _____

- *A separate form must be completed for each transfer of records between a person(s) transferring and a person(s) receiving.*

To Be Completed by Person(s) Transferring Election Materials:

Transferred By: _____

Site of Transfer: _____

Date/Time of Transfer: _____

Upon initial inspection, did any materials show any signs of tampering or vandalism? Y N

Were all locking mechanisms locked at time of arrival? Y N

Do any locking mechanisms appear to be tampered with? Y N

Name of anyone with access to materials after materials were transferred by the above-listed:

Date/Time of Departure: _____

Signature(s): _____

To Be Completed by Person(s) Receiving Delivery of Election Materials:

Received By: _____

Site of Delivery: _____

Date/Time of Delivery: _____

Upon initial inspection, do any materials show any signs of tampering or vandalism? Y N

Are all locking mechanisms locked at time of arrival? Y N

Do any locking mechanisms appear to be tampered with? Y N

Name of anyone with access to materials after materials were received by the above-listed:

Signature(s): _____

- *Deliver all completed Chain-of-Custody Forms to the County Clerk in the jurisdiction of the voting site location.*

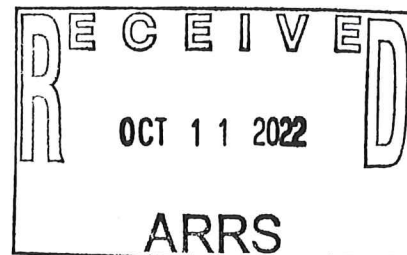
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COMMONWEALTH OF KENTUCKY
STATE BOARD OF ELECTIONS
October 11, 2022



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: 31 KAR 3:031, "Voting precinct and address of overseas voter whose last place of residence is in the Commonwealth is no longer a recognized residential address"; 31 KAR 4:071, "Recanvass procedures"; 31 KAR 4:131, "Delivery and return of absentee ballots transmitted to covered voters via facsimile or electronically"; 31 KAR 4:141, "Submission of the federal postcard application via electronic mail"; 31 KAR 4:170, "Exceptions to prohibition on electioneering"; 31 KAR 4:196, "Consolidation of Precincts and Precinct Election Officers"; 31 KAR 4:201, "Chain of Custody for Records During an Election Contest"; 31 KAR 4:210, "Establishment of Risk-Limiting Audit Pilot Program"; 31 KAR 5:011, "Use of the federal write-in absentee ballot"; 31 KAR 5:026, "Ballot Standards and Election Security".

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by: 31 KAR 3:031; 31 KAR 4:071; 31 KAR 4:131; 31 KAR 4:141; 31 KAR 4:170; 31 KAR 4:196; 31 KAR 4:201; 31 KAR 4:210; 31 KAR 5:011; 31 KAR 5:026, the State Board of Elections proposes the attached amendments to 31 KAR 3:031; 31 KAR 4:071; 31 KAR 4:131; 31 KAR 4:141; 31 KAR 4:170; 31 KAR 4:196; 31 KAR 4:201; 31 KAR 4:210; 31 KAR 5:011; 31 KAR 5:026.

Sincerely,

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Taylor Austin Brown
General Counsel
State Board of Elections
140 Walnut Street
Frankfort, Kentucky 40601

140 WALNUT STREET
FRANKFORT, KY 40601-3240

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OR (502) 696-1952

Final: 10/10/22

SUGGESTED SUBSTITUTE

STATE BOARD OF ELECTIONS

31 KAR 4:210. Establishment of risk-limiting audit pilot program.

RELATES TO: KRS 117.383

STATUTORY AUTHORITY: KRS 117.015(1)(a), **117.383(8), (9)**

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to properly carry out its duties. KRS 117.383(8)-(9) require the State Board of Elections to promulgate administrative regulations related to the audit of elections and specifically calls for the establishment of a risk-limiting audit pilot program. This administrative regulation establishes a working-group to conduct and report on such a pilot program.

Section 1. Beginning March 2022, there shall be a working-group formed to establish recommendations for post-election audits in the counties of the Commonwealth. The working-group shall consist of members representing the State Board of Elections, the office of the Secretary of State, at least six (6) county clerks, an individual recognized to be an election auditing expert, and any other individuals the working-group may desire to include. The working-group shall, in the six (6) counties represented on the working-group, conduct a risk-limiting audit pilot program during the 2022 primary nomination of candidates and regular election. The working-group shall report any results, recommendations, or findings, regarding the implementation of risk-limiting audits to the State Board of Elections following the 2022 primary nomination of candidates and regular election.

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 782-9499, email TaylorA.Brown@ky.gov.

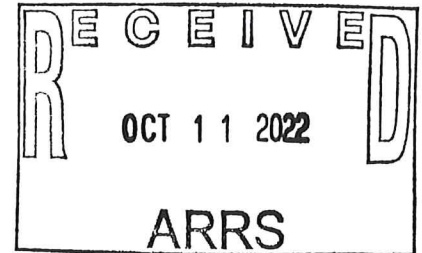
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October 11, 2022



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Sincerely,

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Frankfort, Kentucky 40601

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SUGGESTED SUBSTITUTE

STATE BOARD OF ELECTIONS

31 KAR 5:011. Use of the federal write-in absentee ballot.

RELATES TO: KRS 117.079, 117.086(3), 117A.050(2), 117A.060(3), 117A.100, 117A.130, 117A.160(1), 52 U.S.C. 20302

STATUTORY AUTHORITY: KRS 117.079, 117.086(5), 117A.030(2), 117A.130, 52 U.S.C. 20302(a)(3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.079 requires the State Board of Elections, as circumstances warrant and with the concurrence of the Attorney General, to promulgate necessary administrative regulations to preserve the absentee voting rights of residents of Kentucky who are covered voters as defined in KRS 117A.010. 52 U.S.C. 20302(a)(3) requires states to permit absent uniformed service voters and overseas voters to use federal write-in absentee ballots in general elections for federal office. KRS 117A.130 requires the State Board of Elections, in coordination with local election officials, to implement an electronic free-access system by which a covered voter may determine by telephone, electronic mail, or Internet whether the voter's federal postcard application or other registration or military-overseas ballot application has been received and accepted and whether the voter's military-overseas ballot has been received. KRS 117A.030(2) authorizes the State Board of Elections to promulgate the administrative regulations necessary to implement KRS Chapter 117A. This administrative regulation establishes the procedures for the use of the federal write-in absentee ballot in elections in Kentucky and implements the electronic free-access system pursuant to KRS 117A.130.

Section 1. Definitions.

- (1) "Covered Voter" is defined by KRS 117A.010(1).
- (2) "Federal write-in absentee ballot" or "FWAB" is defined by KRS 117A.010(4).
- (3) "Military-overseas ballot" is defined by KRS 117A.010(5).

Section 2. Suspension of Provisions of 31 KAR 6:030. The requirements of 31 KAR 6:030, Uniform Definition of a Vote, Section 5(2)(a) and Section 6(1), (2), and (9), shall be suspended for the purposes of this administrative regulation.

Section 3. Receipt of Federal Write-in Absentee Ballot. Upon receiving a federal write-in absentee ballot, the county clerk shall:

- (1) Not open the inner security envelope;
- (2) Examine the voter's declaration/application accompanying the federal write-in absentee ballot to determine whether it was submitted by a covered voter for the purpose of registering to vote or requesting an absentee ballot;
- (3) If the voter's declaration/application accompanying the federal write-in absentee ballot was submitted by a covered voter for the purpose of registering to vote or requesting an absentee ballot, process the application in the same manner as a federal postcard application;
- (4) Enclose the voter's declaration/application accompanying the federal write-in absentee ballot and the inner security envelope in a separate envelope and label the outer envelope "FWAB"; and
- (5) Deposit the outer envelope in a locked ballot box pursuant to KRS 117.086(3).

Section 4. Receipt of State Ballot Overrides Federal Write-in Absentee Ballot.

- (1) The federal write-in absentee ballot shall remain in the locked ballot box pursuant to KRS 117.086(3) and not be opened until after the deadline for receipt of the state absentee ballot.
- (2) If the county clerk receives no later than the deadline for receipt of the state absentee ballot a valid and voted state absentee ballot from a covered voter from whom the county clerk also receives a federal write-in absentee ballot, the county clerk shall not unseal the inner security envelope containing the

federal write-in absentee ballot and shall write on the inner security envelope containing the federal write-in absentee ballot, "Cancelled because state absentee ballot received."

Section 5. Electronic Free-Access System. Each county clerk shall either participate in the electronic free-access system established by the State Board of Elections or establish a local electronic free-access system by which a covered voter may determine by telephone, electronic mail, or Internet whether the voter's federal postcard application or other registration or military-overseas ballot application has been received and accepted and whether the voter's military-overseas ballot has been received.

CONTACT PERSON: Taylor Brown, General Counsel, 40 Walnut Street, Frankfort, Kentucky 40601, phone (502) 782-9499, email TaylorA.Brown@ky.gov.

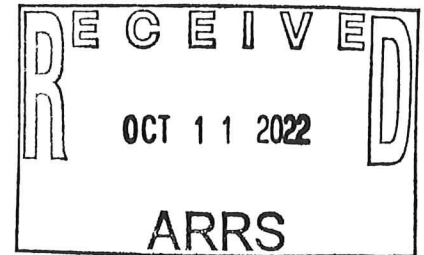
Karen Sellers
Executive Director
karen.sellers@ky.gov



Richard House
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Richard.House@ky.gov

Taylor Brown
General Counsel
TaylorA.Brown@ky.gov

COMMONWEALTH OF KENTUCKY
STATE BOARD OF ELECTIONS
October 11, 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: 31 KAR 3:031, "Voting precinct and address of overseas voter whose last place of residence is in the Commonwealth is no longer a recognized residential address"; 31 KAR 4:071, "Recanvass procedures"; 31 KAR 4:131, "Delivery and return of absentee ballots transmitted to covered voters via facsimile or electronically"; 31 KAR 4:141, "Submission of the federal postcard application via electronic mail"; 31 KAR 4:170, "Exceptions to prohibition on electioneering"; 31 KAR 4:196, "Consolidation of Precincts and Precinct Election Officers"; 31 KAR 4:201, "Chain of Custody for Records During an Election Contest"; 31 KAR 4:210, "Establishment of Risk-Limiting Audit Pilot Program"; 31 KAR 5:011, "Use of the federal write-in absentee ballot"; **31 KAR 5:026**, "Ballot Standards and Election Security".

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by: 31 KAR 3:031; 31 KAR 4:071; 31 KAR 4:131; 31 KAR 4:141; 31 KAR 4:170; 31 KAR 4:196; 31 KAR 4:201; 31 KAR 4:210; 31 KAR 5:011; 31 KAR 5:026, the State Board of Elections proposes the attached amendments to 31 KAR 3:031; 31 KAR 4:071; 31 KAR 4:131; 31 KAR 4:141; 31 KAR 4:170; 31 KAR 4:196; 31 KAR 4:201; 31 KAR 4:210; 31 KAR 5:011; 31 KAR 5:026.

Sincerely,

A handwritten signature in black ink, appearing to read "Taylor Austin Brown".

Taylor Austin Brown
General Counsel
State Board of Elections
140 Walnut Street
Frankfort, Kentucky 40601

140 WALNUT STREET
FRANKFORT, KY 40601-3240

The logo for the Commonwealth of Kentucky, featuring the word "Kentucky" in a stylized script font with a horse head silhouette above it, and the tagline "UNBRIDLED SPIRIT" below. Below the logo, it reads "AN EQUAL OPPORTUNITY EMPLOYER M/F/D" and "www.elect.ky.gov".
AN EQUAL OPPORTUNITY EMPLOYER M/F/D
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SUGGESTED SUBSTITUTE

STATE BOARD OF ELECTIONS

31 KAR 5:026. Ballot standards and election security.

RELATES TO: KRS 117.001, **117.025**, 117.085, 117.086, **117.0861**, 117.087, 117.145, 117.225, 117.228, **117.295(1)**, **117.365**

STATUTORY AUTHORITY: KRS 117.015(1)(a), **117.085**, **117.086**, **117.087(3)(d)**, **117.145**, **117.228**

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to properly carry out its duties. Several Kentucky Revised Statutes **in Chapter 117** require the State Board of Elections to promulgate administrative regulations that provide for measures that establish standards for the ballots used during elections, as well as, measures that ensure that votes cast during an election are done so in a free, fair, and secure manner. This administrative regulation provides for those measures.

Section 1. In addition to the requirements for printed ballots **established[outlined]** in KRS 117.145, ballots caused to be printed by the county clerk of each county shall meet quality and size standards specific to the voting systems certified by both the State Board of Elections and the United States Election Assistance Commission.

Section 2. The outer envelope of all mail-in absentee ballots shall bear a barcode or other label that is unique to the individual voter and capable of being read by an electronic optical scanner. The unique barcode or label for each mail-in absentee ballot outer envelope shall be issued by the State Board of Elections.

Section 3.

(1) Upon the time of certification of each candidate and each question to be voted upon, all pre-printed paper ballots shall be secured by the county clerk of each county, under lock and key, in an area under the direct control of the county clerk and approved by the county board of elections.

(2) The possession of all pre-printed ballots shall be accounted for on SBE Form 76, **[“]Ballot Reconciliation Statement.[“]**

(3) ~~**If[Upon the need for]**~~ paper ballots **need** to be printed at a county clerk's office, an accounting of the printed ballots shall be made on either the SBE Form 76, **[“]Ballot Reconciliation Statement.[“]** or by the printing equipment.

(4) Upon the transfer of ballots from the area under the direct control of the county clerk to a polling location, the transfer shall be noted on the SBE Form 76, **[“]Ballot Reconciliation Statement.[“]**

(5) Beginning with the **in-person** casting of ballots during the period described in KRS **117.076[117.085(2)]**, each voted **in-person** ballot shall remain in a locked and sealed receptacle, until the conclusion of the period described in KRS 117.295(1).

(6) At the conclusion of each day of voting, an accounting of the number of all voted, unvoted, and spoiled ballots shall be recorded on the SBE Form 76, **[“]Ballot Reconciliation Statement. [“]**

(7) All ballots and election materials not secured in an area under the direct control of the county clerk after the close of polls shall be secured at the voting location in a secure manner, based upon the advice and recommendations of the county board of elections and the sheriff from the time described in KRS **117.076[117.085(2)]** until the conclusion of voting on the day of an election.

(8) As mail-in absentee ballots are received by county clerks, they shall have their unique barcode or label scanned.

(9) Upon each mail-in absentee ballot being processed, the unique barcode or label shall be scanned again.

(10) If a mail-in absentee ballot is found to be without the need for a signature cure, or a mail-in absentee ballot has been returned along with a completed SBE Form 77, ~~["Missing or"]~~ Discrepant Mail-in Absentee Signature, ~~[""]~~ the ballot shall be recorded into an optical scanner, to be deposited in a locked and sealed receptacle for the period described in KRS 117.295(1).

(11) Any completed SBE Form 76, ~~[""]~~ Ballot Reconciliation Statement ~~[""]~~ shall be turned over to the local Commonwealth's Attorney along with any other materials required under KRS 117.365.

Section 4. ~~A[Any]~~ voter who is disabled may request a mail-in absentee ballot via an online accessible ballot portal, which shall conform to web accessible design standards as established[set forth] by the W3C Web Accessibility Initiative at <https://www.w3.org/WAI/>.

Section 5.

(1) Upon receipt of a valid mail-in ballot request, through the online request portal or other valid request method, the request of the voter shall be noted in the Voter Registration System, and reflected in the electronic pollbooks used by precinct election officers.

(2) ~~If[Should]~~ a voter noted to have requested a mail-in absentee ballot appears[appear] at a polling location ~~[in order]~~ to vote in-person, the precinct election officer shall communicate with the county clerk, who shall make a determination as to whether the requested mail-in absentee ballot has been completed and returned as a cast ballot by the voter.

(3) If the mail-in absentee ballot is found to have been completed and returned as a cast ballot, the voter shall not be permitted to cast an in-person vote.

(4) If the mail-in absentee ballot is found not to have been completed and returned as a cast ballot and the ballot has been returned to the county clerk no later than seven (7) days prior to the date of the election as required by KRS 117.085(8), the county clerk shall immediately cancel the issued ballot in the Voter Registration System and allow the voter to cast an in-person ballot after the voter completes Form SBE 32, ~~[""]~~ Oath of Voter, ~~[""]~~ copies of which shall be forwarded to the Commonwealth's Attorney.

Section 6.

(1) A voter, or an individual identified by KRS 117.0861(1), may deliver a mail-in absentee ballot to the office of the county clerk in the county where the voter is registered, to a secure ballot drop-box in the county where the voter is registered, or to a secure drop-off receptacle[location] if one is maintained by the county clerk in the county where the voter is registered, rather than mailing the ballot via the United States Postal Service.

(2)(a) ~~A[Any]~~ county choosing to use a receptacle for ballot drop-off other than a drop-box provided by the State Board of Elections, ~~shall[must]~~ formally seek the State Board of Elections' approval of the receptacle before any ballot ~~is[shall be]~~ allowed to be deposited inside.

(b) ~~A[Any]~~ county choosing to utilize a drop-off receptacle ~~[, including those provided by the State Board of Elections,]~~ shall provide information about the receptacle to[inform] the State Board of Elections as required by KRS 117.086(2)(b)[of the number of receptacles being used, the type of each receptacle being used, and the location of each drop-off location].

(3) ~~A drop-box or~~ ~~Any~~ receptacle located outside a County Clerk's Office shall be located, secured, and identified as required by KRS 117.086(2)(c)[placed in a well-lit, easily accessible location, be bolted down, and be under video surveillance at all times].

(4) ~~A[Any]~~ drop-box or receptacle located inside ~~[,]~~ shall be under direct supervision as required by KRS 117.086(2)(d) and[of the staff of the county clerk at all times that it is accessible to the public. All drop-boxes used for the receipt of ballots] shall be clearly marked as for use by voters in the election, so as to differentiate the drop-box or receptacle from any other that may be in use in the area.

(5) Any other non-elections related drop-box in use by a county clerk for any other official business shall clearly indicate that the other drop-box is not for the return of election material.

(6)(a) ~~The[Each]~~ county clerk shall empty the drop box and any[utilizing one or more ballot drop-off] receptacle ~~used[shall empty each receptacle at least once]~~ each business day as required by KRS 117.086(2)(e)[of the county clerk's office,] and secure the absentee ballots therein in a manner consistent with KRS 117.086(3) ~~[-; however, county clerks shall empty receptacles more frequently]~~

~~than daily, as needed, so as to reasonably accommodate the volume of voter-delivered absentee ballots].~~

(b) Upon each emptying of a drop-box or receptacle, the individuals collecting absentee ballots pursuant to KRS 117.086(2)(e) shall complete Form SBE 78, ~~[""]~~Daily Absentee Drop-Box Verification Sheet.~~[""]~~

Section 7.

(1) After the receipt of a mail-in absentee ballot by the county clerk, the signature shall be examined in accordance with KRS 117.087(3)(c)2 and 5~~[and the examination of the signatures located on the outer envelope and the detachable flap, as well as, the voter's signature of record.]~~

(2) If a signature match cannot be made, notice shall be provided to the voter as required by KRS 117.087(3)(c)5~~[the county board of elections, central counting board, or the county clerk shall make a reasonable effort to contact the voter]~~, which shall, at minimum, include the mailing of Form SBE 77, ~~[""]~~Discrepant Mail-in Absentee Signature~~[""]~~, ~~to provide notice to the voter that they may cure their signature before the closing of the polls on the day of the election]~~.

(3) Upon the county board of elections, central counting board, or the county clerk determining the need for a signature cure, the ballot shall be noted in the Voter Registration System and the county clerk shall, on that same day, input the voter's address and any other required data into the SBE 77 and mail the form to the voter.

Section 8.

(1) A voter unable to provide proof of identification as required under KRS 117.225, and as defined under KRS 117.001~~(15)~~, shall:

(a) Meet the requirements of KRS 117.228(1)(c) by executing SBE Form 71, ~~[""]~~Voter Affirmation Form; ~~and~~

(b) Provide alternative proof of identification as required by KRS 117.228(2).

(2)~~[""]~~ A voter personally known to an election officer may cast a ballot in accordance with KRS 117.228(4) upon the election officer executing SBE Form 72, ~~[""]~~Election Officer Affirmation Form.~~[""]~~

(3) Both the SBE 71 and SBE 72 shall be forwarded to the local Commonwealth's Attorney following the election.

Section 9. ~~A[Notwithstanding KRS 117.225(3), in a county using an electronic pollbook, if a voter's name is listed on the precinct list furnished by the State Board of Elections as provided in KRS 117.025, the voter provides proof of identification, the voter is exempt pursuant to KRS 117.225(2), or the voter otherwise satisfies the requirements of KRS 117.228, and if no challenge is made, then on the electronic pollbook he or she shall sign his or her name where prompted.~~

Section 10. ~~Any] voter[who is qualified to vote on election day in the county of his or her residence] may make application to cast an excused in-person absentee ballot pursuant to KRS 117.076(2)[during normal business hours during the six (6) business days immediately preceding the Thursday of no-excuse in-person absentee voting] by completing SBE Form 44E, [""]Excused In-Person Absentee Ballot Application.[""]~~

Section ~~10~~~~[11]~~. The status of the tamper-resistant seal and the number on the public counter ~~[to be recorded from all voting equipment to be used,]~~ shall be recorded as required by KRS 117.076(12) before and after each day of in-person absentee voting, on SBE Form 79, ~~[""]~~Daily Voting Machine Verification Sheet~~[""]~~ which~~[""]~~ cumulatively shall be collected by the County Clerk.

Section ~~11~~~~[12]~~. Incorporated by Reference.

(1) The following material is incorporated by reference:

- (a) "Oath of Voter~~[""]~~", [SBE] Form SBE 32, 04/2022;
- (b) "Ballot Reconciliation Statement~~[""]~~", Form SBE 76, 04/2022;
- (c) "Discrepant Mail-in Absentee Signature~~[""]~~", Form SBE 77, 08/2022[04/2022];

- (d) "Voter Affirmation Form", Form SBE 71, 04/2022;
- (e) "Election Officer Affirmation Form", Form SBE 72, 04/2022;
- (f) "Excused In-Person Absentee Ballot Application", Form SBE 44E, 04/2022;
- (g) "Daily Voting Machine Verification Sheet", Form SBE 79, 04/2022; **and**
- (h) "Daily Absentee Drop-Box Verification Sheet", Form SBE 78, 04/2022.**

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material may also be obtained on the board's Web site at <https://elect.ky.gov>.

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 782-9499, email TaylorA.Brown@ky.gov.

Suggested Changes to Form SBE 77:

Page 1, "If you indicate" paragraph

After "we will also turn over this discrepancy to the", insert "county attorney".

Delete "Commonwealth's Attorney".

Page 1, Bottom Left Corner

After "SBE 77"; insert "08/2022".

Delete "04/2022".

Page 2, Question 3, "Return this form" paragraph

After "Return this form", delete the following:

and a copy of your ID, if applicable,

Page 2, Bottom Left Corner

After "SBE 77", insert "08/2022".

Delete "04/2022".



COMMONWEALTH OF KENTUCKY
STATE BOARD OF ELECTIONS

<<Date>>

<<Voter name>>

<<Mailing address>>

<<City>>, <<State>> <<Zip>>

Re: Discrepant Mail-in Absentee Signature

Dear <<Voter name>>,

We have received your mail-in absentee ballot for the <<insert date and name of election>>. Kentucky Election Law requires the County Board of Elections to compare the signatures on the outer AND inner envelopes you return with a signature of record in order to verify your identity. Unfortunately, the County Board was unable to verify your signature with what is on file.

If you have not already been contacted by your county and addressed this matter, in order for your ballot to count, you must complete, sign, and return the enclosed form to your county clerk's office **by 6:00 PM local time, <<insert date of election>>**. You may return this form by mail, email, fax, or in-person. It is also acceptable to take a photo of the completed form and email that to your county clerk using the email listed below.

If you indicate that you have not voted a ballot, or if you fail to return the enclosed form, we will not count this ballot. If you do not affirm on the enclosed form that you voted a ballot, we will also turn over this discrepancy to the County Attorney or the Office of the Attorney General for investigation.

If you have questions, please contact your county clerk's office at <<insert phone number>>.

Thank you for your assistance.

<<Name>>

County Clerk

<<County Name>> County, Kentucky

<<insert county clerk email address>>

<<insert county clerk fax number>>

<<insert county clerk address >>

Signature Affidavit Form

Complete, sign and return this form to your County Clerk's Office.

For County Office Use Only:

Date of Receipt: _____
Clerk or DC Name: _____
Voter ID #: _____

1. Select a box (you must select one)

☐ Yes, I returned my mail-in absentee

OR

☐ No, I did not return a mail-in absentee

2. Sign. If you are unable to sign, make a mark and have a witness to the mark sign on witness line.

If Yes is selected above: I state under penalty of perjury that I am an eligible voter; that my signature and name are as shown on this form; that I have only cast one ballot in this election in accordance with the provisions of the Kentucky Revised Statute.

If No is selected above: I affirm that the information I have provided on this form is true and correct to the best of my knowledge.

Your signature or mark

Today's date (mm/dd/yyyy)

Witness (A witness is only needed if you are unable to sign and must make a mark.)

Today's date (mm/dd/yyyy)

3. Return this form

Return this form to your County Clerk's office by **<<insert date of election>>**.

You may return it by:

1. Emailing it to: **<<insert county clerk email address>>**
2. Faxing it to: **<<insert county clerk fax number>>**
3. Mailing or delivering it to : **<<insert county clerk address >>**

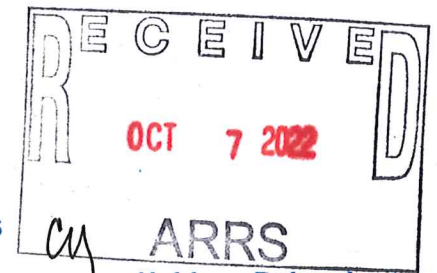
You may also fill this form out and take a photo it and email it to your county clerk using the email listed above.



DEPARTMENT OF MILITARY AFFAIRS

100 Minuteman Parkway
BNGC – EOC Building
Frankfort, KY 40601-6168

Andy Beshear
Governor



October 7, 2022

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

RE: 106 KAR 001.141 Emergency management funding
106 KAR 001:171 Local emergency management agency program quarterly report
106 KAR 001:181 Emergency management project application
106 KAR 001:191 Emergency management project application reimbursement
106 KAR 001:201 Local emergency management plan
106 KAR 001:211 Local emergency management training
106 KAR 001:221 Local emergency management exercise
106 KAR 001:231 Local emergency management agency ordinance requirement
106 KAR 001:241 Local emergency management director appointment process
106 KAR 001:251 Local emergency management personnel Workers' Compensation Enrollment Form
106 KAR 001:261 Supplementary state fund emergency management training expense reimbursement eligibility list
106 KAR 001:291 Specialized rescue squad alternative affiliation agreement process
106 KAR 001:341 Rescue aid fund allocation
106 KAR 001:371 Rescue aid fund expenditure documentation

Dear Co-Chairs West and Hale,

After discussions with Administrative Regulation Review Subcommittee staff, the Department of Military Affairs respectfully submits the attached amendments to the following administrative regulations for Subcommittee consideration: 106 KAR 1.141, 106 KAR 001:171, 106 KAR 001:181, 106 KAR 001:191, 106 KAR 001:201, 106 KAR 001:211, 106 KAR 001:221, 106 KAR 001:231, 106 KAR 001:241, 106 KAR 001:251, 106 KAR 001:261, 106 KAR 001:291, 106 KAR 001:341, and 106 KAR 001:371.



Please contact my office with any questions or concerns.

Sincerely,

A handwritten signature in blue ink that reads "Charla R. Sands". The signature is written in a cursive, flowing style.

Charla R. Sands, Attorney
Department of Military Affairs
100 Minuteman Parkway
Frankfort, KY 40601

SUGGESTED SUBSTITUTE

Final Version: 10/5/2022 11:02 AM

**DEPARTMENT OF MILITARY AFFAIRS
Division of Emergency Management**

106 KAR 1:141. Emergency management funding.

RELATES TO: KRS 39A.050(2)(i), ~~(j), (m) [-(j)]~~, 39C.010, 42 U.S.C. 5170(c), 5172, 5173, 5196, 50 U.S.C. 1521

STATUTORY AUTHORITY: KRS 39A.050(2)(~~l~~) (m), 39A.070(3), 39C.100, 42 U.S.C. 5170(c), 5172, 5173, 5196, 50 U.S.C. 1521

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 39A.050(2)(m) requires the Division of Emergency Management to promulgate administrative regulations to implement KRS Chapter 39A through 39F.** KRS 39A.050(2)(i) ~~requires~~**[and (j) require]** the division to provide funds to a city, county, or charter county government to support a local emergency management agency and comprehensive emergency management program. This administrative regulation establishes eligibility requirements of a city, county, urban-county, or charter county government for emergency management funding.

Section 1. Definitions.

(1) "Applicant" means a local emergency management agency of a city, county, urban-county, or charter county government established pursuant to KRS 39B.010 and 106 KAR 1:231.

(2) "Emergency management funding" means the funds defined **by[in]** subsections (3) ~~through~~**[-(4), -(5), and]** (6) of this section.

(3) "Chemical Stockpile Emergency Preparedness Program Fund" means the funding established in 50 U.S.C. 1521.

(4) "Federal Disaster and Emergency Assistance Fund" means the funding granted to the division by the Federal Emergency Management Agency, under 42 U.S.C. 5170(c), 5172, and 5173.

(5) "Federal Emergency Management Assistance Fund" means the funding granted to the division by the Federal Emergency Management Agency, under 42 U.S.C. 5196.

(6) "Supplementary State Fund" means the fund established in KRS 39C.010 and 39C.020.

Section 2. Eligibility.

(1) To be eligible for emergency management funding, a city, county, urban-county, or charter-county government shall:

(a) Submit documentation of the establishment of a local emergency management agency pursuant to 106 KAR 1:231;

(b) Submit documentation of the appointment of a local director pursuant to 106 KAR 1:241;

(c) Submit a signed memorandum of agreement issued by the Division of Emergency Management; **and**

(d) Apply for emergency management funding through a local director who shall:

1. Ensure use of an appropriate application form provided by the Division of Emergency Management;

2. Ensure the official name of a local emergency management agency is used to specify the applicant in an application;

3. Exercise signatory authority established in KRS 39B.030(9) to execute an application and a memorandum of agreement issued by the Division of Emergency Management;

4. Maintain a file of an application and supporting material; and

5. Submit applications, memoranda of agreement, and supporting materials prepared for the city, county, urban-county, or charter-government.

(2) A local director shall submit the materials required in subsection (1) of this section to an area manager, or as directed by the Division of Emergency Management, for transmittal to the director.

Section 3. Compliance Requirements.

(1) In maintaining eligibility of a city, county, urban-county, or charter-county government for emergency management funding, a local emergency management agency shall comply with 106 KAR 1:171, 201, 211, and 221.

(2) Failure to comply with applicable federal and state requirements may prevent city, county, urban-county, or charter-governments from receiving reimbursement funding for emergency management programs.

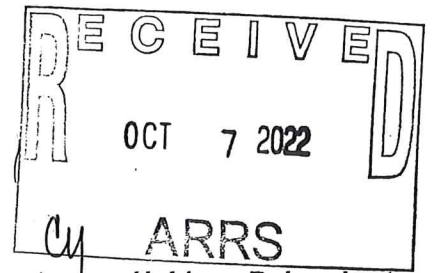
This is to certify that The Adjutant General (TAG) has reviewed and approved this administrative regulation prior to its adoption, as required by KRS 39A.070(3).

CONTACT PERSON: Corey Ann Howard Jackson, Legislative Liaison and Policy Specialist, Department of Military Affairs, 100 Minuteman Parkway, Frankfort, Kentucky 40601, phone (502) 330-3323, fax (502) 607-1240, email corey.a.jackson23.nfg@army.mil.



DEPARTMENT OF MILITARY AFFAIRS

100 Minuteman Parkway
BNGC – EOC Building
Frankfort, KY 40601-6168



Haldane B. Lamberton
Major General, KYNG
The Adjutant General

Andy Beshear
Governor

October 7, 2022

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Ms. Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
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029, Capital Annex
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RE: 106 KAR 001.141 Emergency management funding
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Dear Co-Chairs West and Hale,

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Please contact my office with any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Charla R. Sands". The signature is written in a cursive style with a large, looped initial "C".

Charla R. Sands, Attorney
Department of Military Affairs
100 Minuteman Parkway
Frankfort, KY 40601

SUGGESTED SUBSTITUTE

Final Version: 10/5/2022 11:34 AM

**DEPARTMENT OF MILITARY AFFAIRS
Division of Emergency Management**

106 KAR 1:171. Local emergency management agency program quarterly report.

RELATES TO: KRS 39A.050(2)(j), **39B.020, 39C.050(1)**, 39C.080(2), **6 U.S.C. 762**, 42 U.S.C. **5121 et seq.**, 5196, 50 U.S.C. 1521

STATUTORY AUTHORITY: KRS 39A.050(2)(j), (m), 39A.070(3), 39C.100, 42 U.S.C. 5196, 50 U.S.C. 1521

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 39A.050(2)(m) requires the Division of Emergency Management to promulgate administrative regulations to implement KRS Chapter 39A through 39F.** KRS 39A.050(2)(j) and 39C.080(2) require local emergency management directors submit work activity progress reports to the Division of Emergency Management quarterly. This administrative regulation establishes the submission process and procedure for local **emergency management** directors to meet the quarterly reporting requirement.

Section 1. Quarterly Report Documentation Requirements. **(1) A local emergency management director[Local directors]** shall submit quarterly report documentation to the Division of Emergency Management by January 15, April 15, July 15, and October 15, through the online portal **at <http://www.kyemweb.com>[designated by the Division of Emergency Management for this purpose].**

(2) Quarterly report documentation shall include minimum required documentation for a scheduled work plan objective as **established[specified]** in the Emergency Management Assistance (EMA) Annual Program Guidance.

Section 2. Incorporation by Reference. (1) **“[The]Emergency Management Assistance (EMA) Annual Program Guidance”, 2021, is incorporated by reference.**

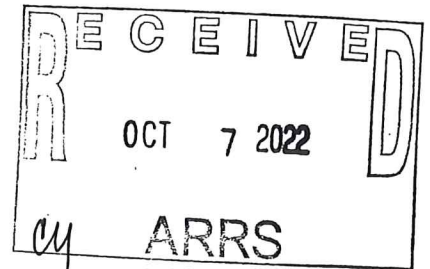
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Division of Emergency Management, 100 Minuteman Parkway, Frankfort, Kentucky 40601-6168, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: Corey Ann Howard Jackson, Legislative Liaison and Policy Specialist, Department of Military Affairs, 100 Minuteman Parkway, Frankfort, Kentucky 40601, phone (502) 330-3323, fax (502) 607-1240, email corey.a.jackson23.nfg@army.mil.



DEPARTMENT OF MILITARY AFFAIRS

100 Minuteman Parkway
BNGC – EOC Building
Frankfort, KY 40601-6168



Haldane B. Lamberton
Major General, KYNG
The Adjutant General

Andy Beshear
Governor

October 7, 2022

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

RE: 106 KAR 001.141 Emergency management funding
106 KAR 001:171 Local emergency management agency program quarterly report
106 KAR 001:181 Emergency management project application
106 KAR 001:191 Emergency management project application reimbursement
106 KAR 001:201 Local emergency management plan
106 KAR 001:211 Local emergency management training
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106 KAR 001:251 Local emergency management personnel Workers' Compensation
Enrollment Form
106 KAR 001:261 Supplementary state fund emergency management training
expense reimbursement eligibility list
106 KAR 001:291 Specialized rescue squad alternative affiliation agreement process
106 KAR 001:341 Rescue aid fund allocation
106 KAR 001:371 Rescue aid fund expenditure documentation

Dear Co-Chairs West and Hale,

After discussions with Administrative Regulation Review Subcommittee staff, the Department of Military Affairs respectfully submits the attached amendments to the following administrative regulations for Subcommittee consideration: 106 KAR 1.141, 106 KAR 001:171, 106 KAR 001:181, 106 KAR 001:191, 106 KAR 001:201, 106 KAR 001:211, 106 KAR 001:221, 106 KAR 001:231, 106 KAR 001:241, 106 KAR 001:251, 106 KAR 001:261, 106 KAR 001:291, 106 KAR 001:341, and 106 KAR 001:371.

Please contact my office with any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Charla R. Sands". The signature is written in a cursive, flowing style.

Charla R. Sands, Attorney
Department of Military Affairs
100 Minuteman Parkway
Frankfort, KY 40601

SUGGESTED SUBSTITUTE

Final Version: 10/5/2022 2:30 PM

DEPARTMENT OF MILITARY AFFAIRS Division of Emergency Management

106 KAR 1:181. Emergency management project application.

RELATES TO: KRS 39A.050(2)(j), ~~39C.060~~, 39C.070(2), 42 U.S.C. 5196

STATUTORY AUTHORITY: KRS 39A.050(2)(j), (m), 39A.070(3), 39C.100, 42 U.S.C. 5196

NECESSITY, FUNCTION, AND CONFORMITY: KRS 39A.050(2)(m) requires the Division of Emergency Management to promulgate administrative regulations to implement KRS Chapter 39A through 39F. KRS 39A.050(2)(j) and 39C.070(2) ~~require~~**[direct]** the Division of Emergency Management to require a local emergency management agency to submit a project application, with supporting material, to request financial assistance from the Emergency Management Assistance (EMA) Fund for administrative or operational equipment and for capital and procurement projects. This administrative regulation establishes an application form to request financial assistance from the EMA fund for a project.

Section 1. Definitions.

(1) "Emergency Management Assistance Fund" or "EMA Fund" means the funds defined ~~by~~**[in]** 106 KAR 1:141, Section 1(5) and (6).

(2) "Project" means a purchase or procurement of administrative or operational equipment or capital expenditure, in excess of \$500.

(3) "Project application" means a completed ~~Kentucky [KYEM Form 170, "]~~Division of Emergency Management ~~State~~ Project Application", ~~KYEM Form 170.["]~~

Section 2. Project Application Requirement. To apply for financial assistance from the Emergency Management Assistance Fund for a project, a local director shall submit a completed project application, as established in KRS 39C.060.

Section 3. Incorporation by Reference.

(1) ~~"Kentucky [KYEM Form 170, "]~~Division of Emergency Management ~~State~~ Project Application", ~~KYEM Form 170, February 2017,~~ is incorporated by reference.

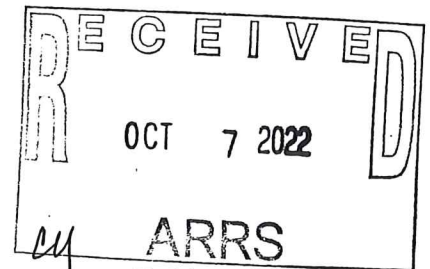
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DEPARTMENT OF MILITARY AFFAIRS

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Andy Beshear
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The Adjutant General

October 7, 2022

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Representative David Hale, Co-Chair
c/o Ms. Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capital Annex
Frankfort, KY 40601

RE: 106 KAR 001.141 Emergency management funding
106 KAR 001:171 Local emergency management agency program quarterly report
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Dear Co-Chairs West and Hale,

After discussions with Administrative Regulation Review Subcommittee staff, the Department of Military Affairs respectfully submits the attached amendments to the following administrative regulations for Subcommittee consideration: 106 KAR 1.141, 106 KAR 001:171, 106 KAR 001:181, 106 KAR 001:191, 106 KAR 001:201, 106 KAR 001:211, 106 KAR 001:221, 106 KAR 001:231, 106 KAR 001:241, 106 KAR 001:251, 106 KAR 001:261, 106 KAR 001:291, 106 KAR 001:341, and 106 KAR 001:371.

Please contact my office with any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Charla R. Sands". The signature is written in a cursive, flowing style with a large initial "C".

Charla R. Sands, Attorney
Department of Military Affairs
100 Minuteman Parkway
Frankfort, KY 40601

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Final Version: 10/5/2022 3:10 PM

**DEPARTMENT OF MILITARY AFFAIRS
Division of Emergency Management**

106 KAR 1:191. Emergency management project application reimbursement.

RELATES TO: KRS 39A.050(2)(j), 39C.070(2), 42 U.S.C. 5196

STATUTORY AUTHORITY: KRS 39A.050(2)(j), (m), 39A.070(3), 39C.100, 42 U.S.C. 5196

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 39A.050(2)(m) requires the Division of Emergency Management to promulgate administrative regulations to implement KRS Chapter 39A through 39F.** KRS 39A.050(2)(j) and 39C.070(2) **require[directs]** the Division of Emergency Management to require a local emergency management director to submit a reimbursement claim, with supporting documentation, to request financial reimbursement for an approved project application from the Emergency Management Assistance (EMA) Fund. This administrative regulation establishes the reimbursement procedure required to request reimbursement from the EMA fund for an approved project application as established in 106 KAR 1:181.

Section 1. Definition. "Emergency Management Assistance Fund" or "EMA Fund" means the funds defined **by[~~in~~]** 106 KAR 1:141, Section 1(5) and (6).

Section 2. Reimbursement Documentation. To apply for reimbursement from the EMA Fund, a local emergency management director shall submit a completed **[KYEM Form 160,]"Local Emergency Management Assistance Claim Form," KyEM: Form 160, signed by the local emergency management director and the County Treasurer or County Judge/Executive,** and vendor invoices or receipts to a Division of Emergency Management area manager and per the process directed by the Division of Emergency Management.

Section 3. Incorporation by Reference.

(1) **[KYEM Form 160]"Local Emergency Management Assistance Claim Form," KyEM: Form 160, August 2016,** is incorporated by reference.

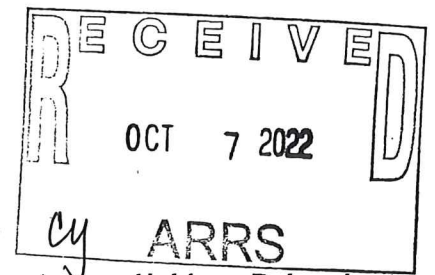
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An Equal Opportunity Employer M/F

Please contact my office with any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Charla R. Sands". The signature is written in a cursive style with a large, stylized "C" at the beginning.

Charla R. Sands, Attorney
Department of Military Affairs
100 Minuteman Parkway
Frankfort, KY 40601

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Final Version: 10/6/2022 10:24 AM

**DEPARTMENT OF MILITARY AFFAIRS
Division of Emergency Management**

106 KAR 1:201. Local emergency management plan.

RELATES TO: KRS 39A.070(5), 39B.020(3)(d), 39B.030(3), 39B.060, 39C.050(3), 39E.010(1), 39E110(1)(a)(e),(f), 39E150, 39F.190, 42 U.S.C. 11001-11050

STATUTORY AUTHORITY: KRS 39A.050(2)(j), (m), 39A.070(3), 39E.040(6), 39E.080(4), 42 U.S.C. 1102(c), 1103(c), (d).

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 39A.050(2)(m) requires the Division of Emergency Management to promulgate administrative regulations to implement KRS Chapter 39A through 39F.** KRS 39B.030(3) requires local emergency management directors develop a local emergency management plan consistent with **106 KAR Chapter 1 [administrative regulations promulgated by the Division of Emergency Management]**. This administrative regulation establishes the requirements for processing a local emergency management plan.

Section 1. Definitions. (1) "Federal fiscal year" means a period beginning October 1 of a calendar year and ending September 30 of the following calendar year.

(2) "Local plan" means the written emergency operations plan of a city, county, charter county, or urban-county government pursuant to KRS Chapters 39A ~~through~~**[to]** 39F.

Section 2. Local Plan Requirement. (1) A local plan shall:

(a) ~~State~~**[Specify]** title headings for a basic plan and annexes corresponding to the Kentucky Emergency Management Operation Plan;

(b) ~~State~~**[Specify]** known hazards ~~that might~~**[which may]** impact a local jurisdiction and a detailed analysis of each hazard;

(c) Catalogue emergency management and response personnel, equipment, facilities, supplies, materials, and services;

(d) Identify primary and alternate emergency operations center (EOC) locations by facility names, address, and latitude and longitude;

(e) Identify primary and alternate points of distribution (POD) locations by facility names, address, and latitude and longitude;

(f) Identify public, private, and volunteer agencies, entities, and departments comprising the membership of a local emergency management agency and emergency management functions (ESFs);

(g) Describe the duties and responsibilities of each local emergency management agency and emergency management functions (ESFs) assigned with a local plan; and

(h) Incorporate incident command or management system procedures into the direction and control annex.

(2) Local plan format and content shall comply with:

(a) **The Kentucky** Division of Emergency Management **Standard Operating Guide for the**

Review, Edit, and Submission of a County Emergency Operations Plan, 2022 Emergency Management Preparedness Grant Cycle~~[planning guidance];~~

(b) ~~[Kentucky Emergency Response Commission planning guidance;~~
(c)] Responsibilities of the **LEPC, Kentucky Emergency Management, Version 7**~~[local emergency planning committee];~~ and

(c) ~~If [(d) Where]~~ applicable, planning guidance published jointly by the Federal Emergency Management Agency and the Department of the Army, ~~[“]Planning Guidance for the Chemical Stockpile Emergency Preparedness Program.[“]~~

Section 3. Local Plan Process. (1) Before July 31 of each federal fiscal year, a local director shall ensure completion of the local plan.

(2) To complete and process a local plan, a local director shall:

(a) Review the existing local plan;

(b) Consult the local emergency planning committee, the local search and rescue coordinator, elected officials, department heads, agency chiefs, and public and private officers and leaders or their designees who are members or participants of the emergency management agency and emergency management functions (ESFs);

(c) Prepare and submit a local plan draft to an area manager by May 1 **annually**;

(d) Submit corrected, amended, revised, or supplemental plan material ~~[specified and]~~ requested by an area manager within thirty (30) calendar days following receipt of a written request;

(e) Upon receipt of written concurrence of the Director of the Division of Emergency Management or designee, submit a local plan draft for official adoption as **established**~~[specified]~~ in KRS 39B.030(3); and

(f) Distribute an officially adopted local plan to emergency management agency and emergency support functions (ESFs) plan custodians, the chairperson of the local emergency management planning committee, local search and rescue coordinator, area manager, and the Director of the Division of Emergency Management by July 31 **annually**.

(3) To process a local plan, an emergency management committee, through its chairperson or other authorized representative, shall:

(a) Review the local plan for information reporting consistent with KRS 39E.120, 39E.210, and 39E.220, within thirty (30) calendar days of receipt;

(b) Identify within the local plan's Hazard Analysis section, facilities required to report under EPCRA, SARA Tier III, and input data within the KYEM Tier II reporting software system; **and**

(c) Reference within the local plan's ESF 10 Annex, the Extremely Hazardous Substances (EHS) Facility Emergency Response **Plan**~~[Plan(s)]~~ in accordance with 106 KAR 1:081 and the Local Emergency Planning Committee (LEPC) Annual Certification Letter (ACL).

(4) A local search and rescue coordinator shall prepare and submit a local search and rescue plan draft to the local director by July 31 of each federal fiscal year, by:

(a) Reviewing an existing local plan required by KRS 29F.190; **and**

(b) Preparing and submitting to the local director an updated plan draft or written notice that an existing local plan has been reviewed and is current as of the date of the notice.

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Standard Operating Guide for the Review, Edit, and Submission of a County Emergency Operations Plan, 2022 Emergency Management Preparedness Grant Cycle", 2022;

(b) "Responsibilities of the LEPC, Kentucky Emergency Management, Version 7", September 2021; and

(c) "Planning Guidance for the Chemical Stockpile Emergency Preparedness Program", May 1996.

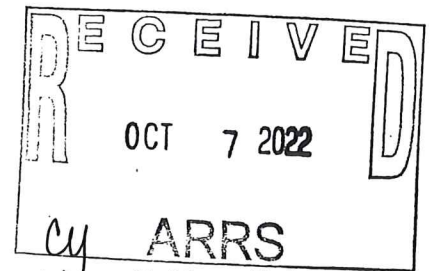
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Andy Beshear
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Frankfort, KY 40601

RE: 106 KAR 001.141 Emergency management funding
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Dear Co-Chairs West and Hale,

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Please contact my office with any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Charla R. Sands". The signature is written in a cursive style with a large, stylized "C" at the beginning.

Charla R. Sands, Attorney
Department of Military Affairs
100 Minuteman Parkway
Frankfort, KY 40601

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DEPARTMENT OF MILITARY AFFAIRS
Division of Emergency Management

106 KAR 1:211. Local emergency management training.

RELATES TO: KRS 39A.050(2)(l), 39B.020(1), (3)(d), 39C.050(1), (2), 29 C.F.R. 1910.120(q)(6)

STATUTORY AUTHORITY: KRS 39A.050(2)(j), (m), 39A.070(3), 39C.050(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 39A.050(2)(l) requires the Division of Emergency Management to institute emergency management training programs. KRS 39C.050(1) and (2) require local emergency management agency personnel to complete required training. This administrative regulation establishes training requirements for a local director and other local emergency management agency personnel.

Section 1. Definitions.

(1) "Emergency Management Development Program" means the training curriculum established in Section 2(2) and (3) of this administrative regulation.

(2) "Emergency management training" means a seminar, workshop, course, class, or instruction conducted, sponsored, established~~[specified]~~, offered through, or approved by the Division of Emergency Management.

(3) "Federal fiscal year" means a period beginning October 1 of a calendar year and ending September 30 of the following calendar year.

(4) "Local staff member" means a deputy director, paid or volunteer, or a person appointed to a local emergency management agency pursuant to KRS 39B.070(3)~~;~~ and established~~[specified]~~ in KRS 39C.050(2).

(5) "Successfully complete" means to attend or participate in emergency management training and to acquire and submit a copy of instructor-provided training completion certificate or record to the Division of Emergency Management.

Section 2. Local Director Training Requirement.

(1) Within thirty (30) calendar days of appointment pursuant to KRS 39B.020(1), a local director shall successfully complete an orientation conducted by the Division of Emergency Management covering Kentucky's emergency management system and programs administered by local directors in Kentucky.

(2) Within the first full federal fiscal year following appointment pursuant to KRS 39B.020(1), a local director shall successfully complete a course~~[the following]~~:

- (a) ~~[A course]~~ Covering incident command and incident management system basic concepts;
- (b) ~~[A course]~~ Covering mitigation benefits, methods, resources, and planning;
- (c) ~~[A course]~~ Of at least four (4) hours covering emergency operations center basic concepts;
- (d) ~~[A course]~~ Conducted by the Division of Emergency Management covering rapid assessment of disaster scenes and proper damage and reporting procedure; and
- (e) ~~[A course]~~ Of at least eight (8) hours covering hazardous materials and "first responder

awareness level" emergency response competencies as established by 29 C.F.R. 1910.120(q)(6)(i)[defined by the U.S. Occupational Safety and Health Administration], to include instruction on employer and community operating procedures.

(3) By the second full federal fiscal year following appointment, a local director shall begin study to successfully complete a[the following]:

(a) **[A]**Course conducted or approved by the Division of Emergency Management, in accordance with KRS 39A.070(3) and 39C.050(10), covering principles in the integrated emergency management system, including interagency teams, coordination methods, and emergency or disaster case studies;

(b) **[A]**Course conducted by the Division of Emergency Management covering development of a local emergency operation plan consistent with the Kentucky Emergency Operations Plan;

(c) **[A]**Course of at least twenty-four (24) hours covering exercise assessment, design, delivery, and evaluation skills, including a practical application component;

(d) **[A]**Course of at least two (2) hours covering local emergency management planning committee member duties and Kentucky's system for implementation of the federal Emergency Planning and the Community Right to Know Act (EPCRA);

(e) **[A]**Course of at least twelve (12) hours covering hazardous materials and "first responder operations level" emergency response competencies as established by 29 C.F.R. 1910.120(q)(6)(ii)[defined by the U.S. Occupational Safety and Health Administration], to include instruction on Commonwealth of Kentucky hazardous materials response plan;

(f) **[A]**Course of at least eight (8) hours approved as established by 29 C.F.R. 1910.120(q)(6)(ii) or offered by the Division of Emergency Management covering the eight (8) component elements of an incident command system and incident management system, to include practical application;

(g) **[A]**Module offered by the Division of Emergency Management covering the incident command system and incident management system competencies for on-the-scene incident commander level as established by 29 C.F.R. 1910.120(q)(6)(v)[defined by the U.S. Occupational Safety and Health Administration] for hazardous materials response; and

(h) **[A]**Course of at least four (4) hours covering requirements and procedures for obtaining and implementing state and federal disaster assistance programs.

(4) A local director shall complete:

(a) At least two (2) of the courses established[specified] in subsection (3) of this section in each consecutive federal fiscal year until all courses are completed;

(b) All courses[coursed] of the Emergency Management Development Program within the first five (5) full federal fiscal years following appointment pursuant to KRS 39B.020(1);

(c) Emergency management training conducted annually at the in each federal fiscal year at the Governor's Emergency Management Workshop; and

(d) At least thirty-two (32) hours of emergency management training in each federal fiscal year following appointment or reappointment pursuant to KRS 39B.020(1) or (3).

(5) In meeting the annual training requirement established in subsection (4)(d) of this section, a local director shall receive credit for:

(a) Emergency management training completed in compliance with subsections (2) and (3) of this section;

(b) No more than four (4) hours per emergency management training completed on-line or

through a correspondence course, not to exceed twelve (12) hours annually;

(c) No more than four (4) hours per Division of Emergency Management sponsored emergency management training completed on-line or through a correspondence course, not to exceed eight (8) hours annually; and

(d) The training required by subsection (4)(c) of this section.

Section 3. Local Staff Member Training Requirement. **(1)** In each full federal fiscal year following appointment, a deputy director shall successfully complete at least sixteen (16) hours of training selected from:

~~(a) [(1)]~~ Emergency management training listed in subsection (2) of this section;

~~(b) [(2)]~~ No more than four (4) hours per emergency management training completed on-line or through a correspondence course, not to exceed a total of eight hours; and

~~(c) [(3)]~~ No more than four (4) hours per Division of Emergency Management sponsored emergency management training course a deputy director instructs, not to exceed a total of eight (8) hours.

(2) Except as **established[provided]** in subsection (1)**(a)** of this section, a local staff member shall successfully complete at least twelve (12) hours of emergency management or administrative training in each full federal fiscal year following appointment.

Section 4. Request for Training Credit.

(1) In meeting the annual emergency management training requirement **established[specified]** in Section 2(4)(d) or 3 of this administrative regulation, a local director or local staff member may request credit for training not conducted or sponsored by the Division of Emergency Management.

(2) To request credit for training not conducted or sponsored by the Division of Emergency Management, a local director or local staff member shall submit a completed **[KYEM Form 300, "Request for Training Credit, KYEM Form 300, ["]** to an area manager for transmittal to the Director of the Division of Emergency Management for each training course or instructional offering for which credit is requested.

(3) A local director or local staff member may receive credit for emergency management training under this section if:

(a) A completed **[KYEM Form 300, "Request for Training Credit, KYEM Form 300, ["]** is approved in writing by the Director of the Division of Emergency Management; and

(b) The training approved for credit is successfully completed.

Section 5. Training Documentation. A local director or local staff member shall submit documentation of all successfully completed emergency management training to an area manager within thirty (30) calendar days following completion of training.

Section 6. Incorporation by Reference.

(1) **[KYEM Form 300, "Request for Training Credit", KYEM Form 300, September 2018,** is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Emergency Management, Emergency Operations Center, 100 Minuteman Parkway,

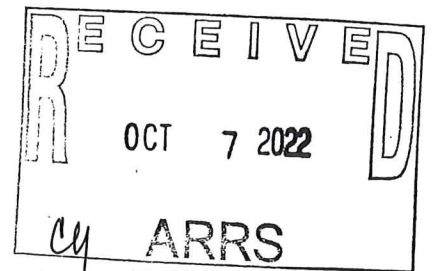
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DEPARTMENT OF MILITARY AFFAIRS

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October 7, 2022

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

RE: 106 KAR 001.141 Emergency management funding
106 KAR 001:171 Local emergency management agency program quarterly report
106 KAR 001:181 Emergency management project application
106 KAR 001:191 Emergency management project application reimbursement
106 KAR 001:201 Local emergency management plan
106 KAR 001:211 Local emergency management training
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106 KAR 001:231 Local emergency management agency ordinance requirement
106 KAR 001:241 Local emergency management director appointment process
106 KAR 001:251 Local emergency management personnel Workers' Compensation
Enrollment Form
106 KAR 001:261 Supplementary state fund emergency management training
expense reimbursement eligibility list
106 KAR 001:291 Specialized rescue squad alternative affiliation agreement process
106 KAR 001:341 Rescue aid fund allocation
106 KAR 001:371 Rescue aid fund expenditure documentation

Dear Co-Chairs West and Hale,

After discussions with Administrative Regulation Review Subcommittee staff, the Department of Military Affairs respectfully submits the attached amendments to the following administrative regulations for Subcommittee consideration: 106 KAR 1.141, 106 KAR 001:171, 106 KAR 001:181, 106 KAR 001:191, 106 KAR 001:201, 106 KAR 001:211, 106 KAR 001:221, 106 KAR 001:231, 106 KAR 001:241, 106 KAR 001:251, 106 KAR 001:261, 106 KAR 001:291, 106 KAR 001:341, and 106 KAR 001:371.

Please contact my office with any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Charla R. Sands". The signature is written in a cursive, flowing style.

Charla R. Sands, Attorney
Department of Military Affairs
100 Minuteman Parkway
Frankfort, KY 40601

SUGGESTED SUBSTITUTE

Final Version: 10/5/2022 3:55 PM

DEPARTMENT OF MILITARY AFFAIRS Division of Emergency Management

106 KAR 1:221. Local emergency management exercise.

RELATES TO: KRS 39A.050(2)(l), 39C.050(4), 39E.010(1), 39E.150, 42 U.S.C. 11001-11050

STATUTORY AUTHORITY: KRS 39A.050(2)(j), (m), 39A.070(3), 39E.040(6), 39E.080(4), 42 U.S.C. 11003(c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 39A.050(2)(m) requires the Division of Emergency Management to promulgate administrative regulations to implement KRS Chapter 39A through 39F. KRS 39A.050(2)(l) requires the Division of Emergency Management to institute exercise programs for local emergency management. This administrative regulation establishes requirements for exercising a local emergency management plan.

Section 1. Definitions.

- (1) "Exercise" means a test and evaluation of a local plan.
- (2) "Federal fiscal year" means a period beginning October 1 of a calendar year and ending September 30 of the following calendar year.
- (3) "Full-scale exercise" means a comprehensive test and evaluation of a local plan utilizing written objectives that emphasize the practice of multiple emergency management functions and require actual deployment of policy, coordination, and operations personnel, equipment, and resources in response to a simulated emergency.
- (4) "Functional exercise" means a limited test and evaluation of a local plan utilizing written objectives that emphasize the practice of direction and control procedures and requiring[re-quire] actual and simulated utilization of policy, coordination, and operations personnel, equipment, and resources in response to a simulated emergency.
- (5) "Local plan" means the written emergency operations plan of a city, county, charter county, or urban-county government, pursuant to KRS Chapters 39A through[to] 39F.
- (6) "Tabletop exercise" means a group discussion led by a facilitator utilizing a written scenario narrative and a set of problem statements, directed messages, or prepared questions designed to test and evaluate a local plan.

Section 2. Tabletop Exercise Requirement. A tabletop exercise shall consist of development and use of:

- (1) [Development and use of] A written scenario based on a hypothetical emergency situation; and
- (2) [Development and use of] At least fifteen (15) written problem statements, directed messages, or prepared discussion questions worded specifically to test or evaluate the provisions of the local plan.

Section 3. Functional Exercise Requirement. A functional exercise shall consist of:

- (1) At least twenty-five (25) percent staffing of a primary or alternate local emergency operation center;
- (2) An operational test of communications and emergency power equipment in a local emergency operations center;
- (3) Use of message forms or status boards in a local emergency operations center;
- (4) Development and use of a written scenario based upon one (1) or more hazards **established[specified]** in the local plan;
- (5) Development and use of five (5) or more written exercise objectives;
- (6) Testing of seven (7) or more disaster and emergency response functions specified in a local plan;
- (7) Development and use of written evaluation criteria;
- (8) Designation and use of a lead evaluator; and
- (9) Conduct of an exercise critique involving exercise participants.

Section 4. Full-scale Exercise Requirement. A full-scale exercise shall consist of:

- (1) Completion of the requirements of Section 3 of this administrative regulation, except subsections (1), (5), and (6);
- (2) At least seventy-five (75) percent staffing of a primary or alternate local emergency management operations center;
- (3) Development and use of ten (10) or more written exercise objectives;
- (4) Testing of fifteen (15) or more disaster and emergency services response functions **established[specified]** in a local plan; and
- (5) Field deployment of at least five (5) emergency response and support agencies.

Section 5. Local Exercise Requirement.

- (1) Except as **established[provided]** in subsection (2) of this section, a local director shall:
 - (a) Schedule, design, conduct, and document one (1) tabletop functional, or full-scale exercise by September 30 of each federal fiscal year; and
 - (b) At least once during each period of four (4) consecutive federal fiscal years, include in an exercise **established[specified]** in paragraph (a) of this subsection, testing and validation of a local plan **established[specified]** in KRS 39E.150.
- (2) During each period of four (4) consecutive federal fiscal years, a local director shall schedule, design, conduct, and document at least one (1) functional or full-scale exercise in lieu of one (1) tabletop exercise **established[specified]** in subsection (1)(a) of this section.
- (3) Within thirty (30) days prior to conducting a tabletop exercise **established[specified]** in subsection (1)(a) of this section, a local director shall submit a final draft of the following to the area manager:
 - (a) A completed ~~[KYEM Form 201, "]~~Exercise **[Narrative]**Scenario, **KyEM Form 201,["]** or computer-generated equivalent;
 - (b) A copy of the written exercise discussion problem statements, directed messages, and prepared questions established pursuant to Section 2(2) of this administrative regulation; **and[.]**
 - (c) A completed ~~[KYEM Form 202, "]~~Exercise Objectives, **KyEM Form 202,["]** or computer-generated equivalent.
- (4) Within thirty (30) calendar days following completion of a tabletop exercise, a local director

shall submit to an area manager a written exercise report consisting of the following:

(a) A completed ~~[KyEM Form 201, "Exercise [Narrative] Scenario, KyEM Form 201, "] or computer-generated equivalent;~~

(b) A copy of the written exercise discussion problem statements, directed messages, and prepared questions established pursuant to Section 2(2) of this administrative regulation;

(c) A completed ~~[KyEM Form 205, "Exercise Participant Roster, KyEM Form 205, "] or computer-generated equivalent; and~~

(d) A completed ~~[KyEM Form 206, "Exercise Critique, KyEM Form 206, "] or computer-generated equivalent.~~

(5) Within thirty (30) calendar days prior to conducting a scheduled functional or full-scale exercise, a local director shall submit the final draft of the following forms or computer-generated equivalent to the area manager:

(a) A completed ~~[KYEM Form 201, "Exercise [Narrative] Scenario, KyEM Form 201; "] and~~

(b) A completed ~~[KYEM Form 202, "Exercise Objectives, KyEM Form 202; "] and~~

(6) Within thirty (30) calendar days following completion of a functional or full-scale exercise, a local director shall submit to a county judge/executive, mayor, or area manager a written local exercise report consisting of the following completed forms or their computer-generated equivalent:

(a) ~~[KYEM Form 201, "Exercise [Narrative] Scenario, KyEM Form 201; "] and~~

(b) ~~[KYEM Form 202, "Exercise Objectives, KyEM Form 202; "] and~~

(c) ~~[KYEM Form 203, "Exercise Evaluation Criteria, KyEM Form 203; "] and~~

(d) ~~[KYEM Form 204, "Master Sequence of Events List, KyEM Form 204; "] and~~

(e) ~~[KYEM Form 205, "Exercise Participant Roster, KyEM Form 205; "] and~~

(f) ~~[KYEM Form 206, "Exercise Critique, KyEM Form 206; "] and~~

(g) ~~[KYEM Form 207, "Exercise After Action[After-Action] Report; "] and~~

Section 6. Exercise Substitution.

(1) In lieu of conducting and documenting a scheduled tabletop, functional, or full-scale exercise in a federal fiscal year, a local director may request to substitute the actual response of a local disaster and emergency services organization to a major emergency situation or disaster occurrence in a local jurisdiction during the federal fiscal year of the actual response.

(2) A local director requesting to substitute an actual response to a major emergency or disaster occurrence, in lieu of conducting and documenting a scheduled tabletop, functional, or full-scale exercise shall, within sixty (60) calendar days following termination of associated emergency response operations, **shall** submit to the area manager for transmittal to the Director of the Division of Emergency Management, an after-action report in memorandum form containing the following information:

(a) A brief description of the type or kind of emergency situation or disaster that occurred in the local jurisdiction;

(b) Date of the emergency situation or disaster occurrence;

(c) The geographic area adversely affected by the emergency situation or disaster;

(d) The estimated population in the adversely affected geographic area;

(e) The major problems experienced and the actions taken by local government to mitigate or respond to the major problems;

- (f) Significant assets utilized to mitigate or respond to the emergency situation or disaster; and
- (g) Critique comments describing the general effectiveness of the mitigation or response efforts of local government forces, including the adequacy of the local plan and any significant deficiencies noted.

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) ~~[KYEM Form 201,]~~ "Exercise **[Narrative]** Scenario[;]" , **KyEM Form 201, June 2022;**
- (b) ~~[KYEM Form 202,]~~ "Exercise Objectives[;]" , **KyEM Form 202, June 2022;**
- (c) ~~[KYEM Form 203,]~~ "Exercise Evaluation Criteria[;]" , **KyEM Form 203, June 2022;**
- (d) ~~[KYEM Form 204,]~~ "Master Sequence of Events List[;]" , **KyEM Form 204, June 2022;**
- (e) ~~[KYEM Form 205,]~~ "Exercise Participant Roster[;]" , **KyEM Form 205, September 2000;**
- (f) ~~[KYEM Form 206,]~~ "Exercise Critique[;]" , **KyEM Form 206, June 2022;** and
- (g) ~~[KYEM Form 207,]~~ "Exercise **After Action**~~[After-Action]~~ Report[;]" , **KyEM Form 207, June 2022.**

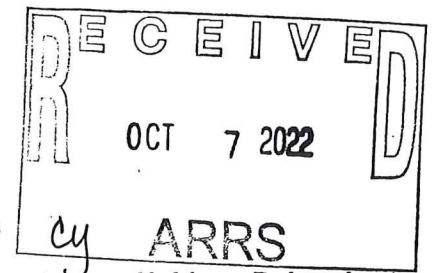
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Emergency Management, Emergency Operations Center, 100 Minuteman Parkway, Frankfort, Kentucky 40601-6168, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: Corey Ann Howard Jackson, Legislative Liaison and Policy Specialist, Department of Military Affairs, 100 Minuteman Parkway, Frankfort, Kentucky 40601, phone (502) 330-3323, fax (502) 607-1240, email corey.a.jackson23.nfg@army.mil.



DEPARTMENT OF MILITARY AFFAIRS

100 Minuteman Parkway
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Please contact my office with any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Charla R. Sands". The signature is written in a cursive style with a large, stylized "C" at the beginning.

Charla R. Sands, Attorney
Department of Military Affairs
100 Minuteman Parkway
Frankfort, KY 40601

SUGGESTED SUBSTITUTE
Final Version: 10/6/2022 11:44 AM
DEPARTMENT OF MILITARY AFFAIRS
Division of Emergency Management

106 KAR 1:231. Local emergency management agency ordinance requirement.

RELATES TO: KRS 39B.010, **39B.020, 39B.030**, 39B.990

STATUTORY AUTHORITY: KRS 39A.050(2)(~~j~~), (m), 39A.070(3)

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 39A.050(2)(m) requires the Division of Emergency Management to promulgate administrative regulations to implement KRS Chapter 39A through 39F.** KRS 39B.010(1) requires each city, county, charter county, or urban-county government create a local emergency management agency. This administrative regulation establishes the requirements to be met by a governing body of a city, county, charter county, or urban-county government to develop and pass a local emergency management agency ordinance.

Section 1. Ordinance Provisions. (1) The governing body of a city, county, charter county, or urban-county Government shall pass a local ordinance pertaining to local emergency management agency creation, as established in KRS 39B.010.

(2) A local ordinance passed pursuant to subsection (1) of this section shall:

(a) Include the term "emergency management" in the title of the local ordinance; and

(b) Include provisions **that state[which-specify]**:

1. The official name of a local emergency management agency created in the local ordinance;
2. The functional and operational organization of a local emergency management agency consistent with KRS 39B.010;
3. The establishment and use of a local emergency management agency budget account consistent with KRS 39B.010(3);
4. The powers and responsibilities of a local emergency management agency;
5. The powers, authorities, rights, and duties of a local emergency management agency director appointed pursuant to KRS 39B.020, including all the powers, duties, rights, and authorities established in KRS 39B.030; and
6. Ordinance enforcement, including the establishment of penalties for violation of the local ordinance.

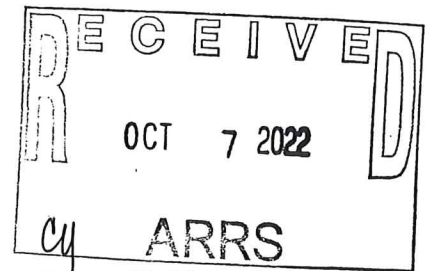
Section 2. Documentation Requirements. A full copy of a local emergency management agency ordinance and any amendments, agreements, compacts, or other documents associated with the joint creation of a local emergency management agency pursuant to KRS 39B.010(2)(b) shall be submitted by a local director to the area manager for transmittal to the Director of the Division of Emergency Management within thirty (30) calendar days following final passage or adoption by a local governing body.

CONTACT PERSON: Corey Ann Howard Jackson, Legislative Liaison and Policy Specialist, Department of Military Affairs, 100 Minuteman Parkway, Frankfort, Kentucky 40601, phone (502) 330-3323, fax (502) 607-1240, email corey.a.jackson23.nfg@army.mil.



DEPARTMENT OF MILITARY AFFAIRS

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Haldane B. Lamberton
Major General, KYNG
The Adjutant General

Andy Beshear
Governor

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Please contact my office with any questions or concerns.

Sincerely,

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Charla R. Sands, Attorney
Department of Military Affairs
100 Minuteman Parkway
Frankfort, KY 40601

SUGGESTED SUBSTITUTE

Final Version: 10/6/2022 8:16 AM

DEPARTMENT OF MILITARY AFFAIRS Division of Emergency Management

106 KAR 1:241. Local emergency management director appointment process.

RELATES TO: KRS Chapters 39A – 39F~~[39B.020]~~

STATUTORY AUTHORITY: KRS 39A.050(2)~~(j)~~, (m), 39A.070(3), 39B.020

NECESSITY, FUNCTION, AND CONFORMITY: KRS 39B.020 requires the chief executive officer of a local government entity to appoint a local emergency management director. This administrative regulation establishes the process to be followed for the chief executive officer of a local government entity to appoint or reappoint a local emergency management director.

Section 1. Definitions.

- (1) "Candidate" means the individual proposed to be appointed pursuant to KRS 39B.020.
- (2) "Local appointing authority" means a county judge/executive, mayor, or chief executive officer of a local government entity.

Section 2. Appointment Process. (1) To appoint a local emergency management director, a local appointing authority shall submit:

- (a) A completed ~~["~~Commonwealth of Kentucky Application for Employment;~~"]~~
 - (b) A completed ~~[KYEM Form 15, "~~Appointment of Local Emergency Management Director,
KyEM Form 15;~~"]~~ and
 - (c) Written authorization consistent with KRS 39B.020(3)(d)1., 2., 3., or 4~~[(1) or (2) or (3) or (4)]~~.
- (2) If a fiscal court, city commission, or other local governing body has adopted administrative procedures that formally establish a personnel merit system, a local appointing authority shall submit a local employment application in lieu of the document established[specified] in subsection ~~(1)(a)~~~~[(2)(a)]~~ of this section. A local employment application shall not be submitted for review by the Personnel Cabinet.
- (3) A local appointing authority shall submit the documents, established[specified] in subsections (1) and (2) of this section, to the area manager for transmittal through the Division of Kentucky Emergency Management, Emergency Management Performance Grant (~~["~~EMPG~~"]~~) Section Chief, to the Director of the Division of Emergency Management, within the time established[specified] in KRS 39B.020(1).

Section 3. Approval Process.

- (1) Within thirty (30) calendar days of receiving materials established[specified] in Section 2 of this administrative regulation, the Director of the Division of Emergency Management shall:
- (a) Request the human resources officer of the Department of Military Affairs evaluate the candidate's qualifications established in KRS 39B.020 for the position of local director; and
 - (b) Determine the jurisdiction's eligibility for supplementary state funds, as established in KRS

Chapters 39A through 39F, to support the operations and activities of a local emergency management agency.

(2) Funding shall be suspended **if[when]** it is determined that a candidate does not meet the qualification required for the position of a local director.

Section 4. Reappointment Process. To reappoint a local director pursuant to KRS 39B.020(3), a local appointing authority shall execute the actions established in Section 2(1)(b) and (c) of this administrative regulation.

Section 5. Incorporation by Reference.

(1) The following materials are incorporated by reference:

(a) "Commonwealth of Kentucky Application for Employment", **PC/DHRA, February 7, 2019;["]** and

(b) **[KYEM Form 15,]"Appointment of local Emergency Management Director", KyEM Form 15, 2009.["]**

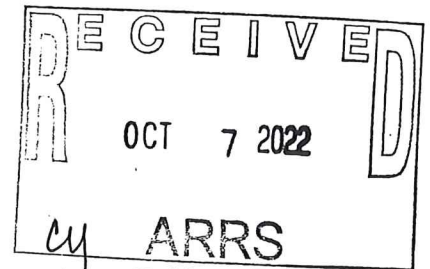
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Please contact my office with any questions or concerns.

Sincerely,

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Charla R. Sands, Attorney
Department of Military Affairs
100 Minuteman Parkway
Frankfort, KY 40601

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**DEPARTMENT OF MILITARY AFFAIRS
Division of Emergency Management**

106 KAR 1:251. Local emergency management personnel Workers' Compensation Enrollment Form.

RELATES TO: KRS 39C.110(4), 39F.170(6)

STATUTORY AUTHORITY: KRS 39A.050(2)(j), (m), 39A.070(3), **39C.110(4), 39F.170(6)**

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 39A.050(2)(m) requires the Division of Emergency Management to promulgate administrative regulations to implement KRS Chapter 39A through 39F.** KRS 39C.110(4) and 39F.170(6) require workers' compensation insurance coverage for local **emergency management** personnel. This administrative regulation establishes the procedure to be followed by local **emergency management** personnel to enroll in workers' compensation insurance coverage paid by the Division of Emergency Management.

Section 1. **Definition[Definitions]**. "Local personnel" means the personnel specified in KRS 39C.110 and 39F.170.

Section 2. Enrollment Procedure. To enroll in workers' compensation insurance coverage, local personnel shall submit a completed KYEM Form 50 to the area manager who shall maintain a hard copy of KYEM Form 50 in the area office and promptly upload a copy of the KYEM Form 50 into the WebEOC database.

Section 3. Incorporation by Reference.

(1) "KYEM Form 50", **September 2020**, is incorporated by reference.

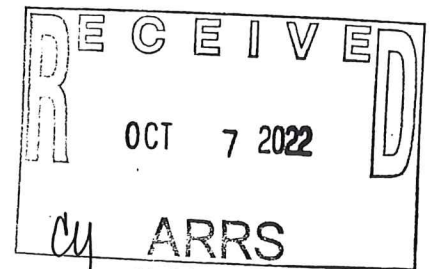
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**Department of Military Affairs
Division of Emergency Management**

106 KAR 1:261. Supplementary state fund emergency management training expense reimbursement eligibility list.

RELATES TO: KRS ~~39C.010, 39C.020~~, 39C.050(8), (9)(a), (b)

STATUTORY AUTHORITY: KRS 39A.050(2)(j), (m), 39A.070(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 39C.050(9)(a) requires the Division of Emergency Management promulgate an administrative regulation **to establish[specifying]** officials who may be reimbursed for expenses associated with attendance at emergency management training. This administrative regulation establishes the list of officials eligible to receive **emergency management training** expense reimbursement through the supplementary state fund established in KRS 39C.010 and 39C.020.

Section 1. **Definition[Definitions]**. "Emergency management training" means a seminar, workshop, course, class, module, or instruction that is conducted, sponsored, **established[specified]**, offered through, or approved by the Division of Emergency Management.

Section 2. Eligible Officials. In addition to those officials **established[specified]** in KRS 39C.050(8), the following officials, or their designee, may have the expenses **established[specified]** in KRS 39C.050(9)(b) reimbursed through the supplementary state fund for attendance at emergency management training subject to the availability of funds, **a**:

- (1) **[A]**Local emergency management agency secretary or administrative support staff;
- (2) **[A]**Chief of a local fire department;
- (3) **[A]**Chief of a local law enforcement agency;
- (4) **[A]**Director of a local ambulance service;
- (5) **[A]**Director of a local emergency medical service;
- (6) **[A]**Local public works director;
- (7) **[A]**Local emergency management agency operations officer;
- (8) **[A]**Local emergency management communications officer;
- (9) **[A]**Local emergency management agency public information officer;
- (10) **[A]**Local emergency management agency hazard mitigation officer;
- (11) **[A]**Chief of a local rescue squad;
- (12) **[A]**Local search and rescue coordinator;
- (13) **[A]**Local twenty-four (24) hour warning point supervisor;
- (14) **[A]** local public safety officer; and
- (15) **[A]**Chairperson of a local emergency planning committee.

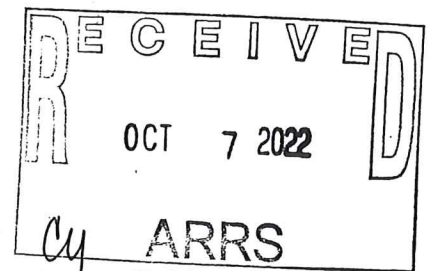
CONTACT PERSON: Corey Ann Howard Jackson, Legislative Liaison and Policy Specialist, Department of Military Affairs, 100 Minuteman Parkway, Frankfort, Kentucky 40601, phone (502) 330-

3323, fax (502) 607-1240, email corey.a.jackson23.nfg@army.mil.



DEPARTMENT OF MILITARY AFFAIRS

100 Minuteman Parkway
BNGC – EOC Building
Frankfort, KY 40601-6168



Andy Beshear
Governor

Haldane B. Lamberton
Major General, KYNG
The Adjutant General

October 7, 2022

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

RE: 106 KAR 001.141 Emergency management funding
106 KAR 001:171 Local emergency management agency program quarterly report
106 KAR 001:181 Emergency management project application
106 KAR 001:191 Emergency management project application reimbursement
106 KAR 001:201 Local emergency management plan
106 KAR 001:211 Local emergency management training
106 KAR 001:221 Local emergency management exercise
106 KAR 001:231 Local emergency management agency ordinance requirement
106 KAR 001:241 Local emergency management director appointment process
106 KAR 001:251 Local emergency management personnel Workers' Compensation
Enrollment Form
106 KAR 001:261 Supplementary state fund emergency management training
expense reimbursement eligibility list
106 KAR 001:291 Specialized rescue squad alternative affiliation agreement process
106 KAR 001:341 Rescue aid fund allocation
106 KAR 001:371 Rescue aid fund expenditure documentation

Dear Co-Chairs West and Hale,

After discussions with Administrative Regulation Review Subcommittee staff, the Department of Military Affairs respectfully submits the attached amendments to the following administrative regulations for Subcommittee consideration: 106 KAR 1.141, 106 KAR 001:171, 106 KAR 001:181, 106 KAR 001:191, 106 KAR 001:201, 106 KAR 001:211, 106 KAR 001:221, 106 KAR 001:231, 106 KAR 001:241, 106 KAR 001:251, 106 KAR 001:261, 106 KAR 001:291, 106 KAR 001:341, and 106 KAR 001:371.



Please contact my office with any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Charla R. Sands". The signature is written in a cursive, flowing style.

Charla R. Sands, Attorney
Department of Military Affairs
100 Minuteman Parkway
Frankfort, KY 40601

SUGGESTED SUBSTITUTE

Final Version: 10/6/2022 11:33 AM

**DEPARTMENT OF MILITARY AFFAIRS
Division of Emergency Management**

106 KAR 1:291. Specialized rescue squad alternative affiliation agreement process.

RELATES TO: KRS 39F.030

STATUTORY AUTHORITY: KRS 39A.050(2)(j), (m), 39A.070(3), 39F.020(5), 39F.030(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 39F.030(1) authorizes a rescue squad ***[which proposes]*** to provide regional or statewide specialized rescue services to apply to the Director of the Division of Emergency Management for an alternative affiliation agreement and alternative vehicle and equipment requirements. This administrative regulation establishes the process for submitting alternative affiliation requests.

Section 1. **Definition*****[Definitions]***. "Chief rescue officer" means the chief executive officer of a rescue squad.

Section 2. Alternative Request.

(1) A chief rescue officer shall submit a written request for alternative affiliation and alternative vehicle and equipment requirements, including all supporting documentation, to a division area manager; and

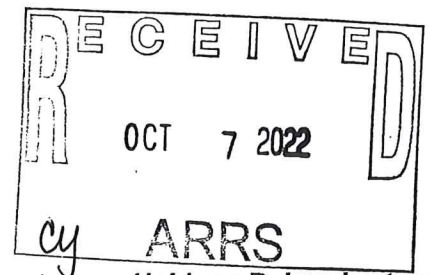
(2) A request shall include a geographical service area as either statewide or regional. Regional service areas shall list each county in a region.

CONTACT PERSON: Corey Ann Howard Jackson, Legislative Liaison and Policy Specialist, Department of Military Affairs, 100 Minuteman Parkway, Frankfort, Kentucky 40601, phone (502) 330-3323, fax (502) 607-1240, email corey.a.jackson23.nfg@army.mil.



DEPARTMENT OF MILITARY AFFAIRS

100 Minuteman Parkway
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Frankfort, KY 40601-6168



Andy Beshear
Governor

Haldane B. Lamberton
Major General, KYNG
The Adjutant General

October 7, 2022

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

RE: 106 KAR 001.141 Emergency management funding
106 KAR 001:171 Local emergency management agency program quarterly report
106 KAR 001:181 Emergency management project application
106 KAR 001:191 Emergency management project application reimbursement
106 KAR 001:201 Local emergency management plan
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106 KAR 001:231 Local emergency management agency ordinance requirement
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106 KAR 001:261 Supplementary state fund emergency management training
expense reimbursement eligibility list
106 KAR 001:291 Specialized rescue squad alternative affiliation agreement process
106 KAR 001:341 Rescue aid fund allocation
106 KAR 001:371 Rescue aid fund expenditure documentation

Dear Co-Chairs West and Hale,

After discussions with Administrative Regulation Review Subcommittee staff, the Department of Military Affairs respectfully submits the attached amendments to the following administrative regulations for Subcommittee consideration: 106 KAR 1.141, 106 KAR 001:171, 106 KAR 001:181, 106 KAR 001:191, 106 KAR 001:201, 106 KAR 001:211, 106 KAR 001:221, 106 KAR 001:231, 106 KAR 001:241, 106 KAR 001:251, 106 KAR 001:261, 106 KAR 001:291, 106 KAR 001:341, and 106 KAR 001:371.

Please contact my office with any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Charla R. Sands". The signature is written in a cursive, flowing style.

Charla R. Sands, Attorney
Department of Military Affairs
100 Minuteman Parkway
Frankfort, KY 40601

SUGGESTED SUBSTITUTE

Final Version: 10/6/2022 9:08 AM

**DEPARTMENT OF MILITARY AFFAIRS
Division of Emergency Management**

106 KAR 1:341. Rescue aid fund allocation.

RELATES TO: KRS 39F.020(5), 39F.100(2), 39F.110

STATUTORY AUTHORITY: KRS 39A.050(2)(j), (m), 39A.070(3), ~~and~~ 39F.020(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 39A.020(5) requires the division to administer funds to local rescue squads. This administrative regulation establishes the allocation of rescue aid funds.

Section 1. Definition. "Fund" means the rescue aid fund established in KRS 39F.100(2).

Section 2. Fund Allocation. The fund shall be allocated as established in subsections (1) through (3) of this section.~~[follows:]~~

(1) Fifteen (15) percent of the total fund appropriated in a state fiscal year shall be allocated for administration and training or may be allocated for minimum equipment or optional equipment~~[at the discretion of the Director, Kentucky Division of Emergency Management]~~.

(2) Fifty (50) percent of the total fund appropriated in a state fiscal year shall be allocated for minimum equipment established in 106 KAR 1:350.~~[; and]~~

(3) Thirty-five (35) percent of the total fund appropriated in a state fiscal year shall be allocated for optional equipment.

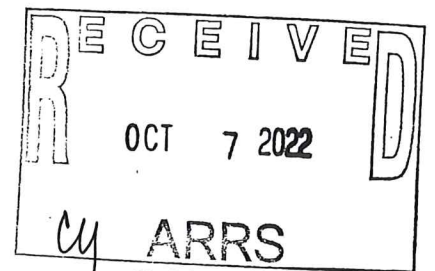
Section 3. A rescue squad shall not be allocated funds for more than one (1) rescue aid application in a state fiscal year.

CONTACT PERSON: Corey Ann Howard Jackson, Legislative Liaison and Policy Specialist, Department of Military Affairs, 100 Minuteman Parkway, Frankfort, Kentucky 40601, phone (502) 330-3323, fax (502) 607-1240, email corey.a.jackson23.nfg@army.mil.



DEPARTMENT OF MILITARY AFFAIRS

100 Minuteman Parkway
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Frankfort, KY 40601-6168



Haldane B. Lamberton
Major General, KYNG
The Adjutant General

Andy Beshear
Governor

October 7, 2022

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

RE: 106 KAR 001.141 Emergency management funding
106 KAR 001:171 Local emergency management agency program quarterly report
106 KAR 001:181 Emergency management project application
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106 KAR 001:371 Rescue aid fund expenditure documentation

Dear Co-Chairs West and Hale,

After discussions with Administrative Regulation Review Subcommittee staff, the Department of Military Affairs respectfully submits the attached amendments to the following administrative regulations for Subcommittee consideration: 106 KAR 1.141, 106 KAR 001:171, 106 KAR 001:181, 106 KAR 001:191, 106 KAR 001:201, 106 KAR 001:211, 106 KAR 001:221, 106 KAR 001:231, 106 KAR 001:241, 106 KAR 001:251, 106 KAR 001:261, 106 KAR 001:291, 106 KAR 001:341, and 106 KAR 001:371.



Please contact my office with any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Charla R. Sands". The signature is written in a cursive, flowing style.

Charla R. Sands, Attorney
Department of Military Affairs
100 Minuteman Parkway
Frankfort, KY 40601

SUGGESTED SUBSTITUTE

Final Version: 10/6/2022 9:17 AM

**DEPARTMENT OF MILITARY AFFAIRS
Division of Emergency Management**

106 KAR 1:371. Rescue aid fund expenditure documentation.

RELATES TO: KRS 39F.140(1)

STATUTORY AUTHORITY: KRS 39A.050(2)(j), (m), 39A.070(3), 39F.020(5), **39 F.140(1)**

NECESSITY, FUNCTION, AND CONFORMITY: **KRS 39A.050(2)(m) requires the Division of Emergency Management to promulgate administrative regulations to implement KRS Chapter 39A through 39F.** KRS 39F.140(1) requires a rescue squad to document expenditure of rescue aid funds. This administrative regulation establishes a procedure for documenting expenditures of rescue aid funds by a rescue squad.

Section 1. To document expenditure of rescue aid funds, a rescue squad shall submit the documentation **established[specified]** in KRS 39F.140(1) to a local director.

Section 2. A local director, within ten (10) working days of receipt of the materials **estab-
lished[specified]** in Section 1 of this administrative regulation, shall submit to an area manager:

(1) A completed **[KYEM Form 160, "]**Local Emergency Assistance Claim Form, **KyEM Form 160,["]** incorporated by reference in 106 KAR 1:191; **and[.]**

(2) The documentation received from a rescue squad pursuant to Section 1 of this administrative regulation.

[Section 3. Incorporation by Reference]

**(1) KYEM Form 160 "Local Emergency Management Assistance Claim Form," is incorpo-
rated by referenced.**

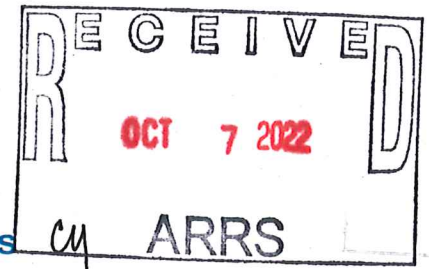
**(2) This material may be inspected, copied, or obtained, subject to applicable Copyright
law, at Division of Emergency Management, 100 Minuteman Parkway, Frankfort, Kentucky
40601-6168, Monday through Friday, 8 a.m. to 4:30 p.m.]**

CONTACT PERSON: Corey Ann Howard Jackson, Legislative Liaison and Policy Specialist, Department of Military Affairs, 100 Minuteman Parkway, Frankfort, Kentucky 40601, phone (502) 330-3323, fax (502) 607-1240, email corey.a.jackson23.nfg@army.mil.



DEPARTMENT OF MILITARY AFFAIRS

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Frankfort, KY 40601-6168



Andy Beshear
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Haldane B. Lamberton
Major General, KYNG
The Adjutant General

October 7, 2022

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

RE: 106 KAR 002:021 Military Family Assistance Trust Fund
106 KAR 002:031 National Guard Adoption Benefit Program

Dear Co-Chairs West and Hale,

After discussions with Administrative Regulation Review Subcommittee staff, the Department of Military Affairs respectfully submits the attached amendments to the following administrative regulations for Subcommittee consideration: 106 KAR 002:021 and 106 KAR 002:031.

Sincerely,

Charla R. Sands, Attorney
Department of Military Affairs
100 Minuteman Parkway
Frankfort, KY 40601

SUGGESTED SUBSTITUTE

Final Version: 10/6/2022 9:28 AM

DEPARTMENT OF MILITARY AFFAIRS

106 KAR 2:021. Military Family Assistance Trust Fund.

RELATES TO: KRS 36.470, 36.474, 36.476

STATUTORY AUTHORITY: KRS 36.474(3), ~~(4)~~, (5)

NECESSITY, FUNCTION AND CONFORMITY: KRS 36.470 establishes the military family assistance trust fund. KRS 36.474(3) ~~through~~ (5) require the board to promulgate an administrative regulation establishing the maximum amount of grant assistance a person may receive in a twelve (12) month period and to establish a need-based application for trust fund grants. This administrative regulation establishes the ***Military Family Assistance Trust Fund*** application process and the maximum amount of grant assistance as required by KRS 36.474.

Section 1. Military Family Assistance Trust Fund Board. The board shall receive a report on all funds expended on applications and shall be informed on the reason for any application being disapproved.

Section 2. Application for Trust Funds. Any qualified service member or the service member's Kentucky resident spouse may submit a ~~["~~Kentucky Military Family Assistance Trust Fund Application, DMA ~~[Form]~~43-1~~["~~ for application of grant funds for a need-based emergency.

Section 3. Payment of Grants.

(1)(a) Except as ~~established~~***provided*** in subsection (2) of this section, the following limits shall apply. ***A maximum of twenty-five (25) percent of the annual Kentucky state median income (SMI), as prepared by the U.S. Census Bureau, using the most current Census may be approved:***

~~1.[(a) A maximum of twenty-five (25) percent of the annual Kentucky state median income (SMI) as prepared by the U.S. Census Bureau using the most current Census may be approved]~~ For a single application as identified on DMA Form 43-1; and

~~2.[(b) A maximum of twenty-five (25) percent of the annual Kentucky state median income (SMI) as prepared by the U.S. Census Bureau using the most current Census may be approved]~~ per fiscal year per service member.

(b) An award made to the family of a service member shall be included in the amount calculated as awarded to the service member.

(2) Amounts greater than twenty-five (25) percent of the annual Kentucky state median income (SMI) as prepared by the U.S. Census Bureau using the most current Census for a fiscal year maximum cap may be approved by a majority vote of the board members if there is:

(a) A catastrophic event, including a tornado, fire, earthquake, or other disastrous event; or

(b) At least a twenty-five (25) percent loss of annual income by the service member or spouse that is caused by the deployment compared to what the service member's or spouse's annual income was prior to deployment.

(3) The applicant shall submit appropriate documentation to verify:

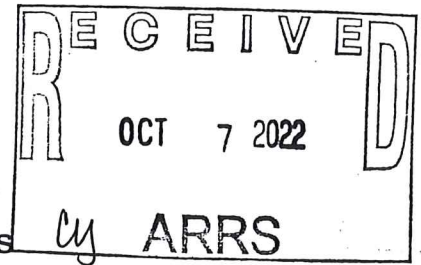
(a) The applicant's financial need; and

(b) Other assistance that is provided or not provided by other sources.

Section 4. Incorporation by Reference. (1) "Kentucky Military Family Assistance Trust Fund Application", DMA **[Form]**43-1~~[""]~~, May 2022, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Administrative Services Division, Office of Management and Administration, Department of Military Affairs, 100 Minuteman Parkway, Boone National Guard Center, Frankfort, Kentucky 40601-6168, or by calling the Office at phone (502) 607-1738, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: Corey Ann Howard Jackson, Legislative Liaison and Policy Specialist, Department of Military Affairs, 100 Minuteman Parkway, Frankfort, Kentucky 40601, phone (502) 330-3323, fax (502) 607-1240, email corey.a.jackson23.nfg@army.mil.



DEPARTMENT OF MILITARY AFFAIRS

Andy Beshear
Governor

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Haldane B. Lamberton
Major General, KYNG
The Adjutant General

October 7, 2022

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

RE: 106 KAR 002:021 Military Family Assistance Trust Fund
106 KAR 002:031 National Guard Adoption Benefit Program

Dear Co-Chairs West and Hale,

After discussions with Administrative Regulation Review Subcommittee staff, the Department of Military Affairs respectfully submits the attached amendments to the following administrative regulations for Subcommittee consideration: 106 KAR 002:021 and 106 KAR 002:031.

Sincerely,

Charla R. Sands, Attorney
Department of Military Affairs
100 Minuteman Parkway
Frankfort, KY 40601

SUGGESTED SUBSTITUTE

Final Version: 10/6/2022 9:36 AM

DEPARTMENT OF MILITARY AFFAIRS

106 KAR 2:031. National Guard Adoption Benefit Program.

RELATES TO: KRS 36.474, 36.477, 199.555(1)

STATUTORY AUTHORITY: KRS 36.477(8)

NECESSITY, FUNCTION AND CONFORMITY: KRS 36.477(8) requires the Department of Military Affairs to promulgate administrative regulations to implement the Kentucky National Guard Adoption Assistance Program. This administrative regulation establishes the requirements for the Kentucky National Guard employee adoption assistance program.

Section 1. Kentucky National Guard Adoption Benefit Program Application Procedures.

(1) An eligible member of the Kentucky National Guard applying for funds under KRS 36.477 shall submit a completed Kentucky National Guard Adoption Benefit Program Application.

(2) The application shall be submitted to the Department of Military Affairs, along with:

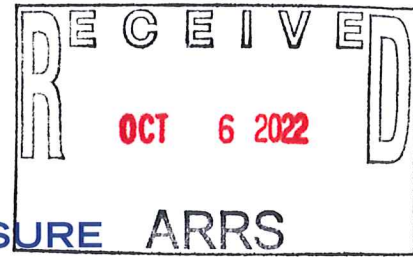
- (a) The documentary evidence required by KRS 36.477(5);
- (b) A copy of the Affidavit of Expenses related to the adoption filed with and approved by the court at the finalization of the adoption; and
- (c) The Adoption Reimbursement Request letter.

Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Kentucky National Guard Adoption Benefit Program Application", May 2022;
- (b) "Affidavit of Expenses", May 2022; and
- (c) "Adoption Reimbursement Request~~[Letter]~~", May 2022.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Military Affairs, 100 Minutemen Parkway, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: Corey Ann Howard Jackson, Legislative Liaison and Policy Specialist, Department of Military Affairs, 100 Minuteman Parkway, Frankfort, Kentucky 40601, phone (502) 330-3323, fax (502) 607-1240, email corey.a.jackson23.nfg@army.mil.



KENTUCKY BOARD OF MEDICAL LICENSURE

Andy Beshear
Governor

Hurstbourne Office Park
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222

www.kbml.ky.gov
(502) 429-7150

October 5, 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: 201 KAR 9:305. Continued licensure of athletic trainers.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 9:305, the Kentucky Board of Medical Licensure proposes the attached amendments to 201 KAR 9:305.

Sincerely,


Leanne K. Diakov
General Counsel

TEAM
KENTUCKY™

An Equal Opportunity Employer M/F/D

Final, 9-20-2022

Suggested Amendment

**GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure**

201 KAR 9:305. Continued licensure of athletic trainers.

Page 1

NECESSITY, FUNCTION, AND CONFORMITY

Line 10

After "requirements", insert the following:

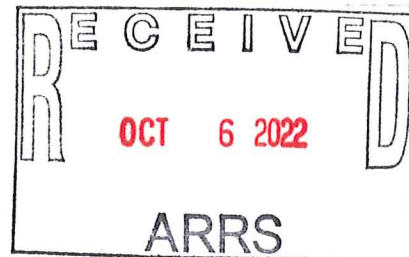
. This administrative regulation establishes the continuing education requirements
for the continued licensure of athletic trainers



Andy Beshear
Governor

Julie M. Campbell
Executive Director

October 5, 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: 201 KAR 12:030- Licensing

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 12:030, the Kentucky Board of Cosmetology proposes the attached amendments to 201 KAR 12:030.

Sincerely,

Julie M. Campbell, Executive Director

Kentucky Board of Cosmetology

Subcommittee Substitute

BOARDS AND COMMISSIONS

Board of Cosmetology

(As Amended at ARRS)

201 KAR 12:030. Licensing~~[/] [permits,-]~~and examinations.

RELATES TO: KRS 12.245, 317A.020, 317A.050, 317A.060, 317A.145

STATUTORY AUTHORITY: KRS 317A.060

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060 requires the board to promulgate administrative regulations governing licenses in cosmetology, esthetic practices, and nail technology, including the operation of schools and salons of cosmetology, esthetic practices, and nail technology. This administrative regulation establishes procedures for examinations and licensing.

Section 1. Fees. License ~~[and permit-]~~fees are set forth in 201 KAR 12:260.

Section 2. Changes. All changes to account information required for licensure shall be submitted to the board within thirty (30) days of occurrence including:

- (1) Legal name change;
- (2) Change of address;
- (3) Change of facility or employer;
- (4) Change of phone number;
- (5) Change of email address; and
- (6) Any other information as required by KRS 317A or 201 KAR Chapter 12 for licensure.

Section 3. Licensure Requirements. A license may be issued upon submission of the following~~[/]~~

(1) All personal and facility licenses shall require an application for ~~[the following:]~~ an initial license, license renewal, license restoration, an out-of-state transfer certification, or ~~a [to]~~ request **for** examination. These applications are found on the board's Web page;

(2) **A** diploma or certified testing documents proving ~~[12th]~~ grade **12** equivalency education for initial personal licensure or out-of-state transfers into Kentucky;

(3) A copy of a government-issued photo identification;

(4) Payment of the fee set forth **in** 201 KAR 12:260;

(5) Resolution of any legal action associated with a prior disciplinary action as described in KRS 317A.145 if necessary;

(6) A current two (2) by two (2) inch passport-style photo taken within the past six (6) months; and

(7) Disclosure to the board of the current name and license number of the facility where the licensee is working.

Section 4. Prior Felony Convictions. ~~[An applicant]~~ For any license~~[-permit,]~~ or examination issued or conducted by the board, an applicant convicted of a prior felony shall include with his or her application:

- (1) A signed letter of explanation from the applicant;
- (2) A certified copy of the judgment and sentence from the issuing court; and
- (3) A letter of good standing from the applicant's probation or parole officer, if currently on probation or parole.

Section 5.~~[Section 3.]~~ Reciprocal Licensing.

(1) A license issued by another state may~~[shall]~~ be considered comparable if the laws of that state require at a minimum:

- (a) 1,500 hours of curriculum for cosmetology;
- (b) 450 hours of curriculum for nail technology;
- (c) 750 hours of curriculum for esthetics;~~[-or]~~
- (d) 300 hours of curriculum for shampoo styling; or
- (e)~~[(d)]~~ 750 hours of curriculum for instructors.

(2) An applicant licensed in another state may be licensed by reciprocity by submitting the Out of State Transfer Application **along with [and the following]:**

(a) Digital certification showing proof of a passing score on a board-approved nationally recognized theory and practical exam;

(b) Current digital certification of the out-of-state license from the issuing state board showing a license in active and good standing; **and**

~~[(c) Diploma or certified testing documents proving 12th grade equivalency education;]~~

~~[(c)]~~**(d) Unless a member of the United States Military, Reserves, or National Guard, or his or her spouse, or a veteran or the spouse of a veteran, payment of the applicable license and endorsement fees required by 201 KAR 12:260. [unless a member of the United States Military, Reserves, or National Guard, or his or her spouse, or a veteran or the spouse of a veteran submitting the license fee] [a-] [established in subsection (4)(d) of this section;]**

~~[(e) A copy of the applicant's government-issued photo identification; and~~

~~[(f) A two (2) by two (2) inch passport photo of the applicant taken within the past six (6) months.]~~

(3) An applicant from a state whose licensing requirements fail to meet subsection (1) of this section shall apply for a reciprocal license by submitting:

(a) Documentation required by Section 3~~[subsection (2)]~~**(1[a])** through **(7[g])**~~[(f)]~~ of this administrative regulation~~[section];~~ and

(b) Payment of the applicable examination fees established in 201 KAR 12:260.

(4) Pursuant to KRS 12.245, a member of the United States Military, Reserves, or National Guard, or his or her spouse, or a veteran or the spouse of a veteran shall apply for a reciprocal license by submitting:

(a) All documents required by Section 3~~[subsection 2(a)]~~**(2[b])** through **(7[g])**~~[(f)]~~ of this administrative regulation~~[section];~~

(b) The Military Transfer Application; **and**

(c) A document showing proof of service, sponsor's service, or discharge orders listing the applicant or an accompanying family member as a member of the United States Armed Services.~~;~~~~]~~~~and~~

~~(d) Payment of a twenty-five (25) dollar license fee.]~~

(5) All requests for certification of hours or a license shall use the Certification Request Form accompanied by a copy of the applicant's government-issued photo identification and payment of the fee as set forth in 201 KAR 12:260. Certifications shall only be transmitted digitally to the reciprocal state agency.

Section 6.~~[Section 4.]~~ Digital Forms. All applications and forms may be replicated and implemented by the board in an online format for processing, payment receipt, and license issuance.~~[Permits.~~

~~(1) Any person who engages in the practice of threading, makeup artistry, or eyelash artistry shall first obtain a permit from the board by submitting a completed Permit Application and paying the fee established in 201 KAR 12:260.~~

~~(2) The applicant shall include with the Permit Application:~~

~~(a) A copy of the applicant's government-issued photo identification;~~

~~(b) A two (2) by two (2) inch passport photo of the applicant taken within the past six (6) months;~~

~~(c) Proof of completion of a board-approved sanitation course within the (1) year period preceding the application; and~~

~~(d) Proof of completion of a board-approved program, if applying for an eyelash artistry permit.]~~

Section 7.~~[Section 5.]~~ Examination Registration.

(1) Applicants shall register using a school enrollment as follows:

(a) A student of a licensed cosmetology school shall register with the board at least eight (8) months prior to graduation;

(b) A nail technician student shall register with the board at least seventy-five (75)~~[forty-five (45)]~~ days prior to graduation;~~and]~~

(c) An esthetician student shall register with the board at least four (4) months prior to graduation;~~and~~

(d) A shampoo styling student shall register with the board at least fifty-three (53) days prior to graduation.

(2) A completed Application for Examination or Out of State Application for Examination shall be received in the Board office no later than ten (10) business days prior to the examination date to be scheduled for either the theory test or the practical demonstration component of the exam. Each exam component shall be scheduled using a separate application and payment of the fee set forth in 201 KAR 12:260.

~~[(3) All examination applicants shall submit a two (2) by two (2) inch passport photo of the applicant taken within the past six (6) months.]~~

~~(3)~~~~[(4)]~~ Theory examination dates shall be valid for ninety (90) days from student notification.

~~(4)~~~~[(5)]~~ A passing score for the theory examination, proper application, and payment of fees shall be required prior to being scheduled for the practical examination.

~~(5)~~~~(6)~~ An applicant with curriculum hours obtained in another state shall include with the Out of State Application for Examination **[the following]**:

(a) Certification of curriculum hours from the state licensing board or agency where the hours were obtained, if the state requires the reporting of curriculum hours; or

(b) Certification of the valid licensing status of the school attended from the state board or licensing authority and an official transcript certified by the school.

~~(6)~~~~(7)~~ Examination applicants shall wear a full set of solid color medical scrubs and bring all instruments and supplies as listed on the board Web site for the practical examination. White colored scrubs or other clothing is prohibited.

Section 8.~~[Section 6.]~~ Examination Components.

(1) The examination shall consist of a theory test and a practical demonstration taken from the curriculum requirements specified in 201 KAR 12:082.

(2) The practical demonstration shall be performed on a:

(a) Mannequin head and hand for the cosmetology practical examination;

(b) Mannequin head for the esthetician or shampoo styling~~[blow drying]~~ services practical examination; or

(c) Mannequin hand for the nail technician practical examination.

(3) The applicant shall provide a mannequin head or hand as needed for an examination.

Section 9.~~[Section 7.]~~ Grading.

(1) A minimum passing grade of seventy (70) percent on the theory test and the practical demonstration shall be required for the cosmetologist, esthetician, shampoo styling, and nail technician examinations.

(2) A minimum passing grade of eighty (80) percent on the theory test and eighty-five (85) percent on the practical demonstration shall be required for all instructor examinations.

(3) All passing exam scores shall be valid for six (6) months from completion.

Section 10.~~[Section 8.]~~ Practice before Examination Prohibited. A student engaging in the practice of cosmetology, esthetic practices, shampoo styling, or nail technology beyond the scope of their registered school enrollment prior to the board examination shall be ineligible to take the examination for a period of one (1) year from the date of the unauthorized practice.

Section 11.~~[Section 9.]~~ License Application.

(1) An applicant who passes the examination shall have ninety (90) days following the examination to apply for a license by complying with all requirements in Section 3(1[a]) through (7[g]) of this **administrative** regulation.~~[submitting the License Application form and the following documentation:~~

~~(a) Diploma or certified testing documents proving 12th grade equivalency education;~~

~~(b) Payment of the applicable license fee required by 201 KAR 12:260;~~

~~(c) A copy of the applicant's government-issued photo identification; and~~

~~(d) A two (2) by two (2) inch passport photo of the applicant taken within the past six (6) months.]~~

(2) Failure to apply for a license as required by subsection (1) of this section shall require payment of the appropriate restoration and licensing fees set forth in 201 KAR 12:260 before a license may be issued.

~~[(3) An applicant may apply for an apprentice instructor license to be used for training in an approved program after one (1) year of professional licensing. Applicants shall submit the Apprentice Instructor License Application and provide the following documentation:~~

- ~~(a) Diploma or certified testing documents proving 12th grade equivalency education;~~
- ~~(b) Payment of the applicable license fee required by 201 KAR 12:260;~~
- ~~(c) A copy of the applicant's government-issued photo identification; and~~
- ~~(d) A two (2) by two (2) inch passport photo of the applicant taken within the past six (6) months.]~~

Section 12.~~[Section 10.]~~ Retaking Examinations.

(1) Any applicant who fails either the theory test or the practical demonstration may retake that portion of the examination upon submitting a new Application for Examination with a two (2) by two (2) inch passport photo of the applicant taken within the preceding six (6) months, and paying the examination fee required by 201 KAR 12:260.

(a) After three (3) failed attempts, the examinee shall be required to wait six (6) months before retaking either portion of the examination. If the examinee does not receive a passing score ~~[after]~~on the third attempt, then the individual shall take an eighty (80) hour supplemental course in theory studies at a school licensed by the board prior to being eligible to retake the examination.

(b) Following the supplemental course, the examinee may attempt the examination two (2) additional times. If the examinee fails both attempts the examinee shall be prohibited from taking the examination within three (3) years from the date of the final failed attempt.

(2) An applicant caught cheating or impersonating another shall not be allowed to retake the examination for a minimum of one (1) year from the date of the original examination.

(3) Any applicant who fails to report for the examination on the date specified by the board shall submit a new examination application and examination fee prior to being rescheduled for examination. The board may waive the examination fee for good cause shown. "Good cause" includes:

(a) An illness or medical condition of the applicant that prohibits the applicant from reporting for the examination; or

(b) A death, illness, or medical condition in the applicant's immediate family that prohibits the applicant from reporting for the examination.

(4) Documents and certificates submitted with an Application for Examination ***shall be [are]*** valid for one (1) year following the date of submission after which time applicants shall submit updated documents and a new examination application.

Section 13.~~[Section 11.]~~ Duplicate Licenses, Renewal, and Restoration.

(1) If a license is lost, destroyed, or stolen after issuance, a duplicate license may be issued. The licensee shall submit a statement verifying the loss of the license using the Duplicate License Application that includes a copy of a government-issued photo identification, and pay the duplicate license fee listed in 201 KAR 12:260. Each duplicate license shall be marked "duplicate".

(2) The annual license renewal period is July 1 through July 31. All licenses ~~[and permits]~~ shall **be renewed [renew]** by providing the required items in Section 3(1(a)) through (7(g)) of this administrative regulation.[:]

~~[(a) Be renewed using the Renewal Application or by using the board's online portal;
(b) Include the required copy of a government-issued photo identification;
(c) Include payment of the fee set forth 201 KAR 12:260; and]
(d) Include payment of any outstanding fines associated with a prior disciplinary action as described in KRS 317A.145.]~~

(3) To restore an expired license~~[or permit]~~, a Restoration Application shall be submitted to the board with payment of the restoration fee as set forth in 201 KAR 12:260 for each year the license has been expired, the total of which shall not exceed \$300 per license restored, and by providing the required items in Section 3(1(a)) through (7(g)) of this administrative regulation.[: along with the following:

~~(a) For an expired individual license or permit, a copy of a government-issued photo identification;]~~

(4)[(a)][(b)] To restore [For] an expired salon license or limited facility ~~license [permit]~~, a new Salon Application or Limited Facility [Permit-]Application shall be submitted to the board with payment of the restoration fee as set forth in 201 KAR 12:260 for each year the license has been expired, the total of which shall not exceed \$300 per license restored, and by providing the required items in Section 3(1) through (7) of this administrative regulation.~~[: or]~~

(5)[(b)][(c)] To restore [For] an expired school license, a new School Application shall be submitted to the board with payment of the restoration fee as set forth in 201 KAR 12:260 for each year the license has been expired, the total of which shall not exceed \$300 per license restored, and by providing the required items in Section 3(1) through (7) of this administrative regulation.

Section 14.[Section 12:] Salon and Limited Facility Applications.

(1) Each person, firm, or corporation applying for a license to operate a new or relocating beauty salon, nail salon, esthetic salon, or limited facility shall submit the Salon Application or Limited Facility [Permit-]Application, provide the required items in Section 3(1(a)) through (6(f)) of this administrative regulation,~~[with required copies of state identification and driver's licenses, pay the applicable fee set forth in 201 KAR 12:260,]~~ and request an inspection by the board inspector in writing a minimum of five (5) business days prior to opening for business.

(2) A new or relocating salon or limited facility shall comply with all applicable city, county, and state~~[:]~~ zoning, building, and plumbing laws, administrative regulations, and codes.

(3) A salon or facility may be located on the premises of a nursing home or assisted living facility if the salon or facility meets all requirements of this section.

(4) Any salon or facility located in a residence shall have a separate outside entrance for business purposes only. This subsection shall not apply to a nursing home or an assisted living facility if the home or facility has obtained a salon license from the board.

(5) A salon or limited facility shall not open for business prior to issuance of its license~~[or permit]~~.

(6) Each salon shall, **at all times,** maintain a board licensed manager properly licensed in the services the salon provides **[at all times].**

(7) Salon and limited [~~beauty salon licenses and~~] facility licenses[~~permits~~] shall only be mailed to a[~~the~~] Kentucky mailing address.[~~on the application.~~]

Section 15.[~~Section 13.~~] Change in Salon Ownership or Transfer of Interest.

(1) The owners, firm, or corporation operating a licensed salon shall submit to the board a new Salon Application, Limited Facility [~~Permit~~]Application, or Manager Change Form, provide the required items in Section 3(1[a]) through (6[f]) of this administrative regulation, and **provide** payment of the license or change fee as set forth in 201 KAR 12:260 no later than thirty (30) business days prior to selling, transferring, or changing ownership.

(2) All manager changes shall be made with the board within ten (10) business days.

(3) No transfer of ownership interest in a salon shall take effect while the salon license to be transferred is the subject of ongoing disciplinary action pursuant to KRS 317A.145.

Section 16.[~~Section 14.~~] School Licenses.

(1) Each person, firm, or corporation applying for a license to operate a school shall submit a School Application, provide the required items in Section 3(1[a]) through (6[f]) of this administrative regulation, and **pay** the applicable fee set forth in 201 KAR 12:260.

(2) The School Application shall be accompanied by:

(a) A proposed student contract listing all financial charges to enrolling students; and

(b) A proposed floor plan drawn to scale by a draftsman or architect.

(3) Each school shall comply with city, county, and state[~~z~~] zoning, building, and plumbing laws, administrative regulations, and codes.

(4) Prior to license issuance and following the receipt of a completed application with all accompanying materials, the board inspector and executive director[~~board administrator~~], or their designee, shall conduct an inspection.

(5)

(a) The inspection shall be completed within twelve (12) months of the date that the School Application and all accompanying materials are received unless the board extends the time period for good cause. "Good cause" includes:

1. An illness or medical condition of the applicant that prohibits the applicant from completing the final preparations; or

2. A death, illness, or medical condition in the applicant's immediate family that prohibits the applicant from completing the final preparations.

(b) Requests for an extension of time shall be submitted in writing to the board and **shall** include **[the following]**:

1. The reason for the extension and the term of the request; and

2. Supportive documentation of the extension request.

(6) A license to operate a school shall be valid only for the location and person, firm, or corporate owner named on the application. A school license shall not be transferable from one (1) location to another or from one (1) owner to another.

(7) The school license shall contain:

(a) The name of the proposed school; and

(b) A statement that the proposed school may operate educational programs beyond secondary education.

(8) Each licensed school shall maintain a board licensed instructor as school manager at all times.

(9) All newly licensed schools shall provide proof of initial application for accreditation within two (2) years of license issuance and become accredited through a US Department of Education approved cosmetology accreditation authority within five (5) years of license issuance. Enactment of this administrative regulation shall begin the timeline for all currently licensed schools.

(10) If accreditation requirements are not met in the required timeline the school license may be revoked.

Section 17.~~[Section 15.]~~ Change in School Ownership or Management.

(1) The owners, firm, or corporation operating a licensed school shall submit to the board a new School Application or a Manager Change Form and payment of the applicable fee set forth in 201 KAR 12:260 no later than thirty (30) business days prior to selling, transferring, or changing ownership.

(2) All manager changes shall be made with the board within ten (10) business days.

(3) A prospective owner(s) or manager shall meet all qualifications of KRS Chapter 317A and 201 KAR Chapter 12, and obtain approval of the board prior to assuming operation of the school.

(4) A school shall not be opened under new ownership while the current owner still occupies the space.

(5) Written notice from current school owner including final closure date shall be provided to the board no less than ten (10) days prior to closure.

(6) All final student withdrawal and hours posting shall be required prior to new ownership licensing inspection being completed.

Section 18.~~[Section 16.]~~ Classification as School. Any person, establishment, firm, or corporation that accepts, directly or indirectly, compensation for teaching any subject of cosmetology as defined in KRS 317A.010 shall comply with KRS Chapter 317A and 201 KAR Chapter 12.

Section 19.~~[Section 17.]~~ Owner and Manager Student Prohibited. An owner, partner, stockholder, corporate officer, or a manager of a licensed school shall not be enrolled as a student in the school.

Section 20.~~[Section 18.]~~ Board Member Disclosure. A board member shall disclose to the board a financial interest in a salon or school when submitting an application for a salon or school license.

~~[Section 19. Demonstration Permits. Professional services performed outside a licensed facility shall have approval of the board and display the proper permit. Permits may be obtained by completing the Demonstration Permit Application and paying the applicable fee set forth in 201 KAR 12:260.]~~

Section 21.~~[Section 20.]~~ Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Out of State Transfer Application", July 2022~~[April 2020]~~;

(b) "Military Transfer Application", July 2022~~[May 2020]~~;
(c) "Certification Request Form" July 2022~~[October 2018]~~;
(d) ~~["Permit Application", December 2019;]~~
(e) "Application for Examination", July 2022~~[June 2019]~~;
(e)(f) "Out of State Application for Examination", July 2022~~[October 2018]~~;
(f)(g) "License Application", July 2022~~[June 2019]~~;
(h) ~~"Apprentice Instructor License Application", June 2019;]~~
(g)(i) "Duplicate License Application", July 2022~~[January 2019]~~;
(h)(j) "Renewal Application", July 2022~~[January 2019]~~;
(i)(k) "Restoration Application", July 2022~~[June 2019]~~;
(j)(l) "Salon Application", July 2022~~[June 2019]~~;
(k)(m) "Limited Facility [~~Permit~~]Application", July 2022~~[April 2020]~~;
(l)(n) "Manager Change Form", July 2022~~[October 2018]~~; and
(m)(o) "School Application", July 2022~~[October 2018]~~.~~;~~and
(p) ~~"Demonstration Permit Application", October 2018;]~~

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Cosmetology, 1049 US Hwy 127 S, Annex #2, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. **or on the board's Website at <http://kbc.ky.gov>.**

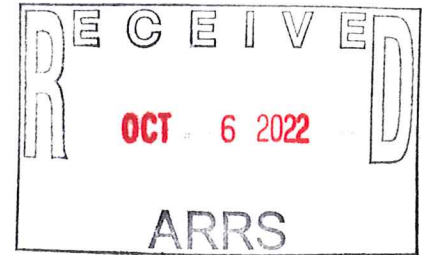
CONTACT PERSON: Julie M. Campbell, Executive Director, 1049 US Hwy 127 S. Annex #2, Frankfort, Kentucky 40601, (502) 564-4262, email julie.campbell@ky.gov.



Andy Beshear
Governor

Julie M. Campbell
Executive Director

October 5, 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: 201 KAR 12:060 – Inspections

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 12:060, the Kentucky Board of Cosmetology proposes the attached amendments to 201 KAR 12:060.

Sincerely,

Julie M. Campbell, Executive Director

Kentucky Board of Cosmetology

Staff-suggested Amendment
Version 10/3/2022
GENERAL GOVERNMENT
Kentucky Board of Cosmetology

201 KAR 12:060. Inspections.

Page 3

Section 2(4)

Line 1

After "school shall", insert the following:

, within thirty (30) days.

Page 3

Section 3

Line 10

After "includes", delete "the following".

Page 3

Section 3(4)

Line 20

After "or agent", insert ", which includes".

Delete "for the following".

Page 3

Section 3(4)(a)

Line 21

After "(a)", insert "Refusing to".

Lowercase "Allow".

After "premises;", delete "or".

Pages 3 and 4

Section 3(4)(b)

Lines 22 and 2

After "(b)", insert "Refusing to".

Lowercase "Allow".

After "board;", delete "or".

Page 4

Section 4

Line 15

After "name of the salon", insert "L".

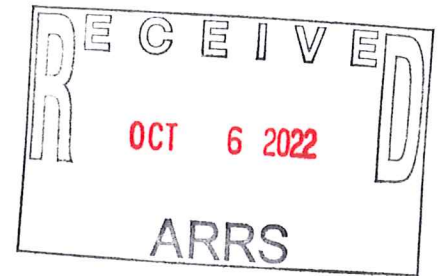
Delete "L".



Andy Beshear
Governor

Julie M. Campbell
Executive Director

October 5, 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: **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, Executive Director

Kentucky Board of Cosmetology

Subcommittee Substitute

BOARDS AND COMMISSIONS

Board of Cosmetology

(As Amended at ARRS)

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;
- (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;
 - (f) Nail Structure and Growth; and
 - (g) Nail Diseases and Disorders.
- (6) Business Skills:
 - (a) Preparation for Licensure and Employment;
 - (b) On the Job Professionalism; and
 - (c) Salon Businesses.

Section 2. A school or program of instruction of any practice licensed or permitted in KRS Chapter 317A or 201 KAR Chapter 12 shall teach the students about the various supplies and equipment used in the usual salon practices.

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 eight (8) 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 or programs of instruction of any practice licensed or permitted in KRS Chapter 317A or 201 KAR Chapter 12 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 of any practice licensed or permitted 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:

- (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.

(1) An apprentice instructor shall be under the immediate supervision and instruction of a licensed instructor while providing any instruction for students.~~[during the school day.]~~ ***"Immediate supervision" requires that [in this instance means] a licensed instructor is physically present in the same room and overseeing the activities of the apprentice instructor at all times.***

(2) An apprentice instructor shall not assume the duties and responsibilities of a licensed supervising instructor.

(3) An apprentice instructor shall not teach any practices defined in KRS Chapter 317A or 201 KAR Chapter 12 outside of the board licensed school in which the individual is enrolled.

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;
 - (d) Facial Machines;
 - (e) Hair Removal;
 - (f) Advanced Topics and Treatments;
 - (g) Application of Artificial Eyelashes; and
 - (h) 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. Shampoo Styling~~[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. Shampoo Styling~~[Blow Drying Services]~~ License Hours Required.

(1) A shampoo styling~~[blow drying]~~ services license student shall receive no less than 300~~[400]~~ hours in clinical and theory class work with a minimum of:

- (a) 100~~[150]~~ lecture hours for science and theory;
- (b) Twenty-five (25) hours on the subject of applicable Kentucky statutes and administrative regulations; and
- (c) 175~~[275]~~ clinic and practice hours.

(2) A shampoo styling~~[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 legible and accurate daily attendance record used only for the verification and tracking of the required contact hours for education for all full-time students, part-time students, and apprentice instructors 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; and
- (b) All instructors shall comply with the biometric time keeping system.
- (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 **tenth [10th]** day of each month, a licensed school shall submit to the board via electronic delivery a certification of each student's or apprentice instructor's total hours obtained for the previous month and the total accumulated hours to date for all individuals[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 the enrolled individual[students] additional fees beyond the agreed upon contracted amount.

Section 21. Instructor Licensing and Responsibilities.

(1) A person employed by a school or program 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 or apprentice 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 or programs of instruction in any practice licensed or permitted in KRS Chapter 317A or 201 KAR Chapter 12 shall, at all times, maintain a minimum faculty to student ratio of one (1) instructor for every twenty (20) students enrolled and supervised.

(9) Licensed schools or programs of instruction in any practice licensed or permitted in KRS Chapter 317A or 201 KAR Chapter 12 shall, at all times, maintain a minimum ratio of one (1)

instructor for every two (2) apprentice instructors enrolled and supervised.

(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.

(11) All instructors on staff within a licensed school shall be designated as full-time, part-time, or substitute instructors to the board when reporting employment.

Section 22. School Patrons.

(1) All services rendered in a licensed school to the public shall be performed by students. Instructors may teach and aid the students in performing the various services.

(2) A licensed school shall not guarantee a student's work.

(3) A licensed school shall display in the reception room, clinic room, or any other area in which the public receives services a sign to read: "Work Done by Students Only." The letters shall be a minimum of one (1) inch in height.

Section 23. Enrollment.

(1) Any person enrolling in a school or program for instruction in any practice licensed or permitted in KRS Chapter 317A or 201 KAR Chapter 12 shall furnish proof that the applicant has:

(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 **grade 12 [the twelfth grade of high school]**.

(d) Apprentice instructors shall provide proof of individual licensure issued at minimum one (1) year prior to enrollment date to demonstrate compliance with the applicable requirements set forth in KRS 317A.050.

(2) The applicant shall provide with the enrollment a passport-**style** photograph taken within thirty (30) days of submission of the application.

(3) A student or apprentice instructor enrolling in a licensed school who desires to transfer hours from an out-of-state school shall, prior to enrollment, provide to the board certification of the hours to be transferred from the state agency that governs the out-of-state school.

(4) If the applicant is enrolled in a board approved program at an approved Kentucky high school, the diploma, GED, or equivalency requirement of this section **shall [is]** not **be** necessary until examination.

(5) All enrollments shall be accompanied by the proper fee as **established [defined]** in 201 KAR 12:260.

Section 24. Certificate of Enrollment.

(1) Schools shall submit to the board ~~[the student's]~~ a digital enrollment, accompanied by the applicant's proof of education and proof of licensure if enrolling as an apprentice instructor, as established in Section 23 of this administrative regulation, within ten (10) business days of enrollment.

(2) All ~~[student]~~ identification information submitted on the school's digital enrollment shall exactly match a state or federal government-issued identification card to take the examination. If corrections shall be made, the school shall submit the Enrollment Correction Application digitally and the enrollment correction fee in 201 KAR 12:260 within ten (10) days of the erroneous

submission. Students with incorrect enrollment information shall not be registered for an examination.

Section 25. Student Compensation.

(1) Schools shall not pay a student a salary or commission while the student is enrolled at the school.

(2) Licensed schools shall not guarantee future employment to students.

(3) Licensed schools shall not use deceptive statements and false promises to induce student enrollment.

(4) An apprentice instructor may receive compensation as a teaching assistant.

Section 26. Hours of Operation. All schools shall report hours of operation to the board. Any change of hours or closures shall be reported no less than ten (10) business days in advance of change or closure.

Section 27. Transfers. An individual~~[A student]~~ desiring to transfer to another licensed school shall:

(1) Within ten (10) days, notify~~[Notify]~~ the school in which the individual~~[student]~~ is presently enrolled of the ~~[student's]~~withdrawal in writing; and

(2) Complete a digital enrollment as required for the new school.

Section 28.~~[Section 27.]~~ Refund Policy. A school shall include the school's refund policy in all enrollment~~[school-student]~~ contracts.

Section 29.~~[Section 28.]~~ Student Complaints. A student or apprentice instructor may file a complaint with the board concerning the school in which the individual~~[student]~~ is enrolled, by following the procedures outlined in 201 KAR 12:190.

Section 30.~~[Section 29.]~~ Student Leave of Absence. The school shall report an individual's~~[a student's]~~ leave of absence to the board within ten (10) business days. The leave shall be reported:

(1) In writing from the individual~~[student]~~ to the school; and

(2) Clearly denote the beginning and end dates for the leave of absence.

Section 31.~~[Section 30. Student]~~ Withdrawal. Within ten (10) business days from a student or apprentice instructor's~~[student's]~~ withdrawal, a licensed school shall report the name of the withdrawing individual ~~[student]~~ to the board.

Section 32.~~[Section 31.]~~ Credit for Hours Completed. The board shall credit hours previously completed in a licensed school as follows:

(1) Full credit (hour for hour) for hours completed within five (5) years of the date of school enrollment; and

(2) No credit for hours completed five (5) or more years from the date of school enrollment.

Section 33.~~[Section 32.]~~ Program Transfer Hours. An individual transferring valid hours between

board licensed schools or ~~if~~ a current licensee ~~choosing~~~~chooses~~ to enroll~~enter~~ into a licensed school to learn the practice of cosmetology, esthetics, shampoo styling, or nail technology~~they~~ shall complete and submit the Program Hour Transfer Request form. With exceptions as listed in subsection 1 through 4 of this section, an individual shall not transfer hours from one (1) discipline to another. Upon receiving a completed Program Hour Transfer Request form, the board shall treat the transferred valid hours or license as earned credit hours in a cosmetology program subject to the following:

- (1) Transfer of a current esthetics license shall credit the transferee no more than 400 hours in a cosmetology program;
- (2) Transfer of a current nail technologist license shall credit the transferee no more than 200 hours in a cosmetology program;
- (3) Transfer of a current shampoo styling~~blow-drying services~~ license shall credit the transferee no more than 300 hours in a cosmetology program; or
- (4) Transfer of a current barber license shall credit the transferee no more than 750 hours in a cosmetology program.
- (5) Credit hours transferred pursuant to this section shall only take effect upon the transferee's completion of the remaining hours necessary to complete a cosmetology program.

Section 34.~~Section 33.~~ Emergency Alternative Education. Digital theory content may be administered by a licensed school if forced long-term or intermittent emergency closure or closures are due to a world health concern or crisis as cited by national or state authority. The board may determine when emergency alternative education shall begin and end based on the effect of the state of emergency on education standards and shall make determinations in compliance with state and national declarations of emergency. The necessary compliance steps for implementation are ***as follows***:

- (1) Full auditable attendance records shall be kept showing actual contact time spent by a student in the instruction module.
- (2) Milady or Pivot Point supported digital curriculum platforms or recorded video conference participation shall be used.
- (3) Schools shall submit an outline to the board within ten (10) days prior to the occurrence of the alternative education defining the content scope to be taught or completed, and a plan for a transition into a digital training environment. Plans may be submitted for approval by the board to be kept for future use if emergency alternative education is allowable.
- (4) Completion certificates showing final scoring on digital modules shall be maintained in student records.
- (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 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.

Section 35.~~Section 34.~~ Incorporation by Reference. The following material is incorporated by

reference:

(1)

(a) "Certification of Student Extracurricular Event Hours", July 2022~~[October 2018]~~;

(b) "Enrollment Correction Application", July 2022~~[October 2018]~~; and

(c) "Program Hour Transfer Request Form", July 2022~~[April 2020]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Cosmetology, 1049 US Hwy 127 S, Annex #2~~[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.

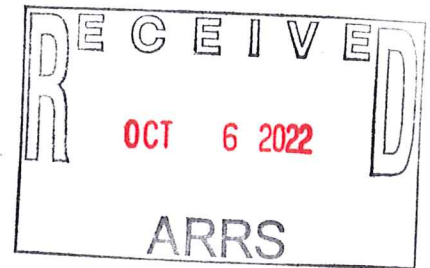
CONTACT PERSON: Julie M. Campbell, Executive Director, 1049 US Hwy 127 S. Annex #2, Frankfort, Kentucky 40601, (502) 564-4262, email julie.campbell@ky.gov.



Andy Beshear
Governor

Julie M. Campbell
Executive Director

October 5, 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: **201 KAR 12:190-** Complaints and Discipline

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 12:190, the Kentucky Board of Cosmetology proposes the attached amendments to 201 KAR 12:190.

Sincerely,

Julie M. Campbell, Executive Director

Kentucky Board of Cosmetology

Staff-suggested Amendment
Version 10/3/2022
GENERAL GOVERNMENT
Kentucky Board of Cosmetology

201 KAR 12:190. Complaint and disciplinary process.

Page 1

STATUTORY AUTHORITY paragraph

Line 6

After "317A.060," insert "317A.070".

Page 2

Section 3(3)(d)

Line 20

After "respondent of", delete "the following".

Page 4

Section 6(2)

Line 12

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

or on the board's Website at <http://kbc.ky.gov>.

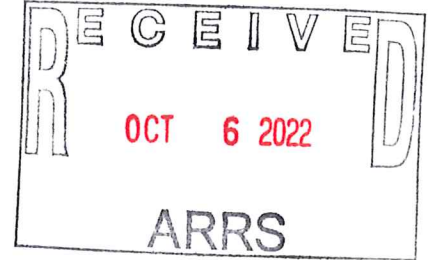


Andy Beshear
Governor

Julie M. Campbell
Executive Director

October 5, 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: **201 KAR 12:260- Fees**

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 12:260, the Kentucky Board of Cosmetology proposes the attached amendments to 201 KAR 12:260.

Sincerely,

Julie M. Campbell, Executive Director

Kentucky Board of Cosmetology

Subcommittee Substitute

BOARDS AND COMMISSIONS

Board of Cosmetology

(As Amended at ARRS)

201 KAR 12:260. Fees.

RELATES TO: KRS 317A.050, 317A.062

STATUTORY AUTHORITY: KRS 317A.062

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.062 requires the board to promulgate administrative regulations establishing a reasonable schedule of fees and charges for examinations and the issuance, renewal, and restoration of licenses and permits. This administrative regulation establishes a fee schedule for applications, permits, and licenses issued by the board.

Section 1. The initial license fees shall be as follows:

- (1) Cosmetologist - fifty (50) dollars;
- (2) Nail technician - fifty (50) dollars;
- (3) Esthetician - fifty (50) dollars;
- (4) Shampoo Styling~~[Blow drying]~~ services - fifty (50) dollars;
- (5) Cosmetology instructor - fifty (50) dollars;
- (6) Esthetic instructor - fifty (50) dollars;
- (7) Nail Technology instructor - fifty (50) dollars;
- (8) Beauty salon - \$100;
- (9) Nail salon - \$100;
- (10) Esthetic salon - \$100;
- (11) School - \$1,500;
- (12) School transfer of ownership - \$1,500;
- (13) Salon transfer of ownership - \$100;
- (14) Limited facility license for a limited beauty salon, threading facility, eyelash artistry facility, and makeup facility - \$100;
- (15) Threading permit - fifty (50) dollars;
- (16) Eyelash Artistry Permit - fifty (50) dollars; **[and]**
- (17) Makeup Artistry Permit - fifty (50) dollars;~~;~~
- (18) Event Services Permit- \$100; **and**~~;~~
- (19) Homebound Care Permit - \$100.

Section 2. The renewal license fees shall be as follows:

- (1) Cosmetologist - fifty (50) dollars;
- (2) Nail technician - fifty (50) dollars;
- (3) Esthetician - fifty (50) dollars;
- (4) Shampoo Styling~~[Blow drying]~~ services - fifty (50) dollars;
- (5) Cosmetology instructor - fifty (50) dollars;

- (6) Esthetic instructor - fifty (50) dollars;
- (7) Nail Technology instructor - fifty (50) dollars;
- (8) Beauty salon - \$100;
- (9) Nail salon - \$100;
- (10) Esthetic salon - \$100;
- (11) School - \$250;
- (12) Limited facility license for a limited beauty salon, threading facility, eyelash artistry facility, and makeup facility - \$100;
- (13) Threading permit - fifty (50) dollars;
- (14) Eyelash Artistry Permit - fifty (50) dollars; **[and]**
- (15) Makeup Artistry Permit - fifty (50) dollars; **[.]**
- (16) Event Services Permit - \$100; **and** [.]
- (17) Homebound Care Permit - \$100.

Section 3. Applications for examination including retake applications shall be accompanied by a fee as follows:

- (1) Cosmetologist - eighty-five (85)~~[seventy-five (75)]~~ dollars;
- (2) Nail technician - eighty-five (85)~~[seventy-five (75)]~~ dollars;
- (3) Esthetician - eighty-five (85)~~[seventy-five (75)]~~ dollars;
- (4) Shampoo Styling~~[Blow drying]~~ services - eighty-five (85)~~[seventy-five (75)]~~ dollars; and
- (5) Instructor - eighty-five (85)~~[seventy-five (75)]~~ dollars.

Section 4. Miscellaneous fees shall be as follows:

- (1) Demonstration permit - fifty (50) dollars;
- (2) Certification for an out-of-state license or school hours transfer - twenty-five (25) dollars;
- (3) Duplicate license - twenty-five (25) dollars;
- (4) Salon manager change - fifty (50) dollars;
- (5) School manager change - fifty (50) dollars;
- (6) Enrollment correction fee, as established in 201 KAR 12:082, Section 24(2) - fifteen (15) dollars;
- (7) Out-of-state endorsement application fee - \$100;
- (8) Apprentice instructor enrollment - twenty-five (25)~~[fifty (50)]~~ dollars;
- (9) Student enrollment~~[permit]~~ - twenty-five (25) dollars;
- (10) Individual license restoration fee - fifty (50) dollars;
- (11) Salon license restoration fee, or limited facility permit~~[license]~~ restoration fee for a limited beauty salon, threading facility, eyelash artistry facility, and makeup facility - \$100;
- (12) School license restoration fee - \$500; and
- (13) School or Salon location change - \$100.

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

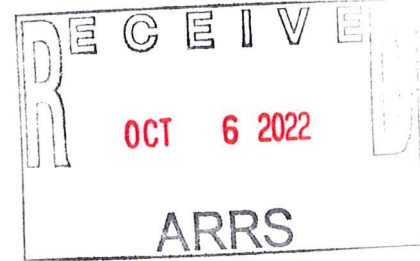


Andy Beshear
Governor

Julie M. Campbell
Executive Director

October 5, 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: 201 KAR 12:290- Permits

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by **201 KAR 12:290**, the Kentucky Board of Cosmetology proposes the attached amendments to 201 KAR 12:290.

Sincerely,

Julie M. Campbell, Executive Director

Kentucky Board of Cosmetology

Subcommittee Substitute

BOARDS AND COMMISSIONS

Board of Cosmetology (As Amended at ARRS)

201 KAR 12:290. Permits.

RELATES TO: KRS 317A.020, 317A.050, 317A.060

STATUTORY AUTHORITY: KRS 317A.060

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060 requires the board to promulgate administrative regulations governing permits in threading, makeup artistry, eyelash artistry, homebound care, and event services. This administrative regulation establishes procedures for permits.

Section 1. Fees. Permit fees are set forth in 201 KAR 12:260.

Section 2. Changes. All changes to account information required for licensure shall be submitted to the board within thirty (30) days of occurrence including:

- ~~(1)(a)~~ Legal name change;
- ~~(2)(b)~~ Change of address;
- ~~(3)(c)~~ Change of facility or employer;
- ~~(4)(d)~~ Change of phone number;
- ~~(5)(e)~~ Change of email address; and
- ~~(6)(f)~~ Any other information as required by KRS 317A or 201 KAR Chapter 12 for licensure.

Section 3. Prior Felony Convictions. **For any permit issued or conducted by the board**, an applicant ~~[for any permit issued or conducted by the board]~~ convicted of a prior felony shall include with his or her application:

- (1) A signed letter of explanation from the applicant;
- (2) A certified copy of the judgment and sentence from the issuing court; and
- (3) A letter of good standing from the applicant's probation or parole officer, if currently on probation or parole.

Section 4. All incorporated forms may be replicated in a digital format for online completion.

Section 5. Threading and Makeup Artistry Permits. (1) Any person who engages in the practice of threading or makeup artistry shall first obtain a permit from the board by submitting a completed Permit Application and paying the fee established in 201 KAR 12:260.

(2) The applicant shall include with the Permit Application:

- (a) A copy of the applicant's government-issued photo identification;
- (b) A two (2) by two (2) inch passport photo of the applicant taken within the past six (6) months; **and**

(c) Proof of completion of a board approved sanitation course within the six (6) month period preceding the application.

Section 6. Eyelash Artistry Permits. (1) Any person who engages in the practice of eyelash artistry shall first obtain a permit from the board by submitting a completed Permit Application and paying the fee established in 201 KAR 12:260.

(2) The applicant shall include with the Permit Application:

(a) A copy of the applicant's government-issued photo identification;

(b) A two (2) by two (2) inch passport photo of the applicant taken within the past six (6) months;

(c) Proof of completion of a board approved sanitation course within the past six (6) month period preceding the application; and

(d) Proof of completion of a board approved eyelash certificate training program taught by a licensed instructor within the preceding six (6) months.

Section 7. Homebound Care Permit. (1) Any person engaging in the cosmetic care of a homebound or medically infirm individual shall first obtain a permit from the board by submitting a completed application and paying the fee established in 201 KAR 12:260.

(2) The applicant shall include with the Permit Application:

(a) A copy of the applicant's government-issued photo identification;

(b) A two (2) by two (2) inch passport photo of the applicant taken within the past six (6) months;

(c) Proof of ownership, employment, or booth rental agreement with a Kentucky board licensed salon;

(d) Medical release document for the homebound or infirm individual from a physician, licensed by the Kentucky Board of Medical Licensure, defining which services can or cannot be safely provided; **and**]

(e) The address of the location **where** services will be provided.

Section 8. Event Services Permit. (1) Any person engaged in providing on-site services outside of a board licensed facility for events shall first obtain a permit from the board by submitting a completed application and paying the fee established in 201 KAR 12:260.

(2) The applicant shall include with the Permit Application:

(a) A copy of the applicant's government-issued photo identification;

(b) A two (2) by two (2) inch passport photo of the applicant taken within the past six (6) months;

(c) Proof of ownership, employment, or booth rental agreement with a Kentucky board licensed salon; **and**

(d) The address of the location **where** services **will be provided** shall be provided to the board two (2) weeks in advance of each event along with the time frame services will be provided.

Section 9. Practice before Permit Issuance Prohibited. Any individual found engaging in the practice of threading, makeup artistry, eyelash artistry, or providing homebound care or event services prior to the permit issuance shall be ineligible to receive a permit from the board for a

period of one (1) year from the date of the unauthorized practice and be responsible for the payment of any fines ordered by the board.

Section 10. Duplicate Permit, Renewal, and Restoration.

(1) If a permit is lost, destroyed, or stolen after issuance, a duplicate permit may be issued. The permit holder shall submit a statement verifying the loss of the permit using the Duplicate License Application that includes a copy of a government-issued photo identification and pay the duplicate permit fee listed in 201 KAR 12:260. Each duplicate license shall be marked "duplicate".

(2) The annual license renewal period is July 1 through July 31. All permits shall:

- (a) Be renewed using the board's online portal;
- (b) Include the required copy of a government-issued photo identification;
- (c) Include payment of the fee set forth in 201 KAR 12:260;
- (d) Include payment of any outstanding fines associated with a prior disciplinary action as described in KRS 317A.145;

(e) Disclose to the board the current name and license number of the facility where the permit holder is working; and

(f) **Include [Upload]** a current passport style headshot photo.

(3) To restore an expired permit, a Restoration Application shall be digitally submitted to the board with payment of the restoration fee as set forth in 201 KAR 12:260 for each year the permit has been expired, the total of which shall not exceed \$300 per permit restored, along with a copy of a government-issued photo identification.

Section 11. Eyelash Artistry Training Programs. (1) An eyelash training program may be approved by the board upon submission of: **;**

- (a) A written request for consideration;
- (b) A copy of the applicant's government-issued photo identification;
- (c) A two (2) by two (2) inch passport photo of the applicant taken within the past six (6) months;
- (d) A copy of the Kentucky cosmetology or esthetics instructor license verifying the credentials to teach the course; **[and]**

(e) A completed training manual with detailed instructions on safety, infection control, eye diseases, contraindications, application and removal procedures, and product knowledge. **The** manual shall also contain current Kentucky Statutes and Regulations on scope of practices, requirements for facility and personal licensure, and infection control standards; **and[-]**

(f) A copy of a training contract that outlines the responsibility of the training company, cost for classes, and completion requirements.

(2) Failure to seek approval as required by subsection (1) of this section shall invalidate all certifications issued to trainees and submitted by permit applicant.

(3) An apprentice instructor shall be under the immediate supervision and instruction of a licensed instructor while providing any instruction for students. "Immediate supervision" **requires that [in this instance means]** a licensed instructor is physically present in the same room and overseeing the activities of the apprentice instructor at all times.

(4) A licensed cosmetology or esthetics school may seek course approval by submitting a curriculum packet for review and providing proof **that the** instructor has appropriate credentials to train in eyelash artistry.

Section 12. Eyelash Training Course Administration. (1) Upon board approval ~~of~~ **[as]** an eyelash artistry training program the instructor or program director shall, ten (10) business days prior **to** **the start of the program, submit to the board:**

- (a) ~~[Submit to the board]~~ The date and time of the training course;
- (b) ~~[Submit]~~ A class roster of anticipated attendees; **and**
- (c) ~~[Provide]~~ A copy of the completed contract for each attendee. ~~;~~ **and]**

~~(2)[(d)]~~ Upon completion of the reported course, **the instructor or program director shall submit to the board** a signed and dated roster of attendees ~~[shall be submitted]~~.

~~(3)[(2)]~~ Any student not listed with a signature on the class roster may be considered absent and may not be considered for a permit to practice from the board.

Section 13. Demonstration Permits. Professional services performed outside a licensed facility, including charity events and hair shows, **require** ~~[may have]~~ approval of the board and **shall** display the proper permit. Permits may be obtained by completing the Demonstration Permit Application and paying the applicable fee set forth in 201 KAR 12:260.

Section 14. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "Permit Application", July 2022; and
- (b) "Demonstration Permit Application", July 2022

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Cosmetology, 1049 US Hwy 127 S, Annex #2, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. **or on the board's Web site at <http://kbc.ky.gov>.**

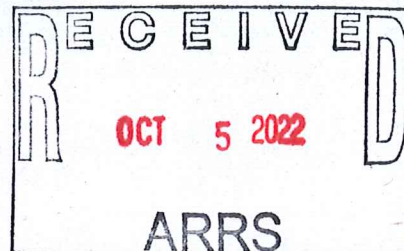
CONTACT PERSON: Julie M. Campbell, Executive Director, 1049 US Hwy 127 S. Annex #2, Frankfort, Kentucky 40601, (502) 564-4262, julie.campbell@ky.gov.

502-429-3300
800-305-2042
Fax: 502-429-1245

KENTUCKY BOARD OF NURSING

312 Whittington Parkway, Suite 300
Louisville, Kentucky 40222-5172
kbn.ky.gov

Andy Beshear
Governor



October 5, 2022

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, KY 40601

Re: **201 KAR 20:260**. Organization and administration standards for prelicensure registered nurse or practical nurse programs of nursing.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 20:260, the Kentucky Board of Nursing proposes the attached suggested amendment to 201 KAR 20:260.

Sincerely,

Jeffrey R. Prather, General Counsel
Kentucky Board of Nursing
312 Whittington Parkway, Suite 300
Louisville, KY 40222
Phone: (502) 338-2851
Email: Jeffrey.prather@ky.gov

Final, 9-22-2022

Suggested Amendment

GENERAL GOVERNMENT CABINET
Board of Nursing

201 KAR 20:260. Organization and administration standards for prelicensure registered nurse or practical nurse programs of nursing.

Page 1

RELATES TO

Line 6

After "314.111(1).", delete "314.111".

Page 2

Section 1(5)

Line 4

After "(5)", insert the following:

"Nursing track" means a path within a program of nursing that leads to licensure as a nurse.

(6)

Page 2

Section 1(5) and 1(6)

Lines 6-7

After "student.", insert "(7)".

Delete "(6)".

Page 2

Section 1(6) and 1(7)

Lines 8-9

After "nurse.", delete the following:

(7) "Nursing track" means a path within a program of nursing that leads to licensure as a nurse.

Page 3

Section 2(1)(c)2.b.

Lines 8-9

After "new program of nursing", delete the following:

and shall not increase enrollment at an existing program of nursing

Page 12

Section 3(2)(a)

Line 20

After "(a)", capitalize the first letter of "the".

Page 12

Section 3(2)(b)

Line 21

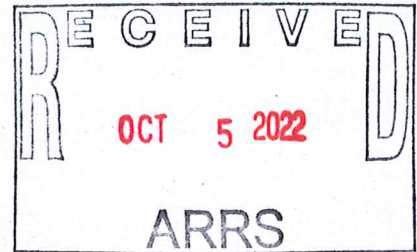
After "(b)", capitalize the first letter of "the".

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KENTUCKY BOARD OF NURSING

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Andy Beshear
Governor



October 5, 2022

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, KY 40601

Re: **201 KAR 20:490**. Licensed practical nurse infusion therapy scope of practice.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 20:490, the Kentucky Board of Nursing proposes the attached suggested amendment to 201 KAR 20:490.

Sincerely,

Jeffrey R. Prather, General Counsel
Kentucky Board of Nursing
312 Whittington Parkway, Suite 300
Louisville, KY 40222
Phone: (502) 338-2851
Email: Jeffrey.prather@ky.gov

Final, 9-22-2022

Suggested Amendment

**GENERAL GOVERNMENT CABINET
Board of Nursing**

201 KAR 20:490. Licensed practical nurse infusion therapy scope of practice.

Page 3

Section 2(2)

Line 14

After "Procedures for Infusion Therapy", insert ": Home Infusion".

After "and the", insert a space.

Page 6

Section 6(1)(a)

Line 10

After "Home Infusion", ", insert "Infusion Nurses Society,".

Page 6

Section 6(1)(b)

Line 12

After "Practice", ", insert "Infusion Nurses Society,".

Page 6

Section 6(2)

Lines 15-16

After "Web site at", insert the following:

<https://kbn.ky.gov/General/Pages/Document-Library.aspx>

Delete the following:

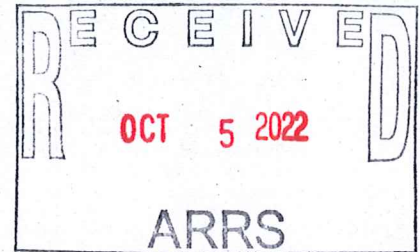
<https://kbn.ky.gov/>

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KENTUCKY BOARD OF NURSING

312 Whittington Parkway, Suite 300
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kbn.ky.gov

Andy Beshear
Governor



October 5, 2022

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, KY 40601

Re: 201 KAR 20:620. Licensing requirements for licensed certified professional midwives.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 20:620, the Kentucky Board of Nursing proposes the attached suggested amendment to 201 KAR 20:620.

Sincerely,

Jeffrey R. Prather, General Counsel
Kentucky Board of Nursing
312 Whittington Parkway, Suite 300
Louisville, KY 40222
Phone: (502) 338-2851
Email: Jeffrey.prather@ky.gov

Final, 9-22-2022

Suggested Amendment

**GENERAL GOVERNMENT CABINET
Board of Nursing**

201 KAR 20:620. Licensing requirements for licensed certified professional midwives.

Page 5

Section 11(2)

Line 3

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

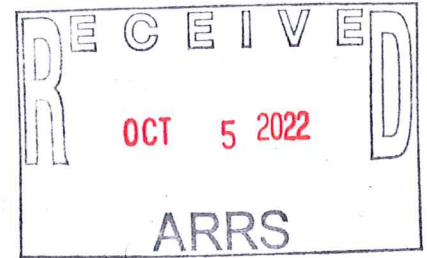
(3) This material is also available on the agency's Web site at
<https://kbn.ky.gov/General/Pages/Document-Library.aspx>.

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KENTUCKY BOARD OF NURSING

312 Whittington Parkway, Suite 300
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Andy Beshear
Governor



October 5, 2022

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, KY 40601

Re: 201 KAR 20:650. Licensed certified professional midwives permitted medical tests and formulary.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 20:650, the Kentucky Board of Nursing proposes the attached suggested substitute to 201 KAR 20:650.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeffrey R. Prather".

Jeffrey R. Prather, General Counsel
Kentucky Board of Nursing
312 Whittington Parkway, Suite 300
Louisville, KY 40222
Phone: (502) 338-2851
Email: Jeffrey.prather@ky.gov

Final, 9-22-2022

SUGGESTED SUBSTITUTE

BOARDS AND COMMISSIONS
Board of Nursing

201 KAR 20:650. Licensed certified professional midwives permitted medical tests and formulary.

RELATES TO: KRS 314.400[314.404] – 314.416[314.414]

STATUTORY AUTHORITY: KRS 314.131(1), 314.404

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations as may be necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.404(7) requires~~authorizes~~[requires] the board to promulgate an administrative regulation to establish a list of medical tests that a licensed certified professional midwife may order when providing certified professional midwifery services that is limited to only those tests that are indicated and approved for the safe conduct of pregnancy, labor or birth, and care of a client and not intended for the diagnosis or management of any acute condition unrelated to pregnancy. ***This administrative regulation establishes the medical tests and formulary for licensed certified professional midwives.***~~[This administrative regulation establishes the medical tests and formulary for licensed certified professional midwives.]~~

Section 1. An LCPM may independently order the following medical tests:

- (1) Complete blood count (CBC);
- (2) Blood type, Rh, and antibody screen;
- (3) Screening for gestational diabetes;
- (4) Hepatitis B and C panels for immunity or infection;
- (5) HIV test;
- (6) HPV test;
- (7) Pap smear;
- (8) Screen tests for syphilis, chlamydia, gonorrhea, and herpes;
- (9) Rubella titers;
- (10) Urine or serum HCG;
- (11) Urinalysis;
- (12) Urine culture including Group B strep;
- (13) Vaginal culture for Group B strep;
- (14) Varicella titers;
- (15) Ultrasound for fetal viability, confirmation of singleton intrauterine pregnancy, gestational age, fetal position, placental localization, anatomy scan, amniotic fluid index, or nuchal translucency;
- (16) Standard state newborn screening for metabolic disorders;
- (17) Newborn hearing screening;
- (18) Critical congenital heart disease screening (pulse oximetry);
- (19) Maternal prenatal genetic screening for errors of metabolism;
- (20) Hemoglobin A1C;
- (21) Standard screening tests for fetal genetic abnormalities including Quad Screen and cell-free DNA testing;
- (22) TSH screening;~~[-and]~~
- (23) Non-stress tests;
- (24) Neo-Bilirubin or Total-Bilirubin;
- (25) Coombs and blood type test of the newborn; and
- (26) The fetal screen and Rhogam tests of the client.

Section 2. An LCPM may order any other test which is **determined as/deemed**~~[(determined-as)]~~ necessary after consultation with a physician or other appropriate licensed healthcare provider.

Section 3.

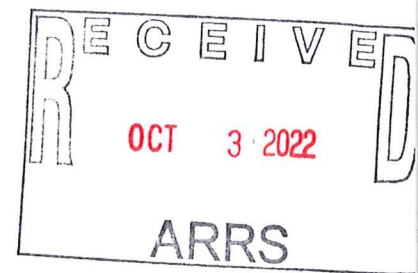
(1) An LCPM may obtain, transport, and administer the following legend medications:

- (a) Vitamin K;
- (b) Rho D immune globulin;
- (c) Erythromycin ophthalmic ointment USP, five-tenths (0.5) percent;
- (d) Oxygen;
- (e) Hepatitis B vaccine;
- (f) Antibiotics which shall be administered pursuant to United States Centers for Disease Control (CDC) Guidelines for Prophylaxis:
 - 1. Penicillin;
 - 2. Ampicillin;
 - 3. Cefazolin;
 - 4. Clindamycin; and
 - 5. Vancomycin;
- (g) Topical anesthetics:
 - 1. Procaine HCl;
 - 2. Novacaine;
 - 3. Benzocaine;
 - 4. Cetacaine; and
 - 5. Generic equivalents;
- (h) Lidocaine, **one (1) percent/1%**~~[(one-(1) percent)]~~ up to twenty (20) milliliters per patient;
- (i) Epinephrine;
- (j) Glucose gel to be administered orally for neonatal hypoglycemia;
- (k) Tranexamic acid;
- (l) Oxytocin;
- (m) Lactated ringer's;
- (n) Normal saline; and
- (o)~~[(+)]~~ Medical supplies needed to administer the medications listed in this administrative regulation.

(2)

- (a) An LCPM shall obtain and transport for emergencies Oxytocin ~~[(Pitocin)]~~ for prevention of postpartum hemorrhage and Lactated Ringer's or Normal Saline for intravenous infusion.
- (b) The LCPM shall obtain and transport at least one (1) of the following to be used in the event of postpartum hemorrhage and if Oxytocin is not successful:
 - 1. Methylergonovine (Methergine);
 - 2. Hemabate; or
 - 3. Misoprostal (Cytotec).

CONTACT PERSON: Jeffrey R. Prather, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, cell (502) 338-2851, email Jeffrey.Prather@ky.gov.



October 1, 2022

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
Frankfort, KY 40601

Re: 202 KAR 7:701. Scope of practice matters.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 202 KAR 7:701, the Kentucky Board of Emergency Medical Services proposes the attached amendment to 202 KAR 7:701.

Sincerely,

A handwritten signature in black ink, appearing to read "John R. Holder".

John R. Holder, Chairman
Kentucky Board of Emergency Medical Services
2464 Fortune Drive, Suite 195
Lexington, KY 40509



Kentucky Board of Emergency Medical Services

2464 Fortune Drive, Suite 195
Lexington, KY, 40509

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Final, 9-20-2022
AGENCY AMENDMENT

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM
Kentucky Board of Emergency Medical Services

202 KAR 7:701. Scope of practice matters.

Page 3

Section 2(1)(a)

Line 1

After "paramedic", delete the following:
 , including the use of end tidal CO2 monitoring (EtCO2)

Page 3

Section 2(1)(j)

Line 12

After "Device;", delete "and".

Page 3

Section 2(1)(k)

Line 13

After "Nebulizer", insert the following:
 : and
 (l) Quantitative and qualitative capnography and capnometry

Page 12

Section 11(1)

Line 22

After "The following", insert "material is".
Delete "documents are".

Line 23

After "reference", insert a colon.
Delete the period.

Page 14

Section 11(2)

Line 18

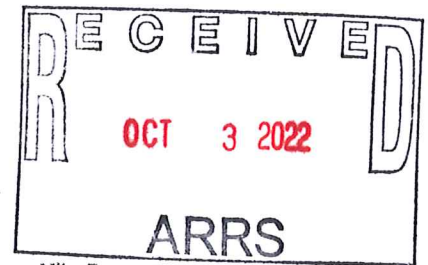
After "4:30 p.m.", insert the following:
 This material is also available on the agency's Web site at
 <https://kbems.kctcs.edu/about/forms.aspx>.



KENTUCKY TOURISM, ARTS & HERITAGE CABINET

Andy Beshear
Governor

500 Mero Street, Fifth Floor
Frankfort, KY 40601
(502) 564-4270



Mike Berry
Secretary

September 29, 2022

SENT VIA ELECTRONIC MAIL

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 300 KAR 6:011, the Kentucky Heritage Council proposes the attached suggested amendment to 300 KAR 6:011.

Sincerely,

Craig Potts
Executive Director
Kentucky Heritage Council

SUGGESTED SUBSTITUTE – To Amended After Comments Version- Ordinary Only
TOURISM, ARTS AND HERITAGE CABINET
Heritage Council

Final Version: 9/27/2022 11:22 AM

300 KAR 6:011. Historic rehabilitation tax credit certifications.

RELATES TO: KRS 171.396, 171.3961, 171.3963, 171.397, 42 U.S.C. 12101, 54 U.S.C. 300101, 36 C.F.R. 67, 36 C.F.R. 800, ~~[42 U.S.C. 12101]~~

STATUTORY AUTHORITY: KRS 171.397(12), (14)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.397(12) and (14) ~~authorize~~**[authorizes]** the Kentucky Heritage Council to promulgate administrative regulations to implement the certified historic structures rehabilitation tax credit and to impose fees for tax credit applications. This administrative regulation establishes the application process to determine a taxpayer's eligibility to claim a certified historic structure rehabilitation tax credit.

Section 1. Definitions. (1) "Act" means the enabling legislation for the historic rehabilitation tax credit, KRS 171.396 ~~through~~**[to]** 171.397.

(2) "Adjusted basis of the structure" means the purchase price of the property, minus the cost of land, plus improvements already made, minus allowable depreciation.

(3) "Certified historic structure" is defined by KRS 171.396(1).

(4) "Certified rehabilitation" is defined by KRS 171.396(2).

(5) "Certified rehabilitation credit cap" is defined by KRS 171.396(3).

(6) "Complete and adequately documented" means the applicant has provided all elements ~~established~~**[outlined]** in the Part 1, 2, 3 or **KHC Form TC-4**~~[application]~~, fee payment, adequate photo documentation ~~prior to rehabilitation~~**[at the time of purchase]** and ~~documentation of~~**[documenting]** any subsequent changes by current owner, photo key, maps, and related architectural renderings or construction documents.

(7) "Completed rehabilitation project" means any certified historic structure ~~that~~**[which]** has been substantially rehabilitated and, after the completion date, has been submitted by the applicant to the council for final certification of rehabilitation under the Act.

(8) "Completion date" means:

(a) For owner-occupied residential property, the month, date, and year in which the last eligible rehabilitation expense is incurred; or

(b) For all other property, the month, date, and year ~~in which~~**[when]** the rehabilitation project is completed to allow occupancy of the entire building or some identifiable portion of the building and, if applicable, a certificate of occupancy has been issued.

(9) "Department" means the Kentucky Department of Revenue.

(10) "Director" means the executive director of the Kentucky Heritage Council.

(11) "Disqualifying work" is defined by KRS 171.396(5).

(12) "Exempt entity" is defined by KRS 171.396(6).

(13) "File" or "filed" means physical receipt by the council of an application for certification along with the tender of the appropriate review fee.

(14) "Final amount of credit approved" means the individual credit awarded for certified rehabilitation to an owner of a certified historic structure as determined pursuant to KRS 171.3961 or KRS 171.397, whichever is applicable, upon filing of[when] the Certificate of Rehabilitation-Part 3 ~~[is filed]~~ and upon approval[approved] by the council.

(15) "Inspection" means a visit by the director or an authorized representative of the council to a property for the purposes of reviewing and evaluating the significance of the structure and the ongoing or completed rehabilitation work.

(16) "Meaningful consultation" means[is] the opportunity to consult with a historic building owner prior to the removal of historic fabric or work that does not meet the Secretary of the Interior's Standards for Rehabilitation as established in Section 4(2) of this administrative regulation.

(17) "National Register of Historic Places" means the National Register of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture that the U. S. Secretary of the Interior is authorized to expand and maintain pursuant to Section 101(a)(1) of the National Historic Preservation Act of 1966, 54 U.S.C. 300101, and implemented through 36 C.F.R. Part 800.

(18) "Owner" means:

(a) The person, partnership, corporation, public agency, or other entity holding a fee simple interest in a property, or any other person or entity recognized by the department for purposes of the applicable tax benefit under KRS 171.397 or KRS 171.3961, whichever is applicable; or

(b) A lessee, if the remaining term of the lease is not less than twenty-seven and one-half (27 1/2) years for residential property or thirty-nine (39) years for all other property.

(19) "Owner-occupied residential property" is defined by KRS 171.396(8).

(20) "Preliminary tax credit allocation" means the maximum individual credit available for certified rehabilitation to an owner of a certified historic structure as determined pursuant to KRS 171.397, on April 29 of the year in which the Certificate of Rehabilitation-Parts 1 and 2 are filed and approved by the council.

(21) "Property" means a building and its site and landscape features.

(22) "Qualified rehabilitation expense" is defined by KRS 171.396(9).

(23) "Rehabilitation" means the process of returning a building or buildings to a state of utility, through repair or alteration, which makes possible an efficient use while preserving those portions and features of the building and its site and environment that[which] are significant to its historic, architectural, or[and] cultural values ~~[as determined by the director]~~.

(24) "Rehabilitation plan" means a plan pursuant to which a certified historic structure will be substantially rehabilitated.

(25) "Rehabilitation project" means any certified historic structure, submitted by the applicant to the council, for certifications of rehabilitation under the Act.

(26) "Standards for rehabilitation" mean the Secretary of the Interior's Standards for Rehabilitation, 36 C.F.R. 67.7, as established by the U. S. Department of Interior and restated in Section 4(2) of this administrative regulation.

(27) "Starting date" means the date upon which the applicant applies for the building permit for work proposed by the rehabilitation plan or the date upon which actual physical work contemplated by the plan of rehabilitation begins.

(28) "Substantial rehabilitation" is defined by KRS 171.396(10).

(29) "Taxpayer" is defined by KRS 171.396(11).

Section 2. Certifications of Rehabilitation. (1) For tax credits under KRS 171.3961, a request for certification of historic significance and of rehabilitation under the Act shall be a five (5) stage process that requires the filing of the ~~[following forms]~~:

(a) Certification Application-Intent to Apply for Major Certified Rehabilitation~~[Expanded Credit]~~;

(b) Certification Application Part 1-Evaluation of National Register Status;

(c) Certification Application Part 2-Description of Rehabilitation;

(d) Certification Application Part 3-Request for Certification of Completed Work; and

(e) ~~[Certification Application-]~~Summary of Investment and Election of Credit.

(2) For tax credits under KRS 171.397, a request for certification of historic significance and of rehabilitation under the Act shall be a four (4) stage process that requires the filing of the ~~[following forms]~~:

(a) Certification Application Part 1-Evaluation of National Register Status;

(b) Certification Application Part 2-Description of Rehabilitation;

(c) Certification Application Part 3-Request for Certification of Completed Work; and

(d) Certification Application-Summary of Investment and Election of Credit.

(3) Intent to Apply for Expanded Credit shall be a request for certification of an applicant's intent to claim a tax credit established by KRS 171.3961 for a proposed rehabilitation project.

(4) Part 1 shall be a request for certification of historic significance.

(5) Part 2 shall be a request for certification of a proposed rehabilitation project.

(6) Part 3 shall be a request for certification of a completed rehabilitation project.

(7) Summary of Investment and Election of Credit shall be actual cost, square footage, and use attributed to the rehabilitation work and an irrevocable election by the taxpayer to receive a refundable credit or transfer the credit.

(8) Certification of applications shall be filed with the council as established in paragraphs (a) through (c) of this subsection.~~[follows:]~~

(a) 1. Part 1 and Part 2 shall be filed with the council on or before April 29 for a preliminary determination of maximum credit eligibility for a credit under KRS 171.397.

2. Part 1, Part 2, and Intent to Apply for Expanded Credit shall be filed with the council on or before June 30, 2015, for a credit under KRS 171.3961.

(b) 1. Part 1 and Part 2 may be filed after rehabilitation has commenced, but an applicant who begins rehabilitation prior to receiving Part 2 certification shall assume~~[assumes]~~ the risk that certification may be denied.

2. If rehabilitation has commenced prior to receiving Part 2 certification, the applicant ~~shall~~~~[is required to]~~ check a corresponding box on the Part 2 form that may prompt an inspection by council staff to determine level of completeness.

3. If it is determined that demolition or~~[and/or]~~ rehabilitation has progressed beyond the point at which~~[where]~~ "meaningful consultation" can be carried out, the council shall notify the applicant within thirty (30) days of inspection that a foreclosure on the agency's opportunity to comment on the rehabilitation plan has occurred and the application is closed.

4. Application~~[Any application]~~ or review fees that have been paid shall~~[may]~~ be refunded.

5. A taxpayer may appeal a determination of foreclosure.

a. An appeal shall be submitted by filing an appeal in writing within thirty (30) days of notification to the council board.

b. The council board shall either confirm the determination or reverse the determination **based on compliance with this administrative regulation**, with instructions to return the application to council staff for standard processing and review.

c. The council shall decide the appeal and shall notify the taxpayer of the decision in writing within thirty (30) days from the date the appeal is considered at the regularly scheduled council meeting **if[where]** a quorum is present.

(c) Part 3 and Summary of Investment and Election of Credit shall be filed with the council after the completion date of a completed rehabilitation project for a final determination of credit.

(9) If at any stage an application is not approved by the council, the rehabilitation project shall not qualify as a certified rehabilitation for purposes of the Act.

Section 3. Certifications of Historic Significance-Part 1. (1) Application. The Certification Application Part 1-Evaluation of National Register Status form shall be **[timely-]**filed with the council for certification of historic significance.

(a) Property individually listed in the National Register of Historic Places. Individually listed property shall be considered a certified historic structure for purposes of the Act subject to confirmation by the council **based of compliance with the requirements established in this administrative regulation**. The following information shall be provided by the applicant:

1. Names and mailing addresses of owners;
2. Name and address of property;
3. Photographic documentation of the building and property prior to and after alteration, showing exterior and interior features and spaces to ensure that the listed property has not lost the characteristics **that[which]** caused it to be listed on the National Register of Historic Places;
4. Descriptions of all the buildings within the listing if the property contains more than one (1) building for the purpose of determining which of the buildings are of historic significance to the property;
5. Brief description of appearance including alterations, distinctive features and spaces, and dates of construction;
6. Brief statement of significance summarizing how the property reflects the values that give its distinctive historical and visual character, and explaining any significance attached to the property itself;
7. A copy of a map indicating where the subject property is located. If an individually-listed property is also located in a historic district listed in the National Register of Historic Places, a copy of the map of the National Register historic district where the subject property is located and a clear delineation of the property's location within the district shall also be included; and
8. Signatures of owners requesting confirmation of listing in the National Register of Historic Places or concurring in the request if the owners are not the applicants.

(b) Property located in a historic district listed in the National Register of Historic Places. **If the property is located in historic district listed in the National Register of Historic Places**, an applicant shall request that the property be certified by the council as a historic structure contributing to the significance of a historic district **and provide the[. The following information shall be provided]**:

1. Names and mailing addresses of owners;
2. Name and address of property;
3. Name of historic district;
4. Photographic documentation of the building and property prior to and after alteration, showing exterior and interior features and spaces, and photographic documentation of adjacent properties and structures on the street showing significance to the historic district;
5. Brief description of appearance including alterations, distinctive features and spaces, and dates of construction;
6. Brief statement of significance summarizing how the property reflects the values that give the district its distinctive historical and visual character, and explaining any significance attached to the property itself;
7. A copy of the map of the National Register historic district where the subject property is located and a clear delineation of the property's location within the district; and
8. Signatures of owners requesting certification or concurring in the request if the owners are not the applicants.

(2) Multiple structures. A property containing more than one (1) building shall be treated as a single certified historic structure if the council determines that the buildings have been **functionally related**~~[functionally-related]~~ historically to serve an overall purpose, whether the property is individually listed in the National Register or is located within a registered historic district. Buildings that are functionally related historically shall be those **that**~~[which]~~ have functioned together to serve an overall purpose during the property's period of significance.

(3) Standards for evaluating significance.

(a) In addition to the existing National Register documentation, an application for certification of historic significance shall contain documentation with information about the significance of the specific buildings and structures.

(b) A property located within a historic district listed in the National Register of Historic Places shall be evaluated for contribution to the historic significance of the district by applying the **[following] standards established in subparagraphs 1. through 3. of this paragraph.[:]**

1. A property contributing to the historic significance of a district shall be a property **that**~~[which]~~ by location, design, setting, materials, workmanship, **concept**~~[feeling]~~, and association adds to the district's sense of time and place and historical development.**[:]**

2. A property not contributing to the historic significance of a district shall be a property **that**~~[which]~~ does not add to the district's sense of time and place and historical development; or **a property in which**~~[where]~~ the location design, setting, materials, workmanship, **concept**~~[feeling]~~ and association have been so altered or have so deteriorated that the overall integrity of the property has been irretrievably lost.**[: and]**

3. If the building was built within the past fifty (50) years, it shall not be considered to contribute to the significance of a district, unless a strong justification concerning its historical or architectural merit is given or the historical attributes of the district are considered to be less than fifty (50) years old.

(c) An evaluation of historic significance shall be made based upon the appearance and condition of the property before rehabilitation was begun.

(d) The qualities of a property and its environment **that**~~[which]~~ qualify it as a certified historic structure shall be determined taking into account all available information, including information

derived from the physical and architectural attributes of the building, and shall not be limited to information contained in the National Register nomination reports.

(e) If a nonhistoric surface material obscures a façade, it may be necessary to remove the surface materials prior to requesting certification so that a determination of significance can be made. After the material has been removed, if the obscured façade has retained substantial historic integrity and the property otherwise contributes to the historic district, it shall be determined to be a certified historic structure.

(4) Review of Part 1 Applications.

(a) A complete and adequately-documented Certification Application Part 1-Evaluation of National Register Status form shall be reviewed by the council to determine if the property contributes to the historic significance of the district by applying the standards established in subsection (3) of this section.

(b) After consideration of the information contained in the application and other available information, the council shall approve the application if:

1. The property meets the standards for evaluating for significance established in subsection (3) of this section; or

2. The director confirms that the property is individually listed in the National Register of Historic Places.

(5)(a) If the application is not adequate to complete the review, the council shall attempt to notify the applicant by mail, telephone, or e-mail using the contact information provided on the application.

(b) The applicant's failure to respond ~~shall~~**[may]** result in ~~[denial of]~~the application ~~being closed~~.

(c) The council's notification or failure to notify shall not constitute a waiver of a deficiency or an alteration of a time limitation established under the Act.

(6) An applicant shall notify the council of any substantial damage, alteration, or changes to a property that occurs after issuance of a Certification of Part 1-Evaluation of National Register Status. The council may, upon thirty (30) days written notice to the applicant, withdraw a certification of historic significance and may seek to have the property removed from the National Register under 36 C.F.R. 800.

Section 4. Certifications of Rehabilitation-Part 2. (1) Applications.

(a) A Certificate of Application Part 2-Description of Rehabilitation form shall be ~~[timely]~~filed with the council for certification that a rehabilitation plan is a substantial rehabilitation and meets the standards for rehabilitation established in subsection (2) of this section.

(b) A rehabilitation project shall be done according to a rehabilitation plan.

(c) The burden shall be upon the applicant to supply sufficient information to the council for a determination that the rehabilitation plan is a substantial rehabilitation and meets the standards for rehabilitation **established in subsection (2) of this section**.

(d) An application shall include the~~[following information]~~:

1. Names and mailing addresses of owners;

2. Name and address of property;

3. Designation of whether the application is for owner-occupied residential property or other property;

4. Information sufficient to establish the proposed use of the structure;
5. **Adjusted**~~[The adjusted]~~ basis for the property if other than owner-occupied residential or owned by an exempt entity;
6. Proposed starting date and completion date;
7. Projected qualified rehabilitation expenses;
8. Numbered photographs adequate to document the appearance of the structure, both on the interior and exterior, and its site and environment before rehabilitation that correspond to numbered positions on existing plans;
9. **Taxpayer**~~[The taxpayer]~~ identification number or Social Security number;
10. Written detailed description of existing features and their conditions, and a written description of proposed rehabilitation work and the impact on existing features;
11. Plans for any attached, adjacent, or related new construction, if applicable; and
12. Signatures of owners requesting certification or concurring in the request if the owners are not the applicant.

(2) Standards for rehabilitation.

(a) The standards for rehabilitation shall be the criteria used to determine if the rehabilitation qualifies as a certified historic rehabilitation. Rehabilitation shall be consistent with the historic character of the structure or structures and, if applicable, the district in which it is located.

(b) A rehabilitation project shall meet all of the standards for rehabilitation established in this paragraph.

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

3. Each property shall be recognized as a physical record of its time, place, and use. A change that creates a false **impression**~~[sense]~~ of historical development, such as adding a conjectural feature or architectural element from another building, shall not be undertaken.

4. Changes to the property that have acquired historic significance in their own right shall be retained and preserved.

5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

6. Deteriorated architectural features shall be repaired rather than replaced. If the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, if possible, materials. Replacement of missing architectural features shall be substantiated by documentary, physical, or pictorial evidence.

7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

8. Significant archeological resources affected by a project shall be protected and preserved. If these resources shall be disturbed, mitigation measures shall be undertaken.

9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

10. New additions and adjacent or related new construction shall be undertaken in ~~[such-]~~a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(c) ~~1.~~ The quality of materials, craftsmanship, and related new construction in rehabilitation shall match the quality of materials, craftsmanship, and design of the historic structure~~[-in-question]~~.

~~2.~~ Certain treatments, if improperly applied, or certain materials by their physical properties, ~~can[may]~~ cause or accelerate physical deterioration of historic buildings, and use of these treatments or materials shall result in denial of certification.

~~3.~~ The burden shall be upon the applicant to consult with the council for a determination as to what rehabilitation measures are appropriate for the structure.

~~4.~~ Inappropriate rehabilitation measures on historic properties shall include:

~~a.[1.]~~ Improper masonry repointing materials and techniques;

~~b.[2.]~~ Improper exterior masonry cleaning methods;

~~c.[3.]~~ Improper introduction of insulation if damage to historic fabric would result; and

~~d.[4.]~~ Incompatible additions and new construction.

(d) The council may consider the dismantling and rebuilding of a portion of a certified historic structure to stabilize and repair weakened structural members and systems as a certified historic rehabilitation if:

1. The necessity for dismantling is justified in supporting documentation;

2. Significant architectural features and overall design are retained; and

3. Adequate historic materials are retained to maintain the architectural and historic integrity of the overall structure.

(3) Substantial rehabilitation. A rehabilitation project shall be a substantial rehabilitation only if the requirements of KRS 171.396(9) and (10) are met. To determine ~~if[whether]~~ a rehabilitation project is a substantial rehabilitation, the conditions established in this subsection shall apply.

(a) Increases to the adjusted basis of the structure shall include capital improvements to the structure, legal fees incurred for perfecting title, and zoning costs. Any depreciation previously claimed for the structure shall be subtracted from this figure.

(b) If a cost only partially qualifies as an eligible rehabilitation expense because some of the cost is attributable to the enlargement of the building, the expenditures shall be apportioned proportionately between the original portion of the building and the enlargement.

(c) In addition to the expenses listed in KRS 171.396(9), qualified rehabilitation expenses shall include:

1. The cost of work done to structural components of the building within the footprint of the historic structure if ~~the components[they]~~ are permanent;

2. Costs related to new heating, plumbing, and electrical systems, as well as expenses related to updating kitchens and bathrooms, compliance with the Americans with Disabilities Act of 1990, ~~[(42 U.S.C. 12101)]~~, and fire suppression systems and fire escapes; and

3. The cost of architectural and engineering fees, site survey fees, legal expenses, development fees, and other construction-related costs, if those costs are added to the basis of the property.

(d) In addition to the exclusions listed in KRS 171.396(9), qualified rehabilitation expenses shall not include the construction costs for a new building, parking lot, or sidewalk.

(4) Review of Part 2 Applications.

(a) A complete and adequately documented Certification Application Part 2- Description of Rehabilitation shall be reviewed by the council for a determination that the rehabilitation plan is a substantial rehabilitation and meets the standards for rehabilitation established in subsection (2) of this section. Applicants that do not meet this standard ~~shall~~**[will]** be notified via email and given ~~ten (10)~~**[40]** days to submit missing elements; otherwise, the project ~~shall~~**[will]** be placed on hold and removed from the allocation pool until KHC certifies that the Part 2 constitutes a complete and adequately documented application.

(b) After consideration of the information contained in the application and other available information, the council shall issue a preliminary certification of rehabilitation if the rehabilitation plan is a substantial rehabilitation and meets the standards for rehabilitation established in subsection (2) of this section.

(5)(a) If the application is not adequate to complete the review or if revisions to the rehabilitation project are necessary to meet the standards of rehabilitation established in subsection (2) of this section, the council shall attempt to notify the applicant by mail, telephone, or e-mail using the contact information provided on the application.

(b) An applicant's failure to respond ~~shall~~**[may]** result in denial of the application.

(c) The council's notification or failure to notify shall not constitute a waiver of a deficiency or an alteration of a time limitation established under the Act.

(6) Changes to rehabilitation plans. Once a rehabilitation plan has been approved by the council, an applicant may only make substantive changes in the work ~~stated~~**[described]** in the application by:

(a) Filing a Certification Application-Continuation/Amendment form with the council; and

(b) Receiving notification from the council that the revised plan continues to meet the standards of rehabilitation established in subsection (2) of this section and is a substantial rehabilitation.

Section 5. Certifications of Rehabilitation-Part 3 Completed Work. (1) Application. Upon completion of a rehabilitation project, an applicant shall file a Certification Application Part 3-Request for Certification of Completed Work form with the council for final certification of rehabilitation. An application shall include the~~[-following information]:~~

(a) Names and mailing addresses of owners;

(b) Name and address of property;

(c) Designation of whether the application is for owner-occupied residential property or other property;

(d) Actual starting date and completion date;

(e) Actual qualified rehabilitation expenses;

(f) Photographs adequate to document the appearance of the structure, both on the interior and exterior, and its site and environment during and after rehabilitation;

(g) ~~Taxpayer~~**[The taxpayer]** identification number or Social Security number; and

(h) Signatures of owners or a representative authorized to sign on behalf of the owner requesting certification.

(2) Summary of Investment and Election of Credit. In addition to filing a Certification Application Part 3-Request for Certification of Completed Work form, the applicant shall file a Summary of Investment and Election of Credit form with the council. The Summary of Investment and Election of Credit shall include the~~[-following]:~~

(a) Names and mailing addresses of the owners;
(b) Name and address of the property;
(c) Actual costs attributed to the rehabilitation work;
(d) Signatures of the owners or a representative authorized to sign on behalf of the owner;
(e) Notarization of the signatures if the property is an owner-occupied residence or, for all other property, compilation by a certified public accountant or equivalent of the actual costs attributed to the rehabilitation of the historic structure; and

(f) An irrevocable election by the taxpayer to:

1. Use the credit, in which case, the credit shall be refundable; or
2. Transfer the credit, pursuant to KRS 171.397(8).

(3) Scope of review.

(a)1. Rehabilitation shall encompass all work on the interior and exterior of the certified historic structure or structures and the site and environment, ~~[as determined by the council,]~~ as well as related demolition, new construction, or rehabilitation work ~~that could~~**[which may]** affect the historic qualities, integrity or site, landscape features, and environment of the certified historic structure.

2. Conformance to the standards of rehabilitation established in Section 4(2) of this administrative regulation shall be determined on the basis of application documentation and other available information by evaluating the property as it existed prior to the commencement of rehabilitation.

(b) A phased rehabilitation project shall not be ~~authorized~~**[permitted]**. Starting April 30, 2022, a Part 2 application ~~shall~~**[may]** not be submitted if a building has already received a Part 2 allocation from a previous year that has not yet been certified or if the owner has not relinquished that allocation in writing.

(c) Portions of a completed rehabilitation project that are not in conformance with the standards for rehabilitation shall not be exempted and ~~shall~~**[may]** result in denial of the Certification Application Part 3-Request for Certification of Completed Work.

(4) Review of Part 3 Applications. A complete and adequately documented Certification Application Part 3 - Request for Certification of Completed Work shall be reviewed by the council for a determination that the completed rehabilitation project is a certified rehabilitation and a determination of the final amount of credit approved. The council shall issue a final certification of rehabilitation if ~~[all the following requirements have been met]~~:

(a) All elements of the completed rehabilitation project meet the standards for rehabilitation as established in Section 4(2) of this administrative regulation;

(b) The completed rehabilitation project was a substantial rehabilitation; and

(c) Part 3 was filed with the council after the completion date.

(5) If the application is not adequate to complete the review or if revisions to the rehabilitation project are necessary to meet the standards of rehabilitation established in Section 4(2) of this administrative regulation, the council shall attempt to notify the applicant by mail, telephone, or e-mail using the contact information provided on the application. Applicant's failure to respond ~~shall~~**[may]** result in denial of the application. The council's notification or failure to notify shall not constitute a waiver or alteration of time limitations established under the Act.

Section 6. Recapture of Preliminary Tax Credit Allocation For Credits Under KRS 171.397. (1) Notice of Recapture. For tax credits under KRS 171.397, if an owner fails to obtain a Certification of Completed Work within thirty-six (36) months from the date of the taxpayer's preliminary allocation of tax credit, the director shall mail to the owner written notice of recapture of the preliminary tax credit allocation.

(2) Objection.

(a) If the owner objects to the recapture of the preliminary allocation of tax credit, the owner shall file written notice of objection accompanied by a supporting statement **establishing[setting forth]** grounds for objection within forty-five (45) days of the date of the notice of recapture.

(b) If the owner does not timely object, the preliminary tax credit allocation shall be recaptured by the council and added to the certification rehabilitation credit cap for the next calendar year, pursuant to KRS 171.397(2)(c).

(3) Reinstatement. Within thirty (30) days of receipt of the owner's notice of objection, the council shall review the objection and determine if the owner has provided reasonable grounds as established in subsection (5) of this section to reinstate the preliminary allocation.

(a) If the council determines that the preliminary tax credit allocation shall be reinstated, the:

1. Council shall give the owner written notice that the preliminary tax credit allocation has been reinstated for an additional twenty-four (24) months;

2. Owner shall pay a review fee for a Part 2 application in the amount established in Section 10(2) of this administrative regulation, whichever is applicable; and

3. Owner shall obtain a **signed Part 3-Request for** Certification of Completed Work **(TC-3 form)** on or before the expiration of twenty-four (24) months. If the owner fails to obtain a Certification of Completed Work or fails to request an extension under subsection (4) of this section, the council shall initiate recapture of the preliminary tax credit allocation under the procedures established in this section.

(b) If the council determines that the preliminary tax credit allocation shall not be reinstated:

1. The council shall give the owner written notice that the preliminary tax credit allocation has not been reinstated;

2. The owner shall be given thirty (30) days from the date of the notice that the preliminary tax credit allocation has not been reinstated to file an appeal, pursuant to Section 8 of this administrative regulation; and

3. If the owner fails to file a timely appeal, pursuant to Section 8 of this administrative regulation:

a. The preliminary allocation shall not be reinstated;

b. The preliminary tax credit allocation shall be recaptured by the council; and

c. The preliminary tax credit allocation shall be added to the certification rehabilitation credit cap for the next calendar year, pursuant to KRS 171.397(2)(c).

(4) Extension of Preliminary Tax Credit Allocation. (a) At any time prior to expiration of thirty-six (36) months from the date of the taxpayer's preliminary allocation of tax, an owner may request in writing that the preliminary tax credit allocation be extended for a period of twenty-four (24) months if the **owner:**

1. **Provides[Owner Provides]** written documentation of reasonable grounds established in subsection (5) of this section for an extension; and

2. ~~Pays~~**[Owner Pays]** a review fee for a Part 2 application in the amount established in Section 10(2) of this administrative regulation, whichever is applicable.

(b) Prior to the expiration of the twenty-four (24) month extension, the owner may request another extension under the procedures established in this subsection. There shall not be a limit on the number of extensions that an owner may request.

(5) Grounds for Reinstatement or Extension.

(a) Reasonable grounds shall be documentation of on-going efforts to obtain financial, legal, material, or physical resources necessary to complete the rehabilitation project or documentation that the delay in completion of the rehabilitation project is necessary and unavoidable.

(b) Reasonable grounds shall not include casualty loss or demolition to the extent that the structure no longer qualifies as a certified historic structure, inability to qualify as a substantial rehabilitation, or inability or unwillingness to perform work conditioned by the council and necessary to qualify the project as a certified rehabilitation.

(c) The number of prior reinstatements or extensions shall not be a factor in determining if a reinstatement or extension shall be granted.

Section 7. Inspection. The director or an authorized representative of the council shall be ~~au-~~**thorized**~~[permitted]~~ to conduct an inspection of the property at any time up to three (3) years after the council has issued a Certification of Completed Work to determine if the work meets the standards for rehabilitation established in Section 4(2) of this administrative regulation.

Section 8. Appeal. A taxpayer may appeal a determination that the rehabilitation project does not qualify as a certified rehabilitation for purposes of the Act. ~~An appeal shall be filed~~**[by filing an appeal]** in writing, in care of the council, to the director or a reviewing officer designated by the director to hear an appeal. (1) An appeal shall be made within thirty (30) days of the date of receipt of the determination being appealed.

(2) The director or the reviewing officer shall decide, based solely upon the record developed by the council, if the council:

- (a) Reached incorrect conclusions of law;
- (b) Made clearly erroneous factual findings;
- (c) Did not consider relevant facts; or
- (d) Abused the discretion available to that person.

(3) The director's or reviewing officer's decision shall:

- (a) Confirm the determination;
- (b) Reverse the determination ~~due to~~**[on account of]** incorrect conclusions of law; or
- (c) Remand the matter to the council for further proceedings.

(4) The director or reviewing officer shall decide the appeal and shall notify the taxpayer of the decision in writing within thirty (30) days from the date the appeal is received.

(5) If the appeal is decided by a reviewing officer and the reviewing officer affirms the determination, the taxpayer may appeal the reviewing officer's determination in writing to the director. ~~An appeal shall be~~**[r]** pursuant to this subsection.

(a) An appeal to the director shall be filed within the time period established in subsection (1) of this section.

(b) The director shall use the same standards of review established in subsection (2) of this section.

(c) The director shall:

1. Confirm the decision of the reviewing officer;
2. Reverse the determination ~~due to~~~~[on account of]~~ incorrect conclusions of law; or
3. Remand the matter to the council for further proceedings.

(d) The director shall decide the appeal and shall notify the taxpayer of the decision in writing within thirty (30) days from the date the appeal is received.

Section 9. Revocation of Owners' Certifications. (1) If, after obtaining final certification of rehabilitation, the council determines that the rehabilitation was not undertaken as represented by the owner in the applications, amendments, or supporting documentation, or the owner upon obtaining final certification undertook disqualifying work, the council may revoke a certification by giving written notice to the owner.

(2) The owner may file an appeal, pursuant to Section 8 of this administrative regulation.

(3) If the owner fails to file a timely appeal, the final certification of rehabilitation shall be revoked.

Section 10. Fees for Processing Rehabilitation Certification Requests.

(1)(a) Payment of fees for review of Parts 2 and 3 shall be filed with the council ~~with~~~~[when]~~ applications~~[-are filed]~~ and ~~shall be~~~~[are]~~ nonrefundable.

(b) Certification shall not be issued until the appropriate remittance is received.

(c) Payment shall be made by check or money order payable to the Kentucky State Treasurer.

(2) For tax credits under KRS 171.397, fees for reviewing rehabilitation certification requests of owner-occupied residential property, commercial, and other buildings shall be charged in accordance with the ~~table established in this subsection~~~~[following schedule]~~. If a Part 2 application is denied, there shall not be a charge for a Part 3 review.

Rehabilitation Costs for Owner-Occupied Residences, Commercial and Other Buildings	Part 2 Review Fee	Part 3 Review Fee
\$20,000 - \$50,000	\$150.00	\$150.00
\$50,001 - 100,000	\$250.00	\$250.00
\$100,001 - \$250,000	\$375.00	\$375.00
250,001 - \$500,000	\$500.00	\$500.00
\$500,001 - \$6,000,000	.15% of estimate eligible costs and expenses	.15% of estimate eligible costs and expenses

Over \$6,000,000	\$9,000.00	\$9,000.00
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Section 11. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Certification Application Part 1-Evaluation of National Register Status", KHC Form TC-1, Rev. 2022;

(b) "Certification Application Part 2-Description of Rehabilitation", KHC Form TC-2, Rev. 2022;

(c) "Certification Application Part 3-Request for Certification of Completed Work", KHC Form TC-3, Rev. 2022;

(d) "Certification Application-Continuation/Amendment", KHC Form TC-2a, Rev. 2022; ~~and~~

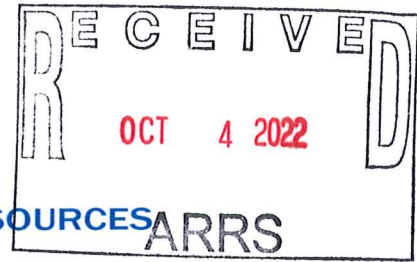
(e) "Summary of Investment and Election of Credit", KHC Form TC-4, Rev. 2022; and

(f) Intent to Apply for Major Rehabilitation, KHC Form TC-00, Rev. 2022;

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Heritage Council, 410 High Street, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

(3) This material is also available on the Council's Web site at <https://heritage.ky.gov/historic-buildings/rehab-tax-credits/Pages/guides.aspx>.

CONTACT PERSON: Craig Potts, Executive Director, 410 High Street, Frankfort, Kentucky 40601, phone (502) 564-7005, fax (502) 564-5820, email craig.potts@ky.gov.



KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES

Rich Storm
Commissioner

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Phone (502) 564-3400
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Brian Clark
Deputy Commissioner

October 4, 2022

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Sarah Amburgey
Administrative Regulation Review Subcommittee
Legislative Research Commission
Room 29, Capitol Annex
Frankfort, Kentucky 40601

Re: **301 KAR 1:410**. Taking of fish by nontraditional fishing methods.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 1:410, Taking of fish by nontraditional fishing methods, the Department of Fish and Wildlife Resources proposes the attached amendment to 301 KAR 1:410.

Sincerely,

A handwritten signature in black ink, appearing to read "Rich Storm".

Rich Storm, Commissioner
Department of Fish and Wildlife Resources
#1 Sportsman's Lane
Frankfort, Kentucky 40601

SUGGESTED SUBSTITUTE

Final Version: 9/30/2022 2:10 PM

TOURISM, ARTS AND HERITAGE CABINET Department of Fish and Wildlife Resources

301 KAR 1:410. Taking of fish by nontraditional fishing methods.

RELATES TO: KRS 150.010, 150.170, 150.175, 150.235, 150.445, 150.620, 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.440, 150.470, 235.280

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish seasons for the taking of fish and wildlife, to regulate bag limits, creel limits, and methods of take, and to make those requirements apply to a limited area. KRS 150.440 requires the department to promulgate administrative regulations for establishing open seasons and creel limits for rough fish by gigging, grabbing, snaring, and snagging. KRS 150.470 requires the department to promulgate administrative regulations for bag or creel limits for fish. KRS 235.280 requires the department to promulgate administrative regulations to govern the fair, reasonable, equitable, and safe use of all waters of the state. This administrative regulation establishes the procedures for taking sport and rough fish by nontraditional fishing methods.

Section 1. Definitions.

- (1) "Angler" means a person holding a valid resident or nonresident fishing license and includes those persons who are fishing license exempt as established in KRS 150.170.
- (2) "Archery equipment" means a long bow, recurve bow, or compound bow incapable of holding an arrow at full or partial draw without aid from the archer.
- (3) "Asian carp" means bighead carp, silver carp, black carp, and grass carp.
- (4) "Bow fishing" means shooting rough fish with an arrow with a barbed or retractable style point that has a line attached to it for retrieval with archery equipment, a crossbow, or a pneumatic arrow launching device.
- (5) "Catfish" means a blue catfish, channel catfish, or flathead catfish.
- (6) "Crossbow" means a bow designed or fitted with a device to hold an arrow at full or partial draw without the aid from an archer.
- (7) "Cull" means to release a previously caught fish that an angler has kept as a part of a daily creel limit and replace it with another fish of the same species.
- (8) "Pneumatic arrow launching device" means a device designed to fire an arrow through the use of a compressed air cartridge.
- (9) "Possession limit" means the maximum number of unprocessed fish a person may hold after two (2) or more days of fishing.
- (10) "Temporary aquatic area" means an area temporarily inundated from, but still connected to, a stream, river, or reservoir and that persists only for the duration of the elevated water levels.
- (11) "Temporary pool" means an area temporarily inundated from, but not connected to, a stream, river, or reservoir.
- (12) "Trophy catfish" means a:
 - (a) Blue or flathead catfish that is a minimum of thirty-five (35) inches in length; or
 - (b) Channel catfish that is a minimum of twenty-eight (28) inches in length.

Section 2. General Provisions.

(1) A person using nontraditional fishing methods shall observe the daily creel limits and size limits established in paragraphs (a) through (d) of this subsection:

(a) The daily creel limit for catfish using any non-traditional fishing method shall not include more than one (1) trophy catfish of each species, except as established in Section 7(3) of this administrative regulation.~~;~~~~]~~

(b) The paddlefish daily creel limit **shall be** two (2) **with** no size limit.~~;~~~~]~~

(c) The shovelnose sturgeon daily creel limit **shall be** two (2) **with** no size limit.~~;~~ **and]**

(d) The asian carp daily creel limit **shall be** unlimited **with** no size limit.

(2) The possession limit for paddlefish and trophy catfish shall be two (2) times the daily creel limit for each species.

(3) Shovelnose sturgeon **shall** not be harvested from the Mississippi River and **shall** be immediately released.~~[may]~~~~[must]~~

(4) A person shall release any:

(a) Lake sturgeon;~~[-øø]~~

(b) Pallid sturgeon; or

(c) Alligator gar.

Section 3. Skin Diving, Scuba Diving, and Underwater Spear Fishing.

(1) Skin diving or scuba diving shall be prohibited in all lakes owned by the department, except as established in subsections (2), (3), and (4) of this section.

(2) Skin diving and scuba diving shall be allowed in salvage operations if the diver receives prior written permission from:

(a) The department's Division of Law Enforcement; or

(b) The local conservation officer who is assigned to the particular department-owned lake.

(3) Skin diving or scuba diving shall be permitted anytime without prior authorization in cases of emergency involving the possibility of saving human life or in the recovery of a drowning victim.

(4) Skin diving and scuba diving shall be allowed in Greenbo Lake:

(a) In a designated cove marked with signage and buoys;

(b) From April 1 through October 31; and

(c) From 10:00 a.m. to 6:00 p.m. daily.

(5) A person who is skin diving or scuba diving in a designated cove as established in subsection (4) of this section shall display an international diving flag as established in 301 KAR 6:030.

(6) Recreational boating and angling shall be prohibited in the designated cove marked with signage and buoys during the times open to skin diving and scuba diving as established in subsection (4) of this section if an international diving flag is present in the cove.

(7) Underwater spearing of fish with a hand-held spear or mechanically-propelled spear shall be legal throughout the year in lakes 1,000 surface acres in size or larger, as measured at the normal summer pool level as established in paragraphs (a) and (b) of this subsection.

(a) An angler who is spearing fish shall:

1. Be completely submerged in the water where spearing takes place; and

2. Only spear rough fish.

(b) The daily limit shall be fifteen (15) rough fish, no more than five (5) of which shall be catfish.

Section 4. Sport Fishing Trotlines, Jugging, and Setlines.

(1) Each sport fishing trotline, jug line, or setline shall be permanently labeled or tagged with the customer identification number found on the current sport fishing license of the person using it.

- (2) Each trotline, jug line, or setline shall be checked by the owner at least once every twenty-four (24) hours, at which time the owner shall:
- (a) Bait all hooks; and
 - (b) Remove all caught fish.
- (3) A trotline, setline, or jug line shall be confiscated if it is not:
- (a) Properly labeled or tagged; or
 - (b) Checked or baited at least once every twenty-four (24) hours.
- (4) An angler shall not use more than:
- (a) Two (2) sport fishing trotlines;
 - (b) Twenty-five (25) setlines; or
 - (c) Fifty (50) jug lines.
- (5) Multiple anglers in one (1) boat shall not use more than fifty (50) jug lines per boat.
- (6) An angler using a sport fishing trotline shall:
- (a) Set the trotline at least three (3) feet below the water's surface;
 - (b) Not have more than fifty (50) single or multi-barbed hooks; and
 - (c) Have all hooks at least eighteen (18) inches apart on the trotline.
- (7) A person shall not use a jug line or setline with more than one (1) single or multi-barbed hook.
- (8) A sport fishing trotline, jug line, or setline shall not be used in the waters established in paragraphs (a) through (d) of this subsection:
- (a) In the Tennessee River within 700 yards of Kentucky Lake Dam;
 - (b) In the Cumberland River below Lake Barkley Dam to the Highway 62 bridge;
 - (c) In any lake less than 500 surface acres owned or managed by the department, except:
 - 1. Ballard Wildlife Management Area lakes, Ballard County;
 - 2. Peal Wildlife Management Area lakes, Ballard County; and
 - 3. Swan Lake Wildlife Management Area lakes, Ballard County; or
 - (d) In the areas of the Ohio River established in subparagraphs 1. through 8. of this paragraph:
 - 1. Smithland Dam downstream to a line perpendicular to the end of the outer lock wall;
 - 2. J. T. Meyers Dam downstream to a line perpendicular to the end of the outer lock wall and that portion of the split channel around the southern part of Wabash Island from the fixed weir dam to the first dike;
 - 3. Newburgh Dam downstream to a line perpendicular to the end of the outer lock wall;
 - 4. Cannelton Dam downstream to a line perpendicular to the end of the outer lock wall;
 - 5. McAlpine Dam downstream to the K & I railroad bridge;
 - 6. Markland Dam downstream to a line perpendicular to the end of the outer lock wall;
 - 7. Meldahl Dam downstream to a line perpendicular to the end of the outer lock wall; or
 - 8. Greenup Dam downstream to a line perpendicular to the end of the outer lock wall.
- (9) An angler using a trotline, jug line, or setline shall follow all sport fish daily creel limits and size limits as established in 301 KAR 1:201.

Section 5. Temporary Aquatic Areas and Temporary Pools.

- (1) The department, with consent of the landowner, may delineate temporary aquatic areas and temporary pools where anglers may take rough fish by any method except:
- (a) Poison;
 - (b) Electrical devices;
 - (c) Firearms; or
 - (d) Explosives.

- (2) The department shall be authorized to establish the exact dates and times when rough fish may be taken in temporary aquatic areas and temporary pools.
- (3) A person with a valid commercial fishing license may use nets and seines if the nets and seines are appropriately tagged, as established in 301 KAR 1:146.
- (4) A person shall first obtain the permission of the landowner before taking rough fish from a temporary pool.

Section 6. Gigging and Snagging.

- (1) Gigging and snagging season shall be February 1 through May 10, except as established in subsections (7) and (9) of this section.
- (2) A person shall not:
 - (a) Gig or snag a sport fish, as established in 301 KAR 1:060, except as established in subsections (7) and (9) of this section;
 - (b) Gig or snag from a platform;
 - (c) Gig from a boat in any lake less than 500 surface acres;
 - (d) Gig at night from a boat; or
 - (e) Snag from a boat.
- (3) A snagging rod shall be equipped with:
 - (a) Line;
 - (b) Guides;
 - (c) A reel; and
 - (d) One (1) single hook or treble hook attached to the line, except that five (5) hooks, either single or treble, may be used while snagging in:
 - 1. The Green River and its tributaries; or
 - 2. The Rolling Fork River and its tributaries.
- (4) A person who accidentally gigs or snags a sport fish shall immediately return the fish to the water, except as established in subsections (7) and (9) of this section.
- (5) A person shall not gig or snag in the areas or bodies of water established in paragraphs (a) through (g) of this subsection:
 - (a) The Cumberland River below Wolf Creek Dam downstream to the Tennessee line, including Hatchery Creek;
 - (b) Any tributary of the Cumberland River below Wolf Creek Dam to the Tennessee line from the junction of the tributary with the Cumberland River to one-half (1/2) mile upstream;
 - (c) The Cumberland River below the Lake Barkley Dam to the U.S. 62 bridge;
 - (d) The Middle Fork of the Kentucky River, from Buckhorn Lake Dam downstream to the Breathitt County line in Perry County;
 - (e) ~~(d)~~ The Rough River, below Rough River Lake Dam downstream to the State Highway 54 bridge in Breckinridge and Grayson Counties;
 - (f) ~~(e)~~ Cave Run Lake; or
 - (g) ~~(f)~~ Within 200 yards of any dam on a river or stream, except as established in subsection (7) of this section.
- (6) A person shall not gig in the Tennessee River below Kentucky Lake Dam.
- (7) A person may snag sport fish or rough fish in the Tennessee River below the Kentucky Lake Dam to the U.S. 62 bridge:
 - (a) For twenty-four (24) hours a day from January 1 through May 31; and
 - (b) From sunset to sunrise from June 1 through December 31.

(8) A person shall not snag in that section of the Tennessee River from the U.S. 62 bridge to the Interstate 24 bridge.

(9) A person may snag sport fish or rough fish year-round in the section of the Tennessee River from the Interstate 24 bridge to the Ohio River.

(10) A person shall not snag on the Tennessee River:

(a) Under the U.S. 62 bridge;

(b) Under the P & L Railroad bridge; or

(c) From any fishing pier or jetty~~[the fishing piers located below the U.S. 62 bridge]~~.

(11) There shall not be a daily creel limit for rough fish except[;]

~~[(a)] [The daily creel limit for rough fish in the Cumberland River below Barkley Lake Dam][shall be eight (8), except there shall not be a creel limit on Asian Carp;]~~

~~[(b)] the daily aggregate creel limit for snagging of rough and sport fish in the Tennessee River below Kentucky Lake Dam shall be eight (8), except there shall not be a creel limit on Asian Carp.[-and]~~

~~[(c)]~~

~~[1.] [The statewide daily creel limit for snagging paddlefish shall be two (2), in all areas][outside those established in paragraphs (a) and (b) of this subsection; and]~~

~~[2.] [In an area established in paragraph (a) or (b) of this subsection, up to eight (8)][paddlefish may be taken.]~~

(12) There shall not be a size limit for sport fish snagged in the Tennessee River below Kentucky Lake Dam.

(13) A person shall immediately retain, and not release or cull, any gilled or snagged paddlefish.

~~(14)[(43)]~~ All snagged fish in the Tennessee River below Kentucky Lake Dam shall be immediately retained, and not released or culled, except for Asian carp, shad, or herring.

~~(15)[(44)]~~ All gilled or snagged rough fish in the Cumberland River below Lake Barkley ~~[Lake]~~ Dam shall be immediately retained, and not released or culled, except for Asian carp, shad, or herring.

~~(16)[(45)]~~ A person shall immediately cease snagging if:

(a) A daily creel limit of paddlefish is reached;

(b) A daily creel limit of shovelnose sturgeon is reached;

(c) A daily creel limit of sport fish has been caught in the Tennessee River below Kentucky Lake Dam, even if the creel limit for that sport fish is less than eight (8); or

~~(d)[(e)]~~ A trophy catfish is snagged.

Section 7. Grabbing.

(1) The grabbing season for rough fish shall be June 1 to August 31 during daylight hours.

(2) Grabbing shall be permitted in all waters.

(3) The daily creel limit for grabbing shall be fifteen (15) fish, no more than five (5) of which may be catfish, except anglers grabbing at Barren River Lake, Carr Creek Lake, Dewey Lake, Fishtrap Lake, or Taylorsville Lake, may only harvest one (1) blue or channel catfish over twenty-five (25) inches.

Section 8. Bow Fishing.

(1) An angler using archery equipment, a crossbow, or a pneumatic arrow launching device shall not take:

(a) Sport fish;

(b) Alligator gar;

(c) More than five (5) catfish daily; or

~~(d) [More than two (2) paddlefish daily; or]~~

~~[(e)]~~ Lake sturgeon.

(2) Any paddlefish, shovelnose sturgeon, or catfish shot with archery equipment, a crossbow, or a pneumatic arrow launching device shall:

- (a) Be immediately retained, and not released or culled; and
- (b) Count toward a person's daily limit.

(3) Bow fishing shall be open statewide, except:

(a) In the Cumberland River below Wolf Creek Dam downstream to the Tennessee line including Hatchery Creek;

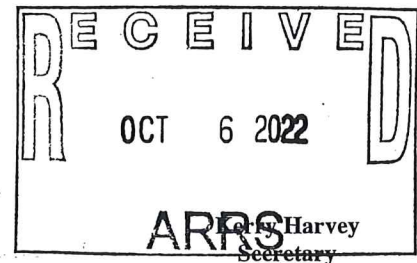
(b) In any tributary of the Cumberland River below Wolf Creek Dam to the Tennessee line, from the junction of the tributary with the Cumberland River to one-half (1/2) mile upstream;

(c) In ~~the following lakes~~:

1. Carpenter Lake (Davies County);
2. Clear Creek Lake (Bath County);
3. Greenbo Lake (Greenup County);
4. Lake Carnico (Nicholas County); and
5. Lake Reba (Madison County); or

(d) From a boat in restricted areas below navigation, power generating, or flood control dams.

CONTACT PERSON: Jenny Gilbert, Legislative Affairs, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.



Andy Beshear
Governor

KENTUCKY STATE POLICE

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Col. Phillip Burnett, Jr.
Commissioner

October 6, 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: **502 KAR 13:010** Application for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:030 Range qualification for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:040 Issuance, expiration, and renewal of certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:050 Replacement of licenses to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:060 Change of persona information regarding certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:080 Incomplete application for certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers



Page 2
October 6, 2022

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 502 KAR 13:010, 502 KAR 13:030, 502 KAR 13:040, 502 KAR 13:050, 502 KAR 13:060, and 502 KAR 13:080, the Justice and Public Safety Cabinet, Department of Kentucky State Police proposes the attached amendments to 502 KAR 13:010, 502 KAR 13:030, 502 KAR 13:040, 502 KAR 13:050, 502 KAR 13:060, and 502 KAR 13:080.

Sincerely,

A handwritten signature in cursive script that reads "Angela Parker". The signature is written in dark ink and is positioned above a horizontal line.

Angela Parker, Staff Assistant
Kentucky State Police

Cc: Brenn Combs

SUGGESTED SUBSTITUTE

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Kentucky State Police**

502 KAR 13:010. Application for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

RELATES TO: KRS 15.383, 61.365, 186.412, 237.138-237.142, 446.010~~(31)~~~~(29)~~, 18 U.S.C. 926C~~;~~
~~Pub.L. 108-277]~~

STATUTORY AUTHORITY: KRS 237.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 237.138 to 237.142 establish~~[establishes]~~
provisions for certification to carry a concealed deadly weapon for any elected or appointed
peace officer who is honorably retired and who meets the provisions of these statutes and the
Law Enforcement Officers Safety Act, 18 U.S.C. 926C. KRS 237.140 requires the Kentucky State
Police to promulgate administrative regulations to implement the provisions of KRS 237.138 to
237.142 for the certification of retired peace officers to carry a concealed deadly weapon pursuant
to 18 U.S.C. 926C.~~[provides for the certification of honorably retired elected or appointed peace~~
~~officers to carry a concealed deadly weapon pursuant to 18 U.S.C. 926C and~~
~~authorizes][requires][the department][Kentucky State Police][to promulgate administrative~~
~~regulations to implement the certification provisions.]~~ This administrative regulation establishes the
requirements and procedures for certification.

Section 1. Definitions.

- (1) "Applicant" means an honorably retired peace officer who has applied to the Kentucky State Police to be certified to carry a concealed deadly weapon pursuant to 18 U.S.C. 926C.
- (2) "Application form" means the ~~["]~~Commonwealth of Kentucky Carry Concealed Deadly Weapons/LEOSA: Application for License.~~["]~~
- (3) "Honorably retired" means an elected or appointed peace officer who meets the requirements to be a qualified retired law enforcement officer as defined by 18 U.S.C. 926C(c)~~;~~
 - ~~[(a)] [Separated in good standing from service with a public agency as a law enforcement officer;]~~
 - ~~[(b)] [Before separation, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;]~~
 - ~~[(c)]~~
 - ~~[1.] [Before separation, served as a law enforcement officer for an aggregate of ten (10) years or more; or]~~
 - ~~[2.] [Separated from service with an agency, after completing any applicable probationary period of service, due to a service-connected disability, as determined by the agency;]~~
 - ~~[(d)]~~
 - ~~[1.] [Has not been officially found by a qualified medical professional employed by the agency from which the applicant separated from service to be unqualified for reasons relating to mental health; or]~~
 - ~~[2.] [Has not entered into an agreement with the agency from which the applicant separated from service in which the applicant acknowledged that he or she is not qualified under 18 U.S.C. 926C for reasons relating to mental health;]~~
 - ~~[(e)] [During the most recent twelve (12) month period, has met, at the expense of the retired peace officer, Kentucky's standards for training and qualifications for active law enforcement officers to carry firearms, as set out in KRS 15.383;]~~

~~[(f)] [Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and]~~

~~[(g)] [Is not prohibited by Federal law from receiving a firearm].~~

(4) "License" means the document indicating the approved certification pursuant to the Law Enforcement Officers Safety Act of 2004, as codified in 18 U.S.C. 926C.

~~(5)[(4)]~~ "Peace officer" is defined by KRS 446.010~~(31)~~~~[(29)]~~ and 61.365.

Section 2. An application form shall be identified by a unique number that shall be:

- (1) Expressed on the application form as a bar code that contains the application number;
- (2) Used as the identifying number for the applicant; and
- (3) Machine and human readable.

Section 3. Application forms shall:

- (1) Not be stored in an area accessible to the public; and
- (2) Not be removed from the office of the sheriff except as permitted by Section ~~7~~~~6~~(4) of this administrative regulation.

Section 4. An applicant~~[Applicants]~~ shall submit an application *form* and documents required by KRS 237.138 to 237.142 to the department~~[by]~~:

- (1) Electronically, via the portal on the department Web site ~~[and according to the procedures as described by the department]; or~~
- (2) By the procedures ~~[set forth]~~ in Section 5 ~~through~~~~[-]~~ Section 7 of this administrative regulation.

Section 5. A sheriff shall issue an application form to an applicant if:

- (1) An applicant meets the requirements established by KRS 237.138 to 237.142;
- (2) The sheriff has verified that an applicant is qualified for certification pursuant to KRS 237.138 to 237.142 and this administrative regulation;
- (3) An applicant has submitted the material required by KRS 237.138 to 237.142 and this administrative regulation;
- (4) Verification that an applicant is a Kentucky resident is made by:
 - (a) Submission of a valid Kentucky operator's license or personal identification card issued by the Transportation Cabinet ~~[a circuit court clerk]~~ pursuant to KRS 186.412;
 - (b) Personal knowledge of the sheriff; or
 - (c) Confirmation by another governmental agency; and
- (5) Verification of an applicant's Social Security number is made by submission of:
 - (a) The applicant's Social Security card; or
 - (b) A governmental agency document that contains the applicant's name and Social Security number.

Section 6.~~[Section 5.]~~ Completion of Paper Application Form through Sheriff. An applicant shall:

- (1) Complete an application form;
- (2) Sign the application in the applicant signature block of the application form in ink;
- (3) Provide the information required by KRS 237.110(7)(a) through (e) on the application form;
- (4) Not fold or tear the form;
- (5) Use a black ink pen to complete the form;
- (6) Not mark or otherwise make an entry in the "For Sheriff's Dept. Use Only" portion;
- (7) Fill each bubble completely;
- (8) Fill in or enter information, as appropriate, within a column block or bubble;
- (9) Write within the constrained areas;
- (10) Use upper case (capital) letters;
- (11) Provide a photograph of the applicant complying with the provisions of 502 KAR 13:070;
- (12) Submit the following completed forms to the sheriff to be attached to the application form:
 - (a) A KSP ~~[Form]~~ 123, LEOSA/Law Enforcement Officers Safety Act Licensee Peace Officer Range Qualification Certification~~[-LEOSA (KSP 123)]~~;

- (b) A KSP ~~[Form]~~ 124A, LEOSA Applicant Certification ~~[(KSP 124A)]~~; and
- (c) A KSP ~~[Form]~~ 124B, LEOSA Law Enforcement Retirement Certification~~[(KSP 124B)]~~; and
- (13) Not be required to pay an application fee.

Section 7.~~[Section 6.]~~ Sheriff's Duties.

- (1) If an applicant fails to follow the instructions for completion of an application, the sheriff shall:
 - (a) Destroy the improperly completed application; and
 - (b) Require the applicant to complete a new application form.
- (2) The sheriff shall complete in black ink the lower right hand portion of the application form titled "For Sheriff's Dept. Use Only" by:
 - (a) Completing the ORI Number;
 - (b) Filling in the date of application;
 - (c) Indicating the applicant is a retired peace officer;
 - (d) Indicating the applicant is seeking LEOSA certification; and
 - (e) Signing in the portion labeled "Authorizing Official Signature."
- (3) The sheriff shall place the following material in a single applicant packet:
 - (a) The applicant's completed application form;
 - (b) A photograph of the applicant complying with the provisions of 502 KAR 13:070; and
 - (c) ~~[A]~~ Completed KSP forms 123, 124A, and 124B.
- (4) The sheriff shall mail single applicant packets~~[:]~~
 - ~~[(a)]~~ in a bulk mailer to Kentucky State Police, LEOSA, 1266 Louisville Road, Frankfort, Kentucky 40601.~~[:; and]~~
 - ~~[(b)]~~ ~~[On dates established by the "CCDW-LEOSA Application Mailing Schedule For Sheriffs."]~~

Section 8.~~[Section 7.]~~ Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "Carry Concealed Deadly Weapons/LEOSA: Application for License", September 2022~~[2019 edition];~~
 - ~~(b) ["Commonwealth of Kentucky Carry Concealed Deadly Weapons/LEOSA: Application for License", October 2009;]~~
 - ~~[(b)]["CCDW-LEOSA Application Mailing Schedule For Sheriffs", July 2006;]~~
 - ~~[(e)]["KSP Form 123," LEOSA/Law Enforcement Officers Safety Act Licensee Peace Officer] Range Qualification Certification", "KSP 123, 2022~~[2014 edition]~~ LEOSA", KSP 123, 07/05];~~
 - ~~(c)~~~~[(b)]~~~~[(d)]~~"KSP Form 124A," "LEOSA Applicant Certification", KSP 124A~~[KSP 124A], [December]2022~~~~[2010 edition];~~ and
 - ~~(d)~~~~[(e)]~~~~[(e)]~~"KSP Form 124B," "LEOSA Law Enforcement Retirement Certification", KSP 124B, 2014~~[edition].~~~~[KSP 124B, December 2010.]~~
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Criminal Identification and Records Branch, Kentucky State Police, 1266 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday 8 a.m. to 4:30 p.m. This material is also available on the department Web site at kentuckystatepolice.org.~~[:; phone, (502) 227-8700.]~~

CONTACT PERSON: Brenn Combs, Staff Attorney, 919 Versailles Road~~[Amy Barker, Assistant General Counsel, 125 Holmes Street]~~, Frankfort, Kentucky 40601, phone (502) 782-1800~~[564-8207]~~, fax (502) 573-1636~~[564-6686]~~, email brenn.combs@ky.gov~~[Justice.RegContact@ky.gov]~~.

Changes to Material Incorporated by Reference

License Application

Page 1

"For Sheriff's Dept. Use Only" Box

Insert line to indicate if an active or honorably discharged service member.

Page 1

Revision Date

After "Revision Date:", insert "September 2022".
Delete "January 2019".

Page 2

"If qualifying under KRS 237.110(6)(d)" paragraph

Insert statement required by KRS 237.110(7)(e)3 regarding service member documentation.

Page 2

Revision Date

After "Rev.", insert "09/22".
Delete "01/19".

KSP 123

Page 1

After "☐ A firearms instructor of the agency from which the retired peace officer identified above is retired;", insert the following:

☐ A currently certified peace officer who has successfully completed a Kentucky Law Enforcement Council approved firearms instructor course;

Page 1

Revision Date

After "Revised", insert "9/22".
Delete "7/14".

KSP 124A

Page 1

Certification 6), second sentence

After "I also understand that a LEOSA license is not automatically renewable and", insert the following:

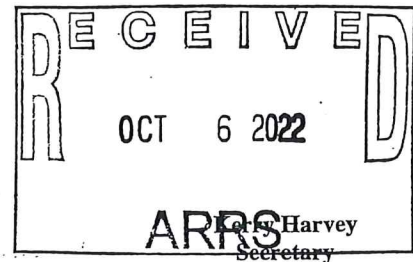
I must resubmit all documentation required in KRS 237.140(2) if I wish to continue to carry a concealed firearm pursuant to LEOSA after the expiration of the one (1) year period.

Delete the remainder of this paragraph in its entirety.

Page 1

Revision Date

After "Rev.", insert "9/22".
Delete "12/10".



Andy Beshear
Governor

KENTUCKY STATE POLICE

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Col. Phillip Burnett, Jr.
Commissioner

October 6, 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: 502 KAR 13:010 Application for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:030 Range qualification for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:040 Issuance, expiration, and renewal of certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:050 Replacement of licenses to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:060 Change of persona information regarding certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:080 Incomplete application for certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers



Page 2
October 6, 2022

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 502 KAR 13:010, 502 KAR 13:030, 502 KAR 13:040, 502 KAR 13:050, 502 KAR 13:060, and 502 KAR 13:080, the Justice and Public Safety Cabinet, Department of Kentucky State Police proposes the attached amendments to 502 KAR 13:010, 502 KAR 13:030, 502 KAR 13:040, 502 KAR 13:050, 502 KAR 13:060, and 502 KAR 13:080.

Sincerely,

A handwritten signature in cursive script that reads "Angela Parker". The signature is written in dark ink and is positioned above a horizontal line.

Angela Parker, Staff Assistant
Kentucky State Police

Cc: Brenn Combs

SUGGESTED SUBSTITUTE

JUSTICE AND PUBLIC SAFETY CABINET
Department of Kentucky State Police

502 KAR 13:030. Range qualification for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

RELATES TO: KRS 237.110, 237.138, 237.140, 237.142, 18 U.S.C. 926C

STATUTORY AUTHORITY: KRS 237.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 237.138 to 237.142 establish provisions for certification to carry a concealed deadly weapon for any elected or appointed peace officer who is honorably retired and who meets the provisions of these statutes and the Law Enforcement Officers Safety Act, 18 U.S.C. 926C. KRS 237.140 requires the Kentucky State Police to promulgate administrative regulations to implement the provisions of KRS 237.138 to 237.142~~[provides]~~ for the certification of ~~[honorably]~~ retired ~~[elected or appointed]~~ peace officers to carry a concealed deadly weapon pursuant to 18 U.S.C. 926C~~[and requires the department]~~~~[Kentucky State Police]~~~~[to promulgate administrative regulations to implement the certification provisions]~~. This administrative regulation establishes the requirements and procedures for range qualification for certification.

Section 1. Perform Live-firing Exercises. An applicant shall annually qualify for certification by performing a live-firing exercise in which the applicant is required to:

- (1) Fire from a safe position;
- (2) Perform without receiving any assistance in holding, aiming, or firing from the instructor or any other person; and
- (3) Meet the marksmanship qualification requirement for a retired peace officer as specified in KRS 237.140(4)(a).

Section 2. Supervision of Live-firing Exercise. The live-firing exercise shall be supervised as required by KRS 237.140(4)(b).

Section 3. Live-Firing Exercise Procedures and Grading.

- (1) If the live-firing exercise is conducted at a facility or range that requires a training instructor or range officer to clear or directly supervise and assist in the clearing of all firearm jams or malfunctions, the clearing of a firearm jam or malfunction by a certified firearms instructor or facility range officer in accordance with that policy shall not constitute prohibited assistance to an applicant for the purposes of Section 1(2) of this administrative regulation.
- (2) An applicant shall provide a safe, functional handgun and factory-loaded ammunition.
- (3) Prior to conducting range firing, the firearms instructor shall:
 - (a) Inspect each applicant's firearm; and
 - (b) Not allow the firing of a handgun that the instructor has reason to believe is not in sound mechanical condition or otherwise may pose a safety hazard.
- (4) A passing grade shall not be given on range work to an applicant who:
 - (a) Does not follow the orders of the firearms instructor;
 - (b) In the judgment of the firearms instructor, handles a firearm in a manner that poses a danger to the applicant or to others; or
 - (c) Fails to meet the marksmanship qualification requirement for a retired peace officer as specified in KRS 237.140(4)(a).
- (5) If the applicant successfully completes the live-firing exercise, the firearms instructor shall mail or hand deliver the completed KSP [Form-]123, LEOSA~~["Law Enforcement Officer Safety Act]~~

~~Peace~~["Peace"]/~~Officer~~ Range Qualification Certification[~~LEOSA," KSP Form Number 123~~], showing the applicant's successful completion of the live-firing exercise to the applicant within five (5) business days.

Section 4. Incorporation by Reference.

(1) [~~KSP Form 123,~~ ~~LEOSA/Law Enforcement Officer Safety Act Peace~~]~~Peace~~/~~Officer~~ Range Qualification Certification", ~~KSP 123~~[~~LEOSA," KSP 123~~], ~~2022~~[~~2014 edition~~],[~~07/05~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Criminal Identification and Records Branch, Kentucky State Police, ~~1266~~[~~1250~~] Louisville, Road, Frankfort, Kentucky 40601, Monday through Friday 8 a.m. to 4:30 p.m. This material is also available on the department Web site at kentuckystatepolice.org.[The phone number for the Criminal Identification and Records Branch is (502) 227-8700.]

CONTACT PERSON: Brenn Combs, Staff Attorney, 919 Versailles Road[~~Amy Barker, Assistant General Counsel, 125 Holmes Street~~], Frankfort, Kentucky 40601, phone (502) ~~782-1800~~[~~564-8207~~], fax (502) ~~573-1636~~[~~564-6686~~], email brenn.combs@ky.gov[~~Justice.RegContact@ky.gov~~].

Changes to Material Incorporated by Reference

KSP 123

Page 1

After "□ A firearms instructor of the agency from which the retired peace officer identified above is retired;", insert the following:

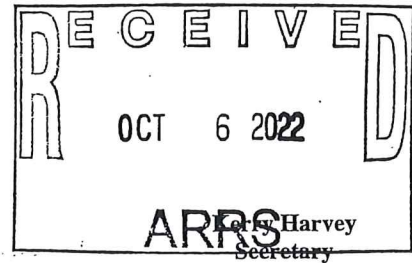
☐ A currently certified peace officer who has successfully completed a Kentucky Law Enforcement Council approved firearms instructor course;

Page 1

Revision Date

After "Revised", insert "9/22".

Delete "7/14".



Andy Beshear
Governor

KENTUCKY STATE POLICE

919 Versailles Road
Frankfort, Kentucky 40601
www.kentuckystatepolice.org
Custodian of Records Phone (502) 782-1873
Custodian of Records Fax (502) 573-1636

Col. Phillip Burnett, Jr.
Commissioner

October 6, 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: 502 KAR 13:010 Application for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:030 Range qualification for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:040 Issuance, expiration, and renewal of certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:050 Replacement of licenses to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:060 Change of persona information regarding certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:080 Incomplete application for certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers



Page 2
October 6, 2022

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 502 KAR 13:010, 502 KAR 13:030, 502 KAR 13:040, 502 KAR 13:050, 502 KAR 13:060, and 502 KAR 13:080, the Justice and Public Safety Cabinet, Department of Kentucky State Police proposes the attached amendments to 502 KAR 13:010, 502 KAR 13:030, 502 KAR 13:040, 502 KAR 13:050, 502 KAR 13:060, and 502 KAR 13:080.

Sincerely,

A handwritten signature in cursive script that reads "Angela Parker". The signature is written in dark ink and is positioned above a horizontal line.

Angela Parker, Staff Assistant
Kentucky State Police

Cc: Brenn Combs

SUGGESTED SUBSTITUTE

JUSTICE AND PUBLIC SAFETY CABINET Department of Kentucky State Police

502 KAR 13:040. Issuance, expiration, and renewal of certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

RELATES TO: KRS 186.412, 237.110, 237.138, 237.140, 237.142, 18 U.S.C. 926C

STATUTORY AUTHORITY: KRS 237.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 237.138 to 237.142 establish provisions for certification to carry a concealed deadly weapon for any elected or appointed peace officer who is honorably retired and who meets the provisions of these statutes and the Law Enforcement Officers Safety Act, 18 U.S.C. 926C. KRS 237.140 requires the Kentucky State Police to promulgate administrative regulations to implement the provisions of KRS 237.138 to 237.142~~[provides]~~ for the certification of ~~[honorably]~~ retired ~~[elected or appointed]~~ peace officers to carry a concealed deadly weapon pursuant to 18 U.S.C. 926C~~[- and requires the department]~~[Kentucky State Police]~~[- to promulgate administrative regulations to implement the certification provisions]~~. This administrative regulation establishes the requirements and procedures for the issuance, expiration, and renewal of a LEOSA license.

Section 1. ~~[Definition. (1) "License" means the document indicating the approved certification pursuant to the Law Enforcement Officers Safety Act of 2004, 18 U.S.C. 926C.]~~

~~[Section 2.]~~ Issuance of License.

- (1) The department shall issue a LEOSA license if it confirms that the applicant is qualified to carry a concealed deadly weapon pursuant to 18 U.S.C. 926C after the department has received the documentation required by 502 KAR 13:010.
- (2) If the department issues a LEOSA license, it shall:
 - (a) Transmit the license to the sheriff; and
 - (b) Send ~~a~~[an issuance] notice to the applicant;
1. [.] Informing him or her that the license is being conveyed to the sheriff of the county where the applicant resides and what date the license will be available from the sheriff; and
2. Including a section that the applicant may sign in the presence of the sheriff or the sheriff's designee.
- (3) The sheriff shall issue the license to the applicant upon:
 - (a) Verification of the identity of the applicant by:
 1. Submission of a valid Kentucky operator's license or personal identification card issued by the Transportation Cabinet ~~[a circuit court clerk]~~ pursuant to KRS 186.412; or
 2. Personal knowledge of the sheriff; and
 - (b) Signature on~~[of]~~ the notice of issuance ~~[notice]~~ by the applicant in the presence of the sheriff or the sheriff's designee.

Section 2. ~~[Section 3.]~~ Expiration. A LEOSA license shall expire one (1) year from the date of the range qualification listed on the KSP~~[Form]~~ 123, LEOSA~~["Law Enforcement Safety Act Licensee Peace"]~~~~["Peace"]~~~~[- Officer]~~ Range Qualification Certification~~[-LEOSA," KSP 123]~~, submitted with the application.

Section 3. Extension~~[Section 4. Renewal]~~.

(1) Not less than ninety (90)[one hundred twenty (120)] days prior to the expiration date of the license, the department shall ~~notify[mail to]~~ each licensee ~~[a notice]~~of the expiration ~~by mail~~["Notice of Expiration--LEOSA."]

(2) Any licensee wishing to ~~extend[renew]~~ the license shall ~~qualify with a certified range instructor in compliance with KRS 237.140 and have the required material submitted to the Department of Kentucky State Police by the range instructor. The extension shall be for up to one (1) year and may be repeated not more than four (4) times.~~

(3) Any licensee wishing to obtain a new license shall apply and be approved in the manner described in 502 KAR 13:010 and this administrative regulation for first time applicants except that a licensee shall not have to submit a copy of the ~~["LEOSA Law Enforcement Retirement Certification"]~~, KSP 124B, if the licensee previously submitted a retirement certification that was accepted by the department.

Section 4.[Section 5.] Identification. A LEOSA license issued by the department to a successful applicant shall consist of a photographic identification card containing the following:

(1) The front of the photographic identification card shall include the following information for the certified retired peace officer:

- (a) Name;
- (b) Address;
- (c) Date of birth;
- (d) Law enforcement agency retired from;
- (e) Expiration date of certification;
- (f) LEOSA license number; and
- (g) Photograph.

(2) The back of the photographic identification card shall state the following:~~[be substantially in the following form:]~~ The Commonwealth of Kentucky hereby certifies that the licensee identified on the front of this card is a qualified retired law enforcement officer as defined in the Law Enforcement Officers Safety Act of 2004, 18 U.S.C. 926C, and has, within one (1) year prior to the expiration date shown on the front of this card, been tested or otherwise found by the Commonwealth of Kentucky to meet the marksmanship qualification requirement established by the Commonwealth for peace officers.

Section 5.[Section 6.] Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "LEOSA[KSP Form 123, Law Enforcement Officer Safety Act Licensee Peace][Peace][Officer] Range Qualification Certification"~~["LEOSA", KSP 123], KSP 123, 2022[2014 edition][07/05];~~

~~[(b)] ["Notice of Issuance", 1/9/07];~~

~~[(e)] ["Notice of Expiration"]-["LEOSA", 6/21/07]; and~~

~~[(b)][(d)] [KSP Form 124B,]"LEOSA Law Enforcement Retirement Certification", KSP 124B, [KSP 124B,]2014[edition][December 2010].~~

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Criminal Identification and Records Branch, Kentucky State Police, 1266 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The phone number for the Criminal Identification and Records Branch is (502) 227-8700. This material is also available on the department's Web site at kentuckystatepolice.org.

CONTACT PERSON: Brenn Combs, Staff Attorney~~[Amy Barker, Assistant General Counsel], 919 Versailles Road[125 Holmes Street], Frankfort, Kentucky 40601, phone (502) 782-1800[564-8207], fax (502) 573-1636[564-6686], email brenn.combs@ky.gov[Justice.RegContact@ky.gov].~~

Changes to Material Incorporated by Reference:

After "□ A firearms instructor of the agency from which the retired peace officer identified above is retired;", insert the following:

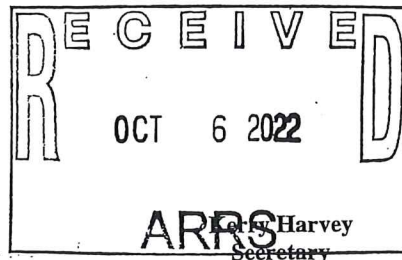
□ A currently certified peace officer who has successfully completed a Kentucky Law Enforcement Council approved firearms instructor course;

Page 1

Revision Date

After "Revised", insert "9/22".

Delete "7/14".



Andy Beshear
Governor

KENTUCKY STATE POLICE

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Col. Phillip Burnett, Jr.
Commissioner

October 6, 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: 502 KAR 13:010 Application for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:030 Range qualification for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:040 Issuance, expiration, and renewal of certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:050 Replacement of licenses to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:060 Change of persona information regarding certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:080 Incomplete application for certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

TEAM
KENTUCKY.

Page 2
October 6, 2022

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 502 KAR 13:010, 502 KAR 13:030, 502 KAR 13:040, 502 KAR 13:050, 502 KAR 13:060, and 502 KAR 13:080, the Justice and Public Safety Cabinet, Department of Kentucky State Police proposes the attached amendments to 502 KAR 13:010, 502 KAR 13:030, 502 KAR 13:040, 502 KAR 13:050, 502 KAR 13:060, and 502 KAR 13:080.

Sincerely,

A handwritten signature in cursive script that reads "Angela Parker". The signature is written in black ink and is positioned above a horizontal line.

Angela Parker, Staff Assistant
Kentucky State Police

Cc: Brenn Combs

Suggested Substitute

JUSTICE AND PUBLIC SAFETY CABINET
Department of Kentucky State Police

502 KAR 13:050. Replacement of licenses to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

RELATES TO: KRS 237.110, 237.138, 237.140, 237.142, 18 U.S.C. 926C

STATUTORY AUTHORITY: KRS 237.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 237.138 to 237.142 establish provisions for certification to carry a concealed deadly weapon for any elected or appointed peace officer who is honorably retired and who meets the provisions of these statutes and the Law Enforcement Officers Safety Act, 18 U.S.C. 926C. KRS 237.140 requires the Kentucky State Police to promulgate administrative regulations to implement the provisions of KRS 237.138 to 237.142~~[provides]~~ for the certification of ~~[honorably]~~ retired ~~[elected or appointed]~~ peace officers to carry a concealed deadly weapon pursuant to 18 U.S.C. 926C~~[and requires the department]~~~~[Kentucky State Police]~~~~[to promulgate administrative regulations to implement the certification provisions]~~. This administrative regulation establishes the requirements and procedures for the replacement of LEOSA licenses that have been lost, destroyed, or stolen.

Section 1. [Definition. (1) "License" means the document indicating the approved certification pursuant to the Law Enforcement Officers Safety Act of 2004, 18 U.S.C. 926C.]

~~[Section 2.]~~ Lost, Destroyed, or Stolen LEOSA License.

(1) If a LEOSA license is lost, destroyed, or stolen, a licensee shall notify the department on a ~~["Request For Duplicate LEOSA License,"]~~ KSP 127.

(2) A licensee shall complete the ~~["Request For Duplicate LEOSA License,"]~~ KSP 127, in the presence of the sheriff.

(3) The completed ~~["Request For Duplicate LEOSA License,"]~~ KSP 127, shall be:

(a) Signed by the licensee in the presence of the sheriff;~~["and"]~~

(b) Notarized;~~["and"]~~

(c) Signed by the sheriff; and

(d) Transmitted by the sheriff to the department as established~~[in the manner set forth]~~ in 502 KAR 13:010, Section 7(4)~~[11:010(10)]~~.

~~[(4)]~~ [The completed "Request For Duplicate LEOSA License," KSP 127 shall be:]

~~[(a)]~~ [Signed by the sheriff; and]

~~[(b)]~~ [Transmitted by the sheriff to the department in the manner set forth in 502 KAR 11:010, Section 10.]

(4) The department shall issue a duplicate license if it confirms that the requirements of 502 KAR 13:040 have been met.

~~[(5)]~~ [(5)] If the department approves the request for a duplicate license, the department shall:

(a) Issue a duplicate license that contains a license number that differs from the license number on the lost, destroyed, or stolen license;

(b) Send the duplicate license to the sheriff; and

(c) Notify the licensee in writing that the duplicate license may be obtained by the licensee:

1. At the office of the sheriff; and

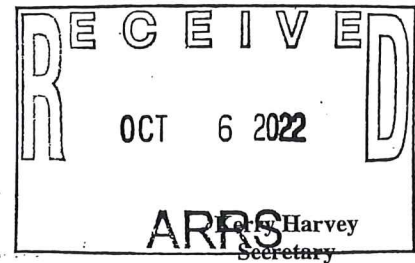
2. After verification of identity of the licensee as provided by 502 KAR 13:010, Section 5~~[4]~~.

~~[(5)](6)]~~ *If the department denies the request for a duplicate license, it shall notify the licensee in writing.*

Section 2.~~[Section 3.]~~ Incorporation by Reference.

(1) ~~[KSP Form 127,]~~ "Request For Duplicate LEOSA License", KSP 127, 2014~~["[KSP 127,]~~ 2006 edition~~], [06/12/06,~~ is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Criminal Identification and Records Branch, Kentucky State Police, 1266~~[1250]~~ Louisville, Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The phone number for the Criminal Identification and Records Branch is (502) 227-8700. This material is also available on the department's Web site at kentuckystatepolice.org.



Andy Beshear
Governor

KENTUCKY STATE POLICE

919 Versailles Road
Frankfort, Kentucky 40601
www.kentuckystatepolice.org
Custodian of Records Phone (502) 782-1873
Custodian of Records Fax (502) 573-1636

Col. Phillip Burnett, Jr.
Commissioner

October 6, 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: 502 KAR 13:010 Application for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:030 Range qualification for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:040 Issuance, expiration, and renewal of certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:050 Replacement of licenses to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:060 Change of persona information regarding certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

502 KAR 13:080 Incomplete application for certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers



Page 2
October 6, 2022

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 502 KAR 13:010, 502 KAR 13:030, 502 KAR 13:040, 502 KAR 13:050, 502 KAR 13:060, and 502 KAR 13:080, the Justice and Public Safety Cabinet, Department of Kentucky State Police proposes the attached amendments to 502 KAR 13:010, 502 KAR 13:030, 502 KAR 13:040, 502 KAR 13:050, 502 KAR 13:060, and 502 KAR 13:080.

Sincerely,

A handwritten signature in cursive script that reads "Angela Parker". The signature is written in dark ink and is positioned above a horizontal line.

Angela Parker, Staff Assistant
Kentucky State Police

Cc: Brenn Combs

SUGGESTED SUBSTITUTE

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Kentucky State Police**

502 KAR 13:060. Change of personal information regarding certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

RELATES TO: KRS 237.110, 237.138, 237.140, 237.142, 18 U.S.C. 926C

STATUTORY AUTHORITY: KRS 237.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 237.138 to 237.142 establish provisions for certification to carry a concealed deadly weapon for any elected or appointed peace officer who is honorably retired and who meets the provisions of these statutes and the Law Enforcement Officers Safety Act, 18 U.S.C. 926C. KRS 237.140 requires the Kentucky State Police to promulgate administrative regulations to implement the provisions of KRS 237.138 to 237.142~~[provides]~~ for the certification of ~~[honorably]retired [elected or appointed]~~ peace officers to carry a concealed deadly weapon pursuant to 18 U.S.C. 926C~~[and requires the department]~~~~[Kentucky State Police]~~~~[to promulgate administrative regulations to implement the certification provisions]~~. This administrative regulation establishes the requirements and procedures for the change of personal information regarding LEOSA licensees.

Section 1. ~~[Definition. (1) "License" means the document indicating the approved certification pursuant to the Law Enforcement Officers Safety Act of 2004, 18 U.S.C. 926C.]~~

~~[Section 2.]~~ Change of Personal Information.

- (1) If the address or personal information of a licensee has changed, the licensee shall notify the department within thirty (30) days of the change of personal information on the ~~["]~~Law Enforcement Officers Safety Act Licensee Request for Change of Personal Information,~~["]~~ KSP 120.
- (2) The ~~["]~~Law Enforcement Officers Safety Act Licensee Request for Change of Personal Information, ~~["]~~ KSP 120, shall be:
 - (a) Completed and signed by the licensee in the presence of the sheriff; and
 - (b) Executed under oath.
- (3) The sheriff shall verify the change of personal information as provided by 502 KAR 13:010, Section ~~5~~~~[4]~~.
- (4) The completed ~~["]~~Law Enforcement Officers Safety Act Licensee Request for Change of Personal Information, ~~["]~~ KSP 120, shall be:
 - (a) Signed by the sheriff; and
 - (b) Transmitted by the sheriff to the department pursuant to 502 KAR ~~13:010~~~~[11:010]~~, Section ~~7~~~~(4)~~~~[10]~~.

Section 2.~~[Section 3.]~~ Incorporation by Reference.

- (1) ~~[KSP Form 120, "Law Enforcement Officers Safety Act Licensee Request for Change of Personal Information", KSP 120, 2022]~~~~[, "KSP 120, [2006 edition] 08/06]~~, is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Criminal Identification and Records Branch, Kentucky State Police, ~~1266~~~~[1250]~~ Louisville, Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The phone number for the Criminal Identification and Records Branch is (502) 227-8700. This material is also available on the department's Web site at kentuckystatepolice.org.

Changes to Material Incorporated by Reference:

KSP 120

Page 1

Last Line

After "NO FEE IS", insert "CHARGED".

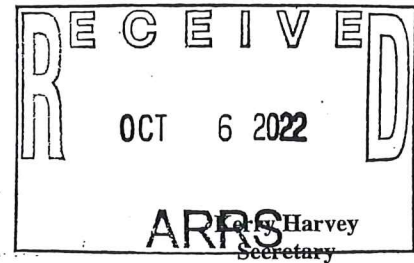
Delete "CHARGE".

Page 1

Revision Date

After "Revised", insert "9/22".

Delete "7/14".



Andy Beshear
Governor

KENTUCKY STATE POLICE

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Col. Phillip Burnett, Jr.
Commissioner

October 6, 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: 502 KAR 13:010 Application for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers
502 KAR 13:030 Range qualification for certification under the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers
502 KAR 13:040 Issuance, expiration, and renewal of certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers
502 KAR 13:050 Replacement of licenses to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers
502 KAR 13:060 Change of persona information regarding certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers
502 KAR 13:080 Incomplete application for certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers

TEAM
KENTUCKY.

Page 2
October 6, 2022

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 502 KAR 13:010, 502 KAR 13:030, 502 KAR 13:040, 502 KAR 13:050, 502 KAR 13:060, and 502 KAR 13:080, the Justice and Public Safety Cabinet, Department of Kentucky State Police proposes the attached amendments to 502 KAR 13:010, 502 KAR 13:030, 502 KAR 13:040, 502 KAR 13:050, 502 KAR 13:060, and 502 KAR 13:080.

Sincerely,

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Angela Parker, Staff Assistant
Kentucky State Police

Cc: Brenn Combs

SUGGESTED SUBSTITUTE

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Kentucky State Police.**

502 KAR 13:080. Incomplete application for certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

RELATES TO: KRS 237.110, 237.138, 237.140, 237.142, 18 U.S.C. 926C

STATUTORY AUTHORITY: KRS 237.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 237.138 to 237.142 establish provisions for certification to carry a concealed deadly weapon for any elected or appointed peace officer who is honorably retired and who meets the provisions of these statutes and the Law Enforcement Officers Safety Act, 18 U.S.C. 926C. KRS 237.140 requires the Kentucky State Police to promulgate administrative regulations to implement the provisions of KRS 237.138 to 237.142~~[provides]~~ for the certification of ~~[honorably]~~ retired ~~[elected or appointed]~~ peace officers to carry a concealed deadly weapon pursuant to 18 U.S.C. 926C~~[- and requires the department]~~~~[Kentucky State Police]~~~~[- to promulgate administrative regulations to implement the certification provisions]~~. This administrative regulation establishes the reasons an application form shall be deemed incomplete and the required procedures for the department.

~~Section 1. [Definition. (1) "License" means the document indicating the approved certification pursuant to the Law Enforcement Officers Safety Act of 2004, 18 U.S.C. 926C.]~~

~~[Section 2.]~~ An application form shall not be considered complete if:

- (1) It does not meet the requirements of 502 KAR 13:010;
- (2) It contains erroneous information; or
- (3) An item of the application form is illegible or incomprehensible.

~~Section 2.~~~~[Section 3.]~~ If the department determines that an application form is incomplete pursuant to the Section 1 of this administrative regulation, the department shall notify the applicant ~~[on a "Missing Information/Document"]~~ of the:

- (1) Reason the application form has been determined to be incomplete; and
- (2) The action required to complete the application form.

~~[Section 4.] [Incorporation by Reference.]~~

~~[(1)] ["Missing Information/Document", 01/09/07, is incorporated by reference.]~~

~~[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Criminal Identification and Records Branch, Kentucky State Police, 1250 Louisville, Road, Frankfort, Kentucky 40601, Monday through Friday 8 a.m. to 4:30 p.m. The phone number for the Criminal Identification and Records Branch is (502) 227-8700.]~~

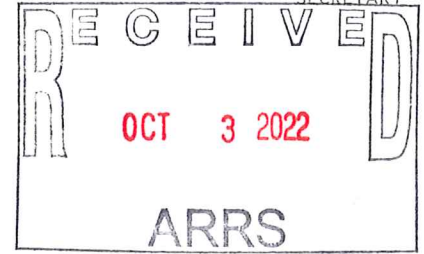


Andy Beshear
GOVERNOR

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October 3, 2022

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
702 Capital Avenue
Room 29, Annex
Frankfort KY 40601

Re: **503 KAR 1:140**. Peace officer, telecommunicator, and court security officer professional standards.

Dear Co-Chairs West and Hale:

The Justice and Public Safety Cabinet, Kentucky Law Enforcement Council requests that the attached amendments be made to 503 KAR 1:140.

Sincerely,

Amy V. Barker
Assistant General Counsel

enclosure

SUGGESTED SUBSTITUTE

JUSTICE AND PUBLIC SAFETY CABINET Kentucky Law Enforcement Council

503 KAR 1:140. Peace officer, telecommunicator, and court security officer professional standards.

RELATES TO: KRS Chapter 13B, 15.330(1)(f), 15.330(1)(h), 15.380, 15.382, 15.384(1), 15.392, 15.394(1), 15.396(1), 15.3971, 15.400(1), 15.440, 15.540, 15.565, 15.580

STATUTORY AUTHORITY: KRS 15.330(1)(f), 15.330(1)(h), 15.382, 15.440, 15.590

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.330(1)(f) and (h) and 15.590 authorize the Kentucky Law Enforcement Council to promulgate reasonable administrative regulations to accomplish the purposes of KRS 15.310 to 15.404 and to approve law enforcement officers, telecommunicators, and other persons having met requirements under KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.592. KRS 15.440 authorizes the council to promulgate administrative regulations for approval of basic training credit for out-of-state basic training and work experience. This administrative regulation establishes the guidelines and procedures necessary to implement and administer peace officer, telecommunicator, and court security officer certification.

Section 1. Approval of Agency's Validated Job Task Analysis and Associated Agency Testing.

(1) Application. If an agency desires to use its own job task analysis and any associated agency testing, the agency shall submit to the KLEC office completed KLEC Forms J and Q along with a copy of the proposed job task analysis. The agency shall supply:

- (a) The name of the entity that completed the analysis;
- (b) The date on which the analysis was completed;
- (c) A curricula vitae, resume, or company profile of the entity that completed the analysis; and
- (d) A listing of all job task analyses previously completed by the person or entity, including the dates of the analyses.

(2) Criteria for assessment. The submitted job task analysis shall be assessed based upon the following criteria:

- (a) Credentials and history of the entity conducting the analysis.
 1. Education, with a preference given to degrees in law enforcement, statistics, or a related area.
 2. Work experience, with a preference given to emphasis in law enforcement, statistics, or a related area.
 3. Number and quality of job task analyses completed.
- (b) Methodological approach.
 1. Reasonable, standardized format of the study and the report.
 2. Relative reliability and validity of the study's sampling techniques and practice.
 3. Other considerations that reflect sound practice of the scientific method.
 4. Specificity of the analysis. The job task analysis shall establish minimum entry qualifications, specific training requirements, and description of duties of officers.

(3) Initial review.

(a) Within five (5) business days of receipt of the application, the KLEC office shall notify the agency that:

1. The application has been received and is complete; or
2. The application is incomplete. The notice that an application is incomplete shall identify the specific information to be supplemented to process the application. The agency shall submit the necessary information within ten (10) business days of the agency's receipt of the notice of insufficiency. If the agency fails to submit the supplementary information within the specified time period, the application

shall be considered abandoned and the agency shall resubmit an application for consideration of its job task analysis and associated agency testing.

(b) The KLEC office recommendation. Within thirty (30) days of receipt of the completed application, the KLEC office shall forward the application to KLEC along with a recommendation to approve or reject the job task analysis and associated agency tests and the specific reasons supporting a recommendation to reject.

(c) KLEC review. The KLEC Professional Standards Committee shall review the application and recommendation of the KLEC office and forward its recommendation to KLEC for final review. Within sixty (60) days of their receipt of the application, KLEC shall issue written notice to the agency indicating whether the application has been approved or found to be insufficient or erroneous.

(d) If an application is found to be insufficient or erroneous, the KLEC shall notify the agency of:

1. The reasons for the finding; and
2. The requirement that the council file a declaratory action in accordance with KRS 15.394(1).

Section 2. Agency Testing Procedures.

(1) Each agency participating in certification shall submit a completed KLEC Form Q or KLEC Form tele-Q to the KLEC office prior to any applicant testing. The KLEC office shall be notified of any changes in the Form Q or KLEC Form tele-Q within ten (10) days.

(2) Initial review. Within fifteen (15) business days of receipt of KLEC Form Q, the KLEC office shall notify the agency that the form:

(a) Has been received and is complete; or

(b) Is incomplete. The notice that an application is incomplete shall identify the specific information to be supplemented to process the form. The agency shall submit the necessary information within ten (10) business days of the agency's receipt of the notice of insufficiency. Applicants shall not be tested or certified by KLEC until the form is complete.

(3) The KLEC office review of requests for agency testing. Within thirty (30) days of receipt of the completed form, the KLEC office shall review requests for agency testing from those agencies without a validated job task analysis to determine if the proposed tests are consistent with the minimum standards for KLEC testing as established in Section 4 of this administrative regulation. The KLEC office shall notify the agency if the proposed testing is acceptable. If the KLEC office determines that the minimum standards are not met, it shall forward the form to KLEC along with the specific reasons supporting a recommendation to reject the agency testing.

(4) KLEC Review. The KLEC Professional Standards Committee shall review the form and the recommendation of the KLEC office and forward its recommendation to KLEC for final review. Within sixty (60) days of receipt of the form, KLEC shall issue written notice to the agency indicating whether the request for agency testing has been approved or rejected and the specific reasons supporting the rejection.

(5)

(a) An agency may appeal a decision made by KLEC to reject an agency test by filing a written notice of appeal:

1. With the Secretary of the Justice and Public Safety Cabinet; and
2. Within thirty (30) days of receipt of the notice of rejection.

(b) The notice of appeal shall be submitted:

1. In writing; and
2. With a copy of the notice of rejection of agency testing attached.

(c) A copy of the notice of appeal shall also be mailed to the KLEC office by certified mail.

(d) The Secretary of the Justice and Public Safety Cabinet shall schedule a hearing within thirty (30) days of receipt of the notice of appeal.

(e) The administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 3. Certification of peace officers, telecommunicators, and court security officers.

(1) Officers exempted from certification requirements pursuant to KRS 15.380(5) who are requesting certification shall submit KLEC Form E to the KLEC office.

- (2) State peace officers employed pursuant to KRS Chapter 18A who have had certification requirements adopted pursuant to KRS 15.380(2) shall submit KLEC Form E to the KLEC office.
- (3) An agency may request that peace officers identified in KRS 15.380(4), who have completed law enforcement basic training, and part-time telecommunicators, who have completed the Telecommunications Academy, participate in certification by submitting KLEC Form E to the KLEC office.
- (4) Peace officers, telecommunicators, and court security officers entitled to certified status pursuant to the grandfather provision of KRS 15.400(1), 15.3971, 15.560, or 15.565 shall submit KLEC Form C.

Section 4. Suitability Minimum Requirements: The minimum requirements and procedures established for KLEC testing by this section shall be followed.

(1) The background investigation as specified in KRS 15.382(12) and 15.3971(1)(k) shall consist of the following minimum requirements, using the KLEC Form H-1 Background Investigation and personal history questionnaire.

- (a) Biographical history;
- (b) Family history;
- (c) Education;
- (d) Employment history;
- (e) Interview with the applicant's references;
- (f) Criminal history including domestic violence protective orders; and
- (g) Credit history.

(2) Fingerprinting. An applicant shall be fingerprinted and a criminal background check shall be conducted as specified in KRS 15.382(5), 15.3971(1)(e), and 15.540(1)(c) through the procedure established by this subsection.

- (a) The applicant shall be fingerprinted by the Kentucky State Police, who shall input the fingerprints into the AFIS System and complete a state records check. The fingerprints shall also be sent to the FBI for a records check.
- (b) The KSP shall forward the results of state and FBI records check to the employing agency.
- (c) Final certification shall not be issued until results consistent with certification requirements and acceptable to the agency are received from the FBI.
- (d) The agency may employ the peace officer, telecommunicator, or court security officer contingent upon the pending FBI results.

(3) Psychological screening, as specified in KRS 15.382(15), 15.3971(1)(m), and 15.540(1)(d), shall consist of the minimum requirements established by this subsection.

(a) Screening shall measure a broad spectrum of abilities which are relevant to job related duties, including:

- 1. Cognitive abilities;
- 2. Personality characteristics; and
- 3. Related constructs, including:
 - a. Integrity; and
 - b. Conscientiousness.

(b) Screening shall contain a minimum of two (2) independent and objectively scored psychometric measures which shall be constructed and validated in accordance with the Standards for Educational and Psychological Testing, American Educational Research Association, American Psychological Association, National Council on Measurement in Education, Joint Committee on Standards for Educational and Psychological Testing, 2014.

(c)

- 1. Assessment results and predictions shall include a recommendation and summary statement regarding the applicant's overall suitability for employment as a peace officer, telecommunicator, or court security officer;
- 2. The summary statement shall classify applicants as:
 - a. Essentially suitable;
 - b. May be unsuitable; or

- c. Borderline suitability; and
- 3. If an applicant is classified as borderline suitability or may be unsuitable, the report shall contain specific concerns and negative indicators for investigation and reconciliation by the employing agency.
- (d) Screening shall be administered in accordance with the Standards for Educational and Psychological Testing, American Educational Research Association, American Psychological Association, National Council on Measurement in Education, Joint Committee on Standards for Educational and Psychological Testing, 2014.
- (4) Physical ability testing as specified in KRS 15.382(16) shall consist of the minimum requirements established by this subsection.
 - (a) Precertification status.
 - 1. To obtain precertification status under KRS 15.386(1), the applicant shall successfully complete each of the events in the following order as instructed and evaluated by KLEC personnel who shall administer the test in conformity with the KLEC Physical Fitness Testing Protocols:
 - a. Bench press;
 - b. Sit-ups;
 - c. 300 meter run;
 - d. Push-ups; and
 - e. One and five-tenths (1.5) mile run.
 - 2. An applicant shall pass the physical ability test for precertification status if he or she achieves a cumulative score of fifty (50) points or more, based upon the following scoring of the physical training events listed in subparagraph 1 of this paragraph:
 - a. Bench press, based upon a percentage of the recruit's body weight:
 - (i) 9 points - Recruit shall bench press at least fifty-five and three-tenths (55.3) percent of body weight;
 - (ii) 9.5 points - Recruit shall bench press at least fifty-nine and seven-tenths (59.7) percent of body weight;
 - (iii) 10 points - Recruit shall bench press at least sixty-four (64) percent of body weight;
 - (iv) 10.5 points - Recruit shall bench press at least sixty-eight and five-tenths (68.5) percent of body weight; and
 - (v) 11 points - Recruit shall bench press at least seventy-three (73) percent or more of body weight;
 - b. Sit-ups:
 - (i) 9 points - Recruit shall complete at least thirteen (13) repetitions in one (1) minute;
 - (ii) 9.5 points - Recruit shall complete at least sixteen (16) repetitions in one (1) minute;
 - (iii) 10 points - Recruit shall complete at least eighteen (18) repetitions in one (1) minute; and
 - (iv) 11 points - Recruit shall complete nineteen (19) repetitions or more in one (1) minute;
 - c. 300 meter run:
 - (i) 9 points - Recruit shall complete in sixty-eight (68) seconds or less;
 - (ii) 9.5 points - Recruit shall complete in sixty-seven (67) seconds or less;
 - (iii) 10 points - Recruit shall complete in sixty-five (65) seconds; and
 - (iv) 11 points - Recruit shall complete in less than sixty-five (65) seconds;
 - d. Push-ups:
 - (i) 9 points - Recruit shall complete at least fourteen (14) repetitions in two (2) minutes;
 - (ii) 9.5 points - Recruit shall complete at least seventeen (17) repetitions in two (2) minutes;
 - (iii) 10 points - Recruit shall complete at least twenty (20) repetitions in two (2) minutes;
 - (iv) 10.5 points - Recruit shall complete at least twenty-three (23) repetitions in two (2) minutes; and
 - (v) 11 points - Recruit shall complete twenty-five (25) repetitions or more in two (2) minutes; and
 - e. One and five-tenths (1.5) mile run:
 - (i) 9 points - Recruit shall complete in 1,076 seconds (17:56) or less;
 - (ii) 9.5 points - Recruit shall complete in 1,054 seconds (17:34) or less;
 - (iii) 10 points - Recruit shall complete in 1,032 seconds (17:12) or less;

- (iv) 10.5 points - Recruit shall complete in at least 1,004 seconds (16:44) or less; and
 - (v) 11 points - Recruit shall complete in 975 seconds (16:15) or less.
3. An applicant shall not be awarded more than eleven (11) points in any one (1) of the five (5) physical ability events.
 4. An applicant shall fail the physical ability test for precertification status if he or she does not achieve:
 - a. A cumulative score of at least fifty (50) points for all five (5) events; and
 - b. At least nine (9) points on each physical training event.
 5. At the sole discretion of the hiring agency, an applicant who fails to meet the lowest performance level in a test event, thus earning a zero point value for that event, shall be granted a retest opportunity in that event without having to retest in the other events for which a point value was obtained, subject to the conditions established by this subparagraph.
 - a. A retest shall not be granted unless the maximum value of eleven (11) points would allow the applicant to meet the required cumulative fifty (50) point minimum.
 - b. A retest shall not occur any sooner than forty-eight (48) hours or any later than sixty (60) days from the date of the initial test attempt.
 6. If an applicant obtains a point value for each event, but does not obtain a cumulative score of at least fifty (50) points, the applicant may attempt the test battery again, in its entirety. This shall be considered a second test administration and not a retest.
 7. An applicant may participate in the physical ability test for precertification status in its entirety, four (4) times in a one (1) year period, which shall be calculated from the first date of testing.
 8. An applicant may participate in one (1) physical ability retest for each physical ability test taken for precertification status.
- (b) Certification status.
1. To obtain certification status under KRS 15.386(2), the applicant shall successfully complete each of the following physical ability requirements within ten (10) days of graduation from law enforcement basic training, which shall be administered in the same order and in conformity with the KLEC Physical Fitness Testing Protocols:
 - a. Bench press. One (1) repetition of maximum (RM) bench press equal to seventy-three (73) percent of the applicant's body weight;
 - b. Sit-ups. Nineteen (19) sit-ups in one (1) minute;
 - c. 300 meter run in less than sixty-five (65) seconds;
 - d. Push-ups. Twenty-five (25) push-ups; and
 - e. One and five-tenths (1.5) mile run in sixteen (16) minutes, fifteen (15) seconds.
 2. If an applicant passes all events when participating in the physical ability test in its entirety, the applicant shall have met the physical ability minimum requirements for certification status.
 3. Retest. If an applicant fails to pass all events when participating in the physical ability test for certification status during the training graduation test:
 - a. The applicant shall not retest in the failed events earlier than forty-eight (48) hours after the date the test is originally administered;
 - b. All failed events shall be retested on the same date; and
 - c. If the applicant passes all previously failed events on the date of the retest, the applicant shall have met the physical ability test requirements for certification status.
- (5) Medical screening as specified in KRS 15.382(10) shall consist of the minimum requirements established by this subsection.
- (a) The applicant shall complete KLEC Form G-2, Medical History Statement, which, along with KLEC Form G-3, Medical Screening Guidelines Implementation Manual, shall be provided to the physician, nurse practitioner, or physician's assistant, duly licensed to practice in the Commonwealth of Kentucky, who shall examine the applicant in conformity with the guidelines.
 - (b) The agency shall provide the examining physician, nurse practitioner, or physician's assistant with a copy of the KLEC Form T-1a, Physician's Medical Release Form.
 - (c) The physician, nurse practitioner, or physician's assistant shall complete KLEC Form G-1, Medical Examination Report, and forward it to the employing agency.

(6) Drug screening as specified in KRS 15.382(11), 15.3971(1)(j), and 15.540(1)(f) shall consist of the minimum requirements established by this subsection.

(a) The applicant shall execute KLEC Form K-1 and submit a urine sample that shall be screened and if necessary confirmed using the guidelines as outlined in the Mandatory Guidelines for Federal Workplace Drug Testing Programs, 82 Fed. Reg. 7920-1 (Jan. 23, 2017). The screening and confirmatory cutoff concentrations are as follows:

SCREENING	
Marijuana metabolites	50 ng/mL
Cocaine metabolite (Benzoylecgonine)	150 ng/mL
Codeine / Morphine	2,000 ng/mL
Hydrocodone / Hydromorphone	300 ng/mL
Oxycodone / Oxymorphone	100 ng/mL
6-Acetylmorphine	10 ng/mL
Phencyclidine (PCP)	25 ng/mL
Amphetamine / Methamphetamine	500 ng/mL
MDMA / MDA	500 ng/mL
CONFIRMATION	
THC/THCA	15 ng/mL
Benzoylecgonine	100 ng/mL
Codeine	2,000 ng/mL
Morphine	2,000 ng/mL
Hydrocodone	100 ng/mL
Hydromorphone	100 ng/mL
Oxycodone	100 ng/mL
Oxymorphone	100 ng/mL
6-Acetylmorphine	10 ng/mL
Phencyclidine (PCP)	25 ng/mL
Amphetamine	250 ng/mL
Methamphetamine	250 ng/mL
MDMA	250 ng/mL
MDA	250 ng/mL

(b) The integrity of the urine sample shall be documented on KLEC Form K-2, Drug Screening through Urinalysis Chain of Custody.

(7) For the polygraph examination as specified in KRS 15.382(17), 15.3971(1)(n), and 15.540(1)(e), the applicant shall complete KLEC Form I-1, Consent for Pre-employment Polygraph Examination, and KLEC Form I-2, Pre-employment Polygraph Questionnaire, which shall be provided to the polygraph examiner, duly licensed in the commonwealth of Kentucky, who shall perform a polygraph examination of the applicant.

(8) The agency shall ensure that the applicant receives and has read KLEC Form L-1, Code of Ethics and KLEC Form L-2, Canon of Ethics.

(9) High school diploma.

(a) The high school graduate requirement of KRS 15.382(3), 15.3971(1)(c), or 15.540(1)(b) shall be met by:

1. Submission of a copy of a diploma or transcript from a public high school; or
2. Submission of a diploma or transcript from a private high school that:
 - a. Is certified by or recognized by the Kentucky Department of Education; or
 - b. Has complied with all provisions of Kentucky law relating to private or other non-public secondary schools as applicable, including days and hours of attendance and course curriculum. The applicant shall also submit a completed Applicant Education Verification form.

(b) A document purporting to be a high school or college diploma and obtained through the internet or by mail order shall not satisfy the requirement of KRS 15.382(3), 15.3971(1)(c), or 15.540(1)(b).

Section 5. KLEC Administered Testing Procedures.

(1) An applicant shall execute all releases required for KLEC testing, including:

- (a) KLEC Form I-1 - Consent for Pre-employment Polygraph Examination;
- (b) KLEC Form K-1 - Drug Screening through Urinalysis Applicant Consent Form;
- (c) KLEC Form T-1 - Medical Release - Phase I Testing; and
- (d) KLEC Form T-2 - Liability Waiver - Phase I Testing.

(2) Testing schedule.

(a) The KLEC office shall publish online or otherwise make available to all law enforcement and telecommunications agencies in the commonwealth a list of sites and dates for KLEC administered testing.

(b) Testing sites shall be statewide and accommodations shall be made where reasonable to ensure testing sites are accessible based upon need.

(c) Advance notice of the schedule shall be made public prior to the testing.

(d) The KLEC office shall reschedule testing if cancellation is necessary due to inclement weather or other unforeseen circumstances. Emergency testing shall be made available if possible at the Department of Criminal Justice Training as needed.

(3) Registration for KLEC administered testing. The KLEC office shall receive KLEC Form A from the employing agency at least five (5) business days prior to testing.

(a) Applicants shall provide current photographic identification when the testing is administered.

(b) The KLEC office shall receive the completed polygraph questionnaire KLEC Form I-2 when the testing is administered.

Section 6. Test Reporting by KLEC.

(1) Results of tests provided by or through the KLEC office shall be forwarded to the employing agency head.

(2) The agency shall certify that the applicant has met all suitability requirements by submitting KLEC Form D. The information from the completed form shall be provided to DOCJT for Kentucky Law Enforcement Foundation Program Fund and training authorization purposes.

(3) Length of test result validity.

(a) Physical ability for precertification status results shall be considered current and valid one (1) year from the passing date of the test.

(b) Suitability screening results shall be considered current and valid for one (1) year from the date of the screening. If the applicant experiences a significant life change during the one (1) year period, for example, a divorce or the death of a close family member or friend, the applicant shall notify the employing agency who shall schedule a new suitability screening for the applicant.

(c) Polygraph examination results shall be considered current and valid for a period of one (1) year from the date of the examination. If the applicant experiences a significant life change during the one (1) year period, for example, a divorce or the death of a close family member or friend, the applicant shall notify the employing agency who shall schedule a new polygraph examination for the applicant.

- (d) Drug screening results shall be considered current and valid only for the agency that requested or performed the test and only during that employment process. An applicant who leaves and reenters the testing process for preselection screening shall submit to another drug screening.
- (4) Updating test results. The employing agency shall update test results if necessary by submitting KLEC Form D to the KLEC office.
- (5) Agency access to prior test results.
 - (a) It shall be at the applicant and individual agency's discretion to allow another employing agency access and use of the initial agency's certification testing, which is still current and valid.
 - (b) If agencies enter into an agreement with the written permission of the applicant, the new employing agency shall receive the medical, suitability, and polygraph results directly from the agency that initially requested testing of the applicant.
 - (c) Costs incurred for duplicate KLEC test results shall be the responsibility of the agency obtaining the results.

Section 7. Test Reporting by Agency.

- (1) An agency that performs physical ability testing based upon the requirements in Section 4 of this administrative regulation shall report all test results by submitting a POPS Form PT-1, Physical Agility Test Session Report, to the KLEC within ten (10) days of administering the test.
- (2) An agency that performs physical ability testing based upon its own validated job task analysis in accordance with KRS 15.382(16), shall report the test results of every applicant tested in writing to the KLEC office within ten (10) days of administering the test.
- (3) Physical ability test results shall be reported to the KLEC office regardless of whether the applicant:
 - (a) Passes or fails the test; or
 - (b) Performs or completes every component of the physical ability test.

Section 8. KLEC Administered Testing Costs.

- (1) The employing agency shall reimburse KLEC within sixty (60) days of receipt of the invoice for the cost of KLEC administered testing provided at the agency's request as follows:
 - (a) Sixty-five (65) dollars for each psychological screening;
 - (b) \$100 for each polygraph examination; and
 - (c) Sixteen (16) dollars for each drug screening.
- (2) If an agency has scheduled KLEC testing for an applicant who fails to appear or complete the testing, the agency shall be responsible for fifty (50) percent of the cost of the test had it been completed.
- (3) Financial hardship.
 - (a) Application. An employing agency may apply for a waiver of costs for KLEC testing pursuant to KRS 15.384(1) by demonstrating undue financial hardship. The agency shall submit to the KLEC office:
 - 1. The actual approved budget of the governmental unit for the current and the preceding year;
 - 2. The number of certification applicants for the current and preceding year;
 - 3. The actual revenue receipts of the governmental unit for the current and the preceding year; and
 - 4. A detailed explanation of why the governmental unit cannot meet the cost of providing the testing, including the reason that adequate funding was not budgeted to cover the cost of testing.
 - (b) Initial review. Within five (5) business days of receipt of the application, the KLEC office shall mail a notification to the agency that:
 - 1. The application has been received and is complete; or
 - 2. The application is incomplete and shall identify the specific information to be supplemented to process the application. The KLEC office shall receive the necessary information within ten (10) business days of the agency's receipt of the notice of insufficiency. If the agency fails to submit the supplementary information within the specified time period, the application shall be considered abandoned and the agency shall resubmit an application for financial hardship.
 - (c) Recommendation. Within thirty (30) days of their receipt of the completed application, the KLEC office shall forward the application to KLEC along with a recommendation to approve or reject the application for financial hardship and the specific reasons supporting a recommendation to reject.

(d) KLEC review.

1. The KLEC Committee on Professional Standards shall review the application and the recommendation of the KLEC office and forward their recommendation to KLEC for final review.
2. Within sixty (60) days of their receipt of the application, KLEC shall issue written notice to the agency indicating whether the application has been approved or rejected and shall provide the specific reasons supporting the rejection.

(e) Appeal.

1. An agency may appeal a decision made by KLEC to reject an agency's application for financial hardship by filing a written notice of appeal to the Secretary of the Justice and Public Safety Cabinet.
2. The notice shall be filed within thirty (30) days of receipt of the notice of rejection.
3. The notice of appeal shall be submitted in writing~~[on KLEC POPS Form S]~~ with a copy of the notice of rejection of financial hardship attached.
4. A copy of the notice of appeal shall be delivered to the KLEC office by certified mail.
5. The Secretary of the Justice and Public Safety Cabinet shall render an opinion within sixty (60) days of receipt of the notice of appeal.

- (4) If an agency knowingly employs or appoints a person who fails to meet minimum certification standards pursuant to KRS 15.396(1) the KLEC office shall immediately notify DOCJT.

Section 9. Employment Changes.

- (1) Pursuant to KRS 15.392 and 15.580 if a certified peace officer, telecommunicator, or court security officer leaves an agency, the agency shall submit KLEC Form F.
- (2) If the peace officer, telecommunicator, or court security officer is reemployed by another agency the employing agency shall submit KLEC Form F within five (5) business days of the employment or appointment. Additionally, the agency shall submit KLEC Form D-1 for returning peace officers or court security officers.
- (3) Information from completed KLEC Forms F shall be provided to DOCJT for Kentucky Law Enforcement Foundation Program Fund and training authorization purposes.

Section 10. Out-of-state, Military, and Federal Law Enforcement and Telecommunications Basic Training.

- (1) An applicant to a Kentucky law enforcement or telecommunications agency who has graduated from a basic training course or academy in another state may be certified by the KLEC if:
 - (a) The basic training course or academy was equal to or exceeded the course content and number of hours required for Kentucky peace officers, telecommunicators, or court security officers when the course was completed by the applicant, as determined by the executive director of the Office of Kentucky Law Enforcement Support;
 - (b) The basic training course or academy is a single, stand-alone course;
 - (c) The peace officer, telecommunicator, or court security officer has been employed in a full-time capacity in the state of graduation for a period of at least one (1) year before applying with the Kentucky agency; and
 - (d) The peace officer completes the following courses presented by the Department of Criminal Justice Training within one (1) year of his or her hiring by the Kentucky law enforcement agency. For purposes of meeting the hourly requirement in paragraph (a) of this subsection, the number of hours of these courses shall be added to the number of hours taken in the out-of-state basic training course:
 1. The twenty-four (24) hour legal update Penal Code course;
 2. The sixteen (16) hour legal update constitutional procedure course;
 3. On-line Federal Emergency Management Agency ICS 100, ICS 200, and IS 700 courses (or current equivalent). A Certificate of Completion or official transcript shall satisfy this requirement; and
 4. One (1) of the following forty (40) hour courses which is most appropriate for the officer's duty assignment:
 - a. Basic officer skills;
 - b. Orientation for new police chiefs; or
 - c. Mandatory duties of the sheriff.

(2) An applicant to a Kentucky law enforcement agency who has graduated from a basic training course or academy in another state may be certified by the KLEC if:

- (a) The basic training course or academy was at least 300 hours, but less than the number of hours required for Kentucky peace officers;
- (b) The peace officer has been employed in a full-time capacity as a peace officer for three (3) or more years with at least one (1) year in the state in which he or she completed his or her basic training course or academy;
- (c) The basic training course or academy is a single, stand-alone course; and
- (d) The peace officer completes the courses as required in subsection (1)(d) of this section with the number of hours of these courses added to the number of hours taken in the out-of-state basic training course in subsection (2)(a) of this section.

(3) An applicant to a Kentucky law enforcement or telecommunications agency who has graduated from a law enforcement or telecommunications basic training course or academy while serving in the United States military may be certified by the KLEC if:

- (a)
 - 1. The basic training course or academy corresponded with or exceeded the course content and number of hours required for Kentucky peace officers, telecommunicators, or court security officers at the time the course was completed by the applicant, as determined by the Executive Director of the Office of Kentucky Law Enforcement Support; or
 - 2. The basic training course or academy did not correspond with or exceed the course content and number of hours required for Kentucky peace officers, telecommunicators, or court security officers at the time the course was completed by the applicant, a basic training credit of fifty (50) hours for each year of his or her full-time peace officer service together with the basic training course hours shall be granted to allow compliance with the total hours required by KRS 15.440, 503 KAR 1:110, or another administrative regulation modifying the hours; and
- (b) The basic training course or academy was a single, stand-alone course.

(4) An applicant to a Kentucky law enforcement agency who has graduated from one (1) of the following Federal law enforcement basic training courses may be certified by the KLEC:

- (a) Federal Bureau of Investigation;
- (b) Bureau of Alcohol, Tobacco, and Firearms;
- (c) Drug Enforcement Administration; or
- (d) United States Secret Service.

(5) The KLEC shall not approve a basic training course or academy that consists of two (2) or more courses added together to meet the minimum number of basic training hours for a Kentucky peace officer, telecommunicator, or court security officer.

(6) An agency may request certification for a peace officer who has completed an out-of-state law enforcement basic training by submitting for the applicant:

- (a) A certificate of completion or other official documentation showing completion of basic training;
- (b) A transcript of classes for basic training with individual class hours specified; and
- (c) A letter from an employing agency signed by the chief or a direct supervisor of the applicant certifying, or other official documentation showing, that the applicant was employed in a full-time capacity as a peace officer for:
 - 1. At least one (1) year; or
 - 2. Three (3) or more years with at least one (1) year in the state in which he or she completed his or her basic training course or academy.

(7) An applicant to a Kentucky law enforcement or telecommunications agency seeking certification under this section shall not be certified unless he or she has worked in a full-time capacity as a peace officer within five (5) years of applying for certification in Kentucky.

Section 11. Records.

(1) Records retention. The KLEC office shall retain all certification records in electronic or original medium consistent with the records retention schedule established by the Kentucky Department of Library and Archives, pursuant to 725 KAR 1:030.

(2) Security. The KLEC office and employing agencies shall maintain records in a manner to ensure their security. To properly maintain the confidentiality of certification records as required by KRS 15.400(3) and 15.540(2), a law enforcement or telecommunications agency shall keep all records relating to certification in a file separate from any personnel file maintained by the hiring authority.

(3) For KLEC audit purposes, an agency that has a separate human resources or personnel department may complete and maintain in the agency file a KLEC FORM POPS P, Certification of Peace Officer Professional Standards Testing Procedures, KLEC Form Q-3 – Drug Screening Approval, KLEC Form Q-4 – Polygraph Approval, and KLEC Form Q-5 – Suitability Screener Approval, indicating that the following testing procedures have been completed:

- (a) Polygraph;
- (b) Suitability screening;
- (c) Drug screen; and
- (d) Medical examination or history statement.

(4) Agencies shall retain all documentation pertaining to certification for five (5) years following the cessation of certification of the peace officer, telecommunicator, or court security officer regardless of where the certified peace officer, telecommunicator, or court security officer is employed in the commonwealth.

(5) An agency that knowingly discloses confidential information in violation of KRS 15.400(3) and 15.540(2) may be denied participation in KLEC polygraph examinations and psychological examinations.

Section 12. Applicant Conduct and Behavior.

(1) An applicant who has engaged in behavior constituting dishonesty, cheating, falsification of documents, or any other fraudulent behavior for the purpose of wrongfully receiving certification shall be removed from the testing process and, subject to an administrative hearing in accordance with KRS Chapter 13B, may be barred from further consideration for certification.

(2) Use of alcohol or other intoxicants.

(a) An applicant shall not possess, consume, or be under the influence of alcoholic beverages, controlled substances, or other intoxicating substances not therapeutically prescribed by a physician while participating in the testing process.

(b) An applicant shall advise the KLEC test administrator in writing of the use of a controlled substance or medication whether or not it has been prescribed by a physician.

(c) An applicant shall not participate in physical ability testing if:

1. The applicant has taken:

- a. A controlled substance as prescribed by a physician; or
- b. Any other medication, whether prescribed or not; and

2. The applicant is under the influence of the controlled substance or medication to the extent that the applicant may be impaired or is a danger to self or others.

(3) Termination of a dangerous or disruptive situation. If the conduct or condition of an applicant constitutes an immediate danger or an immediate threat of danger to self or others, or is disruptive of testing, or is an immediate threat to be disruptive of testing, a KLEC staff member may take all reasonable steps necessary to terminate the situation, including removal of the applicant from testing.

(4) The KLEC shall notify the applicant and the employing agency within five (5) days following the removal stating that the applicant has been removed or barred from testing. The notice shall state the supporting reasons and circumstances of the removal and whether the agency may reschedule testing.

Section 13. Compliance.

(1) Inspection. Test results, testing procedures, and all other certification documentation shall be retained by the agency and be available for inspection and audit at any time by agents authorized by KLEC.

(2) KLEC may initiate an inspection and audit of an agency's certification documentation randomly to assure routine compliance or to investigate a specific complaint.

(3) KLEC shall have access to the services of the DOCJT Compliance and Audit Section, as coordinated through the DOCJT Commissioner, to audit specific applicants and agencies to ensure compliance with certification requirements.

(4) If during the course of an audit conducted by the DOCJT Compliance and Audit Section a violation of certification is detected, the DOCJT Compliance and Audit Section shall report the possible violation to KLEC.

(5) Denial of participation in Kentucky Law Enforcement Foundation Program Fund (KLEFPF). If KLEC determines that an agency has knowingly employed or appointed a person who fails to meet minimum certification standards, KLEC shall immediately notify the administrator of KLEFPF.

Section 14. Issuance of Certification. All identification cards issued to a peace officer, telecommunicator, or court security officer verifying certification remain the property of KLEC and shall be returned to the KLEC office upon loss of certification.

Section 15. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Standards for Educational and Psychological Testing", American Educational Research Association, American Psychological Association, National Council on Measurement in Education, Joint Committee on Standards for Educational and Psychological Testing, 2014;

(b) "KLEC Form A - Testing Registration - Attesting to Minimum Standards", 2021;

(c) "KLEC Form C - Grandfather Information", 2021;

(d) "KLEC Form D - All Standards Met", 2022[2024];

(e) "KLEC Form D-1 - All Standards Met - Inactive to Active Status", **October 2022**[2024];

(f) "KLEC Form E - Request for Certification for Exempt Officers", March 1, 1999;

(g) "KLEC Form F - Status Update", 2021;

(h) "KLEC Form G-1 - Medical Examination Report", 2021;

(i) "KLEC Form G-2 - Medical History Statement", 2021;

(j) "KLEC Form G-3 - Medical Screening Guidelines Implementation Manual", 2021;

(k) "KLEC Form H-1 - Background Investigation", 2021;

(l) "KLEC Form I-1 - Consent for Pre-employment Polygraph Examination", 2021;

(m) "KLEC Form I-2 - Pre-employment Polygraph Questionnaire", 2021;

(n) "KLEC Form J - JTA Submission", January 19, 1999;

(o) "KLEC Form K-1 - Drug Screening Through Urinalysis Applicant Consent Form", 2021;

(p) "KLEC Form K-2 - Drug Screening Through Urinalysis Chain of Custody Form", 2021;

(q) "KLEC Form L-1 - Code of Ethics", 2021;

(r) "KLEC Form L-2 - Canon of Ethics", 2021;

(s) "KLEC Form Q - Agency Submission Form", 2021;

(t) "KLEC Form Q-3 - Drug Screening Approval", 2021;

(u) "KLEC Form Q-4 - Polygraph Approval", 2021;

(v) "KLEC Form Q-5 - Suitability Screener Approval", 2021;

(w) "KLEC Form tele-Q - Agency Submission Form", 2021;

(x) "KLEC Form T-1 - Medical Release - Phase I Testing", 2021;

(y) "KLEC Form T-1a - Physician's Medical Release Form", 2021;

(z) "KLEC Form T-2 - Liability Waiver - Phase I Testing", 2021;

(aa) "POPS Form PT-1 - Physical Agility Test Session Report", 2021;

(bb) "POPS Form P - Certification of Peace Officer Professional Standards Testing Procedures", July 2004;

(cc) "KLEC Physical Fitness Testing Protocols", 2021; and

(dd) "KLEC Education Form - Applicant Education Verification", 2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky Law Enforcement Council, 4449 Kit Carson Drive, Richmond, Kentucky 40475-3102, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the council's website at <https://klecs.ky.gov/>.

CONTACT PERSON: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8207, fax (502) 564-6686, email Justice.RegContact@ky.gov.

Changes to Material Incorporated by Reference:

KLEC Form D-1

Page 1

“Each new hire” section, 4th Box

After “or solicitation to commit any degree of rape, sodomy, sexual abuse, or”, insert “sexual”.

Page 1

Date, lower right corner

After “Revised”, insert “October”.



Andy Beshear
GOVERNOR
Jacqueline Coleman
LIEUTENANT GOVERNOR

PUBLIC PROTECTION CABINET
Kentucky Department of Insurance
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Frankfort, KY 40601
Phone: (502) 564-3630
Toll Free: (800) 595-6053



October 6, 2022

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

Re: 806 KAR 37:010, Insurance holding company systems.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 806 KAR 37:010, the Department of Insurance proposes the attached suggested amendment to 806 KAR 37:010.

Sincerely,

Abigail Gall, Executive Advisor
Department of Insurance
500 Mero Street
Frankfort, KY 40601

SUGGESTED AMENDMENT
Public Protection Cabinet
Department of Insurance
Financial Standards and Examinations Division
9/26/2022 8:01 AM

806 KAR 37:010. Insurance holding company systems and other insurer filings.

Page 1

Title

After "holding company systems", insert "and other insurer filings".

Page 1

NECESSITY, FUNCTION, AND CONFORMITY

Line 9

After "304.2-110", insert "authorizes".

Delete "provides that".

Line 10

After "Commissioner of", insert "the Department of".

After "Insurance", insert "to promulgate".

Delete "may make".

Page 1

Section 1(1)

Line 18

After "defined by KRS", insert "304.37-010(2)".

Delete "304.1-050(1)".

Page 2

Section 2(1)(a)

Line 6

After "304.37-020", insert "(1) to (14)".

After "A shall be used", insert "for".

Delete "as to".

Line 7

After "304.24-390.", delete the remainder of paragraph (a) in its entirety.

Page 3

Section 2(2)(d) and (e)

Lines 3 and 4

After the notation, "(d)", delete paragraph (d) in its entirety and delete the notation, "(e)".

Page 3

Section 2(2)(e)

Line 5

After "authority shall", delete "also".

Page 3

Section 2(4)

Line 13

After first occurrence of "English language", insert comma.

Lines 15 and 16

After second occurrence of "English language", insert comma.

Line 16

After "currency", delete "normally".

Page 5

Section 5(1)

Line 14

After "misleading", insert the following:

. The material information requested

Delete ", and which".

Page 6

Section 6

Lines 3 and 4

After "304", delete comma.

After "and", insert "KAR Title 806".

Delete the following:

corresponding administrative regulations

Page 7

Section 11(2)(a)

Lines 10 and 11

After "shall be filed", insert the following:

in accordance with KRS 304.37-020(5), if

Delete the following:

within fifteen (15) days after the end of any month in which

Page 7

Section 11(2)(b)

Lines 13 and 14

After "(b)", insert the following:

Only those items reported as amendments shall be filed in the Form B format

Except for the period, delete the sentence beginning with "Amendments" through "reported".

Page 7

Section 13

Line 22

After "insurer or insurers", insert "that".

Delete "which".

Page 8

Section 13(1)

Line 3

After "system", insert comma.

After "Kentucky.", insert "Instead".

Delete "In lieu".

Lines 4 and 5

After "registration statement", insert comma.

Line 5

After "report", insert comma.

Page 8

Section 13(2)

Line 12

After "or report", insert "instead".

Delete "in lieu".

Line 13

After "of facts", insert "that".

Delete "which".

Page 8

Section 13(3)

Line 16

After "procedures", insert "that".

Delete "which".

Page 9

Section 14(1)(b)

Line 5

After "voting securities", insert "that".
Delete "which".

Page 10

Section 15(2)(j)

Line 12

After "of the insurer", insert "if there is".
Delete "in the event of".

Page 10

Section 15(2)(k)2.

Line 18

After "records", insert the following:
shall:
a.
Capitalize the first letter of "immediately".

Line 19

After "commissioner", insert semicolon.
Delete the comma.
After "and", insert "b.".
Delete "shall".
Capitalize the first letter of "be".

Page 11

Section 16

Line 8

After "304.37-020", insert "(14)".
Delete "(13)".

Page 12

Section 17(1)(d)1.

Line 2

After "sought", insert comma.

Line 3

After "year", insert semicolon.
Delete period.

Page 12

Section 17(1)(d)5.

Line 12

After "years", insert semicolon.

Delete period.

Page 13

Section 18

Line 5

After "factors", insert comma.

Page 13

Section 19(1)(a)

Line 15

After "Domestic Insurer,"", insert "September 2022".

Delete "October 2014".

Page 13

Section 19(1)(b)

Lines 16 and 17

After "Registration Statement,"", insert "September 2022".

Delete "August 2014".

Page 13

Section 19(1)(d)

Line 19

After "a Transaction,"", insert "September 2022".

Delete "August 2014".

Page 14

Section 19(1)(e)

Line 3

After "Domestic Insurer,"", insert "September 2022".

Delete "August 2014".

Page 14

Section 19(1)(f)

Line 4

After "Risk Report," insert "September 2022".

Delete "August 2014".

***General Reviewer's Note:** Please file one (1) clean and one (1) dirty copy of each of the forms (A, B, D, E, and F) with the Compiler in conjunction with filing this suggested amendment. Please ensure that the editions dates are updated on the forms.

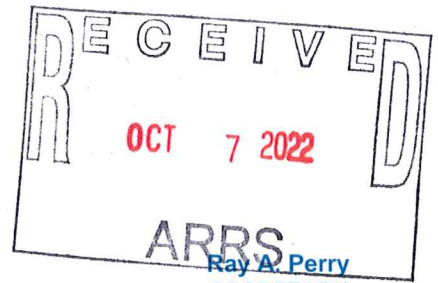


Andy Beshear
GOVERNOR

Jacqueline Coleman
LIEUTENANT GOVERNOR

PUBLIC PROTECTION CABINET

Kentucky Department of Charitable Gaming
500 Mero Street, 2NW24
Frankfort, KY 40601
Phone: (502) 573-5528
Fax: (502) 573-6625



October 7, 2022

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

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 820 KAR 1:001, the Department of Charitable Gaming proposes the attached suggested amendments to 820 KAR 1:001.

Sincerely,

Doug Hardin, Staff Attorney
Kentucky Department of Charitable Gaming
500 Mero Street 2NW24
Frankfort, Kentucky 40601

Final, 9-22-2022

SUGGESTED SUBSTITUTE

**PUBLIC PROTECTION CABINET
Department of Charitable Gaming**

820 KAR 1:001. Definitions.

RELATES TO: KRS 238.500, et. seq. ~~[238.505, 238.510, 238.515, 238.520, 238.522, 238.525, 238.530, 238.535, 238.536, 238.540, 238.545, 238.547, 238.550, 238.555, 238.560, 238.565, 238.567, 238.570, 238.995]~~

STATUTORY AUTHORITY: KRS 238.515(9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.515 authorizes the Department of Charitable Gaming to promulgate administrative regulations to carry out the purposes and intent of the chapter. This administrative regulation establishes definitions of terms used throughout 820 KAR Chapter 1.

Section 1. Definitions.

- (1) "Account number" means the unique identification number, if any, assigned by a card-minding device system or electronic pulltab system to a customer that uses a card-minding device to play bingo or an electronic pulltab device to purchase and play a pulltab.
- (2) "Bet block" means an area that indicates the dollar amount of the wager.
- (3) "Cash over" means the total amount of money actually received from the sale of gaming supplies at a charitable gaming session is more than the amount of money due from the sale of that quantity of gaming supplies.
- (4) "Cash short" means the total amount of money actually received from the sale of gaming supplies at a charitable gaming session is less than the amount of money due from the sale of that quantity of gaming supplies.
- (5) "Charitable gaming session" means a single gathering, event, or occurrence, at a specific location, during a specific time period, at which games of chance as defined by KRS Chapter 238 are conducted by a charitable organization.
- (6) "Charitable gaming session program" means a written list of all games to be played and prize amounts to be paid for each game during a charitable gaming session, including, if the prizes are based on attendance, the amount of the prize and the attendance required.
- (7) "Chief executive officer" means the director of the organization or the person who has legal authority to direct the management of the organization, distributor, manufacturer, or charitable gaming facility with respect to the conduct of charitable gaming.
- (8) "Chief financial officer" means the person who is:
 - (a) Responsible for overseeing the financial activities of the organization, distributor, manufacturer, or charitable gaming facility;
 - (b) The custodian of the charitable gaming session records; and
 - (c) Responsible for ensuring that all records are accurate, complete, and maintained;
- (9) "Digital signature" means a method by which data, as in a software application, is expressed in a calculated number that is used to verify the accuracy of the data or a copy of the data.
- (10) "Draw ticket" means a blank ticket upon which the numbers are marked as they are randomly selected.
- (11) "EPROM" means Erasable Programmable read-only memory.
- (12) "Gambling" is defined by KRS 528.010(4).
- (13) "Merchandise prize" means a noncash prize given away at a charitable gaming session either as a game prize or a door prize.
- (14) "Player tracking software" means computer software installed on a card-minding device system, electronic pulltab system, or other point of sale system that is used to identify or track certain characteristics of bingo or pulltab players, including personal data and purchasing habits.
- (15) "Primary office location" means:

(a) The land and building in and upon which a charitable organization conducts the majority of its charitable business; and

(b) Does[. An organization's primary office location shall] not include any physical space a charitable organization shares[shared] with a bar, restaurant, convenience store, or other commercial retail business.

(16) "PROM" means programmable read-only memory.

(17)[(46)] "Promotional" means any item available at no charge to all participants at a[an] charitable gaming session.

(18)[(47)] "Proprietary software" means custom computer software developed by the manufacturer that is a primary component of a card-minding device system or electronic pulltab system and is required for a card-minding device to be used in a game of bingo or for an electronic pulltab device to be used to play an electronic pulltab.

(19)[(48)] "Purchased prize" means any merchandise prize that was purchased and not donated.

(20)[(49)] "RAM" or "random access memory" means the electronic memory that a computer uses to store information.

(21)[(20)] "Random number generator" means a device:

(a) For generating number values that exhibit characteristics of randomness; and

(b) Composed of:

1. Computer hardware;
2. Computer software; or
3. A combination of computer hardware and software.

(22)[(24)] "Secondary component" means an additional software or hardware component that:

(a) Is part of or is connected to a card-minding device system or electronic pulltab system;

(b) Does not affect the conduct of the game of bingo or an electronic pulltab;

(c) Is provided by the manufacturer; and

(d) May include computer screen backgrounds, battery charge-up software routines, monitors, keyboards, pointer devices, mice, printers, printer software drivers, or charging racks.

(23)[(22)] "Serial number" means a number assigned by the manufacturer to track the individual product.

(24)[(23)] "Site system" means computer hardware, software, and peripheral equipment leased or purchased from a licensed distributor and used by a licensed organization to conduct, manage, and record bingo games played on card-minding devices and electronic pulltab games played on electronic pulltab devices.

(25)[(24)] "Terminal number" means the unique identification number, if any, assigned by a manufacturer to a specific standard card-minding device or a specific electronic pulltab device.

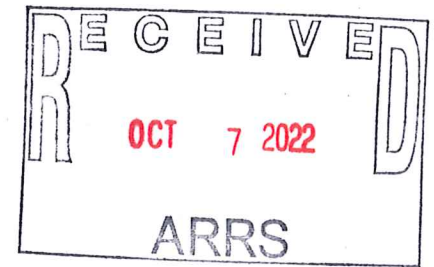
(26)[(25)] "Transaction log" means a record of the same information printed on each outside ticket that is:

(a) Retained in the computer's memory; or

(b) Printed out by the computer.

(27)[(26)] "Version number" means a unique number designated by the manufacturer to identify a specific version of software used on or by the card-minding device system or the electronic pulltab system.

CONTACT PERSON: Doug Hardin, Staff Attorney, Department of Charitable, 500 Mero Street 2NW24, Frankfort, Kentucky 40601, phone (502) 782-8204, fax (502) 573-6625, email doug.hardin@ky.gov.



Andy Beshear
GOVERNOR

Jacqueline Coleman
LIEUTENANT GOVERNOR

PUBLIC PROTECTION CABINET

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Ray A. Perry
SECRETARY

Ambrose Wilson IV
COMMISSIONER

October 7, 2022

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

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 820 KAR 1:032, the Department of Charitable Gaming proposes the attached suggested amendments to 820 KAR 1:032

Sincerely,

Doug Hardin, Staff Attorney
Department of Charitable Gaming
500 Mero Street 2NW24
Frankfort, Kentucky 40601

Final, 9-22-2022

SUGGESTED AMENDMENT

**PUBLIC PROTECTION CABINET
Department of Charitable Gaming**

820 KAR 1:032. Pulltabs.

**Page 2
Section 1(6)
Line 17**

After "Fixed", delete the hyphen.

**Page 2
Section 1(7)
Lines 22-23**

After "required by", insert "this administrative regulation".
Delete "these regulations".

**Page 7
Section 5(3)
Line 15**

After "tickets", insert "shall".
Delete "must".

**Page 11
Section 12(2)
Line 17**

After "delivery shall be", insert "determined as".
Delete "deemed".

**Page 16
Section 16(5)
Line 8**

After "one", insert "(1)".

**Page 18
Section 20(3)
Line 18**

After "one", insert "(1)".

**Page 19
Section 21(1)
Line 17**

After "been claimed", insert a comma.

**Page 30
Section 25(1)
Line 10**

After "reports required by", insert "administrative".

Page 41

Section 27(5)

Line 22

After "United", insert "States".
Delete "State".

Page 42

Section 27(6)

Line 5

After "(6)", insert "A fixed".
Delete "An".

Page 47

Section 30(4)

Line 15

After "recall pursuant to", insert "subsection (3)".
Delete "paragraph (c)".

Lines 15-16

After "of this", insert "section".
Delete "subsection".

Page 54

Section 32(7)

Line 16

After "delivery shall be", insert "determined as".
Delete "deemed".

Page 55

Section 33(3)(a)

Line 14

After "maximum of", insert "thirty-five (".
After "35", insert ")".

Page 55

Section 33(3)(b)

Line 16

After "maximum of", insert "fifty (".
After "50", insert ")".

Page 55

Section 33(3)(c)

Line 18

After "maximum of", insert "fifty (".
After "50", insert ")".

Page 57

Section 34(1)

Line 16

After "Payouts", insert closing quotation marks and a comma.
After "2018)", delete the closing quotation marks.

Page 57
Section 34(2)
Line 19

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

This material is also available on the department's Web site at dcg.ky.gov.

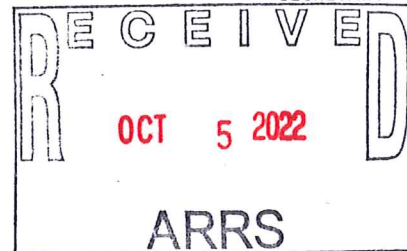


Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

275 East Main Street, 5W-A
Frankfort, Kentucky 40621
Phone: (502) 564-7042
Fax: (502) 564-7091

Eric Friedlander
SECRETARY



October 3, 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: **902 KAR 21:040** suggested substitute

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of issues raised by 902 KAR 21:040, the Department for Public Health proposes the attached suggested substitute. If you have any questions, please feel free to contact Julie Brooks at JulieD.Brooks@ky.gov.

Sincerely,

Policy Analyst
Office of Legislative and Regulatory Affairs

SUBCOMMITTEE SUBSTITUTE

CABINET FOR HEALTH AND FAMILY SERVICES Department for Public Health Division of Prevention and Quality Improvement (As Amended at ARRS)

902 KAR 21:040. Community health worker certification.

RELATES TO: KRS13B.080-160, 211.090, 211.180

STATUTORY AUTHORITY: KRS 194A.050, 2022 Ky Acts ch. 86

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of Kentucky citizens and to operate programs and fulfill the responsibilities vested in the cabinet. Ky Acts ch. 86 authorizes the Department for Public Health to promulgate administrative regulations for the certification of community health workers. This administrative regulation establishes the certification requirements for a community health worker.

Section 1. Definitions. (1) "Applicant" means an individual applying to be certified or recertified as a community health worker.~~[?]~~

(2) "Certification" means the voluntary process by which the department grants recognition and use of a credential to individuals who are eligible to practice as certified community health workers.~~[?]~~

(3) "Certified community health worker" or "CCHW" is defined by Ky Acts ch. 86.

(4) "Code of ethics" means the commonly understood principles and practices that all health and social service professionals are subject to. The Community Health Worker (CHW) code of ethics is maintained by the Kentucky Office of Community Health Workers and is available at <https://chfs.ky.gov/agencies/dph/dpqi/cdpb/Pages/chwp.aspx>.

(5) "Core competencies" means the knowledge and skills gained through education and experience, and includes:

- (a) Communication;
 - (b) Use of public health concepts and approaches;
 - (c) Organizational and community outreach;
 - (d) Advocacy and community capacity building;
 - (e) Care coordination and system navigation;
 - (f) Health coaching;
 - (g) Documentation, reporting, and outcome management; and
 - (h) Legal, ethical, and professional conduct.
- (6) "Department" means the Kentucky Department for Public Health.

(7) "Program" means the Kentucky Office of Community Health Workers (KOCHW) in the Department for Public Health.

(8) "Verifiable employment" means employment that can be confirmed by the department and that demonstrates achievement of a minimum standard of proficiency in the core competencies.

Section 2. Application for Initial Certification. (1) An applicant for initial certification as a certified community health worker shall meet the qualifications listed in Ky Acts ch. 86.

(2) Applications shall be submitted to the program for review and approval.

(3) All applications shall include a color photograph of the applicant.

(4) A nonrefundable application fee of fifty (50) dollars by check or money order made payable to the Kentucky State Treasurer shall be submitted to the program.

(5) The application shall not be considered complete and shall not be processed until all information and any subsequent documentation requested by the program is provided.

(6) If an application is denied, the applicant shall be notified in writing of the decision and given the opportunity to reapply or appeal the denial decision.

(7) Once an application is approved, a certificate with a certificate number shall be issued.

Section 3. Certified Community Health Worker Eligibility. (1) An applicant for certification as a community health worker may be eligible based on training or verifiable employment.

(2) To be eligible based on training, the applicant shall submit:

(a) Documentation of successful completion of a competency-based training program by a KOCHW approved organization. Training ***shall [must]*** be completed within three (3) years prior to application; and

(b) Documentation of successful completion of a minimum of forty (40) hours of verifiable mentorship completed within three (3) years prior to application.

(3) To be eligible based on experience the applicant shall have a minimum of 2,500 hours of verifiable employment as a community health worker within three (3) years prior to application.

Section 4. Renewal of a Current Certificate. (1) All certificates for CCHWs shall be renewed annually by October 31.

(2) A CCHW who holds a current certificate and has completed the continuing education requirements for renewal in Section 6 of this administrative regulation may apply to renew their certificate by:

(a) Submitting a complete application; and

(b) Payment of the twenty-five (25) dollar renewal application fee by check or money order made payable to the Kentucky State Treasurer.

Section 5. Extension for Renewal. (1) A CCHW may submit a written request for an extension to submit the renewal paperwork. This written request shall:

(a) Be received by the program on or before October 31; and

(b) Provide justification for the request.

(2) The program may grant an extension beyond the October 31 deadline based on extenuating circumstances beyond the control of the CCHW.

(3) The CCHW shall be notified in writing of the program's decision to grant or deny the extension.

(4) Failure to submit the renewal or request an extension by the October 31 deadline shall result in expiration of the certificate.

Section 6. Continuing Education Requirements. (1) Continuing education requirements for renewal shall be fulfilled during each annual renewal period.

(2) A CCHW shall complete a minimum of ten (10) contact hours of continuing education related to the core competencies each annual renewal period.

(3) Credit for semester hours taken at a college or university shall be:

(a) Consistent with the community health worker core competencies; and

(b) Approved at three (3) credits for each semester hour.

(4) Continuing education courses may be:

(a) Completed in person before a live presenter;

(b) Through home or self-study; or

(c) Delivered through electronic media or technology including distance learning, online, or teleconference.

(5) Effective October 31, 2023, all CCHWs **shall [must]** complete a KOCHW approved training in oral healthcare, infant and maternal healthcare, and geriatric healthcare.

(a) CHWs who hold a current certification **shall [must]** complete the training by October 2023 for renewal.

(b) CHWs who become newly certified **shall [must]** complete the training within **twelve (12)** months of certification.

(c) These are one-time requirements and **shall [will]** not need to be repeated.

(6) The program shall maintain a record of all approved community health worker training providers on the program's website.

(7) Providers of approved curricula shall notify the program within twenty (20) business days of a trainee's successful completion of a community health worker training.

Section 7. Certified Community Health Worker Scope of Practice. A certified community health worker may:

(1) Provide cultural mediation among individuals, communities, and health and social service systems;

(2) Provide culturally appropriate health education and information;

(3) Provide care coordination, case management, and system navigation services;

(4) Provide coaching and social support;

(5) Advocate for individuals and communities;

(6) Build individual and community capacity;

(7) Provide direct services;

(8) Implement individual and community assessments;

(9) Conduct outreach; or

(10) Participate in evaluation and research.

Section 8. Complaint Procedures. (1) Any organization or individual may file a signed written complaint.

(2) The complaint shall be sent to the Kentucky Office of Community Health Workers, 275 East Main Street, HS2W-E, Frankfort, Kentucky 40621 or by email at chw.certification@ky.gov, subject line "Community Health Worker Complaint".

(3) The complaint shall include:

(a) A statement that the CCHW has violated the requirements of this administrative regulation or the CHW code of ethics;

(b) The facts on which the complaint is based; and

(c) The signature and contact information for the complainant.

(4) The program shall provide notice to the CCHW named in the complaint that a complaint has been filed and provide the CCHW an opportunity to respond to the complaint, including a proposal to resolve the complaint.

(5) The alleged violation shall have occurred not more than one (1) year before the date that the complaint is received by the program.

(6) Within sixty (60) calendar days after a complaint is filed, the program shall:

(a) Carry out an independent investigation, if the program determines that an investigation is necessary;

(b) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

(c) Review all relevant information and make a determination as to whether the CCHW has violated the requirements of this administrative regulation or the code of ethics; and

(d) Issue a written decision to the complainant that addresses each allegation in the complaint and contains the reasons for the program's final decision.

Section 9. Denial, Suspension, and Revocation of a Certificate. (1) The program reserves the right to:

(a) Deny an application for certification or renewal; and

(b) Conduct an audit of a CCHW.

(2) Written notice of the denial of an application for certification or renewal shall be provided to the applicant and include:

(a) The applicant's opportunity to reapply; or

(b) Right to appeal.

(3) A request to appeal the denial of a certificate shall be submitted to the department within ten (10) days from the date listed on the written notice issued pursuant to subsection (2) of this section and provide evidence that the denial was in error.

(4) The department shall re-evaluate the evidence and issue a final notice to the applicant within ten (10) days.

(5) An applicant whose application is denied following the appeal shall be ineligible to apply for a period of one (1) year following the final notice of denial.

(6) A certificate may be suspended if:

(a) Audit findings show the CCHW has violated the requirements of the program; or

(b) The CCHW is found in violation of the CHW code of ethics.

(7) Written notice of the suspension shall be provided to the CCHW and include the right to appeal.

(8) A request to appeal the suspension shall be submitted to the program within ten (10) days of the notice and include evidence that the suspension is in error or the reason for the suspension has been corrected.

(9) Failure to submit a request to appeal the suspension within ten (10) days shall result in permanent suspension of the certificate.

(10) A certificate that has been suspended for one (1) year shall be considered revoked.

(11) During the period of suspension, the CCHW shall return the certification and identification card to the program and shall not engage in the practice of community health work until the suspension is lifted or further disciplinary action is taken.

(12) A certificate shall be revoked for repeated violations of the requirements of this administrative regulation or the CHW code of ethics.

(13) Written notice of the revocation shall be provided to the CCHW and include the right to request a hearing in accordance with KRS Chapter 13B.

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.



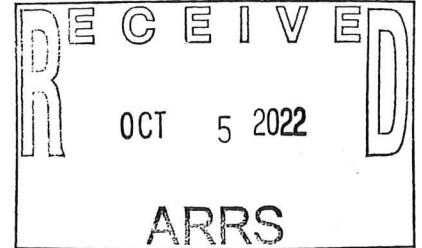
Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

Eric Friedlander
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Frankfort, Kentucky 40621
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October 3, 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: **922 KAR 2:160E** agency amendment

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of issues raised by 922 KAR 2:160E and incorporated material, the Department for Community Based Services proposes the attached agency amendment. If you have any questions, please feel free to contact Laura Begin at Laura.Begin@ky.gov.

Sincerely,

Policy Specialist
Office of Legislative and Regulatory Affairs

Final, 9-30-2022

AGENCY AMENDMENT

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Child Care**

922 KAR 2:160E. Child Care Assistance Program.

Page 38

Section 20(1)(i)

Line 23

After "Chart", insert "10/22".

Delete "12/21".

MATERIAL INCORPORATED BY REFERENCE

At the time that the agency files this agency amendment it needs to file one (1) clean copy of the DCC-300, "Kentucky Child Care Maximum Payment Rate Chart" that:

- Includes an updated edition date of October 2022
- Page 1 – corrects a typographical error, relating to the value for Boyd County, certified providers for school-age, part day care to be "13" instead of "12" as follows:
 - "10. Boyd"
 - Under "Certified", "School-age", "Part Day", insert "13".
 - Delete "12".



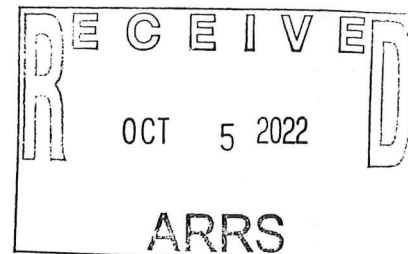
Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

Eric Friedlander
SECRETARY

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Frankfort, Kentucky 40621
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October 3, 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: 922 KAR 2:160 agency amendment

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of issues raised by 922 KAR 2:160 and incorporated material, the Department for Community Based Services proposes the attached agency amendment. If you have any questions, please feel free to contact Laura Begin at Laura.Begin@ky.gov.

Sincerely,

Policy Specialist
Office of Legislative and Regulatory Affairs

Final, 9-30-2022

AGENCY AMENDMENT

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Child Care

922 KAR 2:160. Child Care Assistance Program.

Page 3

Section 1(4)

Line 3

After "substitute for, the", insert "parent or guardian's".
Delete "parent's".

Page 5

Section 1(25)

Line 12

After ""Qualified", delete "alien" or "qualified".

Line 13

After "Section", insert "1(12) or Section 5(2)".
Delete "1(14)".

Page 9

Section 3(1)(a)2.

Line 1

After "citizen", insert "or".
Delete the comma.
After "immigrant", delete ", or qualified alien".

Page 15

Section 8(4)(d)1.

Line 22

After "Works", insert "Program".

Page 16

Section 8(4)(o)

Line 19

After "certain", insert "Native American".
Delete "Indian".

Page 16

Section 8(4)(p)

Line 21

After "member of", insert "a Native American".
Delete "an Indian".

Page 17

Section 8(4)(t)1.

Line 18

After "Program", insert "LIHEAP".

Page 18

Section 8(4)(z)

Line 7

After "individual", insert "Native Americans".
Delete "Indians".

Page 24

Section 10(2)(a)

Lines 1 and 2

After "(a)", delete the following:
Two (2) dollars per day through July 31, 2022, and effective August 1, 2022,

Line 2

Capitalize the first letter of "five".

Page 24

Section 10(2)(b)

Line 9

After "(b)", delete the following:
One (1) dollar per day through July 31, 2022, and effective August 1, 2022,
Capitalize the first letter of "ten".

Page 24

Section 10(3)

Lines 15 and 16

After "rate of", delete the following:
one (1) additional dollar per day through July 31, 2022, and effective August 1, 2022,

Page 38

Section 20(1)(i)

Line 23

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