

EDUCATION AND LABOR CABINET

Andy Beshear
Governor

Office of Adult Education
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Jamie Link
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Emily Caudill
Regulations Compiler
Legislative Research Commission
029, Capital Annex
702 Capital Avenue
Frankfort, Kentucky 40601

Dear Ms. Caudill,

Kentucky Adult Education (KYAE) is submitting the attached staff suggested amendments to the proposed **13 KAR 3:050**.

Sincerely,
/s/John C. Gregory
Executive Director
Office of Adult Education
Department of Workforce Development
Education and Labor Cabinet

TEAM
KENTUCKY

Staff-suggested Amendment

**Final Version 11/17/2022
EDUCATION AND LABOR CABINET
Office of Adult Education**

13 KAR 3:050. GED eligibility requirements.

Page 2

Section 2(3)(a)2.

Lines 14 and 15

After "at least one", insert "(1)".

After "Ready test", insert "i".

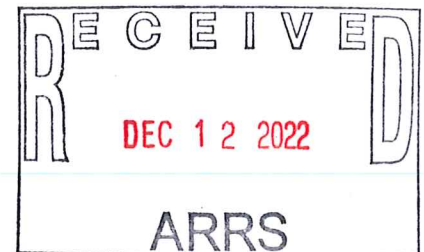
Delete ", ".



KENTUCKY INFRASTRUCTURE AUTHORITY

100 Airport Road
Frankfort, Kentucky 40601
(502) 573-0260
kia.ky.gov

Andy Beshear
Governor



Sandy Williams
Executive Director

December 12, 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: **200 KAR 17:111**. Guidelines for Kentucky Infrastructure Authority Drinking Water and Wastewater Grant Program.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 200 KAR 17:111, the Kentucky Infrastructure Authority proposes the attached amendment to 200 KAR 17:111.

Sincerely,

Matt Stephens, General Counsel
Department for Local Government
100 Airport Road, 3rd Floor
Frankfort, Kentucky 40601

SUGGESTED SUBSTITUTE

KENTUCKY INFRASTRUCTURE AUTHORITY

200 KAR 17:111. Guidelines for Kentucky Infrastructure Authority Drinking Water and Wastewater Grant Program.

RELATES TO: KRS 45.031, 151.601, 151.605, 224A.011, 224A.020, 224A.035, 224A.040, 224A.050 - 224A.314, **Pub. L. 117-2, 31 C.F.R. Part 35**

STATUTORY AUTHORITY: KRS 224A.040, 224A.070(1), 224A.113, 224A.300, **2021 Ky. Acts ch. 195, 2022 Ky. Acts ch. 199**

NECESSITY, FUNCTION, AND CONFORMITY: On March 11, 2021, the American Rescue Plan Act, **Pub. L. 117-2**, was signed into law, and established the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Fund, which together make up the Coronavirus State and Local Fiscal Recovery Funds (~~[""]SLFRF[""]~~) program. This program is intended to provide support to State, territorial, local, and Tribal governments in responding to the economic and public health impacts of COVID-19 and in their efforts to contain impacts on their communities, residents, and businesses. Effective April 1, 2022, the United States Department of the Treasury issued its final rule for the funds, **31 C.F.R. Part 35**, which necessitates withdrawal of the existing emergency regulation and the promulgation of a new and substantially different emergency regulation. KRS 224A.040 authorizes the Kentucky Infrastructure Authority to make grants as funds are available, and KRS 224A.070(1) authorizes the Kentucky Infrastructure Authority to promulgate administrative regulations that shall define with specificity conditions precedent under which applications for loans or grants may be made and the order of priority upon which applications shall be acted upon. **2021 Ky. Acts ch. [Senate Bill 36, 2021 Regular Session Acts of the General Assembly, Chapter] 195**, requires the authority to promulgate administrative regulations to ensure that project approvals are based on rational criteria and include a project's readiness to proceed and the project's social, economic, and environmental benefits. This administrative regulation establishes procedures for **governmental agencies to request and receive [the application for and provision of]** financial assistance ~~[to governmental agencies]~~ for the construction of **drinking water and wastewater** infrastructure projects from funds available to the Kentucky Infrastructure Authority.

Section 1. Definitions.

(1) "Applicant" means a governmental agency that has submitted **a request [an application]** to the authority for a grant from authority funds.

(2) ~~["Application" means the project information contained within the Water Resource Information System Project Profile and designated by an applicant as applying for a grant from the Drinking Water and Wastewater Grant Program funds.~~

(3) ~~["Authority" is defined by KRS 224A.011(6) [means the Kentucky Infrastructure Authority, which is created by KRS Chapter 224A].~~

(3) ~~[(4)]~~ "Conditional commitment letter" means a letter delivered to the applicant stating the authority's commitment to provide a grant under specifications and subject to the satisfaction of certain conditions by the applicant.

(4) ~~[(5)]~~ "Kentucky State Clearinghouse" means the project review mechanism, attached to the Department for Local Government, established in KRS 45.031.

(5) ~~[(6)]~~ "Kentucky Uniform System of Accounting" means the elements of a basic accounting system established in KRS 224A.306, which is used by a water or wastewater system seeking or using funds of the authority if an alternative accounting system has not been approved by the authority.

(6) ~~[(7)]~~ "Project" means an infrastructure project related to drinking water or wastewater.

(7) ~~[(8)]~~ "Unserved" means a customer who does not have access to publicly available potable drinking water or a properly functioning wastewater system.

Section 2. Eligible Costs Timeline.

- (1) Applicants may use funds to cover costs incurred for eligible projects planned or started prior to March 3, 2021, ~~if provided that~~ the project costs covered by the funds were incurred by the applicant after March 3, 2021.
- (2) Applicants may use funds to cover eligible costs incurred during the period that begins on March 3, 2021 and ends on December 31, 2024, ~~if as long as~~ the award funds for the obligations incurred by December 31, 2024 are expended by December 31, 2026.

Section 3. Eligible Projects.

- (1) Funds available to the authority shall be used to fund projects that make necessary investments in water or sewer infrastructure as defined in 31 C.F.R. 35.6(e)(1) ~~[CFR Part 35]~~.
- (2) Only water or wastewater projects addressing one (1) or more of the conditions established in paragraphs (a) through (h) of this subsection shall be eligible for funding:
 - (a) The proposed project shall provide drinking water services to unserved rural customers.
 - (b) The proposed project shall address provisions in a federal consent decree related to water or wastewater.
 - (c) The proposed project shall address the provisions of KRS 224A.300 - 224A.314.
 - (d) The proposed project shall address an emergency situation.
 - (e) The proposed project shall alleviate existing conditions that pose a serious and immediate threat to the health and welfare of the community.
 - (f) The proposed project shall promote social, economic, or environmental benefits; but with respect to industrial sites funds may only be awarded if the site has committed occupants.
 - (g) Funds are needed to complete a funding package previously awarded by the authority.
 - (h) Funds are needed to cover cost overrun for a project previously awarded by the authority.
- (3) Project applications meeting the guidelines established in subsection (2) of this section shall be funded based on the project's:
 - (a) Readiness to proceed;
 - (b) Social, economic, and environmental benefits; and
 - (c) Receipt of a project approval from a water management planning council as created in KRS 151.601.

Section 4. Funding Request ~~[Applications]~~.

- (1) Each applicant shall ~~request~~ submit an application to the authority by requesting that the water service coordinator, as established in KRS 151.605, designate the project for funding. If a water service coordinator is not available, the request may be made directly to the authority in writing and mailed.
- (2) The authority shall request additional information about the project or the applicant if needed to comply with local, state, or federal laws.
- (3) Only a completed Water Resource Information System project profile ~~[application]~~, including all supporting documentation, shall be considered for financial assistance from the Drinking Water and Wastewater Grant Program.

Section 5. Project Priority. Eligible projects shall be funded subject to:

- (1) A project's readiness to proceed;
- (2) A project's social, economic, and environmental benefits;
- (3) The water management council's approval; and
- (4) The availability of funds.

Section 6. Additional Conditions to Project Funding.

- (1) A water supply and distribution system seeking funding for a project shall agree, in writing, to adopt and utilize the Kentucky Uniform System of Accounting and to charge rates for services based on the actual cost of that service.
- (2) Before funds shall be disbursed to an applicant whose project has been approved for funding, the applicant shall demonstrate to the authority that the project:

- (a) Has been reviewed through the Kentucky State Clearinghouse process; and
- (b) Is in compliance with applicable state and federal requirements.

Section 7. Terms of Financial Assistance.

- (1) ~~A~~**[An application for]** funding **request** shall be:
 - (a) Subject to financial viability review by authority staff; and
 - (b) Referred to the authority chair for final action.
- (2) A project shall be funded if approved by the authority chair and reviewed by the Legislative Research Commission's Capital Projects and Bond Oversight Committee.
- (3) Upon approval of ~~a~~**[an application for]** funding **request**~~[of a project]~~, the authority shall issue a conditional commitment letter to the applicant establishing the requirements to be satisfied by the applicant prior to execution of an assistance agreement, including:
 - (a) Accounting standards or financial reporting conditions;
 - (b) Rate covenants;
 - (c) Other federal or state legal requirements relating to the project or the applicant;
 - (d) Engineering or technical requirements; and
 - (e) Receipt of additional funding commitments from other sources.
- (4) Financial assistance by the authority shall be made available only upon:
 - (a) Execution of an assistance agreement; and
 - (b) Satisfaction by the applicant of the conditions established in the conditional commitment letter.
- (5) A grant amount may be adjusted by up to ten (10) percent from the principal amount approved without further action if:
 - (a) Requested by an applicant; and
 - (b) The staff of the authority finds that:
 - 1. The additional requested amount is needed for the project; and
 - 2. Adequate funds are available.
- (6) The authority shall monitor the assistance agreements and require that financial reports be made available to the authority by the applicant.
- (7) The authority may collect an administrative fee of one-half (1/2) of one (1) percent charged on the principal grant amount, as allowed by law. This fee shall be applied to the administrative processing servicing costs of the grants and necessary operating expenses of the program.



Andy Beshear
GOVERNOR

**FINANCE AND ADMINISTRATION CABINET
OFFICE OF GENERAL COUNSEL**

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Brian C. Thomas
GENERAL COUNSEL

December 1, 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: **200 KAR 41:010** The Kentucky State Plane Coordinate System

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 200 KAR 41:010, the Finance and Administration Cabinet proposes the attached amendment to 200 KAR 41:010, The Kentucky State Plane Coordinate System.

Sincerely,

/s/ Cary B. Bishop
Assistant General Counsel
Office of General Counsel
Finance and Administration Cabinet

Subcommittee Substitute

**FINANCE AND ADMINISTRATION CABINET
Commonwealth Office of Technology
Division of Geographic Information Systems
(As Amended at ARRS)**

200 KAR 041:010. The Kentucky State Plane Coordinate System.

RELATES TO: KRS 1.020, 42.630, 42.650, 42.740

STATUTORY AUTHORITY: KRS 1.020(2), 42.650(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 42.650(5) authorizes the Division of Geographic Information Systems within the Commonwealth Office of Technology (COT) to promulgate administrative regulations to implement that statute. KRS 1.020 (2) requires the Commonwealth Office of Technology (COT) to establish and publish a series of layered zones covered by geodetically referenced mapping projections adopted and supported by the National Geodetic Survey (NGS) as a component of the National Spatial Reference System (NSRS).

Section 1. Definitions.

(1) "COT" means Commonwealth Office of Technology.

(2) "Customary foot" ***means [refers to]*** the foot as a linear unit of measure in a generic sense outside the context of a specific conversion regimen.

(3) "Geodetic datum[,:]" ***[as referenced herein,]*** means a geometric model representing the earth's size and shape. The mathematical surface of a geodetic datum is an oblate spheroid, called a reference ellipsoid, generally designed to best fit mean sea level either globally or for a stated region. In the context of a geometric framework in which horizontal coordinates are expressed in angular units as latitude and longitude, a geodetic datum is also referred to as a terrestrial reference frame, or simply, reference frame.

(4) "Geodetically referenced mapping projection" means a planar surface mathematically associated with a geodetic datum, or terrestrial reference frame, such that unique positions relative to that datum or terrestrial reference frame can be converted to and from commensurately unique positions on that plane.

(5) "GIAC" means Geographic Information Advisory Council.

(6) "NGS" means National Geodetic Survey.

(7) "NOAA" means National Oceanic and Atmospheric Administration.

(8) "KSPCS" means Kentucky State Plane Coordinate System ***and is the collection of all series applicable to the Commonwealth of Kentucky.***

(9) ~~***[The "KSPCS" is the collection of all series applicable to the Commonwealth of Kentucky.***~~

~~(10)]~~ "NSRS" means National Spatial Reference System.

~~(10)[(11)]~~ "SPCS" means State Plane Coordinate System.

~~(11)[(12) A]~~ "State plane layer" ***means [is]*** a collection of one ***(1)*** or more zones, all defined on a common geodetic datum or terrestrial reference frame and designed to achieve, in

aggregate, a common theme based on similar performance characteristics that may cover the Commonwealth in part or in whole.

(12) [(13) A] "State plane series" ***means [is]*** a collection of one **(1)** or more layers defined on a common and unique geodetic datum or terrestrial reference frame representing a complete implementation of the national State Plane Coordinate System (SPCS) for the Commonwealth on that datum or terrestrial reference frame.

(13) [(14) A] "State plane zone", or "zone," is a geographic region covered by a uniquely defined geodetically referenced mapping projection and generally comprised of a collection of mutually adjacent whole counties such that all included counties lie completely within a given zone. In special cases a zone may partially cover a county or parts of mutually adjacent counties ***[in—order]*** to represent a geographic area of specific interest. A zone may cover the Commonwealth either in part or in whole.

Section 2.

(1) The KSPCS shall be based on a series of layered zones covered by geodetically referenced mapping projections adopted and supported by the NGS as a component of the NSRS.

(2) The KSPCS shall consist of the following plane series:

(a) Series 1: North American Datum of 1927 (NAD 27);

(b) Series 2: North American Datum of 1983 (NAD 83);

(c) Series 3: North American Terrestrial Reference Frame of 2022 (NATRF2022), except that this series shall not be utilized until the terrestrial reference frames defining SPCS2022 have been officially adopted and are supported by the National Geodetic Survey; and

(d) Additional series based on new datums or terrestrial reference frames as they are officially adopted and supported by NGS as part of the NSRS.

(3) The Commonwealth Office of Technology (COT), as advised by the Geographic Information Advisory Council (GIAC), shall develop and maintain the Kentucky State Plane Coordinate System Standards and Specifications Document, ***[hereinafter]*** referred to as the KSPCS Standards and Specifications Document.

(4) The KSPCS Standards and Specifications Document shall describe, in detail, the standards and specifications for each series of layered zones adopted in subsection (2) of this section. Anticipated series based on new datums or terrestrial reference frames under development by the National Geodetic Survey may be addressed within the KSPCS Standards and Specifications Document but shall not be implemented or utilized until officially adopted and supported by NGS as part of the NSRS.

(5) The KSPCS Standards and Specifications Document shall provide pertinent information and narratives required to adequately describe implementation of the KSPCS, including historical context, underlying concepts, and policy. Additional information not specifically required ***[herein]*** but deemed necessary to facilitate greater understanding of the KSPCS may also be included within the document.

(6) The KSPCS Standards and Specifications Document shall reconcile or otherwise clarify nomenclature and terminology adopted ***[and/]*** or refined by NGS when ***the [such]*** adaptations result in ambiguities relating to similar terms and language utilized within KRS 1.***[:]***010, ***[KRS]*** 1.***[:]***020, ***[and/]*** or this ***administrative regulation [KAR]***.

(7) For each state plane series adopted in subsection (2) ***of this section***, the KSPCS Standards and Specifications Document shall provide a detailed description containing:

(a) The series name:***[i]***

(b) The datum or terrestrial reference frame upon which the series is defined, including the reference ellipsoid and its defining parameters:***[i]*** and

(c) The linear units of measure used to define the series and, when applicable, the forward and reverse conversion factors to be used for converting between the meter and customary foot when representing linear measurements.

(8) For each layer within a KSPCS series, a detailed description shall be provided containing:

(a) The name of the layer:***[i]***and

(b) The purpose of the layer.

(9) For each zone within a KSPCS layer a detailed description shall be provided containing:

(a) The zone name.

(b) The conformal projection type utilized for that zone.

(c) The Central Parallel, expressed as degrees and whole minutes of latitude including the North direction indicator from the equator. When implementing the double standard parallel definition of the Lambert Conformal Conic projection type, the North Standard Parallel and South Standard Parallel, both expressed as degrees and whole minutes including the North direction indicator from the equator shall be provided in lieu of the Central Parallel.

(d) The Central Meridian, expressed as degrees and whole minutes of longitude including the East or West direction indicator from the prime meridian.

(e) When implementing the double standard parallel definition of the Lambert Conformal Conic projection type, the Base Parallel is provided, expressed as degrees and whole minutes of latitude including the North direction indicator from the equator, representing the basis of the false northing and false easting coordinate values for establishing the location of the projected grid origin. For all other projection types, the Central Parallel shall be used as the basis for the false northing and false easting coordinate values for establishing the location of the projected grid origin.

(f) When defined by the transverse Mercator (TM) or oblique Mercator (OM) projection types, or implementing the single standard parallel definition of the Lambert Conformal Conic projection type, the projection axis scale factor shall be provided and expressed to ***six (6)*** full decimal places representing the nearest one ***(1)*** part per million increment.

(g) The False Northing value, including linear units of measure, to be applied on the projection grid at the intersection of the Central Meridian with the Base Parallel or Central Parallel as specified in ***paragraph [item] (e) of this subsection [section]***.

(h) The False Easting value, including linear units of measure, to be applied on the projection grid at the intersection of the Central Meridian with the Base Parallel or Central Parallel as specified in ***paragraph [item] (e) of this subsection [section]***.

(i) When the oblique Mercator conformal projection type is utilized, the Skew Azimuth of the projection axis, as measured clockwise from geodetic north and expressed in whole positive degrees. When expressed as a quadrant measure regardless of direction, the absolute value of the Skew Azimuth shall fall between ***five (5)*** degrees and ***eghty-five (85)*** degrees inclusively. The Skew Azimuth is defined at the intersection of the Central Meridian and Central Parallel.

(j) When the zone represents a portion of the Commonwealth, a list of the whole counties to which the zone shall exclusively apply. When the zone represents statewide coverage then a statement declaring so shall be provided.

(k) A zone may be utilized beyond its defined counties when doing so results in improved performance over the default zone applicable to an area of interest.

(10) The use of the KSPCS shall be mandatory for all Executive Branch Agencies and their contractors to manage geospatial data.

(11) The use of the KSPCS shall be voluntary for all private and non-executive branch uses or applications, but is strongly recommended as the desired method for referencing geographic positions and spatial data pertaining to the Commonwealth of Kentucky. However, an election to utilize KSPCS shall require compliance with this **administrative** regulation.

Section 3. Incorporation by Reference.

(1) ~~**[The following material is incorporated by reference:**~~

~~**(a)] "The Kentucky State Plane Coordinate System Standards and Specifications Document", May 2021, is incorporated by reference.**~~

~~**[(b) The Kentucky State Plane Coordinate System Standards and Specifications Document is also referred to as the KSPCS Standards and Specifications Document.]**~~

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law at the Commonwealth Office of Technology, 101 Cold Harbor Drive Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. or online at <https://geodesy.ky.gov/>.

CONTACT PERSON: Wm. Robert Long, Jr., Executive Director, Finance and Administration Cabinet, 200 Mero Street, 5th Floor, Frankfort, Kentucky 40622.



KENTUCKY TOURISM, ARTS & HERITAGE CABINET

Andy Beshear
Governor

500 Mero Street, Fifth Floor
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(502) 564-4270

Mike Berry
Secretary



December 8, 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: **300 KAR 1:021** Process for the distribution of tourism recovery and investment funds appropriated by the General Assembly in the 2022 Regular Session from the State Fiscal Recovery Fund of the American Rescue Plan Act of 2021.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee regarding 300 KAR 1:021, the Kentucky Department of Tourism proposes the attached amendment to 300 KAR 1:021.

Sincerely,

Michael Mangeot
Commissioner

SUBCOMMITTEE SUBSTITUTE

TOURISM, ARTS AND HERITAGE CABINET

Department of Tourism

(As Amended at ARRS)

300 KAR 1:021. Process for the distribution of tourism recovery and investment funds appropriated by the General Assembly in the 2022 Regular Session from the State Fiscal Recovery Fund of the American Rescue Plan Act of 2021.

RELATES TO: KRS 91A.350, 148.522, 148.525, Ky Acts Ch. 199 (RS 2022 HB 1)

STATUTORY AUTHORITY: KRS 148.525(3)

NECESSITY, FUNCTION, AND CONFORMITY: The Executive Branch Budget for the 2022-2024 biennium appropriates to the Tourism, Arts and Heritage Cabinet under the budget unit Office of the Secretary a total of \$75,000,000 in fiscal year 2021-2022 from the State Fiscal Recovery Fund of the American Rescue Plan Act of 2021. KRS 148.522 provides that the Kentucky Department of Tourism, within the Tourism, Arts and Heritage Cabinet, shall have the authority and responsibility for the promotion, development, and support services for the tourism industry within the Commonwealth. KRS 148.525(3) authorizes the Commissioner of the Department of Tourism to promulgate administrative regulations to carry out the provisions of KRS 148.522. This administrative regulation establishes a uniform and consistent process for the distribution of the tourism recovery and investment funds appropriated by the General Assembly in the 2022 Regular Session from the State Fiscal Recovery Fund of the American Rescue Plan Act of 2021.

Section 1. ~~*[As soon as the funding is available pursuant to the American Rescue Plan Act of 2021, the Kentucky Department of Tourism shall develop and administer the process for distributing tourism recovery and investment funds appropriated by the General Assembly in the 2022 Regular Session from the State Fiscal Recovery Fund of the American Rescue Plan Act of 2021 to eligible recipients.]*~~

Section 2.] Definitions.

- (1) ~~*[The]*~~ "Cabinet" **means** ~~*[refers to]*~~ the Kentucky Tourism, Arts and Heritage Cabinet.
- (2) ~~*[The]*~~ "Department" **means** ~~*[refers to]*~~ the Kentucky Department of Tourism.
- (3) A "tourism commission" means an organization defined as tourism and convention commission under KRS 91A.350, et. seq., and defined as a designated marketing organization or tourism region committee pursuant to 300 KAR 1:010.
- (4) ~~*[The]*~~ "State Fiscal Recovery Fund of the American Rescue Plan Act of 2021 (SLFRF)" means the federal funding available as part of the Coronavirus State and Local Fiscal Recovery Fund established under the American Rescue Plan Act (ARPA), Public Law 117-2 (March 11, 2021), as implemented by the Final Rule issued by the U.S. Department of Treasury in 31 C.F.R. Part 35.
- (5) "Tourism Marketing Incentive Program" means the Regional Marketing and Matching Funds Program ~~*[referred to]*~~ in KRS 91A.390 and 300 KAR 1:010.
- (6) "Recipient" means a grantee, tourism commission ~~*[as defined herein]*~~, or other entity eligible to receive funds from the State Fiscal Recovery Fund of the American Rescue Plan Act of

2021, as appropriated by the General Assembly in the 2022 Regular Session.

(7) "Program Year" means fiscal year 2022-2023 and fiscal year 2023-2024. Funding allocations **shall[will]** be split between the two **(2)** fiscal years unless a recipient requests and receives approval to receive the allocation all in one **(1)** fiscal year.

(8) "Tranche 1 funding" means the \$15,000,000 appropriated by the General Assembly in Acts Chapter 199 (RS 2022 HB 1) L.1.(3)(a) in fiscal year 2021-2022 from the State Fiscal Recovery Fund of the American Rescue Plan Act of 2021 for marketing and promoting tourism in Kentucky.

(9) "Tranche 2 funding" means the \$25,000,000 appropriated by the General Assembly in Acts Chapter 199 (RS 2022 HB 1) L.1.(3)(b) in fiscal year 2021-2022 from the State Fiscal Recovery Fund of the American Rescue Plan Act of 2021 for marketing communities in Kentucky.

(10) "Tranche 3 funding" means the \$25,000,000 appropriated by the General Assembly in Acts Chapter 199 (RS 2022 HB 1) L.1.(3)(c) in fiscal year 2021-2022 from the State Fiscal Recovery Fund of the American Rescue Plan Act of 2021 for attracting meetings and conventions in Kentucky.

(11) "Tranche 4 funding" means the \$10,000,000 appropriated by the General Assembly in Acts Chapter 199 (RS 2022 HB 1) L.1.(3)(d) in fiscal year 2021-2022 from the State Fiscal Recovery Fund of the American Rescue Plan Act of 2021 for multi-jurisdiction collaborative destination marketing in Kentucky.

(12) "Matching funds" means monies received from a funding source other than federal funds.

Section 2. As soon as the funding is available pursuant to the American Rescue Plan Act of 2021, the Kentucky Department of Tourism shall develop and administer the process for distributing tourism recovery and investment funds appropriated by the General Assembly in the 2022 Regular Session from the State Fiscal Recovery Fund of the American Rescue Plan Act of 2021 to eligible recipients.

Section 3. Eligibility. Eligibility for allocations of federal funds available as part of the Coronavirus State and Local Fiscal Recovery Fund established under the American Rescue Plan Act **shall[will]** depend upon which tranche of money a recipient qualifies for in accordance with the parameters set forth in this **administrative** regulation.

(1) To qualify for Tranche 1 funding, a grant recipient **shall[will]** be eligible for consideration if it markets and promotes Kentucky as a travel destination.

(2) To qualify for Tranche 2 funding, a grant recipient **shall[will]** be eligible for consideration if it is a tourism commission~~[, as defined herein,]~~ who markets communities and provides ten (10) percent or more in Matching funds per application and amount awarded.

(3) To qualify for Tranche 3 funding, a grant recipient **shall[will]** be eligible for consideration if it is a tourism commission~~[, as defined herein,]~~ whose counties include arenas, conference centers, or other meeting venues with a minimum of 5,000 square feet or outdoor spaces used for sporting events, if it provides a plan for recruiting and attracting meetings and conventions.

(4) To qualify for Tranche 4 funding for the competitive grant program, a grant recipient **shall[will]** be eligible for consideration if at least five (5) tourism commissions, through a designated primary grantee, submit a marketing plan and budget for multi-jurisdiction collaborative destination marketing and can provide at least ten (10) percent in matching funds per project.

Section 4. Applications.

(1) Applications submitted by tourism commissions ~~shall be [as defined herein are]~~ subject to the following schedule for submission:

(a) Tranche 2 funding applications open on August 1, 2022, and ~~shall [must]~~ be received by September 30, 2022;

(b) Tranche 3 funding applications open on August 8, 2022, and ~~shall [must]~~ be received by October 7, 2022; ~~and~~

(c) Tranche 4 funding applications open September 12, 2022, and ~~shall [must]~~ be received by November 4, 2022.

(d) If additional funding remains following this first round of funding, then a second round of applications ~~shall[will]~~ issue in FY 2023-2024 pursuant to a schedule that ~~shall[will]~~ be posted on the department's Web site.

(2) Applications for funds appropriated in Tranches 2, 3, and 4 ~~shall [must]~~ include ~~[documentation of the following at a minimum]:~~

(a) ~~Documentation to~~ establish the entity qualifies as a ~~["]tourism commission[" as defined herein] ([i.e.,]~~ proof of non-profit status, letter from fiscal court that organization is part of city or county government, ~~or~~ ordinance establishing commission);

(b) ~~[Provide]~~ A W-9 (showing Federal ID number and entity name);

(c) ~~Documentation to~~ demonstrate that the tourism commission was in business before the COVID-19 pandemic on March 6, 2020, and show the economic impact of the COVID-19 pandemic to be eligible to receive recovery and investment funds;

(d) Evidence that applicant is a Kentucky based organization such as proof of registration with the Kentucky Secretary of State or as a Special Purpose Governmental Entity through the Department of Local Government; and

(e) Complete Affidavit for Bidders, Offerors and Contractors.

(3) Applications for Tranche 2 and 4 funding ~~shall [must]~~ also include a notarized copy of each applicant's most recent fiscal year budget approved by the applicable governing body identifying the funds being used for the ten (10) percent or more in Matching funds.

(4) Applications for Tranche 2 funding shall describe how the funds will be used to market communities.

(a) Eligible expenses for Tranche 2 funding ~~shall~~ include:

1. Tourism publications and videos;
2. Media advertisements if fifty (50) miles from destination;
3. Press kits;
4. New billboards and signage if twenty (20) miles from destination;
5. Brochure distribution services;
6. Meeting and convention advertising expenses;
7. Group tour marketplace, meeting and conventions, and consumer travel show expenses;
8. Sponsorship or a bid fee of tourism trade shows, conventions, sporting events, and other events;
9. Web site design excluding hosting;
10. Research studies and analysis;
11. Photography;
12. Content that is paid to a business for advertising purposes;

13. Influencers' assistance with social media; and

14. Other expenses if consistent with the purpose of the Regional Marketing and Matching Funds Program.

(b) Ineligible expenses for Tranche 2 funding ***shall*** include:

1. Billboards and signage that does not consist solely of language welcoming a visitor to a community or region;

2. Costs associated with construction of any permanent signage structure;

3. Previously existing signs or maintenance of signs;

4. Postage and freight;

5. Booth space or expenses for county fair or festivals;

6. Booth space or registration expenses at industrial solicitation events;

7. Expenses to attend a conference or meeting without promoting your destination unless expenses are for professional development or hospitality training;

8. Web sites that contain paid advertisements;

9. Sponsorship or bid fees of tourism trade shows, conventions, and other events;

10. Expenditures for in-kind amenities or hospitality events that include alcohol, gratuities, service charges, and tips;

11. Tourism industry events involving Kentucky Tourism Industry Association, Kentucky Association of Convention & Visitor Bureaus, in-state or local events and conferences, and Kentucky association meetings and conferences;

12. Research related to future capital projects;

13. Industrial incentive brochures;

14. General community relocation and development brochures;

15. City or county maps or directories that list businesses and services;

16. Programs, playbills, posters, table tents;

17. Membership and subscription solicitations;

18. Registration and entry forms;

19. Event and contest category or regulation material;

20. Quick print materials such as flyers, handbills, and circulars;

21. Entertainment;

22. Bumper stickers, banners, flags, postcards, lapel pins, or bags;

23. Prizes, trophies, plaques, decorations, paint supplies, and poster board;

24. Items for resale;

25. Amounts paid for Kentucky sales tax;

26. Stationery, letterhead, envelopes, general office supplies and materials;

27. Salaries or other compensation for the staff or personnel of a tourism commission;

28. General operating and administrative costs;

29. Finance charges or late payment fees;

30. In-kind contributions, which also shall not be included as part of an applicant's match;

31. Expenditures in violation of law; and

32. Other expenses deemed ineligible by the Department if inconsistent with the Regional Marketing and Matching Funds Program.

(5) Applications for Tranche 3 funding shall specify:

(a) The counties within the tourism commission's jurisdictions that include arenas, conference

centers, or other meeting venues with a minimum of 5,000 square feet or outdoor spaces used for sporting events; and

(b) How the funds **shall/will** be used to attract professionally organized meetings, conventions, conferences, exhibitions, expositions, and trade shows that involve:

1. New events not held in the destination or venue for at least three **(3)** years;
2. Multi-day events contracted on or after July 1, 2022;
3. Competitive bidding of events; and
4. Attendees from outside the area (100 miles or more).

(c) How the funds **shall/will** be used to attract amateur and professional competitive sporting events or tournaments that involve:

1. New events not held in the destination or venue for at least three **(3)** years;
2. Multi-day events contracted on or after July 1, 2022;
3. Competitive bidding of the event;
4. Athletes from outside the area (100 miles or more); and
5. A minimum size of the event of 100 **or more** **[+]** athletes and coaches.

(d) For outdoor spaces used for sporting events, grant applications shall be event specific and not related to the overall square footage used.

(e) Local festivals, in-state association meetings that rotate on an annual basis, weddings, fraternal events (unless a national conference), social events, and motor coach **or** **[A]** group tours (unless a national conference) **shall** **[are]** not **be** eligible for Tranche 3 funding.

(f) Eligible expenses for the Tranche 3 funding **shall** include:

1. Marketing and advertising such as video, print, digital, sponsorships, on-site events, and other expenses related to promoting the destination as a meeting **or** **[A]** conference destination;
2. Underwriting incentives for offsetting event expenses such as venue or room rental, transportation costs during events, audio visual rental and services, discount on food and beverage, pipe, drape, tables, and chairs;
3. Per room night confirmed incentives for selection;
4. New research and consultants to build sales strategies;
5. Familiarization trips for meeting planners or board meetings with intent to host larger event;
6. Sales missions for recruiting meetings or conventions;
7. New third party lead generation fees;
8. Refundable bid or RFP fees tied to hosting industry events and conferences;
9. Retention incentives due to increased costs (specifically six (6) percent sales tax on meeting room rentals) for events already contracted but occurring after July 1, 2022; and
10. Other expenses deemed eligible by the Department if consistent with the funding mandate of the State Fiscal Recovery Fund of the American Rescue Plan Act of 2021.

(g) Ineligible expenses for the Tranche 3 funding **shall** include:

1. Funds used to replace an organization's tourism funding commitment for existing budgets, marketing, **[and/]** or staffing;
2. Non-refundable bid or RFP fees;
3. Renovations or building permanent structures at facility for event;
4. Expenses from an event that was contracted prior to December 7, 2021;
5. General operating or administrative expenses such as travel reimbursement and salaries;
6. Purchase of permanent equipment;

7. Purchase of alcohol for meetings, events, sponsorships, or related functions;
8. Hiring of permanent or temporary staff;
9. Purchase or production of promotional items; and
10. Other expenses deemed ineligible by the department if inconsistent with the funding mandate of the State Fiscal Recovery Fund of the American Rescue Plan Act of 2021.

(6) Applications for Tranche 4 funding shall specify:

(a) The identity of the designated primary grantee, who ***shall[will]*** be the point of contact for plan and post-plan reporting, and at least four (4) tourist commissions applying for the grants;

(b) A multi-county marketing plan and budget that shows how the plan ***shall[will]*** assist in recover from the pandemic, with priority given to initiatives that have the potential for long-term transformational impacts;

(c) The requested dollar amount up to the maximum of \$500,000;

(d) Eligible expenses for the Tranche 4 funding ***shall*** include:

1. Tourism publications and videos;
2. Media advertisements if fifty (50) miles from destination;
3. Press kits;
4. New billboards and signage if twenty (20) miles from destination;
5. Brochure distribution services;
6. Meeting and convention advertising expenses;
7. Group tour marketplace, meeting and conventions, and consumer travel show expenses;
8. Sponsorship or a bid fee of tourism trade shows, conventions, sporting events, and other events;

9. Web site design excluding hosting;

10. Research studies and analysis;

11. Photography;

12. Content that is paid to a business for advertising purposes;

13. Influencers' assistance with social media; and

14. Other expenses deemed eligible by the department if consistent with the funding mandate of the State Fiscal Recovery Fund of the American Rescue Plan Act of 2021.

(e) Ineligible expenses for the Tranche 4 funding ***shall*** include:

1. Billboards and signage that does not consist solely of language welcoming a visitor to a community or region;

2. Costs associated with construction of any permanent signage structure;

3. Previously existing signs or maintenance of signs;

4. Postage and freight;

5. Booth space or expenses for county fair or festivals;

6. Booth space or registration expenses at industrial solicitation events;

7. Expenses to attend a conference or meeting without promoting your destination unless expenses are for professional development or hospitality training;

8. Web sites that contain paid advertisements;

9. Sponsorship or bid fees of tourism trade shows, conventions, and other events;

10. Expenditures for in-kind amenities or hospitality events that include alcohol, gratuities, service charges, and tips;

11. Tourism industry events involving Kentucky Tourism Industry Association, Kentucky

Association of Convention & Visitor Bureaus, in-state or local events and conferences, and Kentucky association meetings and conferences;

12. Research related to future capital projects;
13. Industrial incentive brochures;
14. General community relocation and development brochures;
15. City or county maps or directories that list businesses and services;
16. Programs, playbills, posters, table tents;
17. Membership and subscription solicitations;
18. Registration and entry forms;
19. Event and contest category or regulation material;
20. Quick print materials such as flyers, handbills, and circulars;
21. Entertainment;
22. Bumper stickers, banners, flags, postcards, lapel pins, or bags;
23. Prizes, trophies, plaques, decorations, paint supplies, and poster board;
24. Items for resale;
25. Amounts paid for Kentucky sales tax;
26. Stationery, letterhead, envelopes, general office supplies and materials;
27. Salaries or other compensation for the staff or personnel of a tourism commission;
28. General operating and administrative costs;
29. Finance charges or late payment fees;
30. In-kind contributions, which also shall not be included as part of an applicant's match;
31. Expenditures in violation of law; and
32. Other expenses deemed ineligible by the Department if inconsistent with the funding mandate of the State Fiscal Recovery Fund of the American Rescue Plan Act of 2021.

Section 5. Approval of Applications.

(1) With respect to the Tranche 2 funding, the Commissioner of Tourism shall administer the grant program by reviewing each application and determining the applicant's eligibility for funding. Applicant's funding amount ***shall/will*** be determined by the formula for each county's share of economic impact based on the department's 2019 Economic Impact of Tourism in Kentucky study conducted by Tourism Economics.

(2) With respect to Tranche 3 funding, the Commissioner of Tourism shall administer the grant program by reviewing each application and determining the applicant's eligibility for funding. Eligible tourism commissions ***shall/will*** be awarded grants up to a maximum amount according to the following:

- (a) 125,000 square feet and above up to a maximum \$5 million;
- (b) 75,000 to 124,999 square feet up to a maximum \$3 million;
- (c) 35,000 to 74,999 square feet up to a maximum \$1.5 million;
- (d) 15,000 to 34,999 square feet up to a maximum \$500,000;
- (e) 10,000 to 14,999 square feet up to a maximum \$200,000;
- (f) 5,000 to 9,999 square feet up to a maximum of \$100,000; or
- (g) For outdoor spaces used for sporting events, up to a maximum of \$100,000 per event.

(3) With respect to Tranche 4 funding, the Commissioner of Tourism shall develop and administer a competitive grant program that oversees a review committee comprised of state

employees within the cabinet. The review committee ***shall[will]*** utilize a categorical scoring method that considers ***[the following]***:

- (a) The plan's ability to attract new visitors to Kentucky;
- (b) The plan's ability to assist in recovery from the COVID-19 pandemic;
- (c) The plan's potential for long-term transformational impacts and priority ***shall[will]*** be given to these initiatives;
- (d) The measurable economic impact to Kentucky;
- (e) The applicants' ability to execute and provide required reporting; and
- (f) New projects that demonstrate a level of creativity.

(4) Notification of all grant awards ***shall[will]*** be provided to each grantee or applicant by letter and then memorialized by a "Memorandum of Agreement" stating the amount and terms of the funding grant, which the grantee or applicant shall sign and return to the Kentucky Department of Tourism; or by a letter stating why an applicant's projects have been denied funding.

(5) All projects receiving funds from Tranche 1, 2, and 4 ***shall [must]*** be completed on or before December 31, 2024. Projects receiving funds from Tranche 3 ***shall [need to]*** be obligated by December 31, 2024 and the funds fully expended by December 31, 2026.

Section 6. Reporting. Recipients shall provide a report to the Department of Tourism and the Legislative Research Commission detailing expenditures and outcomes including return on investment for affected areas by September 1 of each year. ***The [Such]*** reports shall be in a format designed to allow the Commonwealth of Kentucky to comply with the U.S. Treasury's *SLFRF Compliance and Reporting Guidance (treasury.gov)*, incorporated by reference herein.

Section 7. Forfeited and Unused Funds.

(1) Funds allocated to an approved project shall be forfeited if:

- (a) Documentation required by the provisions of this administrative regulation is not submitted timely;
- (b) An approved project does not materialize; or
- (c) A completed project did not remain in compliance with program requirement.

(2) Funds used in violation of the program may be subject to remediation and recoupment. The Department of Tourism may identify funds used in violation through reporting or other sources. Recipients ***shall[will]*** be provided with an initial written notice of recoupment and an opportunity to submit a request for reconsideration before the Department of Tourism provides a final notice of recoupment. If the recipient receives an initial notice of recoupment and does not submit a request for reconsideration, the initial notice ***shall[will]*** be deemed the final notice. The Department of Tourism may pursue other forms of remediation and monitoring in conjunction with, or as an alternative to, recoupment.

(3) At the end of a program year, funds that are forfeited, subject to recoupment, or unused shall be available for additional rounds of application funding if obligated by December 31, 2024 and if spent by December 31, 2026.

Section 8. Audits. The department may request the State Auditor to audit a tourism project governed by this administrative regulation.

Section 9. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) U.S. Department of Treasury Final Rule for Coronavirus State and Local Fiscal Recovery Funds, 31 C.F.R. Part 35 (effective April 1, 2022);

(b) U.S. Department of Treasury Compliance and Reporting Guidance for the SLFRF Program (June 17, 2022);

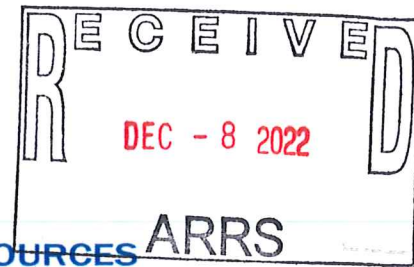
(c) Kentucky Dept of Tourism/Tourism Recovery and Investment ARPA Application - Tranche 2 Application – tourism commissions (July 2022);

(d) Kentucky Dept of Tourism/Tourism Recovery and Investment ARPA Application - Tranche 3 Application – Meetings and Conventions (July 2022);

(e) Kentucky Dept of Tourism/Tourism Recovery and Investment ARPA Application - Tranche 4 Application – Multi-County (July 2022);

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, from the Department of Tourism, 500 Mero Street, 5th Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available at the Department of Tourism's Web site at kentuckytourism.com/arpa [www.kytourism.com/industry/Programs]; or For Tranche 2 Grant (DMO) (502) [A]892-3217 or TAH.KDTARPADMO@KY.GOV [TAH.KDTARPADMO]; Tranche 3 Grant (Meetings & Conventions) (502) [A]892-3229 or TAH.KDTARPAMEET@KY.GOV [TAH.KDTARPAMEET]; Tranche 4 Grant (Multi County) (502) [A]892-3231 or TAH.KDTARPAMULTICO@KY.GOV [TAH.KDTARPAMULTICO].

CONTACT PERSON: Michael Mangeot, Commissioner, 500 Mero Street, 5th Floor, Frankfort, Kentucky 40601, phone (502) 564-4270, fax (502) 564-1079, email Michael.mangeot@ky.gov.



KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES

Rich Storm
Commissioner

#1 Sportsman's Lane
Frankfort, Kentucky 40601
Phone (502) 564-3400
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Brian Clark
Deputy Commissioner

December 8, 2022

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

Re: **301 KAR 2:185**. Hunter Education., 301 KAR 2:225. Dove, wood duck, teal, and other migratory game bird hunting.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 2:185, and 301 KAR 2:225, Kentucky Department of Fish and Wildlife Resources proposes the attached amendment to 301 KAR 2:185, 301 KAR 2:225.

Sincerely,

Jenny Gilbert
Legislative Liaison
Commissioner's Office
Kentucky Department of Fish and Wildlife Resources
1 Sportsmen's Lane
Frankfort, KY 40601

SUGGESTED SUBSTITUTE

Draft Version: 11/30/2022 5:19 PM

TOURISM, ARTS AND HERITAGE CABINET Kentucky Department of Fish and Wildlife Resources

301 KAR 2:185. Hunter education.

RELATES TO: KRS 15.380, 15.404, 150.010, 150.015, 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.170

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 these requirements apply to a limited area. This administrative regulation establishes the requirements for hunter education.

Section 1. Definitions.

(1) "Adult" means a person who is at least eighteen (18) years old.

(2) "Hunter education certification [~~card~~]" means a credential earned if/when ~~[a card or similar document that verifies]~~ a person has successfully completed the hunter education requirements.~~[:~~

(a) ~~Kentucky hunter education course; or~~

(b) ~~Hunter education course from another state, province, or country that meets the standards established by the International Hunter Education Association.]~~

(3) "Hunter education exemption permit [~~certificate~~]" means a permit~~[certificate]~~ issued by the department that allows a person who is required to obtain a hunter education certification [~~card~~] to hunt for a period of one (1) year from the date obtained.

Section 2. Hunter Education Certification [~~Card~~].

(1) Unless exempt pursuant to Section 3 of this administrative regulation or license-exempt pursuant to KRS 150.170, a person born on or after January 1, 1975 shall carry proof of a valid hunter education certification [~~card~~] while hunting in Kentucky.

(2) A person who is less than twelve (12) years old hunting without a hunter education certification [~~card~~] shall be accompanied by an adult who is in position to take immediate control of the firearm or hunting equipment~~[weapon]~~ and who:

(a) Has a hunter education certification [~~card~~]; or

(b) Is exempt from hunter education requirements.

(3) An adult shall not accompany more than two (2) hunters under twelve (12) years old at any one (1) time.

Section 3. Hunter Education Exemptions.

(1) A person who is required to have [a] hunter education, [~~card~~] may obtain a temporary hunter education exemption permit, ***which shall be obtained*** [~~certificate~~] from the department.

(2) A person hunting with a valid temporary hunter education exemption permit [~~certificate~~] shall:

(a) Carry the permit [~~certificate~~] while hunting; and

(b) Be accompanied by an adult who is in position to take immediate control of the firearm or hunting equipment~~[weapon]~~ and who:

1. Is carrying proof of ~~[a]~~ hunter education certification ~~[card]~~; or
2. Was born before January 1, 1975.

(3) The department shall not issue more than one (1) hunter education exemption certificate to any individual.

Section 4. Hunter Education ~~[Course]~~ Requirements.

(1) In order to obtain a Kentucky hunter education certification ~~[card]~~, a person shall:

(a) ~~[Complete a hunter education course by:~~

~~1. Attending an entire department-sanctioned hunter education course; or~~

~~2.] Obtain[ing] and possess[ing] a certificate of completion or its equivalent for course work meeting the standards of the International Hunter Education Association from another state, province, or country; or[:~~

~~a. An online hunter education course; or~~

~~b. A CD-ROM course or its equivalent.]~~

(b) Complete a department sanctioned hunter education series by:

1. Attending an entire in-person or online department-sanctioned hunter education course;

2. Correctly answering at least eighty (80) percent of the questions on a department-sanctioned exam; and

3. ~~[(e)]~~ Safely participating[e] in department-sanctioned live fire exercise[s] ***unless exempted as established in clauses a. and b. of this subparagraph.***

a. A person ***shall be[is]*** exempted from a live fire exercise if he or she:

i. Currently serves in the Armed Forces of the United States of America;

ii. Is a Veteran of the Armed Forces of the United States of America; or

iii. Is a Kentucky peace officer as established in KRS 15.380 and certified as established in KRS 15.404.

b. A person ***shall[must]*** provide one ***(1)*** of the following documents to the department to verify eligibility for the live fire exercise exemption:

i. Current front and back copy of his or her military identification card; or

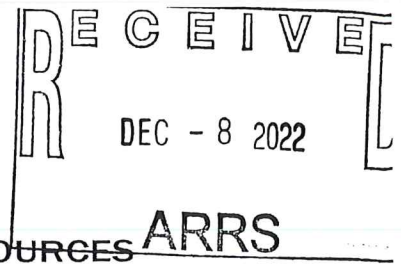
ii. Copy of an Armed Forces veteran's DD Form 214; or

iii. Copy of an Armed Forces veteran's DD Form 256; or

iv. A letter from the certified peace officer's employer on an official letterhead stating the individual is employed by the agency and is a peace officer as established in KRS 15.380 and certified as established in KRS 15.404.

(2) A person shall be at least nine (9) years old to take the department-sanctioned exam and department-sanctioned live fire exercise.

CONTACT PERSON: CONTACT PERSON: Jenny Gilbert, Legislative Affairs, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, (502) 564-3400, fax: (502) 564-0506, email: fwpubliccomments@ky.gov



KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES

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Administrative Regulation Review Subcommittee
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Rm 029, Capitol Annex
Frankfort KY 40601

Re: 301 KAR 2:185. Hunter Education, 301 KAR 2:225. Dove, wood duck, teal, and other migratory game bird hunting.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 2:185, and 301 KAR 2:225, Kentucky Department of Fish and Wildlife Resources proposes the attached amendment to 301 KAR 2:185, 301 KAR 2:225.

Sincerely,

Jenny Gilbert
Legislative Liaison
Commissioner's Office
Kentucky Department of Fish and Wildlife Resources
1 Sportsmen's Lane
Frankfort, KY 40601

SUGGESTED SUBSTITUTE

Final Version: 12/6/2022 12:18 PM

TOURISM, ARTS AND HERITAGE CABINET Department of Fish and Wildlife Resources

301 KAR 2:225. Dove, wood duck, teal, and other migratory game bird hunting.

RELATES TO: KRS 150.330, 150.340, 150.603

STATUTORY AUTHORITY: KRS 150.025(1), 150.360, 150.600(1), 50 C.F.R. 20, 21

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the Department of Fish and Wildlife to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.360 authorizes the department to restrict methods for the taking of wildlife. KRS 150.600(1) authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes the requirements for the taking of migratory game birds within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

Section 1. Definitions.

- (1) "Dove" means mourning dove or white-winged dove.
- (2) "Drawn hunter" means a hunter who applied for a quota hunt and was selected by the department to participate in the hunt.
- (3) "Experienced hunter" means an adult hunter ~~who~~**[that]** has hunted during more than two (2) prior license years.
- (4) "Guest hunter" means a hunter invited by a drawn hunter to participate in a quota hunt.
- (5) "Mentored hunter" means a hunter ~~who~~:
 - (a)**~~[that]~~ Has hunted during no more than two (2) prior license years; **and**
 - (b)**~~[-who]~~ Hunts with experienced hunters on department sponsored dove hunts.
- (6) "Migratory game bird" means mourning dove, white-winged dove, wood duck, teal, Canada goose, common gallinule, woodcock, snipe, purple gallinule, Virginia rail, or sora rail.
- (7)~~[(3)]~~ "Teal" means green-winged teal, blue-winged teal, or cinnamon teal.
- (8)~~[(4)]~~ "Wildlife Management Area" or "WMA" means a tract of land:
 - (a) Controlled by the department through ownership, lease, license, or cooperative agreement; and
 - (b) That has "Wildlife Management Area" or "WMA" as part of its official name.
- (9) "Youth" means a person who has not reached his or her 16th birthday.

Section 2. September Goose Hunting Zones.

- (1) The Western goose zone **shall include**~~[includes]~~ all counties west of and including Hardin, Nelson, Washington, Marion, Taylor, Adair, and Cumberland counties.~~[;]~~
- (2) The Eastern goose zone **shall include**~~[includes]~~ Bullitt County in its entirety and all other counties not included in the Western goose zone.~~[;]~~

Section 3. Season Dates.

- (1) A person shall not hunt a migratory game bird except during a season established in this administrative regulation, 301 KAR 2:221, or 301 KAR 2:228.
- (2) The seasons established in paragraphs (a) through (g) of this subsection shall apply to migratory bird hunting.

- (a) Dove, beginning on:
 - 1. September 1 for fifty-six (56) consecutive days;
 - 2. Thanksgiving Day for eleven (11) consecutive days; and
 - 3. The Saturday before Christmas for twenty-three (23) consecutive days;
- (b) Woodcock, beginning on the fourth Saturday in October for forty-seven (47) consecutive days, except that the season shall be closed during the first two (2) days of modern gun deer season, as established in 301 KAR 2:172;
- (c) Snipe, beginning on:
 - 1. The third Wednesday in September for forty (40) consecutive days; and
 - 2. Thanksgiving Day for sixty-seven (67) consecutive days;
- (d) Wood duck, beginning on the third Saturday in September for five (5) consecutive days;
- (e) Teal, beginning on the third Saturday in September for nine (9) consecutive days;
- (f) Virginia rail, sora rail, common gallinule, and purple gallinule, beginning on September 1 for seventy (70) consecutive days; and
- (g) Canada goose:
 - 1. Eastern goose zone beginning September 16 for fifteen (15) consecutive days; and
 - 2. Western goose zone beginning September 1 for fifteen (15) consecutive days.~~[except that the areas established in subparagraphs 1. and 2. of this paragraph shall be closed.]~~
 - ~~[1.] [Public land in the Ballard Zone, as established in 301 KAR 2:224; and]~~
 - ~~[2.] [Cave Run Lake and the public land inside the boundary formed by Highways 801, 1274, 36, 211, U.S. 60, and Highway 826.]~~

Section 4.~~[Section 3.]~~ Bag and Possession Limits.

~~[(1)]~~ A person shall not exceed the limits established in subsections~~[paragraphs]~~~~(1)~~~~[(a)]~~ through ~~(8)~~ ***of this section*** ~~[(h)]~~for seasons established in Section 2 of this administrative regulation~~[of this]~~~~[subsection]~~.

~~(1)~~~~[(a)]~~ Dove. There shall be a:

- ~~(a)~~~~[1.]~~ Daily limit of fifteen (15); and
- ~~(b)~~~~[2.]~~ Possession limit of forty-five (45).

~~(2)~~~~[(b)]~~ Eurasian collared dove. There shall not be a limit, except that a hunter, if in the field or during transport, shall keep the head or a fully-feathered wing attached to the bird.

- ~~(a)~~~~[1.]~~ The head; or
- ~~(b)~~~~[2.]~~ A fully-feathered wing.

~~(3)~~~~[(c)]~~ Woodcock. There shall be a:

- ~~(a)~~~~[1.]~~ Daily limit of three (3); and
- ~~(b)~~~~[2.]~~ Possession limit of nine (9).

~~(4)~~~~[(d)]~~ Snipe. There shall be a:

- ~~(a)~~~~[1.]~~ Daily limit of eight (8); and
- ~~(b)~~~~[2.]~~ Possession limit of twenty-four (24).

~~(5)~~~~[(e)]~~ Virginia and sora rail, singly or in aggregate. There shall be a:

- ~~(a)~~~~[1.]~~ Daily limit of twenty-five (25); and
- ~~(b)~~~~[2.]~~ Possession limit of seventy-five (75).

~~(6)~~~~[(f)]~~ Common and purple gallinule, singly or in aggregate. There shall be a:

- ~~(a)~~~~[1.]~~ Daily limit of three (3); and
- ~~(b)~~~~[2.]~~ Possession limit of nine (9).

~~(7)~~~~[(g)]~~ Wood duck and teal. There shall be a:

- ~~(a)[1.]~~ Daily limit of six (6), which shall not include more than two (2) wood ducks; and
 - ~~(b)[2.]~~ Possession limit of eighteen (18), which shall not include more than six (6) wood ducks.
- ~~(8)[(h)]~~ Canada goose. ~~[(i)]~~ There shall be a:

(a) For the Canada goose seasons beginning in September, there shall be a:

- 1. Daily limit of five (5); and
- 2. Possession limit of fifteen (15).

(b) Bag and possession limits for all remaining Canada goose seasons shall be as established in 301 KAR 2:221.

~~[(2)] [A hunter who possesses a migratory game bird other than a dove, in the field or during transport, shall keep the head or a fully feathered wing attached to the bird.]~~

~~[(a)] [The head; or]~~

~~[(b)] [A fully feathered wing.]~~

Section 5.~~[Section 4.]~~ Shooting Hours. A person shall not take a migratory game bird except during the times established in this section.

(1) If hunting dove on WMA land, a person shall hunt:

- (a) Between 11 a.m. and sunset during the September and October portion of the season, as established in Section 2 of this administrative regulation; and
- (b) Between one-half (1/2) hour before sunrise and sunset during the remainder of the season, as established in Section 2 of this administrative regulation.

(2) If hunting dove on private land, a person shall hunt:

- (a) Between 11 a.m. and sunset on September 1; and
- (b) Between one-half (1/2) hour before sunrise and sunset during the remainder of the season, as established in Section 2 of this administrative regulation.

(3) Other species listed in this administrative regulation shall be taken between one-half (1/2) hour before sunrise and sunset.

~~[Section 5.] [Shot Requirements. A person hunting waterfowl shall not use or possess a shotgun shell:]~~

~~[(1)] [Longer than three and one-half (3 1/2) inches; or]~~

~~[(2)] [Containing:]~~

~~[(a)] [Lead shot;]~~

~~[(b)] [Shot not approved by the U.S. Fish and Wildlife Service pursuant to 50 C.F.R. Parts 20 and 21 for waterfowl hunting; or]~~

~~[(c)] [Shot larger than size "T".]~~

Section 6. Hunter Orange. A person shall be exempt from hunter orange requirements pursuant to 301 KAR 2:132 and 2:172 if:

- (1) Hunting waterfowl or doves; or
- (2) Accompanying a person hunting waterfowl or doves.

Section 7. Exceptions to Statewide Migratory Game Bird Seasons~~[on Specified Wildlife Management Areas].~~

(1) A person shall not:

- (a) Hunt wood duck or teal on an area closed to waterfowl hunting as established in 301 KAR 2:222;
- (b) Hunt in an area marked by a sign as closed to hunting; **[or]**
- (c) Enter an area marked by a sign as closed to the public; **[or]**
- (d) Hunt geese during September on:

1. Public land in the Ballard Zone, as established in 301 KAR 2:221; and

2. Cave Run Lake and the public land inside the boundary formed by Highways 801, 1274, 36, 211, U.S. 60, and Highway 826.

(2) A person hunting migratory birds on any of the areas established in paragraphs (a) through (k) of this subsection shall only use or possess nontoxic shot approved by the U.S. Fish and Wildlife Service pursuant to 50 C.F.R. Parts 20 and 21:

(a) Ballard WMA;

(b) Boatwright WMA;

(c) Doug Travis WMA;

(d) Duck Island WMA;

(e) Kaler Bottoms WMA;

(f) Kentucky River WMA;

(g) Ohio River Islands WMA;

(h) Sloughs WMA;

(i) South Shore WMA;

(j) Yatesville Lake WMA; and

(k) A WMA wetland management unit that is posted by sign.

(3) At Ballard WMA and the Swan Lake Unit of Boatwright WMA, a person shall not hunt:

(a) Dove, Virginia rail, sora rail, common gallinule, purple gallinule, or snipe after October 13; or

(b) Woodcock.

(4) At Miller Welch - Central Kentucky WMA, a person shall not hunt:

(a) Dove or snipe after October 13; or

(b) Woodcock.

(5) At Grayson Lake WMA, a person shall not hunt:

(a) Within three-quarters (3/4) of a mile from the dam including the no-wake zone of the dam site marina;

(b) On Deer Creek Fork; or

(c) On Camp Webb property or the state park, except for participants drawn for any department-sponsored quota dove hunt on Camp Webb property in September.

(6) At Land Between the Lakes National Recreation Area, a person shall not hunt a migratory game bird between the last Saturday in September and November 30.

(7) At West Kentucky WMA, a person shall not hunt Canada geese during the September season.

(8) At Yatesville Lake, the following areas shall be closed to waterfowl hunting, unless authorized by Yatesville Lake State Park:

(a) The Greenbrier Creek embayment; and

(b) The lake area north of the mouth of the Greenbrier Creek embayment to the dam, including the island.

(9) At Robinson Forest WMA, a person shall not hunt a migratory game bird on the main block of the WMA.

Section 8. Youth and Mentored Hunter~~[Youth-Mentor]~~ Dove Hunts.

(1) There shall be department-sponsored youth and mentored hunter~~[youth-mentor]~~ dove hunts ~~[on the first Saturday in September]~~ in which participants shall be selected by a random computerized drawing.

(2) A youth or mentored hunter shall:

- (a) Apply on the department's Web site at fw.ky.gov between the first Monday in August and the third Friday in August; and
- (b) Carry a department provided selection notification letter on the day of the hunt.
- (3) Each youth or mentored hunter shall be accompanied by an experienced hunter~~[adult who is eighteen (18) years or older]~~.
- (4) At the youth or mentored hunter~~[youth-mentor]~~ hunts:
 - (a) Each youth or mentored hunter shall not be accompanied by more than one (1) experienced hunter~~[adult]~~;
 - (b) One (1) experienced hunter~~[adult]~~ may accompany two (2) youths or mentored hunters; and
 - (c) A maximum of two (2) shotguns are allowed per party.
- (5) A person shall:
 - (a) Hunt within fifteen (15) feet of the assigned location stake; and
 - (b) Not change locations unless another location has been vacated by the assigned hunter.
- (6) A person shall only discharge a firearm within fifteen (15) feet of the assigned location stake.
- (7) A person shall leave their firearm at the assigned location stake when retrieving birds.
- (8) A hunter participating in youth or mentored hunter~~[youth-mentor]~~ hunts shall:
 - (a) Check-in prior to hunting;
 - (b) Not begin hunting before 2 p.m.;
 - (c) Cease hunting by 7 p.m.;
 - (d) Exit the area by 7:30 p.m.; and
 - (e) Check out before exiting the field.

Section 9. Dove Quota Hunts.

- (1) A person applying to hunt doves on a department dove quota hunt shall:
 - (a) Apply on the department's web site at fw.ky.gov between the first Monday in August and the third Friday in August; and
 - (b) Not apply for more than one (1) quota hunt.
- (2) A person drawn to hunt on a dove quota hunt may bring up to one (1) additional guest hunter.
- (3) ~~(a) A hunter need not apply for the quota hunt to participate as a guest.~~
 - (b) ~~Checking in[, nor does checking-in]~~ prior to or participating in the quota hunt *shall not* constitute applying for the quota hunt.**
- (4) A person hunting doves on department quota hunt shall:
 - (a) **Check in[~~Check-in~~] prior to hunting;**
 - (b) Not begin hunting before 1 p.m. in the Eastern Time Zone and by 12 p.m. in the Central Time Zone;
 - (c) Carry a copy of **his or her[their]** department provided selection notification letter on the day of the hunt, except **a guest hunter[hunters]** shall carry a copy of **his or her[their]** host hunter's selection notification letter;
 - (d) Not hunt as a guest hunter unless the drawn hunter who invited them is present in field;
 - (e) Cease hunting and exit the field by 6 p.m. in the Eastern Time Zone and by 5 p.m. in the Central Time Zone;
 - (f) Check out of the area by accurately completing the **Dove Quota** Post-hunt **Hunter** Survey provided by the department and submitting the survey at the department designated drop point before exiting the field; and
 - (g) Not possess more than fifty (50) shotshells.

Section 10. Incorporation by Reference.

- (1) "Dove Quota Post-hunt Hunter Survey", First Edition, 2022", is incorporated by reference.**
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. until 4:30 p.m.
(3) This material may also be found on the department's Web site at fw.ky.gov

CONTACT PERSON: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.

SUMMARY OF MATERIAL INCORPORATED BY REFERENCE

(1) The "Dove Quota Post-hunt Hunter Survey", First Edition, 2022, is a form that persons participating in the dove quota hunt will be asked to complete upon checking out of the quota hunt dove field and depositing at the designated drop point before exiting the premises.

**Kentucky Department of Fish and Wildlife Resources Dove
Quota Hunt-Post Hunt Hunter Survey - First Edition 2022**



Hunter Name: _____ WMA: _____

1. How many total doves did you harvest?
 - a. _____
2. How many shots did you fire?
 - a. _____
3. Did you enjoy this limited access hunt?
 - a. Yes
 - b. No
4. How would you rate the habitat in this field?
 - a. Poor
 - b. Good
 - c. Excellent
5. Would you apply for a quota dove hunt again?
 - a. Yes
 - b. No

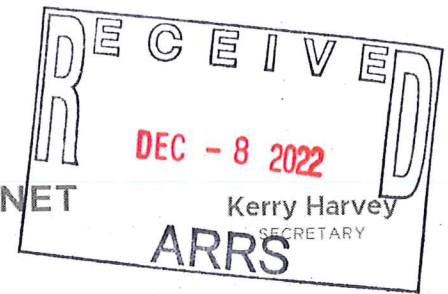
Additional Comments/Suggestions:



Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

125 Holmes Street
Frankfort, Kentucky 40601
Phone: (502) 564-7554
Fax: (502) 564-4840



December 8, 2022

Ms. Emily Caudill, Regulations Compiler
Legislative Research Commission
083, Capitol Annex
702 Capitol Ave.
Frankfort KY 40601

RE: 500 KAR 10:040. Program Review.

Dear Ms. Caudill:

After discussions with Legislative Research Commission staff of the issues raised by 500 KAR 10:040, the Justice and Public Safety Cabinet, State Corrections Commission proposes the attached suggested amendment to 500 KAR 10:040.

Sincerely,

Deanna Smith
Paralegal Consultant

enclosure

SUGGESTED SUBSTITUTE

**JUSTICE AND PUBLIC SAFETY CABINET
Kentucky State Corrections Commission**

500 KAR 10:040. Program review.

RELATES TO: KRS 196.700 - 196.736

STATUTORY AUTHORITY: KRS 15A.160, 196.035, 196.710

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.735 requires the Kentucky State Corrections Commission to evaluate each community corrections program on an annual basis. KRS 15A.160 and 196.035 authorize the secretary of the Justice and Public Safety Cabinet to promulgate administrative regulations necessary or suitable for the proper administration of the functions vested in the cabinet or any division in the cabinet. This administrative regulation provides for review of the community corrections program.

Section 1. Review Process.

- (1) During each fiscal year, the administrator shall inspect and examine the fiscal and program records of each grant to determine compliance with the program plan and prepare a compilation of the reports for the commission. The administrator shall provide the compilation and the grant reports each quarter to the commission.
- (2) Each fiscal year, the administrator shall compile the grant program results into an annual report. The commission shall review this report and may adopt all or portions of it for the annual evaluation required by KRS 196.735.

Section 2. Programmatic and Fiscal Reports.

(1) A grant recipient shall file a programmatic report and fiscal report regarding activity for the preceding period on a schedule provided in writing to a grant recipient by the administrator. Information for the programmatic and fiscal reports shall be input into the online electronic grants management system.

(a) The fiscal report shall outline the grant funds expended for the reporting period, including:

1. The total grant award;
2. The amounts expended in the reporting period. Expenditures shall be listed by budget category, including:
 - a. Personnel:
 - (i) Gross salary;
 - (ii) Fringe benefits; and
 - (iii) Employer costs;
 - b. Contractual services;
 - c. Travel;
 - d. Training;
 - e. Equipment costs; or
 - f. Operating expenses; and
3. The balance of remaining grant funds for the grant cycle.[:]

(b) The program report shall outline program outcomes for the reporting period, including:

1. Number of new program participants and total number of grant participants served;
2. Number of successful program completions and unsuccessful discharges from the program, with average length of time in the program;
3. Number and type of program violations incurred;
4. Number and type of program services received;
5. Amount of restitution or child support paid by participants;
6. Participation in community service;

7. Number of drug tests administered with aggregate results;
 8. Number of participant referrals to other agencies for services;
 9. Participant demographics; and
 10. Any other relevant information about program operation during the reporting period.
- (2) The grantee shall maintain individual client files. Information supplied to the commission for report or statistical purpose shall be by client identification number or client initials.
- (3) **Unless a grant recipient is instructed by the award contract to retain records for a longer period of time, a grant recipient shall retain:**
- (a) Financial records for a minimum of seven (7) years after the close of the grant period;**
 - (b) Personnel records for a minimum of five (5) years after the close of the grant period; and**
 - (c) Information pertaining to offender records and the community corrections grant program files for a minimum of five (5) years after the close of the grant period**~~[All records shall be retained in accordance with the retention schedule for Kentucky State Agencies published by the State Libraries, Archives, and Records Commission].~~

Section 3. Additional Information.

- (1) A grantee shall present the progress of its program and oversight by the board to the commission at its meeting upon request.
- (2) The administrator shall obtain an annual independent audit of each grant recipient. The administrator shall provide a summary of the audit results to the commission.

Section 4.~~[Section 3.]~~ Compliance Issues.

- (1) If the administrator determines that there is reasonable cause to believe that a program or facility is not in substantial compliance with current requirements of the grant, or the program plan under which it was funded:~~[7.]~~
 - (a) The administrator may:
 1. Investigate compliance;
 2. Request additional supporting documentation;
 3. Engage in additional monitoring; or
 4. Take other actions as needed to determine compliance; and
 - (b) A notice of the findings concerning compliance shall be submitted to the commission.
- (2) If information concerning a compliance issue is received and the chair of the commission determines that there is a significant risk of dissipation of funds, the chair may suspend all or any portion a grant until the commission meets and considers the matter.
- (3)~~(a)~~ The commission may suspend all or any portion of a grant or revoke the grant if it is determined by the commission that the board is not in substantial compliance or has not made satisfactory progress in achieving substantial compliance.
 - ~~(b)~~~~(a)~~ Suspension.
 - ~~1.~~~~(a)~~~~[1-]~~ Notice of the suspension shall be sent in writing to the grant recipient and board within five (5) business days of the decision to suspend funds.
 - ~~2.~~~~(b)~~~~[2-]~~ The notice shall identify specific~~[provide specific actions for the grant recipient to correct] deficiencies and corrective steps necessary for the grant recipient to demonstrate~~~~[during the suspension and address]~~ compliance with the grant requirements.
 - ~~3.~~~~(c)~~~~[3-]~~ The grant recipient shall provide a corrective action plan to correct deficiencies during the suspension.
 - ~~4.~~~~(d)~~ The grant recipient shall provide ~~[progress-]~~reports as indicated in the suspension notice to the administrator.
 - ~~5.~~~~(e)~~~~[4-]~~ The administrator shall monitor the grant recipient's progress in correcting the deficiencies and shall provide a report to the commission of the grant recipient's progress.
 - ~~6.~~~~(f)~~~~[5-]~~ The commission shall review the grant recipient's progress as soon as practicable, but not more than 120~~[ninety (90)]~~ days, after the sending of the report by the administrator to determine whether to:

a./1./[a-] Continue the suspension with instructions to the grant recipient concerning correction of the deficiencies;

b./2./[b-] End the suspension and resume the grant funding because the grant recipient has:

(i)/a./[(i)] Sufficiently corrected the deficiencies; or

(ii)/b./[(ii)] Put into place satisfactory steps to achieve compliance within a reasonable time; or

c./3./[c-] Revoke the grant recipient's funding for that fiscal year.

Section 5. Termination of Grant Program.

(1) The commission shall terminate project funding for the following reasons:

(a) The application was made under false pretenses or information;

(b) The applicant is mishandling grant funds;

(c) The applicant is noncompliant with award conditions;

(d) The applicant fails to comply with reporting requirements; or

(e) The applicant is unable to carry out the project as described in the application.

(2) If the commission decides to revoke funding:

(a) The administrator shall notify the grant recipient and board in writing within five (5) business days specifying the reason for the revocation and giving the grant recipient a reasonable time to close out the grant or seek funding from other sources;[f-]

(b) Additional funds shall not be dispersed to the grant recipient for that fiscal year; and

(c) The commission may require the return of unexpended grant monies.

Section 6. Review Request.

(1) A grantee may request a review of the finding to suspend or revoke grant funding by filing a request in writing with the grant administrator no later than five (5) business days after receipt of the finding.

(a) A request for review shall be limited to consideration of information only if it appears that a material fact was overlooked or misinterpreted.

(b) A grant recipient shall not request review for any other matter.

(c) Requests for review shall be submitted to Department of Corrections, Attn: State Corrections Commission Grant Administrator, P.O. Box 2400, Frankfort, Kentucky 40602-2400.

(2) The chair of the commission or designee shall review the request and issue a written decision within thirty (30) days. The decision shall be final.

Section 7. End of Grant Close Out.

(1) Once the grant period expires or a project is terminated, the grantee shall submit a final fiscal report and programmatic report detailing activity for the entire grant period. The administrator shall provide the grantee a due date for the final reports for the grant period. The due date shall not surpass thirty (30) days after the grant period expiration or termination of funds.

(2) The project shall remain subject to an audit of the grant expenditures for that fiscal year.

(3) The commission may require the return of unexpended grant monies.

(a) If the grant recipient is instructed to return unexpended grant funds, the grant recipient shall provide a check made payable to the Kentucky State Treasurer as soon as practicable, but no later than thirty (30) days after receipt of the notice.

(b) If the grant recipient does not return funds as requested, the grantee may be subject to the following actions:

1. Withholding of future awards for the project, program, or board; or

2. Other actions that may be legally available, including civil remedies.

[(b)] [Revocation. If the commission decides to revoke funding:]

[4-]

[a-] [The administrator shall provide written notice to the grant recipient and board within seven (7) days; and]

[b-] [Additional funds shall not be dispersed to the grant recipient for that fiscal year; and]

[2-] [The commission may require the return of unexpended grant monies-]

~~[(4)] [If the grant recipient is instructed to return the unexpended funds, the grant recipient shall provide a check made payable to the Kentucky State Treasurer as soon as practicable, but not later than thirty (30) days, after receipt of the notice.]~~

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.

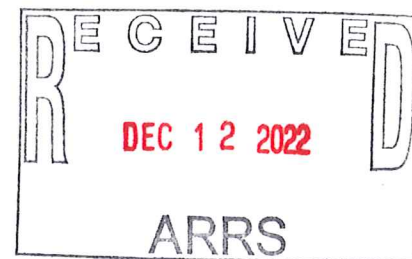


Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

125 Holmes Street
Frankfort, Kentucky 40601
Phone: (502) 564-7554
Fax: (502) 564-4840

Kerry Harvey
SECRETARY



December 12, 2022

Ms. Emily Caudill, Regulations Compiler
Legislative Research Commission
083, Capitol Annex
702 Capitol Ave.
Frankfort KY 40601

Re: **501 KAR 6:080**. Department of Corrections manuals

Dear Ms. Caudill:

After discussions with Legislative Research Commission staff of the issues raised by 501 KAR 6:080, the Justice and Public Safety Cabinet, Department of Corrections proposes the attached suggested amendment to 501 KAR 6:080.

Sincerely,

Amy V. Barker
Asst. Gen. Counsel

enclosure

SUGGESTED SUBSTITUTE

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections**

501 KAR 6:080. Department of Corrections manuals.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.065, 197.110, 439.470, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, and 439.640 authorize the Justice and Public Safety Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any of its divisions. This administrative regulation incorporates by reference the manuals that are referenced in policies and procedures for the Department of Corrections.

Section 1. Incorporation by Reference.

(1) "Department of Corrections Manuals," are incorporated by reference. Department of Corrections Manuals includes:

(a) Classification Manual (Amended 2/12/21~~[9/14/22]~~~~[Amended 2/12/21]~~); and

(b) Kentucky Department of Corrections Religion Reference Manual (Amended 12/13/22~~[9/14/22]~~~~[Added 3/10/08]~~).

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections website at <https://corrections.ky.gov/About/Pages/Ircfilings.aspx>.

CONTACT PERSON: Amy V. Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

Changes to Material Incorporated by Reference: Religion Reference Manual

Page 5

BAHAI Faith, I. HOLY DAYS

After "(9 Work Proscription Days)", insert a return and the following:

The Feast of Naw-Ruz

After "Martyrdom of the Bab", insert a return and the following:

Day of the Covenant (appointment of His son)

Delete the following:

The Feast of Naw-Ruz

Page 13

CHRISTIANITY, Orthodox, I. HOLY DAYS

After "HOLY DAYS", delete the following:

There are approximately twenty-eight holy days in the Eastern Rites. However, Capitalize the "o" in "only".

Page 26

JUDAISM, A. PERSONAL RELIGIOUS ITEMS

After paragraph 11., delete the following:

(Note: If a female inmate wears the dress option, then she shall wear these uniforms for all activities including gymnasium and recreational events. The wearing of shorts and pants shall be prohibited.)

Page 27

JUDAISM, C. RELIGIOUS DIETS

After "A Jewish inmate wishing to observe the religious dietary laws", insert "is".

Delete "are".

Page 35

JUDAISM, K. BURIAL RITUALS, Mourning Practices

After "A requesting Jewish inmate", insert "shall".

Delete "should".

Page 42

NATIVE AMERICAN SPIRITUALITY, K.

After "If the hair is cut, the hair", insert "shall".

Delete "should".

Page 60

WICCA, B.

After paragraph 19., after "Daggers", insert "shall not".

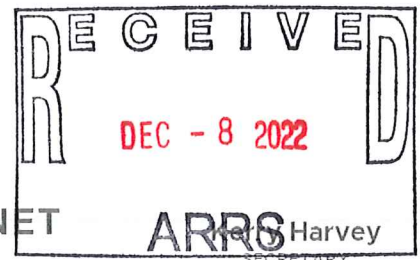
Delete "are not authorized to".

Page 62

NOTE:

After the paragraph beginning with "If a person chooses to fast," insert the following:

If a female inmate wears the dress option, then she shall wear these uniforms for all activities including gymnasium and recreational events. The wearing of shorts and pants shall be prohibited.



Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

125 Holmes Street
Frankfort, Kentucky 40601
Phone: (502) 564-7554
Fax: (502) 564-4840

December 8, 2022

Ms. Emily Caudill, Regulations Compiler
Legislative Research Commission
083, Capitol Annex
702 Capitol Ave.
Frankfort KY 40601

Re: **501 KAR 6:130**, Western Kentucky Correctional Complex

Dear Ms. Caudill:

After discussions with Legislative Research Commission staff of the issues raised by 501 KAR 6:130, the Justice and Public Safety Cabinet, Department of Corrections proposes the attached suggested amendment to 501 KAR 6:130.

Sincerely,

Deanna Smith
Paralegal Consultant

enclosure

SUGGESTED SUBSTITUTE

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections**

501 KAR 6:130. Western Kentucky Correctional Complex.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.590 and 439.640 authorize the Justice and Public Safety Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or of its divisions. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Western Kentucky Correctional Complex.

Section 1. Incorporation by Reference.

(1) "Western Kentucky Correctional Complex Policies and Procedures," **December 13/September 14**, 2022[March 10, 2014], are incorporated by reference. Western Kentucky Correctional Complex policies and procedures include:

- WKCC 01- Public Information and Media Communication (Amended 9/14/22[4/14/14])
02-01
- WKCC 02- Inmate Funds (Amended 9/14/22[4/14/14])
01-01
- WKCC 02- Inmate Canteen (Amended 9/14/22[6/15/12])
01-02
- WKCC 03- Confidentiality of Information by Consultants, Contract Personnel, and
00-06 Volunteers (Amended 9/14/22[11/14/06])
- WKCC 06- Offender Records and Information Access (Amended 9/14/22[8/14/12])
00-01
- WKCC 06- Administrative Process for Inmate Court Orders
00-02 (Amended[Added]9/14/22[6/15/12])
- WKCC 08- Fire Safety Plan (Amended 12/13/22[9/14/22][8/14/12])
02-01
- WKCC 09- Tool Control (Amended 9/14/22[6/15/12])
11-01
- WKCC 10- Special Management Unit (SMU) Operating Procedures, Living Conditions and
02-02 Classification (Amended 9/14/22[4/14/14])
- WKCC 11- Food Service General Requirements[Guidelines] (Amended 9/14/22[6/15/12])
00-01
- ~~WKCC 11- [Food Service Budgeting and Purchasing (Added 6/15/12)]~~
~~02-00]~~
- WKCC 11- Food Service Meals[, Menus, Nutrition] and Special Diets (Amended
03-01 9/14/22[8/14/12])
- WKCC 12- Housekeeping, Sanitation, and Waste Removal (Amended 9/14/22[8/14/12])
00-02
- WKCC 13- Use of Pharmaceutical Products (Amended 9/14/22[6/15/12])
01-01

WKCC 13- Health Care Services (Amended 12/13/22~~9/14/22~~)[6/15/12])
 02-01
 WKCC 13- Mental Health Services (Amended 9/14/22~~8/14/12~~)
 02-02
 WKCC 14- Inmate Clothing and Personal Hygiene Provisions (Amended 9/14/22~~6/15/12~~)
 02-01
 WKCC 14- Legal Services Program (Amended 9/14/22~~6/15/12~~)
 04-01
 WKCC 15- Hair and Grooming Standards (Amended 12/13/22~~9/14/22~~)[6/15/12])
 01-01
 WKCC 16- Visiting Policy and Procedures (Amended 9/14/22~~3/10/14~~)
 01-01
 WKCC 16- Inmate Correspondence (Amended 9/14/22~~6/15/12~~)
 02-01
 WKCC 16- Inmate Access to Telephones (Amended 12/13/22~~9/14/22~~)[10/14/05])
 03-01
 WKCC 16- Inmate Packages (Amended 9/14/22~~1/14/14~~)
 04-01
 WKCC 17- Inmate Personal Property (Amended 9/14/22~~8/14/12~~)
 01-01
 WKCC 17- Inmate Reception and Orientation (Amended 9/14/22~~8/14/12~~)
 02-01
 WKCC 19- Assignment to and Safety Inspections of Inmate Work Program Areas
 04-01 (Amended 9/14/22~~8/14/12~~)
 WKCC 19- Farm Management and Production [Guidelines] (Amended 9/14/22~~Added~~
 04-02 ~~6/15/12~~)
 WKCC 20- Education [Program] (Amended 12/13/22~~9/14/22~~)[8/14/12])
 01-01
 WKCC 21- Library Services (Amended 9/14/22~~8/14/12~~)
 00-01
 WKCC 22- Inmate Recreation and Leisure Time Activities (Amended
 00-01 12/13/22~~9/14/22~~)[8/14/12])
 WKCC 22- Inmate Organizations (Amended 8/14/12)
 00-02
 WKCC 23- Religious Services (Amended 9/14/22~~8/14/12~~)
 00-01
 WKCC 24- Social Services (Amended 9/14/22~~8/14/12~~)
 00-01
 WKCC 25- Inmate Release Process (Amended 9/14/22~~6/15/12~~)
 02-01
~~WKCC 25- [Prerelease Programs (Amended 6/15/12)]~~
~~03-01]~~
 WKCC 26- Volunteer Services Program (Amended 9/14/22~~6/15/12~~)
 01-01

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Changes to Material Incorporated by Reference:

WKCC 08-02-01

Attachment V

Delete Attachment V in its entirety.

WKCC 13-02-01

Page 1

I. Definition of "Health Authority"

After "Health Authority", insert "means".

Page 3

II.B.1.a.(3)

After "(3) All offenders", insert "shall be".

Delete "are".

Page 8

II.B.3.b.(1)

After "The sick call forms shall be retrieved and", insert "triaged".

Delete "triage".

Page 12

II.B.9.b.

After "b. Medical scheduled visits", insert "shall".

WKCC 15-01-01

II.D.6.c.

After "c.", insert "Ross Cash Minimum Security".

Delete "Female"

WKCC 16-03-01

Page 1

Authority/References box

After "WKCC", insert "10-02-02".

Delete "10-02-01".

II.A.3.

After "WKCC", insert "10-02-02".

Delete "10-02-01".

WKCC 20-01-01

Page 1

Authority/References box

After "197.020", delete "780 KAR 2:040; 780 KAR 4:010".

WKCC 22-00-01

Pages 6-7

II.G.5.f.

After "(3)", insert the following:

Pastels, chalk, and compressed charcoal

Delete "Pastels and Chalk".

After "(12) Yarn," insert the following:

(color shall not be similar to staff uniforms and shall require staff approval, 15 skeins, 1 lb. skein maximum)

Delete "12 skeins".

Delete "(17) Chalk/Charcoal – (10 items)".

ReNUMBER "(18)" through "(30)" as "(17)" through "(29)".

Delete the following:

(31) Yarn –(color pending staff approval, 15 skeins, no more than 1 lb. skeins)

Attachment 1

Delete the following rows:

Acrylics, Aida Cloth, Brush Cleaner, Crochet Cotton, Felt Sheets, Hooks/Eyes, Needles, Stretched Canvas, Sewing Threads, Thimble, Water base finish

Pastels row:

After "Pastels", insert the following:

, Chalk, and Compressed Charcoal

Delete "and Chalk".

Wooden Tongue Depressors row:


After "popsicle sticks", delete ", or toothpicks".

Before "of each item", insert "1 box".

Delete "2 boxes".

Yarn row:

After "15 skeins, 1 lb.", insert "maximum".

 <p>WESTERN KENTUCKY CORRECTIONAL COMPLEX</p> <p>OPERATIONS MEMORANDUM</p>	Policy Number 13-02-01	Total Pages 13
	Date Filed December 13, 2022	Effective Date
Authority/References KRS 196.035; 197.020 CPP 13.2 ACA Expected Practices: 5-ACI-2C-13; 5-ACI-3D-08; 5-ACI-6A-01; 5-ACI-6A-02; 5-ACI-6A-03; 5-ACI-6A-04; 5-ACI-6A-05; 5-ACI-6A-08; 5-ACI-6A-12; 5-ACI-6A-19; 5-ACI-6A-20; 5-ACI-6A-27; 5-ACI-6A-28; 5-ACI-6A-35; 5-ACI-6B-01; 5-ACI-6B-02; 5-ACI-6B-08; 5-ACI-6B-11; 5-ACI-6B-12; 5-ACI-6C-01; 5-ACI-6C-05; 5-ACI-6D-02; 5-ACI-6D-10	Subject HEALTH CARE SERVICES	

I. DEFINITIONS

“Chronic care” means recurring medical service rendered to an inmate over a long period of time for ailments including arthritis, diabetes, hypertension, cancer, and cardiac problems, seizures, and hyperlipidemia.

“Convalescent care” means medical service rendered to an inmate to assist in his recovery from an illness or injury, for instance a broken bone or surgery.

“Health Authority” means the health administrator or licensed physician or agency responsible for the provision for health care services to inmates in an institution; the responsible physician may be the health authority.

“Institutional dentist” means a licensed dentist who has the primary responsibility for the dental care of each institutional inmate.

II. POLICY AND PROCEDURE

The institution shall provide a quality health care delivery system for each inmate.

A. Personnel

1. Staff

- a. The Health Authority shall directly supervise all health care matters, the operation of the Medical Department, health care staff, and referrals made to specialists.
- b. The Deputy Warden of Programs and Support shall provide administrative support to ensure that security regulations are

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followed by institutional and non-institutional staff; and, that each inmate has unimpeded access to health care services.

- c. The Health Service Administrator, under the direction of the Health Authority, shall prepare, direct, guide and schedule health programs.
- d. A licensed nurse (RN or LPN) shall, in accordance with standing and direct orders, assist the Health Service Administrator in delivering health care to an inmate.
- e. Unlicensed or certified health care staff may be used in the administration of medication and then only under the direction of licensed health care staff and after receiving sufficient training.
- f. A student or intern, or a medical resident delivering health care in the institution, as part of a formal training program, shall work under staff supervision commensurate with his level of training. There shall be a written agreement between the institution and the training or educational facility that covers the scope of work length of agreement, and any legal or liability issues. The student or intern shall agree in writing to abide by all institutional policies, including those relating to security and confidentiality of information.

2. Inmates

An inmate shall not perform any services in the health care delivery system; or have access to or handle surgical instruments, needles, syringes, medication (other than SAM medication), medical records, or medical equipment. An inmate may inject her own insulin under the direct supervision of health care staff.

3. Staff Meetings

The Health Authority shall meet with the Warden on a quarterly basis. At this meeting, records, reports and statistical summaries which address the health care delivery system shall be presented. Other meetings may be called if a particular problem arises or as deemed necessary.

- 4. Space, equipment, supplies, and materials for health care services shall be provided and maintained as determined by the Health Authority in consultation with the Deputy Warden of Programs and Support or the Warden.
- 5. First aid kits shall be maintained in various locations throughout the institution. Medical staff shall conduct monthly checks of these kits to determine if the safety seal is still intact. If the seal is broken, the first aid

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kit shall be refilled and returned to its original location. For first aid kits located in institutional vehicles, the Safety Officer shall conduct monthly checks and notify medical when seals are broken.

B. Services

1. General

a. Access

- (1) An inmate shall be provided access to health care. Feigning illness or lying to staff shall result in disciplinary action.
- (2) Various health-related and hygiene-related materials shall be maintained and issued to inmates by health care personnel upon request and upon need as determined by medical staff.
- (3) All offenders shall be advised, in writing, at the time of admission to the institution of the rules of the co-payment system.
- (4) Co-payment shall be waived when appointments or services, including follow up appointments, are initiated by medical staff.
- (5) An inmate shall be charged a fee for non-emergency visits to sick call, as described in CPP 13.2.

b. Consent

- (1) Health care information may be shared with health care providers in the community, if appropriate, with the inmate's consent. However, in emergency situations, inmate consent shall not be required. Consultation with the Office of Legal Services shall be requested prior to rendering health care services against an inmate's wishes.
- (2) An inmate may refuse medical, dental or psychiatric treatment examination or procedures regardless of the serious threat to his or her health except:
 - (a) An inmate that has a contagious, infectious or communicable disease and treatment is for the good of the community at large.

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(b) A suicidal inmate is considered mentally incompetent or if an inmate is unable to consent because of mental deficiency or disease.

(c) An unconscious inmate in need of medical treatment.

c. Restraints

An inmate in need of restraint application as part of a health care treatment regimen shall be transported to an institution that has the essential resources, care, and facilities available.

d. Transfers

(1) Health care services beyond the resources available at the institution, as determined by the Health Authority or his designee, shall be provided by transferring or transporting the inmate to a facility where care is available. There shall be joint consultation between the Warden, or his designee, and the Health Authority, or his designee, prior to the transfer of a mentally ill or handicapped inmate. If emergency action is required, joint consultation shall occur as soon as possible, but not later than the next workday.

(2) Prior to transfer to another facility or other substantial travel, either the inmate or his or her medical record shall be evaluated by health care personnel to assess suitability for travel. If travel is approved, pertinent data (including medication, behavior management procedures, and other treatment or special requirements for observation and care during travel) shall be documented in a manner readily accessible to and easily understood by transportation staff or others who may be called upon to attend the inmate during travel. Medications or other special treatment required enroute, along with specific written instructions for administration, shall be furnished to transportation staff.

(3) A written list of emergency and routine care referral sources shall be maintained and updated annually.

e. Continuity of Care

Basic health care services shall be provided to each inmate from admission to discharge, including referral to health care providers in the community if indicated.

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A request for consultation shall be made if the Health Authority or his designee refers an inmate to a community health care provider. In emergency situations, this request shall be addressed as soon as practical.

(1) Intra-system Transfers

- (a) Immediately upon arrival, an incoming transfer shall have an initial assessment conducted through a private consultation by health care personnel. The inmate shall be informed about how to access health care services and the grievance system.
- (b) Health care personnel shall review the medical file for the following information:
 - 1. Any past history of serious infectious or communicable illness, and any treatment or symptoms, or medications;
 - 2. Use of alcohol or other drugs, including type, mode, amounts, frequency, date of last use, and history of problems after ceasing use; and
 - 3. Possibility of pregnancy (female).
- (c) The following information shall be obtained:
 - 1. Whether the inmate has a current medical, dental, or mental health complaint and is being treated;
 - 2. Whether the inmate is currently on medication;
 - 3. Observation of appearance, behavior, and physical deformities; and
 - 4. Any evidence of abuse or trauma.
- (d) All assessment information shall be documented in writing and placed in the medical record. See CPP 13.2.
- (e) If the assessment is complete, the health care personnel shall recommend the appropriate placement of the inmate. An inmate may be placed with the general population of his or her

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classification, referred to the appropriate health care service, or immediately referred for emergency treatment.

f. Medical Restrictions for Work Assignments

- (1) Health care personnel may issue a medical knock-off, as needed, to allow an inmate time off from a work or program assignment for a specific time period due to a temporary medical condition. A medical knock-off may specify other restrictions.
- (2) A Shift Supervisor may issue a medical hold-in, as needed, to allow an inmate time off from a work or program assignment due to a medical condition or complaint, pending an evaluation by health care personnel. An inmate placed on medical hold-in status may have restrictions placed on him and shall sign up for sick call at the next scheduled time.
- (3) Health care personnel may issue limited duty status, as needed, to restrict or limit an inmate's participation in all or part of a work or program assignment.
- (4) Health care personnel may issue light duty status, as needed, to restrict an inmate's participation in an activity program or any other strenuous activity, which creates a risk of injury. Failure to comply with light duty status may result in disciplinary action. Written notification shall be sent to the Classification Committee or Classification Treatment Officer. Classification personnel shall take appropriate action to reflect this on the inmate's work or program assignment history.

g. Inmate Family Notification

(1) Serious Illness

If serious illness or major surgery occurs, the Warden, Deputy Wardens or Duty Officer shall be notified. The next of kin shall be determined by reviewing the information recorded during the health screening. With the Warden's approval, and permission from the inmate, if possible, the next of kin may be contacted by medical staff who shall maintain current information on the inmate's condition by consulting with the hospital.

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(2) Death

If an inmate dies, the Warden, Deputy Wardens or Duty Officer shall be notified. The Warden or his designee shall inform the institutional physician, Chaplain, County Coroner, and Central Office Duty Officer. An extraordinary occurrence report shall be prepared and submitted to Central Office as soon as possible. The next of kin shall be determined by reviewing the information recorded during the health screening. With Warden approval, the next of kin shall be contacted by the Medical Staff or other staff as designated by the Warden.

2. Assessment

- a. Health appraisal data shall be collected and recorded in a uniform manner by qualified medical personnel as directed by the Health Authority. Qualified health care personnel shall complete a medical screening on each intra-system transfer immediately upon the inmate's arrival. All findings shall be documented.
- b. Female inmates shall be asked at intake if there is any possibility of pregnancy. Based on the answer, testing shall be completed if needed. Any female inmate found to be pregnant shall be transported to KCIW to receive prenatal care.

3. Routine

a. Physicals

Each inmate, age fifty and over, shall receive an annual physical examination during his or her birth month. Each inmate, age forty-nine and under, shall receive a physical examination every three[] years during his or her birth month. Test results shall be reviewed with the inmate by the institutional physician or APRN. If test results are received the nursing staff[] may schedule and advise the inmate of his or her appointment to see the physician or APRN.

b. Sick Calls

(1) Nurse

Nurse's sick call shall be conducted Monday through Friday excluding holidays. An inmate housed at SMU shall have access to sick call seven (7) days a week. An inmate shall

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obtain a sick call form from his or her respective dorm and place the slip into the sick call receptacle. The sick call forms shall be retrieved and triaged at 6:15 a.m. The nurse shall interview, evaluate, and determine treatment for each inmate. If appropriate or if requested by the inmate, the nurse may refer the inmate to the physician or other appropriate personnel. An inmate not requiring further medical attention shall return to his or her work or program assignment.

(2) Physician, Dentist, Optometrist

An inmate requesting to see the physician, APRN, dentist, or optometrist shall sign up during nurse's sick call. An appointment card with the date and time shall be sent to the inmate through the institutional mail or by medical staff to inform the inmate if an appointment is scheduled. It shall be the inmate's responsibility to be at the Medical Department at the appropriate time. If an inmate does not appear, the inmate shall place another sick call form to be rescheduled. Non-appearance shall be noted in the inmate's medical record. If the inmate has a verifiable reason for missing an appointment, he shall be rescheduled as soon as possible.

c. Refusal of Services

- (1) An inmate refusing medical treatment shall do so in writing. The inmate shall be removed from any waiting list for the treatment being refused. A notation shall be made in the inmate's medical file. If the inmate later agrees to treatment, he shall reinitiate contact with a nurse who shall place him on the waiting list. If the refused treatment is life-sustaining medical treatment, the Warden, Deputy Wardens, Health Authority, and Shift Supervisor shall be notified. The Health Authority or nurse shall counsel with the inmate explaining the reason for the services and encourage compliance. If the inmate still refuses services, he may be transferred to an institution where the resources are available to deal with a recalcitrant inmate. The Health Authority shall provide the documented medical reason for the transfer.

4. Emergency

- a. Twenty-four (24) hour emergency medical, dental, and mental health care shall be provided by on-call staff.

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- b. In medical emergencies, Operations shall be contacted and provided with the following information. Communications with Operations shall be maintained if feasible to advise or receive updated information.
 - (1) Reporting staff name and location.
 - (2) The number of inmates and staff involved in the emergency.
 - (3) The nature of the emergency, the type of injuries (burns, protruding bones), existing conditions, and any other relevant information.
- c. Operations shall dispatch a health care person to the emergency scene. If a health care person is not available, the Shift Supervisor shall dispatch other staff and shall contact one (1) or more of the following. The health care person, or Shift Supervisor in their absence, shall make the determination regarding the need for an ambulance.
 - (1) Institutional Physician or Dentist. If the Institutional dentist cannot be reached, the Director of Dental Services shall be contacted prior to transporting.
 - (2) Caldwell Medical Center
 - (3) Emergency "911" (for dispatching an ambulance)
 - (4) Duty Officer
 - (5) Deputy Warden
 - (6) Warden
- d. Operations shall maintain a log to include the date, names, times, person called and other pertinent information.
- e. An accident involving staff or an inmate shall be reported to the Medical Department in writing prior to the end of the appropriate staff member's tour of duty. In the case of an inmate, the staff person witnessing the accident shall submit the report. If the accident was not witnessed by a staff person, the inmate's supervisor shall submit the report. Failure to comply shall be reported in writing to the Warden and Deputy Wardens by medical staff.

5. Elective Services

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An inmate's request for outside consultation for elective services shall be in writing and shall be directed to the consulting doctor by the institutional nurse. All charges for elective services shall be the responsibility of the inmate. The consulting doctor shall provide a written statement of the treatment plan, including dates and times of visits. All documentation shall be received and approved prior to consultation visits.

6. Special Health Program

- a. A special health program shall be available for an inmate requiring close medical supervision. Written, individualized treatment plans shall be developed and documented in the progress notes of medical record by the appropriate provider.
- b. Convalescent and chronic care shall be provided if feasible. An individual treatment plan shall be developed by the Health Authority. An inmate in need of convalescent or chronic care, which the institution is not capable of providing, shall be transferred to the appropriate facility where essential resources and care are available.
- c. An inmate incapable of adjusting to an open-dormitory environment shall not be housed at the institution. An inmate diagnosed with mental health problems to the degree that complications are created in work or program assignments or in disciplinary management may be transferred to an institution where essential resources and care are available.
- d. Arrangements shall be made to provide sick call service for any inmate unable to attend sick call due to injury, illness, or segregation assignment.
- e. The need for medical or dental prosthesis and orthodontic devices shall be reviewed on a case-by-case basis with maintenance of overall health the primary consideration.

7. Disabilities

An inmate with a disability shall be provided education, equipment, facilities and the support necessary to perform self-care and personal hygiene in a private environment.

8. Serious and Infectious Diseases

The Nurse Service Administrator shall serve as the institutional medical staff manager to oversee serious infectious disease issues at the institution

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under the direction of the Health Authority. The Nurse Service Administrator shall also serve as the Tuberculosis (TB) Control Coordinator under the direction of the Health Authority.

9. Special Management Housing (SMU) Inmate Services

- a. When an inmate is transferred to the SMU, health care personnel shall be informed immediately.
 - (1) If the inmate was involved in a use of force or physical altercation, or has any suspected injury, a medical examination shall be conducted immediately.
 - (2) If there is no suspected injury, health care personnel shall conduct an assessment and review within 2 hours of admission to SMU.
- b. Medical scheduled visits shall include daily sick call and wellness check, weekly physician or APRN visits, and weekly visits by a psychologist or psychiatrist.

C. Grievances

An inmate complaint regarding health care shall be addressed through the grievance process. The grievance procedure shall be communicated orally and in writing to each inmate upon arrival at the institution through the orientation process.

D. Confidentiality

1. An inmate's medical record shall be protected from unauthorized and improper disclosure. The medical record shall be maintained in the Medical Department. The Health Authority shall control access to medical files.
2. Confidentiality of information gained directly or indirectly shall be preserved by all staff. Staff access to medical information shall be governed on a "need to know" basis in carrying out prescribed duties or by authorization from the inmate. The Health Authority shall share with the Warden information regarding an inmate's medical management, security, and ability to participate in programs.
3. A request to inspect public records and an inmate's authorization for release of information to community physicians or medical facilities shall be in writing. A copy shall be maintained in the medical record and the original shall be maintained in the inmate's master file.

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E. Chemical Dependency and Detoxification

1. Suspected Substance Abuse or Suspected Chemical Dependency

- a. A staff member who observes an inmate whose appearance or actions raise suspicion of substance abuse shall consider the inmate potentially overdosed.
- b. The inmate shall be escorted or transported to the Medical Department by security staff.
- c. An informational report shall be completed, with a copy given to the Medical Department.

2. Medical staff shall:

- a. Conduct an evaluative physical assessment;
- b. Determine if the inmate needs to be kept in the Medical Department or placed in the Special Management Unit;
- c. In any case where symptomology and evidence show potential toxicity, immediately notify the physician and Warden, or his designee;
- d. Monitor the collection of the appropriate urine or blood:
 - (1) If a specific drug or chemical is suspected, urine and blood samples may be obtained.
 - (2) If alcohol only is suspected or evidenced, urine and blood samples may be obtained.
 - (3) All samples shall be collected and processed in accordance with WKCC 09-08-01.
 - (4) The Medical Department shall arrange for any follow up lab work ordered by the primary care provider.

3. Detoxification

Clinical management of a chemically dependent inmate shall include the following:

1. Detoxification shall only be initiated after diagnosis of chemical dependency by the Medical Department;

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2. The Medical Department shall determine whether an individual requires non-pharmacological or pharmacological supportive care;
3. This detoxification regimen may take place by order of the primary care provider or local receiving hospital and shall use in-house and outside resources as necessary;
4. An individualized treatment plan shall be developed and implemented by a multi-disciplinary team made up of medical and psychological or psychiatric personnel; and
5. A referral may be made to a specified community resource by the Medical Department, upon release, as appropriate.

F. Training


Staff with direct supervision of an inmate shall be trained annually in standard First Aid and Cardiopulmonary Resuscitation (CPR), thus allowing them to respond to medical emergencies within four (4) minutes.

G. Medical Autonomy

Clinical decisions shall be the sole province of the responsible institutional health care practitioner and shall not be countermanded by a non-clinician.

III. MONITORING AND EVALUATION

This policy shall be reviewed at least annually and updated as needed by the Health Authority.

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	Date Filed December 13, 2022	Effective Date
Authority//References KRS 196.035; 197.020 CPP 15.1 ACA Expected Practices:5-ACI-3D-18, 5-ACI-3D-15	Subject HAIR AND GROOMING STANDARDS	

I. DEFINITIONS

None

II. POLICY AND PROCEDURE

A. An inmate shall be permitted freedom in personal grooming provided his or her appearance does not conflict with the institution's or Department of Corrections requirements for safety, security, identification and hygiene.

B. Sanitation Practices

1. An inmate may take showers seven (7) days per week, with the exception of "lights out," count times, or when the area is closed for cleaning. The showers shall be thermostatically controlled and set for a range between 100 and 120 degrees Fahrenheit, to ensure inmate safety while still promoting hygienic practices.

a. An inmate shall shower frequently enough to ensure a proper level of hygiene for his or her own hygienic care and in consideration of fellow inmates.

b. An inmate refusing an order or directive to maintain a proper level of hygiene, including bathing, may receive disciplinary action.

2. An inmate's hair, mustache, and beard length may be restricted if not kept clean and neat.

3. An inmate shall not cut hair indoors, unless within the beauty shop/barber shop.

4. Fingernails.

a. Fingernails shall extend no more than ¼ inch beyond the tip of the finger as measured from palm side of hand in a neatly trimmed condition.

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- b. Fingernails shall be shaped in a way that does not present a danger to staff or other inmates.

C. Security Practices

1. Each inmate shall wear an identification card that matches the inmate's appearance to include hair length and color.
2. An inmate whose appearance does not match the identification card may be restricted from:
 - a. Canteen privileges;
 - b. Visiting;
 - c. Furloughs; or
 - d. An activity which requires positive identification before participation is permitted.
3. An inmate shall be charged an appropriate fee for replacement of an identification card due to an inmate's change in appearance.

D. Beauty Shop and Barber Services

1. An inmate beautician or barber shall be employed through the Classification Committee. The work schedule shall be determined by the inmate's supervisor. The beautician or barber shall not charge for services. If it is determined that the beautician or barber is charging for services, the Classification Committee shall relieve the inmate of his or her duties. Disciplinary action shall be taken in accordance with Corrections Policy 15.2 and 15.6. A concerted effort shall be made on the part of the Classification Committee to find an experienced beautician or barber.
2. The assigned beautician or barber shall be responsible for maintaining all furniture, equipment, tools, utensils, instruments, and the facility in a clean and sanitary condition.
3. The assigned beautician or barber shall comply with personal sanitation practices, including the washing of hands before beginning work and maintaining personal cleanliness.
4. Inmates shall be medically cleared to work in hair care.
5. Inmates may make an appointment for hair care at a minimum of once every six (6) weeks. Inmates shall make a written request to the staff supervisor. If the inmate does not come or cancels the appointment, he or she shall wait


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a minimum of six (6) weeks to reschedule unless approved by the staff supervisor.

6. All supplies and equipment shall be used in the institutional beauty or barber shop and not issued to individual inmates.
 - a. Inmates shall not order or buy hair care products for other inmates. Inmates shall not give, sell, or trade products they have ordered or bought to other inmates.
 - b. All caustic, toxic, hazardous, and flammable supplies and materials shall be stored in a locked cabinet in the institutional beauty or barber shop and issued to the operator via a logbook. The items shall be logged back in upon return and before the supervisor leaves the area at the end of the shift.
 - c. Ross Cash Minimum Security inmates: Hair care supplies may be purchased in the Inmate Canteen with the Canteen Operator marking the items with the inmate's name and securing the items. The Canteen Operator shall use sign-in logs and recreation staff shall sign out the products if taking them to the institutional beauty or barber shop.
7. The institutional beauty or barber shop shall be inspected by the Health Department District Health Department, minimally on an annual basis as part of the institution-wide inspection. Deficiencies noted as a result of the inspection, including those found in the beauty or barber shop, shall be corrected in the time frame stipulated by the inspection.

III. MONITORING AND EVALUATION

This policy shall be reviewed annually and updated as needed by the Deputy Warden of Security.

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	Date Filed December 13, 2022	Effective Date
Authority/References KRS 196.035; 197.020 CPP 16.3 WKCC 10-02-02; 23-00-01 ACA Expected Practices: 5-ACI-7D-11	Subject INMATE ACCESS TO TELEPHONES	

I. DEFINITIONS

“Emergency telephone call” is defined in Corrections Policy and Procedure (CPP) 16.3.

“Immediate family” is defined in Corrections Policy and Procedure (CPP) 16.3.

II. POLICY AND PROCEDURE

The institution shall permit inmates reasonable access to public telephones in order to maintain essential community, family, and legal contacts.

A. Access to Phones

1. Inmates housed within the compound shall have access to the telephones located in the phone bank area adjacent to the yard entrance of the Program Service Building Compound telephones shall be available for inmate use seven (7) days per week from morning let out until evening lockup.
2. Ross-Cash inmate telephones are located within each living unit. Ross Cash phones shall be available seven days per week from 6:00 a.m. until 9:00 p.m.
3. Special Management Unit (SMU) inmates shall use the phone located in SMU in accordance with CPP 10.2 and WKCC 10-02-02.

B. Phone Rules

1. Monitoring of inmate telephone calls shall be in accordance with CPP 16.3.
2. Inmate telephone calls shall be collect calls only. If placing a call, the inmate shall state his first and last name only as instructed by the operator or recorded message. False names, messages, or anything other than first and


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last name shall be considered improper use of the telephone system and shall subject the inmate to disciplinary action.

3. There shall be no limit to the number of calls made, or parties called, except if otherwise directed by the Adjustment Committee for rule violations. Restrictions placed on telephone privileges by the Adjustment Committee shall not apply to legal calls except for having to be pre-approved by the Shift Supervisor or Unit Administrator.
4. Multi-party calling or use of multi-party telephone communication shall be prohibited.
5. Incoming inmate phone messages shall not be accepted or delivered with the exception of emergency telephone calls. Emergency phone calls shall be in accordance with CPP 16.3 and WKCC 23-00-01.
6. Requests to place calls at institutional expense during emergency situations, may be approved with appropriate justification, by the Warden, Deputy Wardens, or in their absence, the Shift supervisor.

III. MONITORING AND EVALUATION

This policy shall be reviewed annually and updated as needed by the Deputy Warden of Security.

 <p>WESTERN KENTUCKY CORRECTIONAL COMPLEX</p> <p>OPERATIONS MEMORANDUM</p>	Policy Number 20-01-01	Total Pages 4
	Date Filed December 13, 2022	Effective Date
Authority//References KRS 196.035; 197.020 ACA Expected Practices: 5-ACI-7B-01; 5-ACI-7B-05; 5-ACI-7B-09; 5-ACI-7B-12; 5-ACI-7B-14; 5-ACI-7B-15	Subject EDUCATION	

I. DEFINITIONS

“Technical program” means the same as a vocational program.

II. POLICY AND PROCEDURE

The institution shall provide comprehensive, certified, and continuous education courses approved by the Department of Corrections. The institution shall include courses up to the completion of a General Education Development (GED) diploma without cost to the inmate.

A. Organization and Staffing

1. Education courses at the institution shall be coordinated by the Education Administrator or designee.
2. Academic and technical instructors shall be certified by the State Department of Education or other appropriate authority.

B. Education and Curriculum

1. Education courses, which are available to an eligible inmate, shall be consistent with the needs of the inmate population and may include the following:
 - a. Educational philosophy and goals;
 - b. Communication skills;
 - c. General education;
 - d. Basic academic skills;
 - e. GED preparation;
 - f. Technical education;
 - g. Post secondary education; and
 - h. Other education courses as dictated by the needs of the institutional population.

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2. Education shall include a written, standardized, and competency based curriculum. Courses shall be supported by appropriate materials and classroom resources.
3. The institution shall use a community advisory committee in the development and updating of education offered. The committee may use business, industry, and community resources in developing academic and technical programs for the institution.

C. Certification and Assessment

1. The institution's education courses shall be certified by the appropriate authority.
2. During the certification of educational courses at the institution, both academic courses and technical education shall be assessed against stated objectives as determined by the certifying authority.

D. Accessibility and Assessment of an Inmate

1. Educational opportunities shall be available to an inmate on the basis of interest, need, and capability.
2. Basic adult education and technical education shall be considered as an institutional job assignment. Education shall be offered at times the majority of inmates may take advantage of educational opportunities. Academic courses shall be one-half day assignments. Technical education shall be a full day assignment.
3. Academic courses shall allow for flexible scheduling. An inmate shall enter technical education based on the schedule outlined in the post-secondary model. The following procedure shall be followed if an inmate wishes to enter an educational course.
 - a. An interested inmate shall apply to the Education Administrator or his designee.
 - b. An application shall be submitted to the Classification Committee for official assignment into a program.
 - c. An inmate assigned to an educational course shall sign a statement of agreement, which explains procedures that govern the operation of the course.

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- d. An inmate assigned to an educational course shall be administered appropriate assessment tests and given orientation; see CPP 20.1.
 - e. An inmate who enters Adult Basic Education shall be assigned to the appropriate level based on the assessment results.
 - f. A specific individualized education plan shall be developed for each inmate. Appropriate modules shall be assigned and assessments performed to allow the inmate to progress at his or her own learning pace.
4. An inmate who voluntarily withdraws or is dismissed with cause from an educational course shall not be re-admitted to an educational course for a minimum of ninety (90) days. An inmate shall be allowed to transfer from one educational course to another if approved by the Correctional School Director or designee.

E. Technical and Academic Integration

- 1. An inmate enrolling in technical education shall demonstrate through the submission of scores on specified assessment instruments that the inmate possesses the minimum academic skills essential for success. An inmate who does not demonstrate the necessary academic skills may use the academic school to remedy the identified deficiency.
- 2. An inmate in technical education shall complete the entire curriculum and all other education requirements to earn a technical diploma, certificate or credential.

F. Educational Achievements

- 1. Educational achievements for an inmate shall be emphasized.
- 2. A graduation ceremony or educational incentives may be used to recognize an inmate's accomplishments.
- 3. As an incentive for educational participation, an inmate may receive pay for his or her assignment to an educational program in accordance CPP 19.3.

G. College

Refer to CPP 20.1.

H. Live Work Projects for Technical Education

- 1. Live Work Projects may be used to provide work experience for an inmate

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enrolled in technical education.


2. Procedures for accepting live work projects shall adhere to CPP 20.1.
3. Compensation shall not be paid directly or indirectly to an institutional employee or an inmate for services.

I. Education Records

1. Institutional education shall be supported by a system of record keeping, departmental communication, and professional evaluation and assessment.
2. Each instructor shall maintain attendance records, test scores, progress notes, and other pertinent information on each inmate. Data shall be made available to qualified personnel on a need to know basis.
3. A copy of the diploma or certificate shall be placed in the inmate's institutional file in compliance with CPP 20.1. Additional copies shall be maintained in the education center file.

III. MONITORING AND EVALUATION

This policy shall be reviewed annually and updated as needed by the Education Administrator.

 <p>WESTERN KENTUCKY CORRECTIONAL COMPLEX</p> <p>OPERATIONS MEMORANDUM</p>	Policy Number 22-00-01	Total Pages 8
	Date Filed December 13, 2022	Effective Date
Authority/References KRS 196.035; 197.020 CPP 15.2 WKCC 02-01-01; 22-00-02 ACA Expected Practices: 5-ACI-2C-11, 5-ACI-7C-01, 5-ACI-7C-03, 5-ACI-7C-05, 5-ACI-7C-06	Subject INMATE RECREATION AND LEISURE TIME ACTIVITIES	

I. DEFINITIONS

None

II. POLICY AND PROCEDURE

The institution shall provide a comprehensive program of inmate recreation and leisure activities designed to promote physical and mental well-being. WKCC, through its full time qualified Recreation Leaders, shall ensure adequate access to recreational facilities and equipment. If feasible, and with proper staff approval and supervision, WKCC shall allow for activities initiated by inmates.

A. Inmate recreation and leisure activities shall include both indoor and outdoor activities and exercise to provide for alternatives during inclement weather.

1. The recreation, leisure time programs shall be supervised by a full time, qualified Recreation Program Supervisor. The Recreation Program Supervisor shall have a Bachelor's Degree in recreation or leisure services or the equivalent in combined education and experience. Recreation Leaders assigned to the Recreation Department shall be under the supervision of the Recreation Program Supervisor.
2. Recreational facilities and equipment suitable for the planned leisure activities shall be maintained in good condition and available in proportion to the inmate population.
3. Inspections of all recreational facilities and equipment shall be routinely done to ensure that repairs or replacements are done in a timely fashion.
4. The Recreation staff shall use a control procedure for daily use. Request for repairs and replacements shall be directed through the Recreation Program Supervisor.

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- B. Interaction with the community through recreational activities.
1. Local teams from nearby communities shall be invited to the institution to compete with institutional teams.
 2. Special interest and community involvement activities shall be scheduled at WKCC for the inmate population:
 - a. A request for community recreational activity may be submitted by WKCC staff, inmates, or community representatives; and
 - b. The Deputy Warden of Programs and the Deputy Warden of Security shall review the request and approve or deny it.
- C. Inmate Recreational Program Assistants (IRPA) shall, if appropriate, be used by the Recreation Leaders.
1. Qualifications for the selection of IRPA's shall include:
 - a. Interest in the job;
 - b. Institutional record;
 - c. Attitude;
 - d. Rapport with staff and other inmates; and
 - e. Knowledge of contest rules and guidelines.
 2. Training for IRPA's shall be provided by or arranged through the Recreation Program Supervisor.
 3. Official contest rules and guidelines shall be provided through materials supplied by the Recreation staff if appropriate. Any questions regarding contest rules or guidelines shall be directed to the Recreation staff.
 4. IRPA's may be required to:
 - a. Officiate at recreational contests and competitions;
 - b. Maintain recreational equipment inventories;
 - c. Maintain daily recreational equipment control logs;

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- d. Perform routine preventive maintenance on recreational equipment;
 - e. Assist in the planning and carrying out of recreational activities as directed; and
 - f. Perform other duties as determined by the Recreation Leaders, Supervisor, or other staff assigned to the Recreation Department.
- D. Recreational programs, activities and events, shall be accessible to inmates regardless of creed, race, age, disability, religion, national origin, or gender identity. Inmate participation in recreational programming shall be strictly voluntary.
- E. A Recreation Advisory Committee, consisting of the Recreation Program Supervisor, a Recreation Leader, and ten (10) inmates shall meet quarterly or as needs arise to discuss new programs and activities that may be implemented to enhance the Recreation Program at WKCC.
- F. There shall be sufficient control maintained on all recreational equipment:
 - 1. To check out recreational equipment, an inmate shall leave his or her I.D. card with the person who is checking the equipment out.
 - 2. Each piece of recreational equipment shall be checked in by the same inmate who checked it out, except for a medical emergency.
 - 3. The inmate who checked out the equipment may be held responsible for it and, in accordance with established policy, may be required to pay for its repair or replacement if it is damaged or lost.
 - 4. All recreational equipment shall be checked in thirty (30) minutes prior to a count or final lock-up.
 - 5. Recreation equipment shall not be left unattended for any reason.
- G. Arts and Crafts
 - 1. Purpose

The Arts and Crafts Program encourages inmates to express their artistic talents and pursue their interests through art.
 - 2. Arts and Crafts Approval
 - a. All arts and crafts projects, regardless of the type or source of the materials, shall require prior approval by the Recreation staff.

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- b. All projects shall be registered with the Recreation Department and be accompanied by an approved, signed project slip.
- c. Failure to follow the rules set forth in this policy may result in suspension of Arts & Crafts privileges as supervised by staff.
- d. The Recreation Department shall maintain an inventory of all projects.

3. Actual Work

- a. The project slip shall be maintained with the arts and crafts.
- b. All supplies shall be kept in an approved container and shall be neat, clean, and orderly.
- c. Drawing, sketching, coloring, crocheting (plastic crochet hooks only) and knitting may be kept and done in the living area as long as the items fit in the inmate's locker.
- d. Crocheting, scrapbooking, and knitting shall be considered arts & crafts and shall have a project slip. Drawing, sketching, and coloring shall not require a project slip. All project slips shall be registered through and approved by the Recreation Department. All project slips shall be with the arts & crafts project. A project slip may be obtained from the Recreation Department.
- e. Completion deadlines for all projects shall be at the discretion of the Recreation Program Supervisor or designee. All projects shall be mailed out upon completion. Some items may be donated to the Bonding program or other charitable organizations at the Recreation leader's discretion.

4. Completion deadlines and extensions

- a. All models shall be completed within thirty (30) days. NO EXTENSIONS. Additional model kits shall not be ordered until the previous model kit has been disposed of.
- b. Completion deadlines for all woodworking projects shall be at the discretion of the Recreation Program Supervisor or designee. Examples of deadlines:

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- (1) Large projects – Boats, clocks, motorcycles – 120 days; and
 - (2) Small projects – Jewelry boxes, picture frames, windmills – 60 days
 - c. Woodworking and art projects may be granted extensions at the discretion of the Recreation Program Supervisor or designee. An extension may be denied if the Recreation Leader has reason to believe the inmate is not actively working on the project.
 - d. In accordance with CPP 15.2, participants in the program who have a project slip withdrawn for disciplinary reasons related to the program may lose all future privileges or be temporarily suspended from the program depending on the seriousness of the offense.
 - e. Paintings shall have a deadline of 120 days.
 - f. An inmate shall not work on more than two (2) projects at one time.
5. Ordering
- a. All art supplies shall be ordered through the WKCC Recreation Department. The Recreation Department shall provide the forms for this purpose.
 - b. Orders shall be taken by the Recreation Department at any time, but orders shall be submitted to the Inmate Accounts Office for processing once per month as designated by the Inmate Accounts Office.
 - c. All orders arriving at the institution shall be received by the mailroom and inspected by Security personnel, and then the Inmate Support Building (ISB) shall distribute orders to the inmates that placed the order and add items to the inmates' inventory sheets; (Ross Cash) ISB shall receive and transfer orders to the Ross Cash Recreation Department to distribute to the inmate that placed the order and add items to the inmate's inventory sheet.
 - d. Orders shall be limited as to quantity of each allowable item. These limits shall also apply as to quantity of each item that an inmate may have in his or her possession at any time.
 - e. Orders may also be placed with the Recreation Supervisor or designee for supplies from Dick Blick, Hershnerns, Triarco, and Mary Maxim.

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- f. All items shall be clearly marked non-toxic and non-flammable. Allowable items and limits shall be:
- (1) Paint brushes (various sizes) 10
 - (2) Water colors (3 oz. tubes, maximum size) 30 tubes
 - (3) Pastels, chalk, and compressed charcoal (3 inch sticks) 64 each
 - (4) Drawing pencils, 2 packages or 12 individually
 - (5) Paper (1 ream), poster board (10)
 - (6) Mixing medium (5 oz. tubes, maximum size) 2
 - (7) Blending stump, 12
 - (8) Palette (12 inch x 16 inch plastic) 1
 - (9) Plastic tackle box for storage – 1
 - (10) Wood materials to include: tongue depressors, popsicle sticks (1 box of each item)
 - (11) Art board (Masonite no larger than 15 inches x 16 inches)
 - (12) Yarn, (color shall not be similar to staff uniforms and shall require staff approval, 15 skeins, 1 lb. skein maximum)
 - (13) Plastic grids – 12
 - (14) Wood glue and Elmer's Glue
 - (15) Brushes (10 items)
 - (16) Canvas board for painting (1 no longer than 8 ½ x 11)
 - (17) Colored pencils (1 box limit 48)
 - (18) Crochet/knitting needles (10 shall be **plastic**)
 - (19) Embroidery hoops (2 no longer than 12" in size)
 - (20) Embroidery thread (50 skeins)
 - (21) Embroidery or plastic canvas kit (1)
 - (22) Felt-acrylic (10 swatches larger than 9" x 12")
 - (23) Non-toxic glue (1 no larger than 7.5 oz)
 - (24) Paper (construction/draft, 1 package 40 sheets)
 - (25) Plastic canvas (6 sheets no longer than 8 ½ x 11)
 - (26) Plastic canvas needles (10 must be plastic and no longer than 3")
 - (27) Sketch pads (100 sheets)
 - (28) Water color paints (1 set, no more than 24 in set)
 - (29) Water color paper (100 sheets)
- g. Other items may be allowed upon request with approval of the Recreation Program Supervisor. Any exceptions shall be clearly documented in writing on file in the Recreation Program Supervisor's office.
- h. All items shall be in compliance with fire, safety and sanitation standards.

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6. Disposal and Sales of Arts and Crafts Projects

- a. Within thirty (30) days after completion, a project shall leave the institution. Completed work shall not be kept by any inmate.
- b. Inmates may mail projects home at their expense:
 - (1) Inmates shall be responsible for packing the project, addressing the package, and providing an inmate money transfer authorization. The Postal Technician shall supervise this process
 - (2) Project slips shall be given to the Postal Technician if the project is being prepared for mailing. The Postal Technician shall sign, date, and return the project slip to the Recreation Department for inventory control.
- c. Selected items may be set aside in the designated areas for display or donated for exhibition; i.e. Kentucky Historical Archives, as arranged by the Recreation Program Supervisor or designee.
- d. All inmates shall sign the Responsibility Waiver Agreements. The waiver agreement shall be completed when the inmate initially registers his project. Those refusing to sign the waiver agreement shall not be given permission to work on any arts and crafts projects.
- e. Security Searches

Inmates shall comply with all procedures set forth for the completion and disposal of arts and crafts projects. For security purposes, all items shall be subject to search and seizure by staff. In the presence of a staff supervisor, a project or related materials may be x-rayed or dismantled as deemed necessary.

H. VIDEO GAME ROOM

The Video Game Room shall be open each day according to the posted schedule. At the Ross Cash Center, this area may be used for puzzles.

I. HOLIDAY OR SPECIAL EVENTS

Holiday and special events may be planned and scheduled for all recognized holidays.

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III. MONITORING AND EVALUATION

This policy shall be reviewed annually and updated as needed by the Recreation Program Supervisor.

WKCC Allowable Arts/Craft Supplies

v	Item Name	Number Allowed
	Art Board (Masonite, no larger than 15 inches x 16 inches)	1
	Blending Stump	12
	Brushes	10 items
	Canvas Board for Painting (no longer than 8 ½ inches x 11 inches)	1
	Colored Pencils	1 Box, 48 pencils
	Crochet/Knitting Needles (Shall be plastic)	10
	Drawing Pencils	2 packages or 12 individually
	Embroidery or Plastic Canvas Kit	1
	Embroidery Thread	50 skeins
	Embroidery Hoops (no longer than 12" in size)	2
	Felt Acrylic (Swatches no larger than 9 inches x 12 inches)	10
	Mixing Medium (5oz. Tubes, maximum size)	2
	Non-Toxic Glue (no larger than 7.5oz)	1
	Paint Brushes (various sizes)	10
	Palette (12 inches x 16 inches plastic)	1
	Paper	1 ream
	Paper (construction/draft)	1 package, 40 sheets
	Pastels, Chalk, and Compressed Charcoal (3 inch sticks)	64 each
	Plastic Canvas Needles (no longer than 3 inches)	10
	Plastic Grids	12
	Plastic Tackle box for storage	1
	Plastic Canvas (no longer than 8 ½ inches x 11 inches)	6 sheets
	Poster Board	10
	Sketch Pads	100 sheets
	Water Color Paints	1 set, 24 in one set
	Water Color Paper	100 sheets
	Water Colors (3oz. Tubes, maximum size)	30 tubes
	Wood Glue or Elmer's Glue	
	Wooden Tongue Depressors, popsicle sticks	1 box of each item
	Yarn (color pending staff approval)	15 skeins, 1 lb. maximum

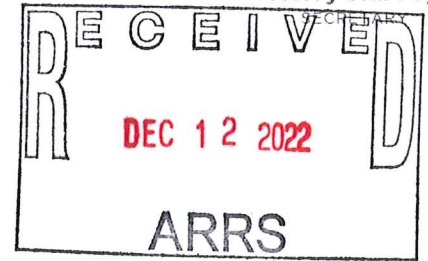


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Kerry Harvey



December 12, 2022

Ms. Emily Caudill, Regulations Compiler
Legislative Research Commission
083, Capitol Annex
702 Capitol Ave.
Frankfort KY 40601

Re: **503 KAR 3:130**. Online Basic and In-Service Training

Dear Ms. Caudill:

After discussions with Legislative Research Commission staff of the issues raised by 503 KAR 3:130, the Justice and Public Safety Cabinet, Department of Criminal Justice Training proposes the attached suggested amendment to 503 KAR 3:130.

Sincerely,

Amy V. Barker
Asst. Gen. Counsel

enclosure

SUGGESTED SUBSTITUTE

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Criminal Justice Training**

503 KAR 3:130. Online Basic and In-Service Training.

RELATES TO: KRS 15A.070, 15.440

STATUTORY AUTHORITY: KRS 15A.070

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.070(1)(a) requires the Department of Criminal Justice Training to establish, supervise, and coordinate training programs and schools for law enforcement personnel. **KRS 15A.070(1)(b) requires the department to establish procedures and participation requirements for basic training and annual in-service course instruction to be offered electronically and online through remote learning.** KRS 15A.070(5) authorizes the Department of Criminal Justice Training to promulgate administrative regulations. This administrative regulation establishes requirements for basic **training** and annual in-service course instruction to be offered electronically and online through remote learning.

Section 1. Definitions.

- (1) "Asynchronous learning" means online instruction that allows students to access content or participate in learning, but does not require students and instructors to participate at the same time or in the same place.
- (2) "Blended learning" means a course of study that includes both traditional in person classroom instruction and synchronous learning or asynchronous learning.
- (3) "Online learning" means instruction that takes place through electronic technologies and media over the internet.
- (4) "Recruit" is defined by 503 KAR 3:005, **Section 1**(9).
- (5) "Student" means a trainee or recruit as defined by 503 KAR 3:005.
- (6) "Synchronous learning" means online instruction that occurs between students and instructors at the same time, but not in the same place, using video technology.
- (7) "Trainee" is defined by 503 KAR 3:005, **Section 1**(12).

Section 2. Implementation.

- (1) By no later than January 1, 2024, at least ten percent (10%) of the total hours of course instruction required to be completed for basic training under KRS 15.440(1)(d) shall be made available electronically and online for candidates to complete through remote learning.**;**
- (2) By no later than January 1, 2025, at least thirty percent (30%) of the total course offerings required to be completed by an officer for annual in-service training under KRS 15.440(1)(e) that is offered or sponsored by the Department of Criminal Justice Training shall be made available electronically and online to complete through remote learning.**;**
- (3) The instruction provided by the Department of Criminal Justice Training under this section shall not be in the subject areas that require the demonstration **or**~~**of**~~ use of physical skill for the purposes of evaluating the participant's proficiency.**;** **and**
- (4) The course offerings and instruction required to be provided under subsection (2) of this section shall be available throughout the entire calendar year and spread out over a reasonable period of time so as not to require attendance or participation for the entirety of a single work week.

Section 3. Instruction Offered. Online and blended **learning available**~~**courses**~~ shall be identified annually through the department's Web site at <https://www.docjt.ky.gov/> in the training area including through the registration system and course listings. The schedule of classes shall state whether a course

is synchronous or asynchronous and identify any software and hardware requirements for participation in online class sessions.

Section 4. Online Learning.

- (1) A student participating in online learning through the department shall:
 - (a) Actively participate in class learning activities regardless of the delivery method;
 - (b) Successfully complete and submit all assignments for the online learning event within the deadline set for the specific online training event including:
 1. Electronic documents;
 2. Discussion boards;
 3. Blogs;
 4. Polls;
 5. Group assignments; and
 6. Any other assigned work from the instructor; ~~and~~
 - (c) Complete assignments, online lessons, and tests only in a location conducive to learning, free of distraction, that ensures the safety of the student; ~~and~~
 - (d) Comply with all course requirements within the time required as described in the Kentucky Law Enforcement Council approved curriculum or schedule book on the department's Web site at <https://www.docj.ky.gov/> in the training area;
 - (e) Have equipment that meets the minimum requirements for the course;
 - (f) Have an approved internet browser as well as a stable internet connection and sufficient internet speed capable of meeting course requirements, including the ability to:
 1. Stream online video;
 2. Engage in web conferencing;
 3. Receive information and documents; and
 4. Use software programs required within the course; and
 - (g) Test equipment that will be used for the online course pursuant to individual course requirements at least five (5) days prior to the start of the online training.
- (2) If a student is unable to meet technology requirements for the course or the student's testing indicates a problem for participation, the student shall contact the department at least five (5) days prior to the start of the online training to try to address the issue.
- (3) If a student is unable to correct the issue prior to the start of the course, the student shall be removed from the course roster and may reenroll in another course at a later time.
- (4) A student shall comply with 503 KAR Chapter 3.

Section 5. Synchronous Learning.

- (1) A student shall be:
 - (a) Viewed and able to be heard online by the instructor and other students; and
 - (b) Present online with appropriate equipment pursuant to individual course requirements.
- (2) A student shall acknowledge as requested the student's attendance at all attendance checks during an online learning event.

Section 6. Asynchronous Learning.

- (1) For asynchronous learning that is not performed on the department campus, a trainee shall be exempt from the:
 - (a) Attendance requirement in 503 KAR 3:020, Section 5(8);
 - (b) Grooming and uniform requirements in 503 KAR 3:020, Section 5(3); and
 - (c) Tobacco products usage and consumption of food or drink prohibitions in 503 KAR 3:020, Section 5(10)(b).
- (2) For asynchronous learning that is not performed on the department campus, a recruit shall be exempt from the:
 - (a) Attendance requirement in 503 KAR 3:010, Section 6(9);
 - (b) Grooming and uniform requirements in 503 KAR 3:010, Section 6(3); and

(c) Tobacco products usage and consumption of food or drink prohibitions in 503 KAR 3:010, Section 6(11)(c). 503 KAR 3:130. Online Basic and In-Service Training

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.



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December 8, 2022

Ms. Emily Caudill, Regulations Compiler
Legislative Research Commission
083, Capitol Annex
702 Capitol Ave.
Frankfort KY 40601

Re: **503 KAR 7:010**, On-site review of school security risk assessments and written approval of local board of education's noncompliance with KRS 158.4414(2).

Dear Ms. Caudill:

After discussions with Legislative Research Commission staff of the issues raised by 503 KAR 7:010, the Justice and Public Safety Cabinet, Department of Corrections proposes the attached suggested amendment to 503 KAR 7:010.

Sincerely,

Deanna Smith
Paralegal Consultant

enclosure

SUGGESTED SUBSTITUTE

JUSTICE AND PUBLIC SAFETY CABINET Department of Criminal Justice Training

503 KAR 7:010. On-site review of school security risk assessments and written approval of local board of education's noncompliance with KRS 158.4414(2).

RELATES TO: KRS 158.441, 158.4410, 158.4414, 158.443~~[, 702 KAR 1:180]~~

STATUTORY AUTHORITY: KRS 15A.070(5), 15A.160, 158.4410

NECESSITY, FUNCTION, AND CONFORMITY: KRS 158.4410 requires the Office of the State School Security Marshal to monitor school safety and security initiatives, to conduct on-site reviews required for completion of the school security risk assessment tool incorporated by reference in 702 KAR 1:180, and to conduct school safety and security training. KRS 158.4414(2) requires a local board of education to obtain written approval from the State School Security Marshal if sufficient funds and qualified personnel are not available for assignment of a school resource officer to every campus in the district. KRS 15A.160 authorizes the secretary of the cabinet to adopt administrative regulations to administer the cabinet, and KRS 15A.070(5) authorizes the commissioner of the Department of Criminal Justice Training to promulgate administrative regulations. This administrative regulation establishes requirements for conducting on-site reviews for completion of the school security risk assessment tool, monitoring school safety, and conducting related training. This administrative regulation also establishes the written approval process if sufficient funds and qualified personnel are not available for assignment of a school resource officer to every campus.

Section 1. Definitions.

- (1) "Compliance officer" means the person assigned by the OSSSM to conduct an on-site review for risk assessment of a school campus.
- (2) "Office of the State School Security Marshal" or "OSSSM" means the office established by KRS 158.4410(1) that is managed by the State School Security Marshal.
- (3) "School campus" means all areas, including school buildings where instruction and school activities take place during the regular school day, and properties adjacent to the[such] buildings, that[which] are under the control of the school district and accessible to students during the school day, including the following:
 - (a) A single building located on real property owned or leased by a school district for instruction to students and school activities during the regular school day on a continuous basis, including extracurricular activities; or
 - (b) Two or more school buildings located on real property owned or leased by a school district to deliver instruction to students on a continuous basis or conduct extracurricular activities.
- (4) "School resource officer" or "SRO" is defined by KRS 158.441(5).
- (5) "School safety coordinator" or "SSC" means a district employee appointed by the local school district superintendent to serve as the school district's school safety coordinator and primary point of contact for public school safety and security functions.
- (6) "School security risk assessment tool" means the assessment tool developed by the State School Security Marshal pursuant to KRS 158.4410(5), approved by the board of directors for the Center for School Safety pursuant to KRS 158.443(9)(b), and incorporated by reference in 702 KAR 1:180.
- (7) "State School Security Marshal" or "SSSM" means the person appointed by the commissioner of the Department of Criminal Justice Training pursuant to KRS 158.4410(3) who also acts as the manager of the OSSSM.

Section 2. OSSSM Review of Risk Assessment.

- (1) The OSSSM shall assign a compliance officer to conduct an on-site review for risk assessment of the following:
 - (a) All school campuses of district operated schools on district owned or leased property under the administrative control of a principal or head teacher; and
 - (b) Any school campus of a district or state operated school on district owned or leased property with:
 1. Career and technical education;
 2. Special education program;
 3. Preschool program; or
 4. Alternative education program.
- (2) The OSSSM shall consider the following factors in determining whether school buildings are a single school campus or multiple school campuses:
 - (a) Whether the buildings:
 1. Are connected by a sidewalk or a parking lot;
 2. Are within a reasonable walking distance of each other; or
 3. Are not separated by a physical barrier, including a fence, wall, waterway, roadway, or other obstruction, that prevents ready access from one building to another; or
 - (b) Other indices that the buildings constitute a single school campus or multiple school campuses.
- (3) The OSSSM shall maintain a list of school campuses based on subsections (1) and (2) of this section.
- (4) If the school district disagrees with the designation of a school campus in its district, it may appeal the school campus decision to the OSSSM by sending a written objection with an explanation of why the buildings should be considered to be a single school campus or multiple school campuses to the OSSSM. The OSSSM:
 - (a) May request additional information from the school district;
 - (b) Shall consider the information provided by the school district;
 - (c) Shall make a determination concerning the school district objection; and
 - (d) Shall provide a written decision to the appropriate SSC.
- (5) The OSSSM may conduct training on the school security risk assessment tool and the School Safety and Resiliency Act for:
 - (a) Superintendents;
 - (b) District school safety coordinators;
 - (c) District-level school staff;
 - (d) School resource officers; and
 - (e) Other trainings as necessary to enhance school safety.

Section 3. On-site Review of the School Security Risk Assessment Tool.

- (1) An OSSSM compliance officer shall conduct an on-site review for risk assessment of a school campus.
- (2) The on-site review visit shall be:
 - (a) Unannounced; and
 - (b) Conducted during the school day, but not be started within two (2) hours of the end of the school day.
- (3) The compliance officer shall wear an issued or OSSSM approved uniform when conducting on site reviews.
- (4) The compliance officer may stop the on-site review and assessment if the school does not cooperate with the on-site review and assessment process or circumvents the process. If the on-site review and assessment is stopped, the school campus shall be deemed out of compliance.
- (5) After on-site review and completion of the assessment~~[report completion]~~, the assessment[report] shall be emailed to the appropriate district SSC. If required by the district, the SSC shall be responsible for forwarding the assessment to other district personnel.

Section 4. Closed and Locked-door Exemption for Risk Assessment.

- (1) Closed and locked-door exemption applications located within the school security risk assessment tool shall be completed onsite, or upon request by the school for the exemption, by the assigned compliance officer and forwarded to the State School Security Marshal for review.
- (2) Exemption determinations shall be made on a case-by-case basis. The basis for an exemption shall include the following:
- (a) A physical mechanism does not exist to secure the room. Examples may include a gymnasium with multiple doors or an open-air classroom;
 - (b) The room is used as a hallway, walkway, pathway, or easement to access another part of the building and a less restrictive alternative does not exist for access;
 - (c) 1. Locking the door to the room would:
 - a.[1.] Violate an existing fire code;
 - b.[2.] Infringe upon an individual student's Individual Education Plan (IEP) if that student is physically present in the room; or
 - c.[3.] Violate the Americans with Disabilities Act (ADA); and
 - 2.[4.] A less restrictive alternative for access is not available;
 - (d) Existing renovations or physical structure issues within the building make locking the doors to the room impracticable and a less restrictive alternative does not exist; or
 - (e) Other reasonable grounds exist to grant an exemption.
- (3) Approved closed and locked-door exemptions shall be valid for the school year in which the exemption was granted and shall expire on the 30th day of June.
- (4) On or before June 1 of each year, and prior to the expiration of an approved closed and locked-door exemption on June 30th, a new application for an exemption shall be completed if an exemption remains necessary for the upcoming school year.
- (5) Closed and locked-door exemption applications shall be reviewed by the State School Security Marshal for approval or disapproval.

Section 5. Noncompliant School Campus.

- (1) The OSSSM shall notify an SSC of the reasons for a finding of noncompliance.
- (2) After being determined to be noncompliant, a school campus shall take steps to remediate the identified problems and notify the OSSSM upon completion of the remediation.
- (3) A school campus determined to be noncompliant shall be reassessed a minimum of one (1) time within the current school year using the school security risk assessment tool.

Section 6. SSSM Written Approval for Local Board of Education Noncompliance with Assignment of an SRO to Each Campus in the Local School District as Required Pursuant to KRS 158.4414(2).

- (1) When sufficient funds and qualified personnel are not available to allow an SRO to be assigned to and working on-site full-time at each campus in a local school district, the local board of education shall request in writing for written approval from the SSSM permitting the district's noncompliance with KRS 158.4414(2).
 - (a) To receive written approval from the SSSM, the local board of education shall[must] aver, in writing, that sufficient funds and qualified personnel are not available to allow an SRO to be assigned to and working on-site full-time at each campus in the local school district.
 - (b) Upon receipt of a request for approval from a local board of education, the SSSM:
 - 1. May request additional information or records from the local board of education;
 - 2. Shall consider the local board of education's averment and other information, if any other information is requested by the SSSM;
 - 3. Shall make a determination concerning the request; and
 - 4. Shall provide a written approval or disapproval decision to the local board of education.
- (2) The SSSM shall maintain a list of written approvals of requests granted pursuant to this section. The list shall be updated if the results of an on-site review of a risk assessment of a campus indicate an SRO has been assigned to and working on-site full-time at the campus.

Section 7. Commendation.

- (1) The OSSSM may award a Certificate of Commendation to an individual, school, or district in recognition of an exemplary contribution to school safety within a school district or with statewide implications.
- (2) A school or district may recommend an individual for this award by providing a written letter of recommendation to the OSSSM.

Section 8. Complaint Process.

- (1) If the OSSSM receives a complaint regarding a school campus, OSSSM personnel, or other item related to the mission of the OSSSM, the process shall be as follows:
 - (a) An OSSSM supervisor shall review and require an investigation of the complaint; and
 - (b) The investigation shall be reviewed by the State School Security Marshal.
- (2) After review by the State School Security Marshal:
 - (a) If the complaint is found to be substantiated and results in a school campus being out of compliance with KRS 158.4410(5) or KRS 158.162(3)(d), the OSSSM shall update the school's security risk assessment tool to reflect the school campus being out of compliance and notify the appropriate SSC; or
 - (b) If the complaint involves OSSSM personnel or other item related to the mission of the OSSSM, the State School Security Marshal shall send a written response to the complainant.

Section 9. Written submissions or notifications to the OSSSM. A written submission or notification to the State School Security Marshal or OSSSM shall be made by sending the writing to:

- (1) 4449 Kit Carson Drive, Richmond, Kentucky 40475; or
- (2) stateschoolmarshal@ky.gov.

CONTACT PERSON: Nathan Goens, Staff Attorney, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8216, fax (502) 564-6686, email Justice.RegContact@ky.gov.

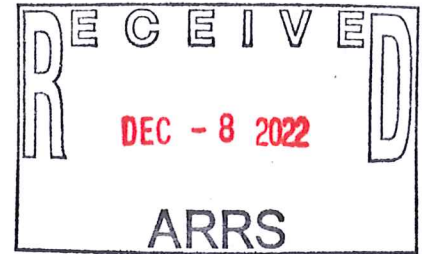
Andy Beshear
Governor



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



December 6, 2022

Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
083, Capitol Annex
Frankfort, KY 40601

Re: **704 KAR 3:305**. Minimum requirements for high school graduation

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 704 KAR 3:305, the Kentucky Board of Education proposes the attached agency amendment to 704 KAR 3:305.

Sincerely,

Todd G. Allen
General Counsel

attachment

Agency Amendment

**EDUCATION AND LABOR CABINET
Kentucky Board of Education
Department of Education
(Amended After Comments)**

704 KAR 3:305. Minimum requirements for high school graduation.

Page 8

Section 5(1)(b)

Line 8

After "EGP requirements", insert "provided in this section".

Page 9

Section 5(2)(b)

Line 8

After "remediation;", delete "and".

Page 9

Section 5(2)(c)

Line 10

After "KRS 158.1411", insert the following:

; and

(d) Obtain a passing grade on the civics test pursuant to KRS 158.141

Page 11

Section 5(5)(d)

Line 4

After "KRS 158.1413;", delete "and".

Page 11

Section 5(5)(e)

Line 6

After "KRS 158.1411", insert the following:

; and

(f) Obtain a passing grade on the civics test pursuant to KRS 158.141

Andy Beshear
Governor

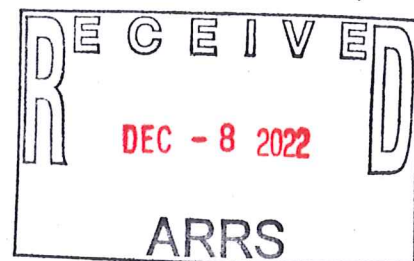


Jamie Link
Secretary, Education and
Labor Cabinet

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

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December 6, 2022

Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
083, Capitol Annex
Frankfort, KY 40601

Re: 704 KAR 3:305. Minimum requirements for high school graduation

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 704 KAR 3:305, the Kentucky Board of Education proposes the attached subcommittee substitute.

Sincerely,

Todd G. Allen
General Counsel

attachment

Subcommittee Substitute

EDUCATION AND LABOR CABINET
Kentucky Board of Education
Department of Education
(As Amended at ARRS)

704 KAR 3:305. Minimum requirements for high school graduation.

RELATES TO: KRS 156.160(1)(a), (d), 158.140(6), 158.142, 158.645, 158.6451

STATUTORY AUTHORITY: KRS 156.070, 156.160(1)(a), (d), 158.140(6), 158.142

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160 requires the Kentucky Board of Education to promulgate administrative regulations relating to the courses of study for the different grades and the minimum requirements for high school graduation. KRS 158.142(3)(b) requires the board to promulgate administrative regulations establishing requirements for early graduation from high school. The content standards for the courses of study are established in the Kentucky academic standards incorporated by reference in 704 KAR 3:303 and 704 KAR Chapter 8. This administrative regulation establishes the minimum requirements necessary for entitlement to a high school diploma.

Section 1. Definitions.

(1) "Continuity of services plan" means a plan that outlines the ways in which a student will receive access to essential services that will end if the student graduates early. ["Graduate early" means a student is awarded a diploma from the district, in under four (4) academic years from the start of grade 9, based upon meeting the minimum credit requirements of this administrative regulation and additional requirements as may be imposed by a local board of education.]

(2) "Early Graduation Certificate" means a certificate, awarded by the district and signed by the principal and superintendent, that shall qualify the recipient to be awarded a high school diploma and a scholarship award equal to one-half (1/2) of the state portion of the average statewide per pupil guaranteed base funding level, to be used at a Kentucky public two (2) year community and technical college or a Kentucky four (4) year public or non-profit independent institution accredited by the Southern Association of Colleges and Schools. ["Early Graduation Program" or "EGP" means an optional, criteria-based program in which a student may receive a diploma from the school district, an Early Graduation Certificate, and a scholarship award upon proper notification of intent to participate and the] successful completion of all program requirements provided in Section 5 of this administrative regulation in three (3) academic years or less.] ["Early graduation" means meeting the competency-based criteria established in this administrative regulation in three academic years or less.]

(3) "Early Graduation Program" or "EGP" means an optional, criteria-based program in which a student may receive a diploma from the school district, an Early Graduation Certificate, and a scholarship award upon successful completion of all program requirements provided in Section 5 of this administrative regulation in three (3) academic

~~years or less. ["Early graduation" means meeting the competency-based criteria established in this administrative regulation in three academic years or less [(2)] "Early Graduation Certificate" means a certificate, awarded by the district and signed by the principal and superintendent, that shall qualify[make] the recipient to be awarded a high school diploma and[eligible for] a scholarship award equal to one-half (1/2) of the state portion of the average statewide per pupil guaranteed base funding level, to be used at a Kentucky public two (2) year community and technical college or a Kentucky four (4) year public or non-profit independent institution accredited by the Southern Association of Colleges and Schools.~~

~~(4) "Graduate early" means a student is awarded a diploma from the district, in under four (4) academic years from the start of grade 9, based upon meeting the minimum credit requirements of this administrative regulation and additional requirements as may be imposed by a local board of education. ["Continuity of services plan" means a plan that outlines the ways in which a student will receive access to essential services that will end should the student graduate early.]~~

~~(5)[(3)] "Individual Learning Plan" or "ILP" is defined in 704 KAR 19:002.~~

Section 2. (1) A district shall implement an advising and guidance process throughout the middle and high schools to provide support for the development and implementation of an individual learning plan for each student. The plan shall include career development and awareness and specifically address the content as provided in the Kentucky academic standards for career studies established in 704 KAR Chapter 8. The individual learning plan shall not be a substitute for the statement of transition service needs for students with disabilities as provided in 707 KAR 1:320.

(2) A district shall develop a method to evaluate the effectiveness and results of the individual learning plan process. The evaluation method shall include input from students, parents, and school staff. As part of the evaluation criteria, the district shall include indicators related to the status of the student in the twelve (12) months following the date of graduation.

(3) A feeder middle school and a high school shall work cooperatively to ensure that each student and parent receives information and advising regarding the relationship between education and career opportunities. Advising and guidance shall include information about financial planning for postsecondary education.

(4) A school shall maintain each student's individual learning plan. The individual learning plan shall be readily available to the student and parent and reviewed and approved at least annually by the student, parents, and school officials.

(5) Beginning with a student's eighth grade year, the individual learning plan shall set learning goals for the student based on academic and career interests and shall identify required academic courses, electives, and extracurricular opportunities aligned to the student's postsecondary goals. The school shall use information from the individual learning plans about student needs for academic and elective courses to plan academic and elective offerings.

(6) The development of the individual learning plan for each student shall be established within the first ninety (90) days[at] ~~[begin by]~~ ~~[the beginning]~~ ~~[end]~~ of the sixth grade year and shall be focused on career exploration and related postsecondary education and training needs.

Section 3. (1) For students entering grade 9 on or before the first day of the 2018-2019 academic year, each student in a public school shall have a total of at least twenty-two (22) credits for high school graduation.

(2) Those credits shall include the content standards as provided in the Kentucky academic standards, established in 704 KAR 3:303 and KAR Chapter 8.

(3) Additional standards-based learning experiences shall align to the student's individual learning plan and shall consist of standards-based content.

(4) The required credits and demonstrated competencies shall include the following minimum requirements:

(a) Language arts - four (4) credits (English I, II, III, and IV) to include the content contained in the Kentucky academic standards for this content area and comply with the following:

1. Language arts shall be taken each year of high school; and

2. If a student does not meet the college readiness benchmarks for English and language arts as established by the Council on Postsecondary Education in 13 KAR 2:020, the student shall take an English and language arts transitional course or intervention, which is monitored to address remediation needs, before exiting high school;

(b) Social studies - three (3) credits to include the content contained in the Kentucky academic standards for this content area;

(c) Mathematics - three (3) credits to include the content contained in the Kentucky academic standards for this content area and include the following minimum requirements:

1. Algebra I, Geometry, and Algebra II. An integrated, applied, interdisciplinary, occupational, or technical course that prepares a student for a career path based on the student's individual learning plan may be substituted for a traditional Algebra I, Geometry, or Algebra II course on an individual student basis if the course meets the content standards in the Kentucky academic standards, established in 704 KAR 3:303 and 704 Chapter 8;

2. A mathematics course or its equivalent as determined by the district shall be taken each year of high school to ensure readiness for postsecondary education or the workforce;

3. Any mathematics course other than Algebra I, Geometry, or Algebra II shall be counted as an elective; and

4. If a student does not meet the college readiness benchmarks for mathematics as established by the Council on Postsecondary Education in 13 KAR 2:020, the student shall take a mathematics transitional course or intervention, which is monitored to address remediation needs, before exiting high school;

(d) Science - three (3) credits that shall incorporate lab-based scientific investigation experiences and include the content contained in the Kentucky academic standards for this content area;

(e) Health - one-half (1/2) credit to include the content contained in the Kentucky academic standards for this content area;

(f) Physical education - one-half (1/2) credit to include the content contained in the Kentucky academic standards for this content area;

(g) Visual and performing arts - one (1) credit to include the content contained in the Kentucky academic standards for this content area or a standards-based specialized arts course based on the student's individual learning plan;

(h) Academic and career interest standards-based learning experiences - seven (7) credits

including four (4) standards-based learning experiences in an academic or career interest based on the student's individual learning plan; and

- (i) Demonstrated performance-based competency in technology.

Section 4. (1) Beginning with students who enter grade 9 on or after the first day of the 2019-2020 academic year, in order to receive a high school diploma, each student in a public school shall earn a total of at least twenty-two (22) credits for high school graduation.

(2) The required credits shall include the content standards as provided in the Kentucky academic standards, established in 704 KAR 3:303 and 704 KAR Chapter 8.

(3) Additional standards-based learning experiences shall align to the student's individual learning plan and shall consist of standards-based content.

(4) Each student shall be required to complete the following foundational credits and demonstrated competencies, consisting of ten (10) credits:

(a) English/language arts - two (2) credits (English I and II) to include the content contained in the Kentucky academic standards for this content area;

(b) Social studies - two (2) credits to include the content contained in the Kentucky academic standards for this content area;

(c) Mathematics - two (2) credits (Algebra I and Geometry) to include the content contained in the Kentucky academic standards for this content area;

(d) Science - two (2) credits that shall incorporate lab-based scientific investigation experiences and include the content contained in the Kentucky academic standards for this content area;

(e) Health - one-half (1/2) credit to include the content contained in the Kentucky academic standards for this content area;

(f) Physical education - one-half (1/2) credit to include the content contained in the Kentucky academic standards for this content area; and

(g) Visual and performing arts - one (1) credit to include the content contained in the Kentucky academic standards for this content area or a standards-based specialized arts course based on the student's individual learning plan.

(5) In addition to the foundational requirements established in subsection (4) of this Section, every student shall earn a minimum of twelve (12) personalized credits in order to receive a high school diploma. These twelve (12) personalized credits shall include:

(a) Two (2) additional English/Language Arts credits that include the content contained in the Kentucky academic standards for this content area and are aligned to the student's individual learning plan;

(b) Two (2) additional mathematics credits that include the content contained in the Kentucky academic standards for this content area and are aligned to the student's individual learning plan;

(c) One (1) additional science credit that includes the content contained in the Kentucky academic standards for this content area and is aligned to the student's individual learning plan;

(d) One (1) additional social studies credit that includes the content contained in the Kentucky academic standards for this content area and is aligned to the student's individual learning plan;

(e) Academic and career interest standards-based learning experiences - six (6) credits including four (4) standards-based learning experiences based on the student's individual learning plan;

(f) Demonstrate performance-based competency in technology as approved by the Kentucky Department of Education;

(g) Pass a civics test as required by KRS 158.141; and

(h) Beginning with students entering grade 9 on or after the first day of the 2020-2021 academic year, successfully complete one (1) or more courses or programs that meet the financial literacy requirements pursuant to KRS 158.1411 and standards as established in 704 KAR Chapter 8.

Section 5. (1) Only students who meet the criteria established in this section shall be eligible for the Early Graduation Program;[.]

(a) Students wishing to participate in the EGP shall indicate that intent to the school principal in writing at the beginning of grade 9 or as soon as the intent is known to the student, but no later than the first thirty (30) school days of the academic year in which the student intends to graduate;~~[Those students who meet the criteria and requirements of the EGP][for early graduation][shall receive from the school district a diploma and an Early Graduation Certificate];[.]~~

(b) Schools and districts shall not prohibit a student from completing the EGP ~~if~~ [in the event] the student meets all EGP requirements;[.]

(c)~~[(b)]~~ [Those] Students who enroll in the EGP and meet the criteria provided in this section shall receive from the school district a diploma and an early graduation certificate~~[Students wishing to participate in the EGP][graduate early][shall indicate that intent to the school principal at the beginning of grade 9 or as soon as the intent is known, but within the first thirty (30) school days of the academic year in which they wish to graduate];[.]~~

(d)~~[(c)]~~ The school or district shall enter the enrolled EGP student~~[A student's intent to participate in the EGP][graduate early][shall be entered]~~ into the student information system ~~[by the school district]~~ by October 15~~[4]~~ of the year in which the student intends to graduate~~[makes the declaration];[.]~~

~~[(d)]~~ Students working toward early graduation and receipt of a corresponding Early Graduation Certificate shall be supported by development and monitoring of an individual learning plan to support their efforts.]

(e) Students participating in the EGP shall complete all requirements set forth in this section applicable to the academic year in which the student intends to graduate; and

(f) A student who has indicated an intent to complete the EGP may participate in the state administration of the college entrance exam prior to the junior year, if needed.

(2) To participate in the EGP and graduate during the 2022-2023 school year, a student shall:

(a) Meet the requirements of subsection 1 of this section;

(b) Meet the college readiness exam benchmarks established by the Council on Postsecondary Education in 13 KAR 2:020 for placement in credit-bearing courses without the need for remediation; and

(c) Complete one (1) or more courses or programs that meet the financial literacy requirements pursuant to KRS 158.1411.

~~[(2)]~~ To graduate early and earn an Early Graduation Certificate, a student shall:

(a) ~~Score proficient or higher on the state-required assessments required by the Kentucky Board of Education in 703 KAR 5:200; and~~

(b) ~~Meet the college readiness exam benchmarks established by the Council on Postsecondary Education in 13 KAR 2:020 for placement in credit-bearing courses without the need for remediation.~~

(3) ~~A student who has indicated an intent to graduate early may participate in the student's state administration of the college readiness exam prior to the junior year, if needed.]~~

(3) [(2)] By July 1, 2023, each school district shall provide each school within the district with the policy established by the local board of education for students wishing to participate in the EGP and earn an Early Graduation Certificate and scholarship. The district policy shall **[provide for support in the development and monitoring of an individual learning plan that shall]** include:

(a) **Criteria for supporting the development and monitoring of the student individual learning plan, as provided in Section 2 of this administrative regulation;**

(b) Goal planning related to the attainment of established district essential workplace ethics programs as provided in KRS 158.1413;

(c) ~~[(b)]~~ Completion of a professional resume; and

(d) ~~[(c)]~~ Completion of one (1) postsecondary admissions application that may be used at a Kentucky public two (2) year community and technical college or a Kentucky four (4) year public or non-profit independent institution accredited by the Southern Association of Colleges and Schools in which the student is interested in applying.

(4) [(3)] Beginning with the 2023-2024 academic year, each EGP participant, with the support of the comprehensive school counselor, or designee, shall:

(a) Identify all EGP requirements and develop a strategy within the individual learning plan for meeting those requirements, including the district's established workplace ethics program provided in KRS 158.1413; and

(b) Complete an entrance interview with the principal, or designee, to discuss postsecondary goals and career aspirations.

(5) [(4)] Beginning with the 2023-2024 academic year, to successfully complete the EGP and earn an Early Graduation Certificate and scholarship, the student shall:

(a) Communicate intent to the principal as required in subsection (1) of this section;

(b) Meet the college entrance exam benchmarks established by the Council on Postsecondary Education in 13 KAR 2:020 for placement in credit-bearing courses without the need for remediation;

(c) Earn ten (10) foundational credits that shall include the content standards as provided in the Kentucky academic standards, established in 704 KAR 3:303 and 704 KAR Chapter 8;

(d) Complete the essential workplace ethics program requirements established by the school district pursuant to KRS 158.1413; and

(e) Complete one (1) or more courses or programs that meet the financial literacy requirements pursuant to KRS 158.1411.

(6) [(5)] By July 1, 2024, each local board of education shall establish a policy requiring high schools to determine performance descriptors and evaluation procedures for an EGP performance-based project, portfolio, or capstone required for **[those]** students who intend to complete the EGP beginning with the 2024-2025 academic year. Performance descriptors and

evaluation procedures shall provide an opportunity for the student to demonstrate attainment of the following critical skills required for postsecondary and career success:

(a) Attainment of essential workplace ethics program components as established by the board of education pursuant to KRS 158.1413;

(b) Demonstration of an ability to apply the Kentucky academic standards, established in 704 KAR 3:303 and KAR Chapter 8, as a life-long learner and contributing member of society;

(c) Demonstration of written and verbal communication skills needed for postsecondary success; and

(d) Demonstration of an ability to think critically, synthesize information, and draw conclusions.

~~(7) [(6)]~~ Beginning July 1, 2024, the performance-based project, portfolio, or capstone shall be required for completion of the EGP.

~~(8) [(7)]~~ A school shall maintain and make readily available to the Kentucky Department of Education the EGP participant's performance-based project, portfolio, or capstone for a minimum of five ~~(5)~~ years.

Section 6. (1) A local board of education may substitute an integrated, applied, interdisciplinary, occupational, technical, or higher level course for a required course if the alternative course provides rigorous content.

(2) For students with disabilities, a local board of education may substitute a functional, integrated, applied, interdisciplinary, occupational, technical, or higher level course for a required course if the alternative course provides rigorous content. These shall be based on grade-level content standards and may be modified to allow for a narrower breadth, depth, or complexity of the general grade-level content standards.

Section 7. (1) A local board of education may award credit toward high school graduation for satisfactory demonstration of learning based on content standards described in the Kentucky academic standards, established in 704 KAR 3:303 and 704 KAR Chapter 8, and a rigorous performance standards policy established by the local board of education. A school shall establish performance descriptors and evaluation procedures to determine if the content and performance standards have been met.

(2) A local board of education shall award credit toward high school graduation based on:

(a) A standards-based Carnegie unit credit that shall consist of at least 120 hours of instructional time in one (1) subject; or

(b) A performance-based credit based on standards, regardless of the number of instructional hours in one (1) subject.

(3) A local board of education which has chosen to award performance-based credit shall award a standards-based credit earned by a student enrolled in grade 5, 6, 7, or 8 if:

(a) The content of the course is the same as that described in the Kentucky academic standards, established in 704 KAR 3:303 and 704 KAR Chapter 8; and

(b) The district has criteria in place to make a reasonable determination that the middle level student is capable of success in the high school course.

(4) A local board of education which has chosen to award performance-based credit shall establish a policy for a performance-based credit system that includes:

(a) The procedures for developing performance-based credit systems and for amending the

system;

(b) The conditions under which each high school may grant performance-based credits and the related performance descriptors and assessments;

(c) Objective grading and reporting procedures;

(d) Content standards established in 704 KAR 3:303 and 704 KAR Chapter 8;

(e) The extent to which state-provided assessments will be used in the local performance-based credit system;

(f) The ability for students to demonstrate proficiency and earn credit for learning acquired outside of school or in prior learning; and

(g) Criteria to ensure that internships, cooperative learning experiences, and other learning experiences in the school and community are:

1. Designed to further student progress towards the individual learning plan;

2. Supervised by qualified instructors; and

3. Aligned with state and local content and performance standards.

(5) A board of education may award standards-based, performance-based credit toward high school graduation for:

(a) Standards-based course work that constitutes satisfactory demonstration of learning in any high school course, consistent with Sections 3 and 4 of this administrative regulation;

(b) Standards-based course work that constitutes satisfactory demonstration of learning in a course for which the student failed to earn credit when the course was taken previously;

(c) Standards-based portfolios, senior year, or capstone projects;

(d) Standards-based online or other technology mediated courses;

(e) Standards-based dual credit or other equivalency courses; or

(f) Standards-based internship, cooperative learning experience, or other supervised experience in the school or the community.

(6) Each local board of education shall maintain a copy of its policy on high school graduation requirements. This policy shall include a description of how the requirements address KRS 158.6451(1)(b)[and 703 KAR 4:060].

Section 8. (1) A student who satisfactorily completes the requirements of this administrative regulation and additional requirements as may be imposed by a local board of education or meets the requirements for the Early Graduation Program established in Section 5 of this administrative regulation shall be awarded a graduation diploma.

(2) A local board shall not adopt any high school graduation requirements that include achieving a minimum score on a statewide assessment as established in KRS 158.140.

(3) The local board of education shall award the diploma.

Section 9. This administrative regulation shall not be interpreted as prohibiting a local governing board, superintendent, principal, or teacher from awarding special recognition to a student.

Section 10. (1) If the severity of an exceptional student's disability precludes a course of study that meets the high school graduation requirements established in Sections 3 and 4 of this administrative regulation leading to receipt of a high school diploma, an alternative course of

study shall be offered.

(2) This course of study shall be based upon student needs and the provisions established in 704 KAR 3:303 and 704 KAR Chapter 8, and shall be reviewed at least annually.

(3) A student who completes this course of study shall receive an alternative high school diploma to be awarded by the local board of education consistent with the graduation practices for all students.

(4) A local board of education may establish policies to award an alternative high school diploma to a former student who has received a certificate or certificate of attainment.

Section 11. (1) Any student seeking to graduate early who receives services deemed essential by the local school district shall engage in meaningful consultation with a school-based mental health services provider, as defined by KRS 158.4416, on the creation of a continuity of services plan prior to graduation.

(2) School districts shall ensure the creation of a continuity of services plan for all students identified as a homeless child pursuant to 42 U.S.C. 11434, a migratory child pursuant to 20 U.S.C. 6399, or youth engaged in foster care pursuant to KRS 620.020(5).

(3) The completion of a transition plan for children aging out of foster care, as described by 42 U.S.C. 675(5)(H), shall meet the requirements outlined in this section.

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



Andy Beshear
GOVERNOR

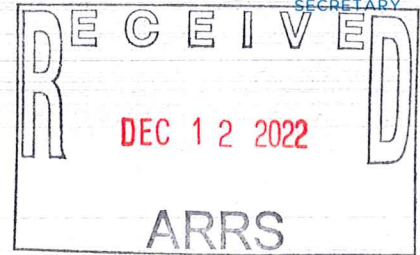
CABINET FOR HEALTH AND FAMILY SERVICES

275 East Main Street, 5W-A
Frankfort, Kentucky 40621

Phone: (502) 564-7042

Fax: (502) 564-7091

Eric Friedlander
SECRETARY



December 12, 2022

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

Re: 901 KAR 5:120. Abortion reporting.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 901 KAR 5:120, the Department for Public Health proposes the enclosed suggested substitute to 901 KAR 5:120.

If you have any questions regarding this matter, please contact Julie Brooks, Department for Public Health, at 564-3970, extension 4069.

Sincerely,

Lucie Estill
Staff Assistant
Office of Legislative and Regulatory Affairs

SUGGESTED SUBSTITUTE

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Epidemiology and Health Planning**

901 KAR 5:120. Abortion reporting.

RELATES TO: KRS 213.101, 213.106, **213.172**, 311.595, 311.720, 311.774, 311.781, 311.782, 311.783
STATUTORY AUTHORITY: KRS 194A.050(1), 213.021, 213.101(1), **(10) [(7)], 213.172(1), (7) [2022 Ky. Acts ch. 210]**

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. KRS 213.101(1) requires each abortion that occurs in the commonwealth to be reported to the Office of Vital Statistics. KRS 213.101 **(10) [(7)]** requires the Office of Vital Statistics to promulgate administrative regulations to assist in compliance with that statute. **KRS 213.172(1) requires that each prescription dispensed for which the primary indication is the induction of abortion be reported to the Vital Statistics Branch within three (3) days after the end of the month in which the prescription was dispensed [2022 Ky. Act ch. 210 expanded the abortion reporting requirements to include the full name and address of the physician and facility, the age of the father, if known, the Rh negative status of the patient, if the patient was treated for a sexually transmitted disease, the reason for the abortion, any follow-up treatment provided, and additional prescription information].** This administrative regulation establishes the reporting criteria for abortions.

Section 1. Definitions.

- (1) "Abortion" is defined by KRS 311.720(1).
- (2) "Probable post-fertilization age" is defined by KRS 311.781(6).
- (3) "Reasonable medical judgment" is defined by KRS 311.781(7).
- (4) "Serious risk of the substantial and irreversible impairment of a major bodily function" is defined by KRS 311.781(8).

Section 2. Reporting.

- (1) A person or institution shall comply with the reporting requirements of KRS 213.101(1) and (2).
- (2) The report shall be filed irrelevant of the gestational age or probable post-fertilization age of the fetus at the time of the abortion.
- (3) The report shall be made **within three (3) days after the end of the month in which the abortion was performed** through the cabinet's electronic database or on VS-913, Report of Abortion.
- (4) The report shall:
 - (a) Contain the information required to be certified in writing including the following:
 1. The probable post-fertilization age of the unborn child;
 2. Whether the abortion was necessary to prevent the death of the pregnant woman or to avoid a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman;
 3. The available methods or techniques considered and the reasons for choosing the method or technique employed;
 4. Whether the physician determined in his or her reasonable medical judgment that termination of the pregnancy in the manner selected provides the best opportunity for the unborn child to survive;
 5. If the physician did not choose the method of abortion that provides the best chance of survival for the unborn child, whether the pregnancy termination in that manner would have posed a greater

risk of death of the pregnant woman or a greater risk of substantial and irreversible impairment of a major bodily function of the pregnant woman than other available methods of abortion; and
6. Any complications known to the provider as a result of the abortion, as established[set forth] in KRS 311.774(3); and

(b) Not contain information that identifies the [physician,] woman[,], or man involved.

(5) Pursuant to KRS 213.106, a report shall be used in accordance with the provisions of KRS 213.101.

Section 3. Prescription Reporting.

(1) In accordance with KRS 213.101(5) and 213.172(1)[(2)], each prescription for an abortion-inducing[a] drug [or combination of drugs] for which the primary indication is the induction of abortion shall be reported by the physician prescribing or dispensing the medication[and the pharmacy dispensing the medication] within three (3)[fifteen (15)] days after the end of the month in which the prescription was issued.

(2) In accordance with KRS 213.172(1), a pharmacy shall report each drug or combination of drugs for which the primary indication is the induction of an abortion within three (3) days after the end of the month in which the prescription was dispensed.

(3) The report shall be made through the cabinet's electronic database or on VS-913P, Abortion Prescription Reporting Form.

(4)[(3)] The report shall:

(a) Contain the drug or combination or drugs prescribed or dispensed;[and]

(b) The information required by 2022 Ky. Acts ch. 210; and

(c) Not contain information that identifies the [physician,] woman[,], or man involved.

Section 4. Penalties.

(1) Failure to comply with the provisions of KRS 213.101(1) through (4) shall subject the reporting person or institution to the penalties provided in KRS 213.101(8)[(5)] and (9)[(6)].

(2) Failure to comply with the provisions of KRS 213.172(1) and (2) shall subject the reporting pharmacist or pharmacy to the penalties provided in KRS 213.172(5) and (6).

Section 5. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) Form VS-913P, "Abortion Prescription Reporting Form", 10/2022[6/2022][4/2020]; and

(b) Form VS-913, "Report of Abortion", 12/2022[10/2022][6/2022][10/2020].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Public Health, first floor, Health Services Building, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material may be obtained, subject to applicable copyright law, at <https://chfs.ky.gov/agencies/dph/dehp/vsb/Pages/abreqadr.aspx>.

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.

CHANGES TO MATERIAL INCORPORATED BY REFERENCE: VS-913, REPORT OF ABORTION

Pages 1-3

Top Left Corner

After "Rev.", insert "12".

Delete "10".

Page 1

Insert fields for the following: Name of physician performing procedure; Total number and years(s) of previous pregnancies; Heartbeat detection date, time, and method; Emergency prevented parental notification; Emergency prevented spousal notification; Date of informed consent; and Date of follow-up appointment.

**COMMONWEALTH OF KENTUCKY
STATE REGISTRAR OF VITAL STATISTICS**

REPORT OF ABORTION

TYPE OR PRINT IN PERMANENT BLACK INK



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Facility Information

The full name and address of the referring physician, agency, or service, if any.

1a. Facility Name:

1b. Physician performing procedure:

1c. Referring Physician:

1d. Address:

1e. City:

1f. State:

1g. Zip Code:

Patient Information

The pregnant patient's city or town, county, state, country of residence, and zip code.

2a. City or Town:

2b. County:

2c. State:

2d. Country:

2e. Zip Code:

2f. Race: ☐ American Indian or Alaska Native

☐ Asian

☐ Black or African American

☐ Unknown

☐ Native Hawaiian or Other Pacific Islander

☐ White

☐ Other Race (Specify):

2g. Age:

2h. Is Hispanic: Yes ☐ No ☐

2i. Age of Father (If known):

Medical History

List the total number and dates of each previous pregnancies, live births, and abortions of the pregnant patient.

3a. Total number and year(s) of previous pregnancies:

Live Births

3b. Previous Live Births: Yes ☐ No ☐ If yes, add year(s) below

Other Abortions

3c. Previous Abortions: Yes ☐ No ☐ If yes, add year(s) below

Pre-Existing Medical Conditions

A list of pre-existing medical conditions of the pregnant patient that may complicate the pregnancy is required, including hemorrhage, infection, uterine perforation, cervical laceration, retained products, or any other condition.

4. Were there pre-existing medical conditions: Yes ☐ No ☐ (If yes, list medical conditions below)

5. Patient tested for STDs 24 hours before procedure or at time of procedure: Yes ☐ No ☐ 6. If positive, treated for or referred for treatment: Yes ☐ No ☐

Rh Status

7. If negative, patient was provided with a Rh negative information fact sheet and treated with the prevailing medical standard of care to prevent harmful fetal or child outcomes or Rh incompatibility in future pregnancies: Yes ☐ No ☐

Consent

8a. Patient a minor: Yes ☐ No ☐

8b. Consent in accordance with KRS 311.732(2)(a): Yes ☐ No ☐

8c. If medical emergency for minor, parent notification in accordance with KRS 311.732(9)(c): Yes ☐ No ☐

8d. Patient is an emancipated minor in accordance with KRS 311.732(2)(b): Yes ☐ No ☐

8e. Minor patient has received court approval in accordance with KRS 311.732(4)(a) Yes ☐ No ☐

Medical Judgment

9a. Heartbeat Detected: Yes ☐ No ☐ 9b. Date (MM/DD/YYYY) 9c. Time 9d. Method used to detect heartbeat

10a. In the attending physician's reasonable medical judgment, the abortion was necessary to prevent the death of the pregnant woman or to avoid a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman: Yes ☐ No ☐
If yes, list medical condition:

10b. Emergency prevented parental notification Yes ☐ No ☐

10c. Emergency prevented spousal notification Yes ☐ No ☐

11. If the probable gestational age of the fetus is more than 15 weeks, in the attending physician's reasonable medical judgment, the abortion was necessary to prevent the death of the pregnant woman or to avoid a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman: Yes ☐ No ☐

12a. If the probable gestational age of the fetus is more than 15 weeks, a different physician, not professionally related to the attending physician, made the reasonable medical judgment the abortion was necessary to prevent the death of the pregnant woman or to avoid a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman: Yes ☐ No ☐

12b. Name of Physician providing judgment in 12a:

12c. Date medical judgment received from physician listed in 12b.(MM/DD/YYYY):

Reason for Abortion

13. Reason for Abortion (If known):

☐ Sex of the unborn child

☐ The race, color, or national origin of the unborn child

☐ The diagnosis, or potential diagnosis, of Down syndrome or any other disability

☐ Abuse

☐ Coercion

☐ Harassment

☐ Trafficking

☐ Reason unknown

☐ Other (if known) _____

Probable Gestational Age of the Unborn Child

14a. Method to confirm Gestational Age:

14b. Clinical Estimate of Gestation (Weeks):

14c. Date of Gestational Age Confirmation (MM/DD/YYYY):

Probable Post-Fertilization Age of the Unborn Child

15a. Method to confirm Post-Fertilization Age:

COMMONWEALTH OF KENTUCKY
STATE REGISTRAR OF VITAL STATISTICS
REPORT OF ABORTION

TYPE OR PRINT IN PERMANENT BLACK INK



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15b. Clinical Estimate of Post-Fertilization Age (Weeks):		15c. Date of Post-Fertilization (MM/DD/YYYY):	
16a. Date of Abortion (MM/DD/YYYY):		16. Date of consent (MM/DD/YYYY)	
16c. Abortion Certificate Requested: Yes <input type="checkbox"/> No <input type="checkbox"/>			
If requested by the patient to whom an abortion is provided, the person in charge of the institution or the person's designated representative, shall complete the Abortion Form Certificate, and file the certificate with the state registrar within five (5) working days from Date of Abortion.			
Abortion Method			
17. Abortion Procedures That Aborted Pregnancy (<i>Check only one</i>)			
<input type="checkbox"/> Suction Curettage <input type="checkbox"/> Drug-induced (must complete 17b.) <input type="checkbox"/> Dilatation and Evacuation (D&E) <input type="checkbox"/> Intra-Uterine Instillation (Saline or Prostaglandin)		<input type="checkbox"/> Sharp Curettage (D&C) <input type="checkbox"/> Hysterotomy/Hysterectomy <input type="checkbox"/> Other _____	
17b. List medication(s) used to induce abortion:		**Must complete VS-913P**	
18. If the post-fertilization age of the fetus is <u>more than 15 weeks</u> , certify the attending physician's written certification for the method and reasons for choosing the method that aborted the pregnancy. (<i>Specify</i>):			
19. Was a pathological examination of the fetus performed: Yes <input type="checkbox"/> No <input type="checkbox"/>			
Complications as a Result of the Abortion			
20a. Were there any abortion complications or adverse events known to the provider as a result of the abortion? Yes <input type="checkbox"/> No <input type="checkbox"/>			
(<i>If yes, check all that apply</i>)			
<input type="checkbox"/> Allergic reaction to anesthesia or abortion-inducing drugs <input type="checkbox"/> Amniotic fluid embolism <input type="checkbox"/> Cardiac arrest <input type="checkbox"/> Cervical laceration <input type="checkbox"/> Coma <input type="checkbox"/> Death <input type="checkbox"/> Deep vein thrombosis <input type="checkbox"/> Failure to terminate the pregnancy <input type="checkbox"/> Free fluid in the abdomen <input type="checkbox"/> Heavy bleeding that causes symptoms of hypovolemia or the need for a blood transfusion <input type="checkbox"/> Hemolytic reaction due to the administration of ABO-incompatible blood or blood products <input type="checkbox"/> Hypoglycemia occurring while the patient is being treated at the abortion facility <input type="checkbox"/> Any other adverse event as defined by criteria provided in the Food and Drug Administration Safety Information and Adverse Event Reporting Program.		<input type="checkbox"/> Incomplete abortion or retained tissue <input type="checkbox"/> Infection <input type="checkbox"/> Missed ectopic pregnancy <input type="checkbox"/> Pelvic inflammatory disease <input type="checkbox"/> Placenta Previa in subsequent pregnancies <input type="checkbox"/> Pre-term delivery in subsequent pregnancies <input type="checkbox"/> Psychological complications including depression, suicidal ideation, anxiety, and sleeping disorders <input type="checkbox"/> Pulmonary embolism <input type="checkbox"/> Renal failure <input type="checkbox"/> Respiratory arrest <input type="checkbox"/> Shock <input type="checkbox"/> Uterine laceration <input type="checkbox"/> Other (Specify) _____	
20b. Follow up treatments provided: Yes <input type="checkbox"/> No <input type="checkbox"/>		20c. Were additional drugs provided to complete the drug-induced abortion Yes <input type="checkbox"/> No <input type="checkbox"/>	
20d. Was the fetus delivered alive: Yes <input type="checkbox"/> No <input type="checkbox"/>		20e. If fetus was born alive, provide length of time fetus survived:	
20f. Was the fetus viable: Yes <input type="checkbox"/> No <input type="checkbox"/>		20g. If fetus was viable, provide the medical reason for termination:	
Treatments Provided For Complications or Adverse Events			
(<i>If complications or adverse event occurs during the procedure or while patient is still in the facility</i>)			
21a. Treatments and Medical Interventions Provided (<i>including</i>):			
<input type="checkbox"/> Emergency Medical Services <input type="checkbox"/> Stabilization on Site <input type="checkbox"/> Transport to Another Medical Facility (Provide name of facility)		<input type="checkbox"/> Urgent Care Follow-Up <input type="checkbox"/> Primary Care Provider	
21b. Was the complication or adverse event previously managed by the qualified physician who provided the abortion inducing drug or a back up qualified physician: Yes <input type="checkbox"/> No <input type="checkbox"/>			
21c. Date the pregnant patient presented for diagnosis or treatment for the complication or adverse event:			
Billing For Specific Complications or Adverse Events			
The amount billed to cover the treatment for specific complications or adverse events, including whether the treatment was billed to Medicaid, private insurance, private pay, or other method. This should include ICD-10 codes reported and charges for any physician, hospital, emergency room, 1 prescription or other drugs, laboratory tests, and any other costs for 2 treatment rendered.			
22a. The amount billed to cover the treatment for specific complications, including whether the treatment was billed to Medicaid, private insurance, private pay, or other method; including:			
22b. Charges for any physician, hospital, emergency room, prescription or other drugs, laboratory tests, and any other costs for treatment rendered:			
23. List the ICD-10 codes if treatment was provided:			
Appointment			
24a. Follow-up appointment kept: Yes <input type="checkbox"/> No <input type="checkbox"/> Date (MM/DD/YYYY)			
24b. Results of follow-up appointment:			
24c. If appointment was not kept were reasonable efforts made to reschedule the follow-up appointment: Yes <input type="checkbox"/> No <input type="checkbox"/>			
24d. If yes, describe what reasonable efforts were made:			

COMMONWEALTH OF KENTUCKY
STATE REGISTRAR OF VITAL STATISTICS
REPORT OF ABORTION

****TYPE OR PRINT IN PERMANENT BLACK INK****



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25. Name of person completing report (*Type or print*) _____

This form shall be sent to the State Registrar of Vital Statistics within 3 days after the end of the month in which the abortion occurred.
(Each abortion as defined in KRS 311.720 that occurs in the commonwealth, regardless of the length of gestation, shall be reported to the Vital Statistics Branch by the person in charge of the institution or attending physician within three (3) days after the end of the month in which the abortion occurred.)

**Office of Vital Statistics
275 East Main Street, 1E-A
Frankfort, KY 40621
Fax: 502-564-9398**

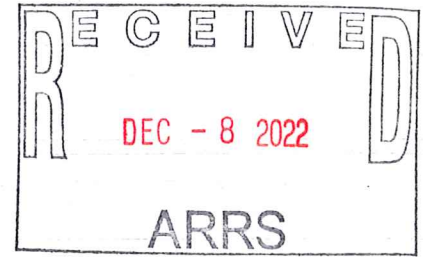


CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary

Andy Beshear
Governor

275 East Main Street, 5W-A
Frankfort, KY 40621
502-564-7042
502-564-7091
www.chfs.ky.gov

Eric C. Friedlander
Secretary



December 7, 2022

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

Re: **902 KAR 8:160**. Local health department operations requirements.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 902 KAR 8:160, the Department for Public Health proposes the enclosed suggested amendment to 902 KAR 8:160.

If you have any questions regarding this matter, please contact Julie Brooks, Department for Public Health, at 564-3970, extension 4069.

Sincerely,

Lucie Estill
Staff Advisor
Office of Legislative and Regulatory Affairs

Final, 12-1-2022

Suggested Amendment

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Administration and Financial Management**

902 KAR 8:160. Local health department operations requirements.

Page 3

Section 4(1)(a)

Line 10

After "(a)", insert "1.".

Page 3

Section 4(1)(a) and 4(1)(b)

Lines 10-11

After "agency; and", insert "2.".

Delete "(b)".

Page 3

Section 4(1)(b) and 4(1)(c)

Lines 11-12

After "position; or", insert "(b)".

Delete "(c)".

Page 6

Section 5(8)(a)

Line 20

After "(a)", insert "1.".

Page 6

Section 5(8)(a) and 5(8)(b)

Lines 21-22

After "pay; and", insert "2.".

Delete "(b)".

Pages 6-7

Section 5(8)(b) and 5(8)(c)

Lines 24 and 1

After "leave; or", insert "(b)".

Delete "(c)".

Page 7

Section 5(10)(b)

Line 12

After "(b)", insert "1.".

Page 7

Section 5(10)(b) and 5(10)(c)

Lines 14-15

After "remaining; and", insert "2.".

Delete "(c)".

Page 11

Section 10(4)

Lines 23-24

After "assessment", insert "if".

Delete "provided".

Page 12

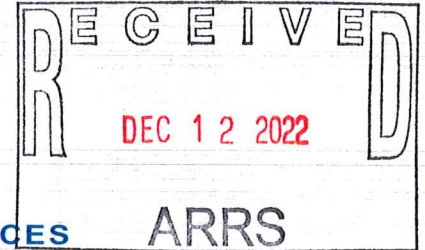
Section 12(2)

Line 18

After "USDA or", insert "the secretary's".

After "designee", insert "may".

Delete "can".



CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary

Andy Beshear
Governor

275 East Main Street, 4W-C
Frankfort, KY 40621
www.chfs.ky.gov

Eric C. Friedlander
Secretary

December 12, 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 20:365**, Kentucky abortion-inducing drug certification program and registration of qualified physicians.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 902 KAR 20:365, the Cabinet for Health and Family Services proposes the attached amendment to 902 KAR 20:365.

Sincerely,

Krista Quarles
Policy Specialist
Office of Legislative and Regulatory Affairs

Attachment



KENTUCKY CABINET FOR
HEALTH AND FAMILY SERVICES

SUGGESTED SUBSTITUTE

**CABINET FOR HEALTH AND FAMILY SERVICES
Office of Inspector General
Division of Health Care**

902 KAR 20:365. Kentucky abortion-inducing drug certification program and registration of qualified physicians.

RELATES TO: KRS 216B.015, 216B.105, 216B.200 - 216B.210, 311.720(1), 311.7731, 311.7733, 311.7734

STATUTORY AUTHORITY: KRS 216B.202(1), 216B.206

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.202(1) requires the cabinet to promulgate administrative regulations in accordance with KRS Chapter 13A to establish a certification program to oversee and regulate the distribution and dispensing of abortion-inducing drugs. KRS 216B.206 requires the cabinet to establish requirements for physicians who prescribe abortion-inducing drugs. KRS 311.7733 requires a physician to be registered with the cabinet before providing abortion-inducing drugs. This administrative regulation establishes requirements for physicians, manufacturers, distributors, and abortion facilities that prescribe, transport, supply, dispense, or sell abortion-inducing drugs.

Section 1. Definitions.

- (1) "Abortion" is defined by KRS 311.720(1).
- (2) "Abortion facility" is defined by KRS 216B.015(1).
- (3) "Abortion-inducing drug" is defined by KRS 311.7731(2).
- (4) "Cabinet" is defined by KRS 311.7731(5).
- (5) "Distributor" is defined by KRS 311.7731(9).
- (6) "Hospital" is defined by KRS 311.720(7).
- (7) "Manufacturer" is defined by KRS 311.7731(9).
- (8) "Physician" is defined by KRS 311.720(12).
- (9) "Provide" is defined by KRS 311.7731(13).
- (10) "Qualified physician" is defined by KRS 311.7731(14).

Section 2. Physician registration.

- (1) In accordance with KRS 311.7733, only a qualified physician registered with the cabinet may provide abortion-inducing drugs to a pregnant person.
- (2) To be eligible for registration, a qualified physician shall:
 - (a) Demonstrate compliance with KRS 216B.206(1)(a), (c), (m), and (n); and
 - (b) Certify compliance with KRS 216B.206(1)(b), (d) - (l), (o), and (p).

Section 3. Certification of manufacturers, distributors, pharmacies, and abortion facilities.

- (1) In accordance with KRS 216B.202 and 216B.204, the following entities shall be certified by the cabinet:
 - (a) A manufacturer or distributor that transports, supplies, or sells abortion-inducing drugs;
 - (b) A pharmacy that dispenses abortion-inducing drugs; or
 - (c) A licensed abortion facility.
- (2)
 - (a) To be eligible for certification, a manufacturer, distributor, or pharmacy shall:
 1. Demonstrate compliance with KRS 216B.204(2)(a) and (d); and
 2. Certify compliance with KRS 216B.204(2)(b), (c), (d), (e), and (f).
 - (b) In addition to complying with paragraph (a) **of this subsection[above]**, a pharmacy shall also comply with KRS 216B.204(3) **if the U.S. Food and Drug Administration (FDA) and drug**

manufacturers implement certification programs for pharmacies to dispense abortion-inducing drugs and compliance with KRS 216B.204(3) becomes possible. A pharmacy shall submit evidence of certification by the FDA within 180 days after creation and implementation of the FDA certification program and shall submit evidence of certification by the drug manufacturer within 180 days after creation and implementation of the manufacturer's certification program[~~to be eligible for certification~~].

Section 4. Application and fees.

(1) A qualified physician applicant for registration to provide abortion-inducing drugs shall submit to the Office of Inspector General:

(a) A completed Application for Registration to Provide Abortion-Inducing Drugs;~~[and]~~

(b) **A completed Physician Dispensing Agreement Form; and**

(c) An accompanying fee in the amount of \$155, made payable to the Kentucky State Treasurer and sent to the Cabinet for Health and Family Services, Office of Inspector General, Division of Health Care, 275 East Main Street 5E-A, Frankfort, Kentucky 40621.

(2) A manufacturer, distributor, pharmacy, or abortion facility applicant for certification to transport, supply, sell, or dispense abortion-inducing drugs shall submit to the Office of Inspector General:

(a) A completed Application for Participation in the Abortion-Inducing Drug Certification Program; and

(b) An accompanying fee in the amount of \$155, made payable to the Kentucky State Treasurer and sent to the Cabinet for Health and Family Services, Office of Inspector General, Division of Health Care, 275 East Main Street 5E-A, Frankfort, Kentucky 40621.

(3) As a condition of annual renewal, the application required by subsections (1) and (2) of this section and a renewal fee in the amount of \$155 shall be submitted to the cabinet at least thirty (30) days prior to the date of expiration of the registration or certification. Renewal fees shall be paid as set out in paragraph (2)(b) of this section.

Section 5. Operations.

(1) A manufacturer, distributor, physician, qualified physician, pharmacy, abortion facility, and any other person shall comply with KRS 311.7733(2) prohibiting the use of courier, delivery, or mail services.

(2) In accordance with KRS 216B.204(1)(c), no person or entity shall intentionally, knowingly, or recklessly ship abortion-inducing drugs to a physician unless the physician is registered with the cabinet pursuant to this administrative regulation and as shown on the Office of Inspector General's Web site: <https://chfs.ky.gov/agencies/os/oig/dhc/Pages/default.aspx>.

(3) In accordance with KRS 216B.204(1)(g), a pharmacy shall not intentionally, knowingly, or recklessly dispense or distribute abortion-inducing drugs directly to a patient in Kentucky.

(4) In accordance with KRS 216B.204(1)(h), manufacturers and distributors shall intentionally and knowingly distribute only to certified pharmacies and in-person dispensing clinics, medical offices, abortion facilities, and hospitals that are in compliance with the United States Federal Drug Administration's outlined Mifepristone Risk Evaluation and Mitigation Strategy in effect on July 14, 2022.

(5) A qualified physician registered with the cabinet shall maintain hospital admitting privileges or enter into a written associated physician agreement as required by KRS 311.7734(1)(b) and comply with all other provisions of KRS 216B.206(2) and 311.7734.

Section 6. Complaints. In accordance with KRS 216B.210, a complaint regarding potential violations of the Abortion-Inducing Drug Certification Program may be submitted on the Office of Inspector General's Web site: <https://chfs.ky.gov/agencies/os/oig/dhc/Pages/default.aspx>.

Section 7. Denial, Suspension, Revocation, and Fines.

(1) The cabinet shall deny an application for registration or certification if:

(a) The applicant or existing agency knowingly misrepresents or submits false information on the application; or

(b) The applicant or existing agency fails to provide the information required by the application.

(2) The cabinet shall revoke or suspend certification and impose fines:

- (a) In accordance with KRS 216B.208(1)(a) - (e); or
- (b) If the cabinet determines that there has been substantial failure to comply with the provisions of this administrative regulation.
- (3) **If the cabinet determines that there has been substantial failure to comply with the provisions of this administrative regulation**, the cabinet shall:
 - (a) Revoke or suspend registration of a physician and impose fines as set out in KRS 216B.208(1)(e)3.; and
 - (b) **Immediately** report the violation to the Kentucky Board of Medical Licensure **and local law enforcement** in accordance with KRS 216B.208(1)~~;~~ **if the cabinet determines that there has been substantial failure to comply with the provisions of this administrative regulation**.

Section 8. Notice of Adverse Action.

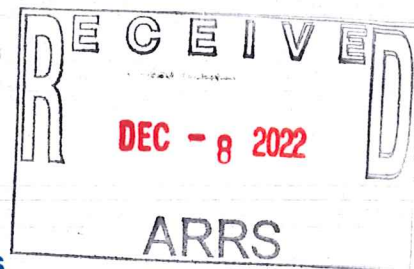
- (1) Except as set out in KRS 216B.208(1)(e)~~[4-]~~, OIG shall provide written notice of adverse action at least thirty (30) calendar days prior to the effective date of the denial or revocation.
- (2) In accordance with KRS 216B.208(1)(e)1., the cabinet shall immediately notify a pharmacy, manufacturer, or distributor that its certification is suspended and will be **permanently** revoked **[in fifteen (15) days]** if OIG determines that a certified entity has intentionally, knowingly, or recklessly violated KRS 216B.200 to 216B.210 **and fails to demonstrate compliance within ninety (90) days**.
- (3) A notice of adverse action issued in accordance with subsection (1) or (2) of this section shall:
 - (a) Explain the reason for the denial or revocation, and monetary penalty if applicable;
 - (b) Advise the individual or entity that the right to request an appeal prior to the effective date of the denial or revocation, and monetary penalty if applicable; and
 - (c) Specify that the adverse action shall be stayed if an appeal is requested.

Section 9. Appeals. An individual or entity that submits a written request for appeal within thirty (30) calendar days of **receiving[the date the agency receives]** a notice of adverse action, including revocation, shall be afforded a hearing in accordance with KRS 216B.105.

Section 10. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) Form OIG 20-365A, "Application for Registration to Provide Abortion-Inducing Drugs", **November[July]** 2022 edition;
 - (b) Form OIG 20-365B, "Application for Participation in the Abortion-Inducing Drug Certification Program", **November[July]** 2022 edition; and
 - (c) Form OIG 20-365C, "Physician Dispensing Agreement Form", **November[July]** 2022 edition.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Inspector General, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the Office of Inspector General's Web site at: <https://chfs.ky.gov/agencies/os/oig/dhc/Pages/ltcapplications.aspx>.

CONTACT PERSON: Krista Quarles, Policy Specialist, 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.



CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary

Andy Beshear
Governor

275 East Main Street, 4W-C
Frankfort, KY 40621
www.chfs.ky.gov

Eric C. Friedlander
Secretary

December 7, 2022

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

Re: 906 KAR 1:210, Health care services agencies.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 906 KAR 1:210, the Cabinet for Health and Family Services proposes the attached amendment to 906 KAR 1:210.

Sincerely,

Krista Quarles

Krista Quarles
Policy Specialist
Office of Legislative and Regulatory Affairs

Attachment



KENTUCKY CABINET FOR
HEALTH AND FAMILY SERVICES

Final, 12-1-2022

SUGGESTED SUBSTITUTE

CABINET FOR HEALTH AND FAMILY SERVICES

Office of Inspector General

Division of Health Care

906 KAR 1:210. Health care services agencies.

RELATES TO: KRS 216.718 – 216.728, 216.785 – 216.793

STATUTORY AUTHORITY: KRS 216.720(2), 216.728(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216.720(2) requires the cabinet to promulgate administrative regulations in accordance with KRS Chapter 13A to establish the application process for registration of health care services agencies. KRS 216.728(2) requires the cabinet to promulgate administrative regulations in accordance with KRS Chapter 13A to establish requirements for health care services agencies to submit quarterly reports. This administrative regulation establishes requirements for health care services agency registration and quarterly reporting.

Section 1. Definitions. (1) "Assisted-living community" is defined by KRS 216.718(1).

(2) "Cabinet" is defined by KRS 216.718(2).

(3) "Controlling person" is defined by KRS 216.718(3).

(4) "Direct care service" is defined by KRS 216.718(4).

(5) "Direct care staff" is defined by KRS 216.718(5).

(6) "Health care services agency" is defined by KRS 216.718.

(7) "Hospital" is defined by KRS 216.718(7).

(8) "Long-term care facilities" is defined by KRS 216.718(8).

Section 2. Registration. A health care services agency that refers direct care staff to assisted-living communities, long-term care facilities, or hospitals in Kentucky shall register with the cabinet as required by KRS 216.720(1).

Section 3. Application and Fees. (1) An applicant for initial registration or annual renewal as a health care services agency shall submit to the Office of Inspector General:

(a) A completed Application for Registration to Operate a Health Care Services Agency; and

(b) In accordance with KRS 216.720(2)(f), an accompanying fee in the amount of \$3,000, made payable to the Kentucky State Treasurer.

(2) As a condition of annual renewal, the application required by subsection (1) of this section shall be submitted to the cabinet at least sixty (60) days prior to the date of expiration of the agency's registration.

(3) In accordance with KRS 216.720(1), each separate location of a health care services agency shall register and obtain a separate registration.

(4)(a) Name change. A health care services agency shall:

1. Notify the Office of Inspector General in writing within ten (10) calendar days of the effective date of a change in the agency's name; and

2. Submit a processing fee of twenty-five (25) dollars.

(b) Change of location. A health care services agency shall not change the location where a facility is operated until an Application for Registration to Operate a Health Care Services Agency accompanied by a fee of ~~\$100~~~~[one hundred (100) dollars]~~ is filed with the Office of Inspector General.

(c) Change of ownership.

1. In accordance with KRS 216.720(4), if a controlling person changes, the health care services agency is sold, or the management is transferred, the agency shall submit to the Office of Inspector General a completed Application for Registration to Operate a Health Care Services Agency accompanied by a fee of \$3,000 no later than thirty (30) calendar days from the effective date of the change.

2. A change of ownership shall be deemed to occur if more than twenty-five (25) percent of an existing health care services agency or capital stock or voting rights of the corporation is purchased, leased, or otherwise acquired by one (1) person from another.

Section 4. Scope of Operations. (1) ~~[In accordance with KRS 216.722(1),]~~ A health care services agency shall meet all of the minimum requirements as established in KRS 216.722(1)(a) through (f) relating to documentation, health and qualifications of personnel, professional and general liability insurance, an employee dishonesty bond, worker's compensation, and record retention;

~~—(a) Retain documentation that each direct care staff contracted with or employed by the agency meets the minimum licensing, certification, training, and continuing education standards for his or her position;~~

~~—(b) Comply with all pertinent requirements relating to the health and other qualifications of personnel employed in:~~

~~—1. An assisted-living community;~~

~~—2. A long-term care facility; or~~

~~—3. A hospital;~~

~~—(c) Carry all professional and general liability insurance coverage to insure against loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence or malpractice in the provision of direct care services by the health care services agency or any direct care staff;~~

~~—(d) Carry an employee dishonesty bond in the amount of \$10,000;~~

~~—(e) Maintain coverage for workers' compensation for all direct care staff; and~~

~~—(f) Retain all records for five (5) calendar years and make all records immediately available to the cabinet upon request].~~

(2) A health care services agency shall demonstrate compliance with:

(a) KRS 216.724;

(b) KRS 216.789; and

(c) KRS 216.793.

Section 5. Quarterly Reports. (1) In accordance with KRS 216.728, a health care services agency shall submit quarterly reports to the cabinet on the Quarterly Report form that includes~~[include]~~ the following information:

(a) The name, professional licensure or certification, and assigned location for each direct care staff;

(b) The length of time the direct care staff person has been assigned to the assisted-living community, long-term care facility, or hospital and the total hours worked; and

(c) For all long-term care facilities or hospitals that participate in the Medicare and Medicaid programs:

1. Copies of all invoices submitted to the long-term care facility or hospital; and

2. Proof of payment by the long-term care facility or hospital.

(2) The quarterly reports shall be submitted to the cabinet for the preceding calendar quarter by February 1, May 1, August 1, and November 1 of each year.

Section 6. Complaints. In accordance with KRS 216.726, a complaint relating to a health care services agency or direct care staff may be made in accordance with the instructions provided in

the complaint information document available for download from the Office of Inspector General's Web site: <https://chfs.ky.gov/agencies/os/oig/dhc/Pages/default.aspx>.

Section 7. Denial, Expiration, Revocation, and Fines. (1) The cabinet shall deny an Application for Registration to Operate a Health Care Services Agency if:

(a) The applicant or existing agency knowingly misrepresents or submits false information on the application;

(b) The applicant or existing agency fails to provide the information and fee required by Section 3(1) of this administrative regulation;

(c) The applicant or existing agency fails to comply with Section 4(1) of this administrative regulation; or

(d) A controlling person in the entity applying for registration was a controlling person in a previously registered health care services agency that had its registration revoked for noncompliance during the five (5) year period immediately preceding the filing of the application.

(2)(a) In accordance with KRS 216.720(4), a health care services agency's registration shall expire one (1) year from the date of issuance.

(b) If the health care services agency fails to renew its registration pursuant to Section 3(2) of this administrative regulation:

1. Its registration shall be cancelled effective one (1) day after the expiration date;

2. The Office of Inspector General shall document the agency's registration as inactive; and

3. The agency shall not continue to refer staff to an assisted-living community, long-term care facility, or hospital in Kentucky until its registration is renewed.

(3) Failure to comply with Section 4(1) of this administrative regulation shall result in **the penalties as established in KRS 216.722(2)**:

~~—(a) Revocation of registration; and~~

~~—(b) A monetary penalty in the amount of \$25,000].~~

(4) The cabinet shall revoke registration~~[-if]:~~

(a) In accordance with KRS 216.722(3)~~[-the cabinet determines that a health care services agency knowingly provided to an assisted-living community, a long-term care facility, or a hospital direct care staff who have illegally or fraudulently obtained or been issued a diploma, registration, license, certification, or criminal background check]; or~~

(b) ~~If~~ the cabinet determines that there has been substantial failure by the health care services agency to comply with the provisions of this administrative regulation or KRS 216.718 – 216.728.

Section 8. Notice of Adverse Action. (1) Except for a violation of KRS 216.722(3), OIG shall provide written notice of adverse action at least thirty (30) calendar days prior to the effective date of the denial or revocation.

(2) ~~[In accordance with KRS 216.722(3),]~~ The cabinet shall immediately notify a health care services agency that its registration will be revoked in fifteen (15) days if the cabinet determines **an[that the] agency has knowingly engaged in the conduct described in KRS 216.722(3)[provided to an assisted-living community, long-term care facility, or a hospital direct care staff who have illegally or fraudulently obtained or been issued a:**

~~—(a) Diploma, registration, license, or certification; or~~

~~—(b) Criminal background check].~~

(3) A notice of adverse action issued in accordance with subsection (1) or (2) of this section shall:

(a) Explain the reason for the denial or revocation, and monetary penalty if applicable;

(b) Advise the health care services agency of the right to request an appeal prior to the effective date of the denial or revocation, and monetary penalty if applicable; and

(c) Specify that the adverse action shall be stayed if an appeal is requested.

Section 9. Closure of a Health Care Services Agency. If a health care services agency closes voluntarily or as the result of denial or revocation of the registration, the agency shall relinquish to the cabinet its registration to operate as a health care services agency immediately after the effective date of the closure.

Section 10. Appeals. A health care services agency that submits a written request for appeal within thirty (30) calendar days of the date the agency receives a notice of adverse action, including revocation pursuant to KRS 216.722(3), shall be afforded a hearing in accordance with KRS Chapter 13B.

Section 11. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form OIG 1:210, "Application for Registration to Operate a Health Care Services Agency", August 2022 edition; and

(b) Form OIG 1:210-A, "Quarterly Report", August 2022 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Inspector General, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the Office of Inspector General's Web site at: <https://chfs.ky.gov/agencies/os/oig/dhc/Pages/ltcapplications.aspx>.

CONTACT PERSON: Krista Quarles, Policy Specialist, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; Phone: 502-564-6746; Fax: 502-564-7091; CHFSregs@ky.gov.



Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

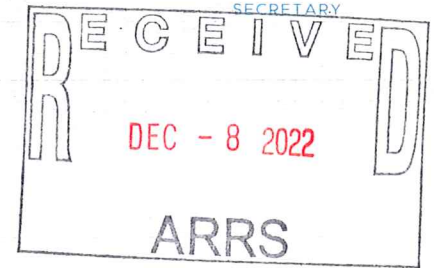
Eric Friedlander
SECRETARY

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December 7, 2022



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

Re: 907 KAR 1:082. Coverage provisions and requirements regarding rural health clinic services.

Dear Regulations Compiler:

After discussions with various stakeholders of the issues raised by 907 KAR 1:082, the Department for Medicaid Services proposes the attached agency amendment to 907 KAR 1:082.

If you have any questions, please feel free to contact Jonathan Scott, Regulatory and Legislative Advisor with the Department for Medicaid Services at (502) 564-4321 ext. 2015.

Sincerely,

Lucie Estill
Staff Assistant
Office of Legislative and Regulatory Affairs

12/7/2022
Agency Amendment
CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Health Care Policy

907 KAR 1:082. Coverage provisions and requirements regarding rural health clinic services.

Page 3

Section 1(4)(a)8.

Line 3

After "counselor;" delete "or"

Page 3

Section 1(4)(a)8.

Line 3

After line 8, insert the following:

9. A behavioral health associate, as permissible pursuant to 907 KAR Chapter 15; or

Page 3

Section 1(4)(a)8.

Line 4

Before "9." insert "10.".

Delete "9.".



Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

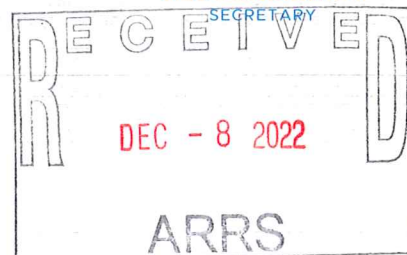
275 East Main Street, 5W-A
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December 7, 2022

Eric Friedlander



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

Re: 907 KAR 1:082. Coverage provisions and requirements regarding rural health clinic services.

Dear Regulations Compiler:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 907 KAR 1:082, the Department for Medicaid Services proposes the attached suggested substitute to 907 KAR 1:082.

If you have any questions, please feel free to contact Jonathan Scott, Regulatory and Legislative Advisor with the Department for Medicaid Services at (502) 564-4321 ext. 2015.

Sincerely,

Lucie Estill
Staff Assistant
Office of Legislative and Regulatory Affairs

SUGGESTED SUBSTITUTE – To Amended After Comments Version

Final Version: 10/4/2022 12:27 PM

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

907 KAR 1:082. Coverage provisions and requirements regarding rural health clinic services.

RELATES TO: KRS 205.510, 205.520, 205.622, 205.8451, 309.080, 309.0831, 309.130, 311.840, 314.011, 319.010, 319.050, 319.053, 319C.010, 335.080, 335.100, 335.300, 335.500, 369.101 ~~–[to]~~ 369.120, 42 C.F.R. 400.203, [42 C.F.R.]405.2401(b), 405.2412-405.2417, 405.2450, 405.2452, 405.2468, 431.17, 438.2, 440.20, [42 C.F.R.]491.1 - 491.11, 45 C.F.R. Part 164, 20 U.S.C. 1400, 21 U.S.C. 823, 29 U.S.C. 701, 42 U.S.C. 1395x(aa) and (hh)

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Medicaid program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the Medicaid program coverage provisions and requirements relating to rural health clinic services.

Section 1. Definitions. (1) "Adult peer support specialist" means an individual who meets the requirements for an adult peer support specialist established in 908 KAR 2:220.

(2) "Advanced practice registered nurse" is defined by KRS 314.011(7).

(3)[(2)] "Approved behavioral health practitioner" means an independently licensed practitioner who is:

(a) A physician;

(b) A psychiatrist;

(c) An advanced practice registered nurse;

(d) A physician assistant;

(e) A licensed psychologist;

(f) A licensed psychological practitioner;

(g) A certified psychologist with autonomous functioning;

(h) A licensed clinical social worker;

(i) A licensed professional clinical counselor;

(j) A licensed marriage and family therapist;

(k) A licensed professional art therapist;

(l) A licensed clinical alcohol and drug counselor; or

(m) A licensed behavior analyst.

(4) "Approved behavioral health practitioner under supervision" means an individual under

billing supervision of an approved behavioral health practitioner who is:

(a) 1. A licensed psychological associate working under the supervision of a board-approved

licensed psychologist;

2. A certified psychologist working under the supervision of a board-approved licensed psychologist;

3. A marriage and family therapy associate;

4. A certified social worker;

5. A licensed professional counselor associate;

6. A licensed professional art therapist associate;

7. A licensed clinical alcohol and drug counselor associate;

8. A certified alcohol and drug counselor; or

9. A licensed assistant behavior analyst; and

(b) Employed by or under contract with the same billing provider as the billing supervisor.

(5) "ASAM Criteria" means the most recent edition of "The ASAM Criteria, Treatment Criteria for Addictive, Substance-Related, and Co-occurring Conditions" published by the American Society of Addiction Medicine.

(6) "Certified alcohol and drug counselor" is defined by KRS 309.080(4).

(7) "Certified social worker" means an individual who meets the requirements established in KRS 335.080.

(8)[(3)] "Community support associate" means a paraprofessional[an individual] who[
(a)] meets the community support associate requirements established in 908 KAR 2:250[; and

(b) Has been certified by the Department for Behavioral Health, Intellectual and Developmental Disabilities as a community support associate].

(9) "Co-occurring disorder" means a mental health and substance use disorder.

(10)[(4)] "Department" means the Department for Medicaid Services or its designee.

(11)[(5)] "Enrollee" means a recipient who is enrolled with a managed care organization.

[(6)] "Face-to-face" means occurring:

(a) in person; or

(b) Via a real-time, electronic communication that involves two (2) way interactive video and audio communication.]

(12) "Family peer support specialist" means an individual who meets the requirements for a Kentucky family peer support specialist established in 908 KAR 2:230.

(13)[(7)] "Federal financial participation" is defined **by[in]** 42 C.F.R. 400.203.

(14)[(8)] "Homebound recipient" is defined by 42 C.F.R. 440.20(b)(4)(iv).

- (15) "In-person" means a healthcare encounter occurring:
- (a) Via direct **consultation**~~[contact]~~ and interaction between the individual and healthcare provider;
 - (b) At the same location; and
 - (c) Not via telehealth.
- (16)~~[(9)]~~ "Intermittent nursing care" is defined by 42 C.F.R. 405.2401(b).
- (17)~~[(10)]~~ "Licensed assistant behavior analyst" is defined by KRS 319C.010(7).
- (18)~~[(11)]~~ "Licensed behavior analyst" is defined by KRS 319C.010(6).
- (19) "Licensed clinical alcohol and drug counselor" is defined by KRS 309.080(7).
- (20) "Licensed clinical alcohol and drug counselor associate" is defined by KRS 309.080(9).
- (21)~~[(12)]~~ "Licensed clinical social worker" means an individual who meets the licensed clinical social worker requirements established in KRS 335.100.
- (22)~~[(13)]~~ "Licensed marriage and family therapist" is defined by KRS 335.300(2).
- (23)~~[(14)]~~ "Licensed professional art therapist" is defined by KRS 309.130(2).
- (24)~~[(15)]~~ "Licensed professional art therapist associate" is defined by KRS 309.130(3).
- (25)~~[(16)]~~ "Licensed professional clinical counselor" is defined by KRS 335.500(3).
- (26)~~[(17)]~~ "Licensed professional counselor associate" is defined by KRS 335.500~~(4)~~~~[(3)]~~.
- (27)~~[(18)]~~ "Licensed psychological associate" means:
- (a) An individual who:
 - 1. Currently possesses a licensed psychological associate license in accordance with KRS 319.010(6); and
 - 2. Meets the licensed psychological associate requirements established in 201 KAR Chapter 26; or
 - (b) A certified psychologist.
- (28)~~[(19)]~~ "Licensed psychological practitioner" means:
- (a) An individual who meets the requirements established in KRS 319.053; or
 - (b) A certified psychologist with autonomous functioning.
- (29)~~[(20)]~~ "Licensed psychologist" means an individual who:
- (a) Currently possesses a licensed psychologist license in accordance with KRS 319.010(6); and
 - (b) Meets the licensed psychologist requirements established in 201 KAR Chapter 26.
- (30)~~[(21)]~~ "Managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined **by**~~[in]~~ 42 C.F.R. 438.2.
- (31)~~[(22)]~~ "Marriage and family therapy associate" is defined by KRS 335.300(3).
- (32)~~[(23)]~~ "Medically necessary" means that a covered benefit or service is necessary in accordance with 907 KAR 3:130.
- (33) "Medication assisted treatment" means the treatment of a substance use disorder with approved medications in combination with counseling, behavior therapies, and other

supports.

(34)[(24)] "Other ambulatory services" is defined by 42 C.F.R. 440.20(c).

(35)[(25)] "Part-time nursing care" is defined by 42 C.F.R. 405.2401(b).

(36)[(26)] "Physician" is defined by KRS 205.510(12)[(11) and 42 C.F.R. 405.2401(b)].

(37)[(27)] "Physician assistant" is defined by KRS 311.840(3) and 42 C.F.R. 405.2401(b).

(38)[(28)] "Recipient" is defined by KRS 205.8451(9).

(39) "Registered alcohol and drug peer support specialist" is defined by KRS 309.080(12).

(40) "Registered behavior technician" means an individual who meets the following requirements by the Behavior Analyst Certification Board:

(a) Be at least eighteen (18) years of age;

(b) Have a high school diploma or its equivalent; and

(c) Within six (6) months of hire for a new employee or within six (6) months of **January 1, 2023**[the effective date of this administrative regulation] for an existing employee:

1. Complete a training program that is:

a. Approved by the Behavior Analyst Certification Board;

b. Based on the current edition of the RBT Task List endorsed by the Behavior Analyst Certification Board; and

c. Conducted by Behavior Analyst Certification Board certificants;

2. Pass the Registered Behavior Technician Competency Assessment administered by a Behavior Analyst Certification Board certificant; and

3. Pass the Registered Behavior Technician exam provided by an assistant assessor **supervised**[overseen] by a Behavior Analyst Certification Board certificant.

(41)[(29)] "Rural health clinic" or "RHC" is defined by 42 C.F.R. 405.2401(b).

(42)[(30)] "State plan" is defined by 42 C.F.R. 400.203.

(43)[(31)] "Visiting nurse services" is defined by 42 C.F.R. 405.2401(b).

(44) "Withdrawal management" means a set of interventions aimed at managing acute intoxication and withdrawal based on the severity of the illness and co-occurring conditions identified through a comprehensive biopsychosocial assessment with linkage to addiction management services, and incorporated into a recipient's care as needed throughout the appropriate levels of care.

(45) "Youth peer support specialist" means an individual who meets the requirements established for a Kentucky youth peer support specialist established in 908 KAR 2:240.

Section 2. Covered Services Other Than Behavioral Health Services. The department shall cover the following medically necessary rural health clinic services **provided**[**furnished**] by a[an] RHC that has been certified in accordance with 42 C.F.R. 491.1 through 491.11:

(1) Services pursuant to 42 U.S.C. 1395x(aa);

(2) Services provided by a physician if the physician:

(a) Complies with the physician responsibility requirements established by 42 C.F.R. 491.8(b); and

(b)1. Performs the services in a RHC; or

2. Is compensated under an agreement with a RHC for providing services **provided[furnished]** to a Medicaid eligible RHC patient in a location other than the RHC;

(3) Services provided by a physician assistant or advanced practice registered nurse who is employed by or receives compensation from the RHC if the services:

(a) Are **provided[furnished]** by a member of the RHC's staff who complies with the responsibility requirements established by 42 C.F.R. 491.8(c);

(b) Are **provided[furnished]** under the medical supervision of a physician, except for services **provided[furnished]** by an APRN as these services shall not be required to be **provided[furnished]** under the medical supervision of a physician;

(c) Are **provided[furnished]** in accordance with a medical order for the care and treatment of a patient as prepared by a physician or an advanced practice registered nurse;

(d) Are within the provider's legally-authorized scope of practice; and

(e) Would be covered if **provided[furnished]** by a physician;

(4) Services or supplies **provided[furnished]** as incidental to services provided by a physician, physician assistant, or advanced practice registered nurse if the service or supply meets the criteria established in 42 C.F.R. 405.2413 or 42 C.F.R. 405.2415;

(5) Part-time or intermittent visiting nurse care and related supplies, except for drugs or biologicals, if:

(a) The RHC is located in an area where a determination has been made that there is a shortage of home health agencies pursuant to 42 C.F.R. 405.2417;

(b) The services are provided by a registered nurse or licensed practical nurse who is employed by or compensated for the services by the RHC; and

(c) The services are **provided[furnished]** to a homebound recipient under a written plan of treatment that is:

1. Established and reviewed at least every sixty (60) days by a supervising physician of the RHC; or

2. Established by a physician, physician assistant, or advanced practice registered nurse and reviewed and approved at least every sixty (60) days by a supervising physician of the RHC; or

(6) Other ambulatory services as established in the state plan.

Section 3. Behavioral Health Services. (1) Except as **established[specified]** in the requirements stated for a given service, the services covered may be provided for:

(a) A mental health disorder;

(b) A substance use disorder; or

(c) Co-occurring mental health and substance use disorders.

(2) The department shall cover, and a rural health clinic may provide, the following

services:

(a) Behavioral health services provided by a licensed psychologist, licensed clinical social worker, or advanced practice registered nurse within the provider's legally authorized scope of service; or

(b) Services or supplies incidental to a licensed psychologist's or licensed clinical social worker's behavioral health services if the service or supply meets the criteria established in 42 C.F.R. 405.2452.

(3) In addition to the services referenced in subsection (2) of this section, the following behavioral health services provided by a rural health clinic shall be covered under this administrative regulation in accordance with the corresponding following requirements:

~~[(a) A screening provided by:~~

- ~~1. A licensed psychologist;~~
- ~~2. A licensed professional clinical counselor;~~
- ~~3. A licensed clinical social worker;~~
- ~~4. A licensed marriage and family therapist;~~
- ~~5. A physician;~~
- ~~6. A psychiatrist;~~
- ~~7. An advanced practice registered nurse;~~
- ~~8. A licensed psychological practitioner;~~
- ~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~
- ~~10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;~~
- ~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~
- ~~12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;~~
- ~~13. A physician assistant working under the supervision of a physician;~~
- ~~14. A licensed professional art therapist; or~~
- ~~15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;~~

~~(b) An assessment provided by:~~

- ~~1. A licensed psychologist;~~
- ~~2. A licensed professional clinical counselor;~~
- ~~3. A licensed clinical social worker;~~
- ~~4. A licensed marriage and family therapist;~~
- ~~5. A physician;~~
- ~~6. A psychiatrist;~~
- ~~7. An advanced practice registered nurse;~~
- ~~8. A licensed psychological practitioner;~~

~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~

~~10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;~~

~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~

~~12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;~~

~~13. A physician assistant working under the supervision of a physician;~~

~~14. A licensed professional art therapist;~~

~~15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;~~

~~16. A licensed behavior analyst; or~~

~~17. A licensed assistant behavior analyst working under the supervision of a licensed behavior analyst;~~

~~(c) Psychological testing provided by:~~

~~1. A licensed psychologist;~~

~~2. A licensed psychological practitioner; or~~

~~3. A licensed psychological associate working under the supervision of a licensed psychologist;~~

~~(d) Crisis intervention provided by:~~

~~1. A licensed psychologist;~~

~~2. A licensed professional clinical counselor;~~

~~3. A licensed clinical social worker;~~

~~4. A licensed marriage and family therapist;~~

~~5. A physician;~~

~~6. A psychiatrist;~~

~~7. An advanced practice registered nurse;~~

~~8. A licensed psychological practitioner;~~

~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~

~~10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;~~

~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~

~~12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;~~

~~13. A physician assistant working under the supervision of a physician;~~

~~14. A licensed professional art therapist; or~~

~~15. A licensed professional art therapist associate working under the supervision of a~~

licensed professional art therapist;

(e) Service planning provided by:

1. A licensed psychologist;
2. A licensed professional clinical counselor;
3. A licensed clinical social worker;
4. A licensed marriage and family therapist;
5. A physician;
6. A psychiatrist;
7. An advanced practice registered nurse;
8. A licensed psychological practitioner;
9. A licensed psychological associate working under the supervision of a licensed psychologist;
10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;
11. A certified social worker working under the supervision of a licensed clinical social worker;
12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;
13. A physician assistant working under the supervision of a physician;
14. A licensed professional art therapist;
15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;
16. A licensed behavior analyst; or
17. A licensed assistant behavior analyst working under the supervision of a licensed behavior analyst;

(f) Individual outpatient therapy provided by:

1. A licensed psychologist;
2. A licensed professional clinical counselor;
3. A licensed clinical social worker;
4. A licensed marriage and family therapist;
5. A physician;
6. A psychiatrist;
7. An advanced practice registered nurse;
8. A licensed psychological practitioner;
9. A licensed psychological associate working under the supervision of a licensed psychologist;
10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;
11. A certified social worker working under the supervision of a licensed clinical social worker;

~~12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;~~

~~13. A physician assistant working under the supervision of a physician;~~

~~14. A licensed professional art therapist;~~

~~15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;~~

~~16. A licensed behavior analyst; or~~

~~17. A licensed assistant behavior analyst working under the supervision of a licensed behavior analyst;~~

~~(g) Family outpatient therapy provided by:~~

~~1. A licensed psychologist;~~

~~2. A licensed professional clinical counselor;~~

~~3. A licensed clinical social worker;~~

~~4. A licensed marriage and family therapist;~~

~~5. A physician;~~

~~6. A psychiatrist;~~

~~7. An advanced practice registered nurse;~~

~~8. A licensed psychological practitioner;~~

~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~

~~10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;~~

~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~

~~12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;~~

~~13. A physician assistant working under the supervision of a physician;~~

~~14. A licensed professional art therapist; or~~

~~15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;~~

~~(h) Group outpatient therapy provided by:~~

~~1. A licensed psychologist;~~

~~2. A licensed professional clinical counselor;~~

~~3. A licensed clinical social worker;~~

~~4. A licensed marriage and family therapist;~~

~~5. A physician;~~

~~6. A psychiatrist;~~

~~7. An advanced practice registered nurse;~~

~~8. A licensed psychological practitioner;~~

~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~

~~10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;~~

~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~

~~12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;~~

~~13. A physician assistant working under the supervision of a physician;~~

~~14. A licensed professional art therapist;~~

~~15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;~~

~~16. A licensed behavior analyst; or~~

~~17. A licensed assistant behavior analyst working under the supervision of a licensed behavior analyst;~~

~~(i) Collateral outpatient therapy provided by:~~

~~1. A licensed psychologist;~~

~~2. A licensed professional clinical counselor;~~

~~3. A licensed clinical social worker;~~

~~4. A licensed marriage and family therapist;~~

~~5. A physician;~~

~~6. A psychiatrist;~~

~~7. An advanced practice registered nurse;~~

~~8. A licensed psychological practitioner;~~

~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~

~~10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;~~

~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~

~~12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;~~

~~13. A physician assistant working under the supervision of a physician;~~

~~14. A licensed professional art therapist;~~

~~15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;~~

~~16. A licensed behavior analyst; or~~

~~17. A licensed assistant behavior analyst working under the supervision of a licensed behavior analyst;~~

~~(j) A screening, brief intervention, and referral to treatment for a substance use disorder~~

provided by:

1. A licensed psychologist;
2. A licensed professional clinical counselor;
3. A licensed clinical social worker;
4. A licensed marriage and family therapist;
5. A physician;
6. A psychiatrist;
7. An advanced practice registered nurse;
8. A licensed psychological practitioner;
9. A licensed psychological associate working under the supervision of a licensed psychologist;
10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;
11. A certified social worker working under the supervision of a licensed clinical social worker;
12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;
13. A physician assistant working under the supervision of a physician;
14. A licensed professional art therapist; or
15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;

(k) Day treatment provided by:

1. A licensed psychologist;
2. A licensed professional clinical counselor;
3. A licensed clinical social worker;
4. A licensed marriage and family therapist;
5. A physician;
6. A psychiatrist;
7. An advanced practice registered nurse;
8. A licensed psychological practitioner;
9. A licensed psychological associate working under the supervision of a licensed psychologist;
10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;
11. A certified social worker working under the supervision of a licensed clinical social worker;
12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;
13. A physician assistant working under the supervision of a physician;
14. A licensed professional art therapist; or

~~15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;~~

~~(l) Comprehensive community support services provided by:~~

~~1. A licensed psychologist;~~

~~2. A licensed professional clinical counselor;~~

~~3. A licensed clinical social worker;~~

~~4. A licensed marriage and family therapist;~~

~~5. A physician;~~

~~6. A psychiatrist;~~

~~7. An advanced practice registered nurse;~~

~~8. A licensed psychological practitioner;~~

~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~

~~10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;~~

~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~

~~12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;~~

~~13. A physician assistant working under the supervision of a physician;~~

~~14. A licensed professional art therapist;~~

~~15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist;~~

~~16. A licensed behavior analyst;~~

~~17. A licensed assistant behavior analyst working under the supervision of a licensed behavior analyst; or~~

~~18. A community support associate;~~

~~(m) Intensive outpatient program provided by:~~

~~1. A licensed psychologist;~~

~~2. A licensed professional clinical counselor;~~

~~3. A licensed clinical social worker;~~

~~4. A licensed marriage and family therapist;~~

~~5. A physician;~~

~~6. A psychiatrist;~~

~~7. An advanced practice registered nurse;~~

~~8. A licensed psychological practitioner;~~

~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~

~~10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;~~

~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~

~~12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;~~

~~13. A physician assistant working under the supervision of a physician;~~

~~14. A licensed professional art therapist; or~~

~~15. A licensed professional art therapist associate; or~~

~~(n) Therapeutic rehabilitation program services provided by:~~

~~1. A licensed psychologist;~~

~~2. A licensed professional clinical counselor;~~

~~3. A licensed clinical social worker;~~

~~4. A licensed marriage and family therapist;~~

~~5. A physician;~~

~~6. A psychiatrist;~~

~~7. An advanced practice registered nurse;~~

~~8. A licensed psychological practitioner;~~

~~9. A licensed psychological associate working under the supervision of a licensed psychologist;~~

~~10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor;~~

~~11. A certified social worker working under the supervision of a licensed clinical social worker;~~

~~12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist;~~

~~13. A physician assistant working under the supervision of a physician;~~

~~14. A licensed professional art therapist; or~~

~~15. A licensed professional art therapist associate working under the supervision of a licensed professional art therapist.~~

~~(4)](a) A screening shall:~~

~~1. Determine[Be the determination of] the likelihood that an individual has a mental health disorder, a substance use disorder, or co-occurring disorders;~~

~~2. Not establish the presence or specific type of disorder;[and]~~

~~3. Establish the need for an in-depth assessment;[.]~~

~~4. Be provided by:~~

~~a. An approved behavioral health practitioner; or~~

~~b. An approved behavioral health practitioner under supervision;[.]~~

~~(b) An assessment shall:~~

~~1. Include gathering information and engaging in a process with the individual that enables the provider to:~~

- a. Establish the presence or absence of a mental health disorder, substance use disorder, or co-occurring disorders;
 - b. Determine the individual's readiness for change;
 - c. Identify the individual's strengths or problem areas that **could[may]** affect the treatment and recovery processes; and
 - d. Engage the individual in developing an appropriate treatment relationship;
2. Establish or rule out the existence of a clinical disorder or service need;
 3. Include working with the individual to develop a treatment and service plan;[~~and~~]
 4. Not include a psychological or psychiatric evaluation or assessment;
 5. If being made for the treatment of a substance use disorder, utilize a multidimensional assessment that complies with the most current edition of the ASAM Criteria to determine the most appropriate level of care; and
6. Be provided by:
 - a. An approved behavioral health practitioner; or
 - b. An approved behavioral health practitioner under supervision;[~~;~~]
 - (c) Psychological testing shall[~~include~~]:
 1. Include a psychodiagnostic assessment of personality, psychopathology, emotionality, or intellectual disabilities;[~~and~~]
 2. Include an interpretation and a written report of testing results;
 3. Be provided by a licensed:
 - a. Psychologist;
 - b. Psychological practitioner; or
 - c. Psychological associate working under the supervision of a licensed psychologist;
- and
4. Be in-person or via telehealth as appropriate pursuant to 907 KAR 3:170;[~~;~~]
- (d) Crisis intervention:
 1. Shall be a therapeutic intervention for the purpose of immediately reducing or eliminating the risk of physical or emotional harm to:
 - a. The recipient; or
 - b. Another individual;
 2. Shall consist of clinical intervention and support services necessary to provide integrated crisis response, crisis stabilization interventions, or crisis prevention activities for an individual with a behavioral health disorder;
 3. Shall be provided:
 - a. On-site at a rural health clinic;
 - b. As an immediate relief to the presenting problem or threat; and
 - c. In a one-on-one[~~face-to-face, one-on-one~~] encounter between the provider and the recipient, which **shall be[is]** delivered either in-person or via telehealth if appropriate pursuant to 907 KAR 3:170;
 4. May include:

- a. Verbal de-escalation, risk assessment, or cognitive therapy; or
- b. Further service planning including:
 - (i) Lethal means reduction for suicide; or
 - (ii) Substance use disorder or relapse prevention; ~~[and]~~
- 5. Shall be followed by a referral to non-crisis services if applicable; and
- 6. Shall be provided by:
 - a. An approved behavioral health practitioner; or
 - b. An approved behavioral health practitioner under supervision; ~~[-]~~
- (e) 1. Service planning shall:
 - a. Be provided in-person or via telehealth as appropriate pursuant to the most current version of The ASAM Criteria and 907 KAR 3:170;
 - b. ~~Involve~~ ~~[consist of]~~ assisting a recipient in creating an individualized plan for services needed for maximum reduction of an intellectual disability and to restore the individual to his or her best possible functional level;
 - c. Involve restoring a recipient's functional level to the recipient's best possible functional level; and
 - d. Be performed using a person-centered planning process; [-]
- 2. A service plan:
 - a. Shall be directed and signed by the recipient;
 - b. Shall include practitioners of the recipient's choosing; and
 - c. ~~[-]~~ May include:
 - (i) A mental health advance directive being filed with a local hospital;
 - (ii) A crisis plan; or
 - (iii) A relapse prevention strategy or plan; ~~[-]~~
 - (f) Individual outpatient therapy shall:
 - 1. Be provided to promote the:
 - a. Health and wellbeing of the individual; and ~~[or]~~
 - b. Restoration of a recipient to the recipient's best possible functional level from a substance use disorder or a co-occurring disorder ~~[Recovery from a substance use disorder, mental health disorder, or co-occurring related disorders];~~
 - 2. Consist of:
 - a. An in-person or via telehealth as appropriate pursuant to 907 KAR 3:170, ~~[A face-to-face,]~~ one-on-one encounter between the provider and recipient; and
 - b. A behavioral health therapeutic intervention provided in accordance with the recipient's identified treatment plan;
 - 3. Be aimed at:
 - a. Reducing adverse symptoms;
 - b. Reducing or eliminating the presenting problem of the recipient; and
 - c. Improving functionality; ~~[-and]~~
 - 4. Not exceed three (3) hours per day; and

5. Be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(g)1. Family outpatient therapy shall consist of an in-person, or via telehealth as appropriate pursuant to 907 KAR 3:170,[a face-to-face] behavioral health therapeutic intervention provided:

a. Through scheduled therapeutic visits between the therapist and the recipient and at least one (1) member of the recipient's family; and

b. To address issues interfering with the relational functioning of the family and to improve interpersonal relationships within the recipient's home environment.

2. A family outpatient therapy session shall be billed as one (1) service regardless of the number of individuals, including multiple members from one (1) family, who participate in the session.

3. Family outpatient therapy shall:

a. Be provided to promote the:

(i) Health and wellbeing of the individual; or

(ii) Restoration of a recipient to their best possible functional level from a substance use disorder or co-occurring disorders; and

b. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy per recipient unless additional time is medically necessary.

4. Family outpatient therapy shall be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision;[.]

(h)1. Group outpatient therapy shall:

a. Be a behavioral health therapeutic intervention provided in accordance with a recipient's identified plan of care;

b. Be provided to promote the:

(i) Health and wellbeing of the individual; and[or]

(ii) Restoration of a recipient to their best possible functional level from a substance use disorder or co-occurring disorder[Recovery from a substance use disorder, mental health disorder, or co-occurring related disorders];

c.[b.] Consist of an in-person, or via telehealth as appropriate pursuant to 907 KAR 3:170,[a face-to-face] behavioral health therapeutic intervention provided in accordance with the recipient's identified treatment plan;

d.[c.] Be provided to a recipient in a group setting:

(i) Of nonrelated individuals; and

(ii) Not to exceed twelve (12) individuals in size;

e. Focus on the psychological needs of the recipients as evidenced in each recipient's plan of care;

f.[d.] Center on goals including building and maintaining healthy relationships, personal goals setting, and the exercise of personal judgment;

g.[e.] Not include physical exercise, a recreational activity, an educational activity, or a social activity; and

h.[f.] Not exceed three (3) hours per day alone or in combination with any other outpatient therapy per recipient unless additional time is medically necessary.

2. A family outpatient therapy~~[The]~~ group shall have a:

a. Deliberate focus; and

b. Defined course of treatment.

3. The subject of a group receiving group outpatient therapy shall be related to each recipient participating in the group.

4. The provider shall keep individual notes regarding each recipient within the group and within each recipient's health record.

5. Family outpatient therapy shall be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision;[;]

(i)1. Collateral outpatient therapy shall:

a. Consist of an in-person or appropriate telehealth, provided pursuant to 907 KAR 3:170,[a face-to-face] behavioral health consultation:

(i) With a parent or caregiver of a recipient, household member of a recipient, legal representative of a recipient, school personnel, treating professional, or other person with custodial control or supervision of the recipient; and

(ii) That is provided in accordance with the recipient's treatment plan;~~[-and]~~

b. Not be reimbursable if the therapy is for a recipient who is at least twenty-one (21) years of age; and

c. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy per recipient unless additional time is medically necessary.

2. Written consent by a parent or custodial guardian~~[Consent]~~ to discuss a recipient's treatment with any person other than a parent or legal guardian shall be signed and filed in the recipient's health record.

3. Collateral outpatient therapy shall be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision;[;]

(j)1. Screening, brief intervention, and referral to treatment for a substance use disorder shall:

a.[1.] Be an evidence-based early intervention approach for an individual with non-dependent substance use to provide an effective strategy for intervention prior to the need for more extensive or specialized treatment;~~[-and]~~

b.[2.] Consist of:

(i)[a.] Using a standardized screening tool to assess an individual for risky substance

use behavior;

(ii)[~~b.~~] Engaging a recipient who demonstrates risky substance use behavior in a short conversation and providing feedback and advice; and

(iii)[~~c.~~] Referring a recipient to additional substance use disorder or co-occurring disorder services if the recipient is determined to need[:

(i) Therapy; or

(ii) ~~Other~~] additional services to address substance use if the recipient is determined to need other additional services;

c. Be provided in-person or via telehealth as appropriate according to 907 KAR 3:170;

d. Be provided by:

(i) An approved behavioral health practitioner; or

(ii) An approved behavioral health practitioner under supervision.

2. A screening and brief intervention that does not meet criteria for referral to treatment may be subject to coverage by the department.

(k)1. Day treatment shall be a nonresidential, intensive treatment program designed for a child under the age of twenty-one (21) years who has:

a. An emotional disability, ~~or~~ neurobiological disorder, or substance use disorder; and

b. A high risk of out-of-home placement due to a behavioral health issue.

2. Day treatment services shall:

a. Consist of an organized, behavioral health program of treatment and rehabilitative services (substance use disorder, mental health disorder, or co-occurring ~~mental health and substance use~~ disorders);

b. Have unified policies and procedures that:

(i) Address the program philosophy, admission and discharge criteria, admission and discharge process, staff training, and integrated case planning; and

(ii) Have been approved by the recipient's local education authority and the day treatment provider;

c. Include:

(i) Individual outpatient therapy, family outpatient therapy, or group outpatient therapy;

(ii) Behavior management and social skill training;

(iii) Independent living skills that correlate to the age and development stage of the recipient; or

(iv) Services designed to explore and link with community resources before discharge and to assist the recipient and family with transition to community services after discharge; and

d. Be provided:

(i) In collaboration with the education services of the local education authority including those provided through 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act) or 29 U.S.C. 701 et seq. (Section 504 of the Rehabilitation Act);

- (ii) On school days and during scheduled breaks;
- (iii) In coordination with the recipient's individualized education program~~[individualized educational plan]~~ if the recipient has an individualized education program~~[individualized educational plan]~~;
- (iv) Under the supervision of a licensed or certified behavioral health practitioner or a behavioral health practitioner working under clinical supervision; and
- (v) With a linkage agreement with the local education authority that specifies the responsibilities of the local education authority and the day treatment provider.

3. To provide day treatment services, a~~[an]~~ RHC shall have:

- a. The capacity to employ staff authorized to provide day treatment services in accordance with subparagraph 2. of this **paragraph**[subsection] ~~[(3)(k) of this section]~~ and to coordinate the provision of services among team members;
- b. The capacity to provide the full range of services as stated in subparagraphs 1 and 2 of this paragraph;
- c. Demonstrated experience in serving individuals with behavioral health disorders, mental health disorders, and co-occurring disorders;
- d. The administrative capacity to ensure quality of services;
- e. A financial management system that provides documentation of services and costs;
- f. The capacity to document and maintain individual case records; and
- g. Knowledge of substance use disorders.

4. Day treatment shall not include a therapeutic clinical service that is included in a child's individualized education program~~[plan]~~.

(l) 1. Comprehensive community support services shall:

- a. Be activities necessary to allow an individual to live with maximum independence in community-integrated housing;
- b. Be intended to ensure successful community living through the utilization of skills training, cueing, or supervision as identified in the recipient's treatment plan;
- c. Include:
 - (i) Reminding a recipient to take medications and monitoring symptoms and side effects of medications; or
 - (ii) Teaching parenting skills, teaching community resource access and utilization, teaching emotional regulation skills, teaching crisis coping skills, teaching how to shop, teaching about transportation, teaching financial management, or developing and enhancing interpersonal skills; and

d. Meet the requirements for comprehensive community support services established in 908 KAR 2:250.

2. To provide comprehensive community support services, a~~[an]~~ RHC shall have:

- a. The capacity to employ staff authorized to provide comprehensive community support services in accordance with subsection (3)(l) of this section and to coordinate the provision of services among team members;

- b. The capacity to provide the full range of comprehensive community support services as stated in subparagraph 1 of this paragraph;
 - c. Demonstrated experience in serving individuals with behavioral health disorders;
 - d. The administrative capacity to ensure quality of services;
 - e. A financial management system that provides documentation of services and costs;
- and
- f. The capacity to document and maintain individual case records.

3. Comprehensive community support services shall be provided by:

a. An approved behavioral health practitioner, except for a licensed clinical alcohol and drug counselor; or

b. An approved behavioral health practitioner under supervision, except for a:

(i) Certified alcohol and drug counselor; or

(ii) Licensed clinical alcohol and drug counselor associate.

4. Support services for comprehensive community support services conducted by a behavioral health multi-specialty group or a behavioral health provider group by an individual working under the supervision of an approved behavioral health practitioner shall[~~may~~] be provided by a:

a. Community support associate; or

b. Registered behavioral technician under the supervision of a licensed behavioral analyst.

(m)1. Intensive outpatient program services shall:

a. Be an alternative to or transition from inpatient hospitalization or partial hospitalization for a mental health disorder, substance use disorder, or co-occurring disorders;

b. Offer a multi-modal, multi-disciplinary structured outpatient treatment program that is significantly more intensive than individual outpatient therapy, group outpatient therapy, or family outpatient therapy;

c. Meet the service criteria, including the components for support systems, staffing, and therapies outlined in the most current version of the ASAM Criteria for intensive outpatient level of care services;

d. Be provided at least three (3) hours per day at least three (3) days per week;

e. Be provided at least six (6) hours per week for adolescents; and

f.[d:] Include:

(i) Individual outpatient therapy, group outpatient therapy, or family outpatient therapy unless contraindicated;

(ii) Crisis intervention; or

(iii) Psycho-education related to identified goals in the recipient's treatment plan.

2. During psycho-education, the recipient or family member shall be:

a. Provided with knowledge regarding the recipient's diagnosis, the causes of the condition, and the reasons why a particular treatment might be effective for reducing symptoms; and

b. Taught how to cope with the recipient's diagnosis or condition in a successful manner.

3. An intensive outpatient program treatment plan shall:

a. Be individualized; and

b. Focus on stabilization and transition to a lesser level of care.

4. To provide intensive outpatient program services, ~~a~~[an] RHC shall have:

a. Access to a board-certified or board-eligible psychiatrist for consultation;

b. Access to a psychiatrist, other physician, physician's assistant, or advanced practiced registered nurse for medication prescribing and monitoring;

c. Adequate staffing to ensure a minimum recipient-to-staff ratio of ten (10) to one (1);

d. The capacity to provide services utilizing a recognized intervention protocol based on nationally accepted treatment principles;

e. The capacity to employ staff authorized to provide intensive outpatient program services in accordance with subparagraph 4.~~[subsection (3)(m)]~~ of this paragraph~~[section]~~ and to coordinate the provision of services among team members;

f. The capacity to provide the full range of intensive outpatient program services as stated in this paragraph;

g. Demonstrated experience in serving individuals with behavioral health disorders;

h. The administrative capacity to ensure quality of services;

i. A financial management system that provides documentation of services and costs; and

j. The capacity to document and maintain individual case records.

5. Intensive outpatient program services shall be provided by:

a. An approved behavioral health practitioner; or

b. An approved behavioral health practitioner under supervision.

(n)1. Therapeutic rehabilitation program services shall:

a. Occur at the provider's site or in the community;

b. Be provided to an adult with a severe and persistent mental illness or to a child (under the age of twenty-one (21) years) who has a serious emotional disability;

c. Be designed to maximize the reduction of an intellectual disability and the restoration of the individual's functional level to the individual's best possible functional level; and

d. Not be a residential program.

2. A recipient in a therapeutic rehabilitation program shall establish the recipient's own rehabilitation goals within the person-centered service plan.

3. A therapeutic rehabilitation program shall:

a. Be delivered using a variety of psychiatric rehabilitation techniques;

b. Focus on:

(i) Improving daily living skills;

(ii) Self-monitoring of symptoms and side effects;

(iii) Emotional regulation skills;

(iv) Crisis coping skill; and

(v) Interpersonal skills; ~~and~~

c. Be delivered individually or in a group; and

d. Include:

(i) An individualized plan of care identifying measurable goals and objectives including discharge and relapse prevention planning;

(ii) Coordination of services the individual **receives** ~~may be receiving~~; and

(iii) Referral to other necessary service supports as needed.

4. To provide therapeutic rehabilitation program services, ~~a~~^{an} RHC shall:

a. Have the capacity to employ staff authorized to provide therapeutic rehabilitation program services in accordance with **paragraph (n) of this** subsection ~~[(3)(n) of this section]~~ and to coordinate the provision of services among team members;

b. Have the capacity to provide the full range of therapeutic rehabilitation program services as stated in this paragraph;

c. Have demonstrated experience in serving individuals with mental health disorders;

d. Have the administrative capacity to ensure quality of services;

e. Have a financial management system that provides documentation of services and costs; and

f. Have the capacity to document and maintain individual case records.

5. Program staffing for a therapeutic rehabilitation program shall include:

a. Licensed clinical supervision, consultation, and support to direct care staff; and

b. Direct care staff to provide scheduled therapeutic activities, training, and support.

6. Therapeutic rehabilitation services shall be provided by:

a. An approved behavioral health practitioner, except for a licensed clinical alcohol and drug counselor; or

b. An approved behavioral health practitioner under supervision, except for a:

(i) Certified alcohol and drug counselor; or

(ii) Licensed clinical alcohol and drug counselor associate.

7. If not provided by an allowed practitioner pursuant to clause 6. of this subparagraph, support services for therapeutic rehabilitation services shall be conducted by a provider:

a. Working under the supervision of an approved behavioral health practitioner; and

b. Who is:

(i) An adult peer support specialist;

(ii) A family peer support specialist; or

(iii) A youth peer support specialist.

(o) 1. Peer support services shall:

a. Be emotional support that is provided by:

(i) An individual who has been trained and certified in accordance with 908 KAR 2:220 and who is experiencing or has experienced a substance use disorder to a recipient by

sharing a similar substance use disorder in order to bring about a desired social or personal change;

(ii) A parent or other family member, who has been trained and certified in accordance with 908 KAR 2:230, of a child having or who has had a substance use disorder to a parent or family member of a child sharing a similar substance use disorder in order to bring about a desired social or personal change;

(iii) An individual who has been trained and certified in accordance with 908 KAR 2:240 and identified as experiencing a substance use disorder; or

(iv) A registered alcohol and drug peer support specialist who has been trained and certified in accordance with KRS 309.0831 and is a self-identified consumer of substance use disorder services who provides emotional support to others with substance use disorder to achieve a desired social or personal change;

b. Be an evidence-based practice;

c. Be structured and scheduled non-clinical therapeutic activities with an individual recipient or a group of recipients;

d. Promote socialization, recovery, self-advocacy, preservation, and enhancement of community living skills for the recipient;

e. Except for the engagement into substance use disorder treatment through an emergency department bridge clinic, be coordinated within the context of a comprehensive, individualized plan of care developed through a person-centered planning process;

f. Be identified in each recipient's plan of care; and

g. Be designed to contribute directly to the recipient's individualized goals as **established[specified]** in the recipient's plan of care.

2. To provide peer support services, a chemical dependency treatment center shall:

a. Have demonstrated:

(i) The capacity to provide peer support services for the behavioral health population being served including the age range of the population being served; and

(ii) Experience in serving individuals with behavioral health disorders;

b. Employ peer support specialists who are qualified to provide peer support services in accordance with 908 KAR 2:220, 908 KAR 2:230, 908 KAR 2:240, or KRS 309.0831;

c. Use an approved behavioral health practitioner to supervise peer support specialists;

d. Have the capacity to coordinate the provision of services among team members;

e. Have the capacity to provide ongoing continuing education and technical assistance to peer support specialists;

f. Require individuals providing peer support services to recipients to provide no more than thirty (30) hours per week of direct recipient contact; and

g. Require peer support services provided to recipients in a group setting to not exceed eight (8) individuals within any group at one (1) time.

(p)1. Partial hospitalization services shall be:

a. Short-term with an average of four (4) to six (6) weeks,

- b. Less than twenty-four (24) hours each day;
 - c. An intensive treatment program for an individual who is experiencing significant impairment to daily functioning due to a substance use disorder or co-occurring disorders; and
 - d. Provided in-person or via telehealth as appropriate pursuant to the most recent version of The ASAM Criteria and 907 KAR 3:170.
- 2. Partial hospitalization may be provided to an adult or a minor.
- 3. Admission criteria for partial hospitalization shall be based on an inability of community-based therapies or intensive outpatient services to adequately treat the recipient.
- 4. A partial hospitalization program shall meet the service criteria, including the components for support systems, staffing, and therapies outlined in the most current version of The ASAM Criteria for partial hospitalization level of care services.
- 5. A partial hospitalization program shall consist of:
 - a. Individual outpatient therapy;
 - b. Group outpatient therapy;
 - c. Family outpatient therapy; or
 - d. Medication management.
- 6. The department shall not reimburse for educational, vocational, or job training services provided as part of partial hospitalization.
- 7.a. A rural health clinic's partial hospitalization program shall have an agreement with the local educational authority to come into the program to provide all educational components and instruction that are not Medicaid billable or reimbursable.
- b. Services in a Medicaid eligible child's individualized education program shall be coverable under Medicaid.
- 8. Partial hospitalization shall be:
 - a. Provided for at least four (4) hours per day; and
 - b. Focused on one (1) primary presenting problem.
- 9. A partial hospitalization program operated by a rural health clinic shall:
 - a. Include the following personnel for the purpose of providing medical care:
 - (i) An advanced practice registered nurse, a physician assistant, or a physician available on site; and
 - (ii) A board-certified or board-eligible psychiatrist available for consultation; and
 - b. Have the capacity to:
 - (i) Provide services utilizing a recognized intervention protocol based on nationally accepted treatment principles;
 - (ii) Employ required practitioners and coordinate service provision among rendering practitioners; and
 - (iii) Provide the full range of services included in the scope of partial hospitalization

established in this paragraph.

(q)1. Withdrawal management services provided by a rural health clinic shall:

a. Be provided in-person or via telehealth as consistent with 907 KAR 3:170 for recipients with a substance use disorder or co-occurring disorder and incorporated into a recipient's care along the continuum of care as needed;

b. Meet service criteria in accordance with the most current version of the ASAM Criteria for withdrawal management levels in an outpatient setting; and

c. If provided in an outpatient setting, comply with 908 KAR 1:374, Section 2.

2. A recipient who is receiving withdrawal management services shall meet the most current edition of diagnostic criteria for substance withdrawal management as established by the most recent version of the Diagnostic and Statistical Manual of Mental Disorders.

3. Withdrawal management services in an outpatient setting shall be provided by:

a. A physician;

b. A psychiatrist;

c. A physician assistant;

d. An advanced practice registered nurse; or

e. An approved behavioral health practitioner or behavioral health practitioner under supervision with oversight by a physician, advanced practice registered nurse, or physician assistant.

(r)1. Medication assisted treatment services shall be provided by an authorized prescribing provider who:

a. Is:

(i) A physician;

(ii) An advanced practice registered nurse;

(iii) A physician assistant; or

(iv) A psychiatrist;

b. Meets standards established pursuant to 201 KAR 9:270 or 201 KAR 20:065;

c. Maintains a current waiver under 21 U.S.C. 823(g)(2) to prescribe buprenorphine products including any waiving or expansion of buprenorphine prescribing authority by the federal government; and

d. Has experience and knowledge in addiction medicine.

2. Medication assisted treatment supporting behavioral health services shall:

a. Be co-located within the same practicing site as the practitioner who maintains a current waiver under 21 U.S.C. 823(g)(2) to prescribe buprenorphine products or via telehealth as appropriate pursuant to 907 KAR 3:170; or

b. Have agreements in place for linkage to appropriate behavioral health treatment providers who specialize in substance use disorders and are knowledgeable in biopsychosocial dimensions of alcohol and other substance use disorders, such as:

(i) A licensed behavioral health services organization;

(ii) A multi-specialty group;

- (iii) A provider group; or
- (iv) An individual behavioral health practitioner.

3. **If provided**, medication assisted treatment **shall[may]** be provided in a provider group or multi-specialty group operating in accordance with 908 KAR 1:374, Section 7.

4. A medication assisted treatment program shall:

a. Assess the need for treatment including:

(i) A full patient history to determine the severity of the patient's substance use disorder; and

(ii) Identifying and addressing any underlying or co-occurring diseases or conditions, as necessary;

b. Educate the patient about how the medication works, including:

(i) The associated risks and benefits; and

(ii) Overdose prevention;

c. Evaluate the need for medically managed withdrawal from substances;

d. Refer patients for higher levels of care if necessary; and

e. Obtain informed consent prior to integrating pharmacologic or nonpharmacologic therapies.

(s)1. Applied behavior analysis services shall produce socially significant improvement in human behavior via the:

a. Design, implementation, and evaluation of environmental modifications;

b. Use of behavioral stimuli and consequences; or

c. Use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

2. Applied behavior analysis shall be based on scientific research and the direct observation and measurement of behavior and environment, which utilize contextual factors, establishing operations, antecedent stimuli, positive reinforcement, and other consequences to assist recipients in:

a. Developing new behaviors;

b. Increasing or decreasing existing behaviors; and

c. Eliciting behaviors under specific environmental conditions.

3. Applied behavior analysis services may include principles, methods, and procedures of the experimental analysis of behavior and applied behavior analysis, including applications of those principles, methods, and procedures to:

a. Design, implement, evaluate, and modify treatment programs to change the behavior of individuals;

b. Design, implement, evaluate, and modify treatment programs to change the behavior of individuals that interact with a recipient;

c. Design, implement, evaluate, and modify treatment programs to change the behavior of a group or groups that interact with a recipient; or

d. Consult with individuals and organizations.

4.a. Applied behavior analysis services shall be provided by:

(i) A licensed behavior analyst;

(ii) A licensed assistant behavior analyst;

(iii) An approved behavioral health practitioner with documented training in applied behavior analysis; or

(iv) An approved behavioral health practitioner under supervision with documented training in applied behavior analysis.

b. A registered behavior technician under the supervision of an appropriate practitioner pursuant to clause a. of this subparagraph may provide support services, **which shall be performed as established in[under]** this paragraph.

(4)(a) Laboratory services shall be reimbursable in accordance with 907 KAR 1:028 if provided by a RHC if:

1. The RHC has the appropriate Clinical Laboratory Improvement Amendments (CLIA) certificate to perform laboratory testing pursuant to 907 KAR 1:028; and

2. The services are prescribed by a physician, advanced practice registered nurse, or physician assistant who has a contractual relationship with the RHC.

(b) Laboratory services may be administered, as appropriate, by:

1. An approved behavioral health practitioner; or

2. An approved behavioral health practitioner under supervision.

(5)(a) The requirements established in 908 KAR 1:370 shall apply to any provider of a service to a recipient for a substance use disorder or co-occurring mental health and substance use disorders.

(b) The detoxification program requirements established in 908 KAR 1:370 shall apply to a provider of a detoxification service.

(6) The extent and type of assessment performed shall depend upon the problem of the individual seeking or being referred for services.

(7) A diagnosis or clinical impression shall be made using terminology established in the most current edition of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders.

(8)(a) Direct **consultation[contact]** between a provider or practitioner and a recipient shall be required for each service, except for a collateral service for a child under the age of twenty-one (21) years if the collateral service is in the child's plan of care.

(b) A service that does not meet the requirement in paragraph (a) of this subsection shall not be covered.

(9) A billable unit of service shall be actual time spent delivering a service in ~~an~~[a face-to-face] encounter.

(10) A service shall be:

(a) Stated in the recipient's treatment plan;

(b) Provided in accordance with the recipient's treatment plan;

(c) Provided on a regularly scheduled basis, except for a screening or assessment; and

(d) Made available on a nonscheduled basis if necessary during a crisis or time of increased stress for the recipient.

(11) The following services or activities shall not be covered under this administrative regulation:

(a) A behavioral health service provided to:

1. A resident of:

a. A nursing facility; or

b. An intermediate care facility for individuals with an intellectual disability;

2. An inmate of a federal, local, or state:

a. Jail;

b. Detention center; or

c. Prison; or

3. An individual with an intellectual disability without documentation of an additional psychiatric diagnosis;

(b) Psychiatric or psychological testing for another agency, including a court or school, that does not result in the individual receiving psychiatric intervention or behavioral health therapy from the independent provider;

(c) A consultation or educational service provided to a recipient or to others;

(d) Collateral outpatient therapy for an individual aged twenty-one (21) years or older;

(e) A telephone call, an email, a text message, or other electronic contact that does not meet the requirements stated in the definition ~~for/of~~ telehealth established pursuant to KRS 205.510(16) and implemented pursuant to 907 KAR 3:170~~[face-to-face]~~;

(f) Travel time;

(g) A field trip;

(h) A recreational activity;

(i) A social activity; or

(j) A physical exercise activity group.

(12) A third party contract shall not be covered under this administrative regulation.

Section 4. Provision of Services. A~~[A]~~ RHC shall comply with the service provision requirements established by 42 C.F.R. 491.9.

Section 5. Immunizations. A~~[A]~~ RHC shall provide, upon request from a recipient, the following covered immunizations:

(1) Diphtheria and tetanus toxoids and pertussis vaccine (DPT);

(2) Measles, mumps, and rubella virus vaccine live (MMR);

(3) Poliovirus vaccine, live, oral (any type(s)) (OPV); ~~[or]~~

(4) Hemophilus B conjugate vaccine (HBCV);

(5) Hepatitis A;

(6) Meningococcal vaccines; ~~[or]~~

(7) Meningococcal ACWY vaccine (MenACWY); or

(8) Any other vaccine that is recommended by the Advisory Committee on Immunization Practice (ACIP) vaccines.

Section 6. Medical Necessity Requirement. To be covered pursuant to this administrative regulation, a service shall be:

- (1) Medically necessary for the recipient; and
- (2) Provided to a recipient.

Section 7. Noncovered Services. (1) The following services shall not be covered as rural health clinic services:

- (a) Services provided in a hospital as defined **by[~~in~~]** 42 U.S.C. 1395x(e);
 - (b) Institutional services;
 - (c) Housekeeping, babysitting, or other similar homemaker services; **and**
 - (d) Services **that[which]** are not provided in accordance with restrictions imposed by law or administrative regulation.
- (2) A third party contract shall not be covered under this administrative regulation.

Section 8. No Duplication of Service. (1) The department shall not reimburse for a service provided to a recipient by more than one (1) provider of any program in which the service is covered during the same time period.

(2) For example, if a recipient is receiving a service from an independent behavioral health service provider, the department shall not reimburse for the same service provided to the same recipient during the same time period by a rural health clinic.

Section 9. Protection, Security, and Records Maintenance Requirements for All Services. (1)(a) A provider shall maintain a current health record for each recipient.

(b)1. A health record shall document each service provided to the recipient including the date of ~~[the-]~~service and ~~[the-]~~signature of the individual who provided the service.

2. The individual who provided the service shall date and sign the health record within seventy-two (72) hours of~~on~~ the date that the individual provided the service.

(2)(a) Except as established in paragraph (b) of this subsection, a provider shall maintain a health record regarding a recipient for at least five (5) years from the date of the service or until any audit dispute or issue is resolved beyond five (5) years.

(b) If the secretary of the United States Department of Health and Human Services requires a longer document retention period than the period referenced in paragraph (a) of this subsection, pursuant to 42 C.F.R. 431.17, the period established by the secretary shall be the required period.

(3)(a) A provider shall comply with 45 C.F.R. Part 164.

(b) All information contained in a health record shall:

1. Be treated as confidential;
2. Not be disclosed to an unauthorized individual; and
3. If requested, be disclosed to an authorized representative of:
 - a. The department; or
 - b. Federal government.

(c)1. Upon request, a provider shall provide to an authorized representative of the department or federal government information requested to substantiate:

- a. Staff notes detailing a service that was rendered;
- b. The professional who rendered a service; and
- c. The type of service rendered and any other requested information necessary to determine, on an individual basis, ***if[whether]*** the service is reimbursable by the department.

2. Failure to provide information ***established[referenced]*** in subparagraph 1. of this paragraph shall result in denial of payment for any service associated with the requested information.

Section 10. Documentation and Records Maintenance Requirements for Behavioral Health Services. (1) The requirements in this section shall apply to health records associated with behavioral health services.

(2) A health record shall:

(a) Include:

1. An identification and intake record including:

- a. Name;
- b. Social Security number;
- c. Date of intake;
- d. Home (legal) address;
- e. Health insurance or Medicaid information;
- f. Referral source and address of referral source;
- g. Primary care physician and address;
- h. The reason the individual is seeking help including the presenting problem and diagnosis;

i. Any physical health diagnosis, if a physical health diagnosis exists for the individual, and information regarding:

- (i) Where the individual is receiving treatment for the physical health diagnosis; and
- (ii) The physical health provider; and

j. The name of the informant and any other information deemed necessary by the independent provider to comply with the requirements of:

- (i) This administrative regulation;
- (ii) The provider's licensure board;
- (iii) State law; or
- (iv) Federal law;

2. Documentation of the:

- a. Screening;
- b. Assessment;
- c. Disposition; and
- d. Six (6) month review of a recipient's treatment plan each time a six (6) month review occurs;

3. A complete history including mental status and previous treatment;
4. An identification sheet;
5. A consent for treatment sheet that is accurately signed and dated; and
6. The individual's stated purpose for seeking services; and

(b) Be:

1. Maintained in an organized central file;
2. **Provided[Furnished]** to the Cabinet for Health and Family Services upon request;
3. Made available for inspection and copying by Cabinet for Health and Family Services' personnel;
4. Readily accessible; and
5. Adequate for the purpose of establishing the current treatment modality and progress of the recipient.

(3) Documentation of a screening shall include:

- (a) Information relative to the individual's stated request for services; and
- (b) Other stated personal or health concerns if other concerns are stated.

(4)(a) A provider's notes regarding a recipient shall:

1. Be made within seventy-two (72)~~[forty-eight (48)]~~ hours of the reconciliation of the record of each service visit; and

2. Describe the:

- a. Recipient's symptoms or behavior, reaction to treatment, and attitude;
- b. Therapist's intervention;
- c. Changes in the treatment plan if changes are made; and
- d. Need for continued treatment if continued treatment is needed.

(b)1. Any edit to notes shall:

- a. Clearly display the changes; and
- b. Be initialed and dated.

2. Notes shall not be erased or illegibly marked out.

(c)1. Notes recorded by a practitioner working under supervision shall be co-signed and dated by the supervising professional providing the service.

2. If services are provided by a practitioner working under supervision, there shall be a monthly supervisory note recorded by the supervising professional reflecting consultations with the practitioner working under supervision concerning the:

- a. Case; and
- b. Supervising professional's evaluation of the services being provided to the recipient.

(5) Immediately following a screening of a recipient, the provider shall perform a disposition related to:

- (a) An appropriate diagnosis;
 - (b) A referral for further consultation and disposition, if applicable; and
 - (c) 1. Termination of services and referral to an outside source for further services; or
2. Termination of services without a referral to further services.
- (6)(a) A recipient's treatment plan shall be reviewed at least once every six (6) months.
(b) Any change to a recipient's treatment plan shall be documented, signed, and dated by the rendering provider.

(7)(a) Notes regarding services to a recipient shall:

- 1. Be organized in chronological order;
- 2. **Be** dated;
- 3. **Be** titled to indicate the service rendered;
- 4. State a starting and ending time for the service; and
- 5. Be recorded and signed by the rendering provider and include the professional title (for example, licensed clinical social worker) of the provider.

(b) Initials, typed signatures, or stamped signatures shall not be accepted.

(c) Telephone contacts, family collateral contacts not covered under this administrative regulation, or other nonreimbursable contacts shall:

- 1. Be recorded in the notes; and
- 2. Not be reimbursable.

(8)(a) A termination summary shall:

- 1. Be required, upon termination of services, for each recipient who received at least three (3) service visits; and
- 2. Contain a summary of the significant findings and events during the course of treatment including the:
 - a. Final assessment regarding the progress of the individual toward reaching goals and objectives established in the individual's treatment plan;
 - b. Final diagnosis of clinical impression; and
 - c. Individual's condition upon termination and disposition.

(b) A health record relating to an individual who terminated from receiving services shall be fully completed within ten (10) days following termination.

(9) If an individual's case is reopened within ninety (90) days of terminating services for the same or related issue, a reference to the prior case history with a note regarding the interval period shall be acceptable.

(10) If a recipient is transferred or referred to a health care facility or other provider for care or treatment, the transferring provider shall, if the recipient gives the provider written consent to do so, forward a copy or summary of the recipient's health record to the health care facility or other provider who is receiving the recipient.

(11)(a) If a provider's Medicaid program participation status changes as a result of voluntarily terminating from the Medicaid program, involuntarily terminating from the Medicaid program, a licensure suspension, or death of the provider, the health records of the provider shall:

1. Remain the property of the provider; and
2. **Comply with**~~[Be subject to]~~ the retention requirements established in Section 9(2) of this administrative regulation.

(b) A provider shall have a written plan addressing how to maintain health records in the event of the provider's death.

Section 11. Medicaid Program Participation Requirements. (1)(a) A participating RHC shall be currently:

1. Enrolled in the Kentucky Medicaid program in accordance with 907 KAR 1:672; and
2. Except as established in paragraph (b) of this subsection, participating in the Kentucky Medicaid program in accordance with 907 KAR 1:671.

(b) In accordance with 907 KAR 17:015, Section 3(3), a provider of a service to an enrollee shall not be required to be currently participating in the fee-for-service Medicaid program.

(2)(a) To be initially enrolled with the department, a[an] RHC shall:

1. Enroll in accordance with 907 KAR 1:672; and
2. Submit proof of its certification by the United States Department of Health and Human Services, Health Resources and Services Administration as a[an] RHC.

(b) To remain enrolled and participating in the Kentucky Medicaid program, a[an] RHC shall:

1. Comply with the enrollment requirements established in 907 KAR 1:672;
2. Comply with the participation requirements established in 907 KAR 1:671; and
3. Annually submit proof of its certification by the United States Department of Health and Human Services, Health Resources and Services Administration as a[an] RHC to the department.

(3) A[An] RHC that has been terminated from federal participation shall be terminated from Kentucky Medicaid program participation.

(4) A participating RHC and its staff shall comply with all applicable federal laws and regulations, state laws and administrative regulations, and local laws and regulations regarding the administration and operation of a[an] RHC.

(5)(a) If a[an] RHC receives any duplicate payment or overpayment from the department, regardless of reason, the provider shall return the payment to the department.

(b) Failure to return a payment to the department in accordance with paragraph (a) of this subsection may be:

1. Interpreted to be fraud or abuse; and
2. Prosecuted in accordance with applicable federal or state law.

Section 12. Third Party Liability. A provider shall comply with KRS 205.622.

Section 13. Use of Electronic Signatures. (1) The creation, transmission, storage, and other use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 ***through[to]*** 369.120.

(2) A provider that chooses to use electronic signatures shall:

(a) Develop and implement a written security policy that shall:

1. Be adhered to by each of the provider's employees, officers, agents, or contractors;
2. Identify each electronic signature for which an individual has access; and
3. Ensure that each electronic signature is created, transmitted, and stored in a secure fashion;

(b) Develop a consent form that shall:

1. Be completed and executed by each individual using an electronic signature;
2. Attest to the signature's authenticity; and
3. Include a statement indicating that the individual has been notified of his or her responsibility in allowing the use of the electronic signature; and

(c) Provide the department, immediately upon request, with:

1. A copy of the provider's electronic signature policy;
2. The signed consent form; and
3. The original filed signature.

Section 14. Auditing Authority. The department shall have the authority to audit any claim, medical record, or documentation associated with any claim or medical record.

Section 15. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

- (1) Receipt of federal financial participation for the coverage; and
- (2) Centers for Medicare and Medicaid Services' approval for the coverage.

Section 16. Appeals. (1) An appeal of an adverse action by the department regarding a service and a recipient who is not enrolled with a managed care organization shall be in accordance with 907 KAR 1:563.

(2) An appeal of an adverse action by a managed care organization regarding a service and an enrollee shall be in accordance with 907 KAR 17:010.

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.

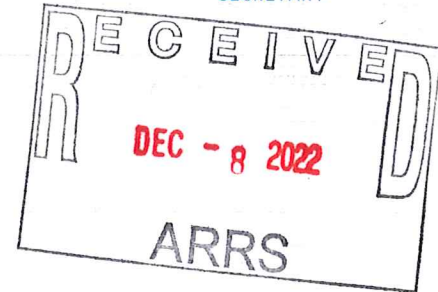


Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

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Eric Friedlander
SECRETARY



December 7, 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: 921 KAR 2:060 agency amendment

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of issues raised by 921 KAR 2:060 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,

Krista Quarles

Krista Quarles
Policy Specialist
Office of Legislative and Regulatory Affairs

Agency Amendment

Cabinet for Health and Family Services Department for Community Based Services Division of Family Support

921 KAR 2:060

Page 3

Section 4(1)

Line 11

After "Affidavit", insert "12/22".

Delete "09/22".

Incorporated material

PAFS-60

Page 1 and 2

Amendments to incorporated material include adding the signed payee's title, adding the notary's ID Number, and other minor technical corrections. The revision date of the form has been updated to "12/22".

AFFIDAVIT

Case Name _____ Check No. _____

Address of Original Check _____

County _____

Amount of Check \$ _____ Date Processed _____ Type of Check _____

Worker Name/Issued By _____

I. COMPLETE THIS SECTION FOR LOST OR STOLEN CHECKS:

I, _____, do solemnly swear under penalty
(Payee)
of perjury (KRS 523.030), that I did not receive the _____ check in the amount of \$ _____
made payable to _____
for the month of _____, 20_____.

I swear that if I find the lost check, I will return it immediately to the Department for Community Based Services (DCBS). I know that cashing both the original check and a replacement check is against the law and I will be prosecuted for doing so.

I swear that I will repay the Treasurer of the Commonwealth of Kentucky for any loss to the State caused by the issuance of this replacement check, if it is proved that I also cashed the original check.

Therefore, I request that a replacement check be issued.

I understand I have the right to talk to an attorney prior to signing this form.

(Signed Payee) (Title) (Date)

Sworn and subscribed to before me on this _____ day of _____, 20_____,

by _____
(Name of Payee)

_____ by authority of KRS 205.170(1) and 921 KAR 2:060
(Designated Individual Signature)

OR

_____ My Commission Expires: _____
(Notary Public Signature) (ID Number)

II. COMPLETE THIS SECTION FOR A LOST OR STOLEN CHECK THAT WAS CASHED:

I, _____, do solemnly swear that I am the payee or an official
(Payee)
representative of the payee, named on check number _____ dated _____
for \$_____.

I state, under penalty of perjury (KRS 523.030), the endorsement appearing on the above numbered check is not my signature, nor to my knowledge the signature of any individual or any organization acting on my behalf or on behalf of the organization. I further swear that I/my organization have received no benefit from the cashing of the above numbered check from any person.

I will assist any authorized persons in ascertaining the name or names and whereabouts of the person or persons guilty of forging my/my organization's name and will appear as a witness for the Commonwealth of Kentucky in any legal action against an alleged forger.

I swear that I will repay the Treasurer of the Commonwealth of Kentucky for any loss to the State caused by the issuance of this replacement check, if it is proved that I also cashed the original check.

Therefore, I request that a replacement check be issued.

I understand I have the right to talk to an attorney prior to signing this form.

(Signed Payee) (Title) (Date)

Sworn and subscribed to before me on this _____ day of _____, 20_____

by _____
(Name of Payee)

(Notary Public Signature) (ID Number) My Commission Expires _____

III. WORKER SUMMARY:

This institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), religious creed, disability, age, political beliefs, or reprisal or retaliation for prior civil rights activity.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Office of Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, D.C. 20250-9410, by fax (833) 256-1665 or email at program.intake@usda.gov.

Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish).

For any other information dealing with Supplemental Nutrition Assistance Program (SNAP) issues, persons should either contact the USDA SNAP Hotline Number at (800) 221-5689, which is also in Spanish or call the State Information/Hotline Numbers (click the link for a listing of hotline numbers by State); found online at http://www.fns.usda.gov/snap/contact_info/hotlines.htm.

To file a complaint of discrimination regarding a program receiving Federal financial assistance through the U.S. Department of Health and Human Services (HHS), write: Office for Civil Rights, 200 Independence Avenue, S.W., H.H.H. Building, Room 509-F, Washington, D.C. 20201 or call 1-800-368-1019 or (TTY) 1-800 537-7697.

USDA and HHS are equal opportunity providers and employers.

You may also file your complaint with the Cabinet for Health and Family Services, Office of Human Resource Management, EEO Compliance Branch, 275 East Main Street, 5C-D, Frankfort, Kentucky 40621, or call (502) 564-7770 EXT. 4107.

If you have other complaints about your case, you may call the Office of the Ombudsman and Administrative Review at 1-800-372-2973 or (TTY) at 1-800-627-4702.

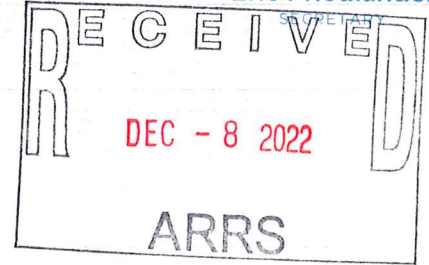


Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

Eric Friedlander

275 East Main Street, 5W-A
Frankfort, Kentucky 40621
Phone: (502) 564-7042
Fax: (502) 564-7091



December 7, 2022

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

Re: 922 KAR 1:290 LRC staff suggested amendment

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of issues raised by 922 KAR 1:290, the Department for Community Based Services proposes the attached LRC staff suggested amendment. If you have any questions, please feel free to contact Laura Begin at Laura.Begin@ky.gov.

Sincerely,

Lucie Estill
Staff Assistant
Office of Legislative and Regulatory Affairs

Staff-suggested Amendment

Final Version 12/6/2022

CABINET FOR HEALTH AND FAMILY SERVICES

Department of Community Based Services

Division of Protection and Permanency

(Amended After Comments)

922 KAR 1:290. Background checks for private child-caring or child-placing staff members.

Page 8

Section 5(1)(b)7.

Line 5

After "and other", insert "offenses relating".

Delete "offense related".

Page 8

Section (5)(1)(g)1. and 2.

Lines 21 and 22

Before "a.", insert "1.", delete "a.".

Before "b.", insert "2.", delete "b.".

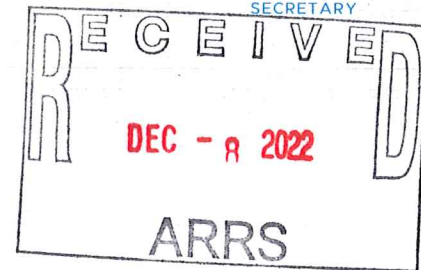


Andy Beshear
GOVERNOR

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



December 7, 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 1:350 agency amendment

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of issues raised by 922 KAR 1:350, the Department for Community Based Services proposes the attached agency amendment agreed upon by the Children's Alliance. If you have any questions, please feel free to contact Laura Begin at Laura.Begin@ky.gov.

Sincerely,

Krista Quarles

Krista Quarles
Policy Specialist
Office of Legislative and Regulatory Affairs

Agency Amendment

Cabinet for Health and Family Services Department for Community Based Services Division of Protection and Permanency (Amended After Comments)

922 KAR 1:350. Requirements for public child welfare agency foster parents, adoptive parents, and respite care providers.

Page 41

Section 20

Line 16

After "Section 20.", insert the following:

Maintenance of a Foster Care Record.

(1) The cabinet shall maintain a record on each foster home, including medically complex foster homes and care plus foster care homes, if applicable.

(2) A foster home's record shall be maintained in conformity with existing laws and administrative regulations pertaining to confidentiality, pursuant to KRS 199.430(3), 199.802, and 45 C.F.R. Parts 160 and 164.

(3) A foster home may request and receive documentation from their record.

Section 21.