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COMMONWEALTH OF KENTUCKY
STATE BOARD OF ELECTIONS

November 7, 2023



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: 31 KAR 4:196, "Consolidation of precincts and precinct election officers."

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 31 KAR 4:196, the State Board of Elections proposes the attached amendments to this ordinary administrative regulation (there are no amendments to the emergency administrative regulation also filed).

Sincerely,

A handwritten signature in blue ink, appearing to read "T. Austin Brown".

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

SUGGESTED SUBSTITUTE – ORDINARY ONLY

Final Version: 10/18/23 at 4:52 p.m.

STATE BOARD OF ELECTIONS

31 KAR 4:196. Consolidation of precincts and precinct election officers.

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

STATUTORY AUTHORITY: KRS 117.015(1)(a)

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

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

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

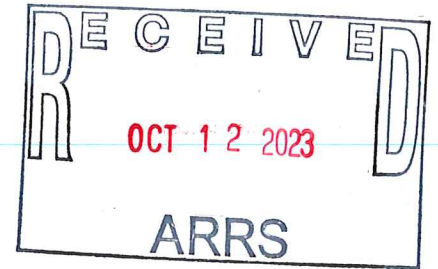
Section 3. Incorporated by Reference.

(1) "Petition to Consolidate Precincts and Precinct Election Officers", Form SBE 74, 08/2023[~~04/2022~~], is incorporated by reference.

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

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

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



October 1, 2023

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

Re: 202 KAR 7:550

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 202 KAR 7:550, the Kentucky Board of Emergency Medical Services proposes the attached amendment to 202 KAR 7:550.

Sincerely,

A handwritten signature in black ink, appearing to read "John R. Holder".

John R. Holder, Chair
Kentucky Board of Emergency Medical Services
500 Mero Street, 5th Floor 5SE32
Frankfort, KY 40601



Kentucky Board of Emergency Medical Services

500 Mero Street, 5th Floor 5SE32

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Subcommittee Substitute

KENTUCKY BOARD OF EMERGENCY MEDICAL SERVICES (As Amended at ARRS)

202 KAR 7:550. Required equipment and vehicle standards.

RELATES TO: KRS 13B, 311A.030, 311A.180, 311A.190, 29 C.F.R. 1910.135

STATUTORY AUTHORITY: KRS 311A.020, 311A.025, 311A.030, 311A.190

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311A.020 requires the Board of Emergency Medical Services to exercise all administrative functions in the regulation of the emergency medical services system and the licensing of ambulance services and medical first response agencies, except those regulated by the Board of Medical Licensure[~~Emergency Medical Services~~] or the Cabinet for Health and Family Services. KRS 311A.030 requires the board to promulgate administrative regulations for the licensing, inspection, and regulation of ambulance providers and medical first response agencies. This administrative regulation establishes the required equipment to operate an ambulance service.

Section 1. Ground Ambulance Specifications.

(1) Ground ambulances utilized by Class I, II, III, and IV agencies shall:

(a) Have the name of the provider permanently affixed by paint, decal, or wrap on both sides of the exterior surface of the vehicle.

1. The name shall be the incorporated name or the name under which the provider does business and as it appears on the provider's license.

2. This requirement shall not preclude a provider from adding additional names from another entity on the vehicle due to a joint venture, if the name as licensed by the board is larger, and visible and legible by the public.

3. A vehicle operated by an agency shall not be marked with the words "advanced life support", "paramedic," or similar words that convey essentially the same meaning on the vehicle's exterior surface visible to the public unless the:

a. Vehicle is always staffed at an Advanced Life Support level; or

b. Agency was licensed by the board prior to January 1, 2018.

(b) Be maintained in good operating condition and in full repair without obvious apparent problems relating to tires, exhaust, body integrity, warning devices, or mechanical reliability, which would be recognized by the average lay person who is not an automotive mechanic.

(c) Be designed to provide for the medical care or transportation of patients.

(d) Stow all equipment weighing three (3) pounds or more in an enclosure, bracket, mount, or other appropriate securing device.

(e) Have tires that meet the manufacturer's standards for the gross vehicle weight of the vehicle.

1. A tire shall not display exposed tire cord or have tread depth less than 2/32 on back tires and 4/32 on front tires if measured in any two (2) adjacent grooves at three (3) locations spaced equally around the tire.

2. Retread tires shall not be used on ground vehicles.

3. Internal patches may be utilized for tire repairs if necessary.

4. More than two (2) patches shall not be used on any one (1) defective tire.

5. Plugs shall not be used for the repair of defective ambulance tires.

(2) All Class I, II, III, and IV ground ambulances shall meet or exceed the minimum physical characteristics established in paragraphs (a) through (d)~~(e)~~ of this subsection.

~~[(a) A ground ambulance licensed in Kentucky shall be affixed with an official Kentucky Board of Emergency Medical Services decal that states, at a minimum, the month and year of inspection.]~~

~~(a)~~~~(b)~~ An ambulance manufactured prior to January 1, 2019 shall meet or exceed the standards established in the U.S. General Services Administration Federal Specification for the Star-of-Life Ambulance (GSA KKK-A-1822) in effect on the original date of manufacture.

~~(b)~~~~(c)~~ **[The agency shall require,]** For a unit in which the chassis of an ambulance is later replaced, **the agency shall require** the conversion company to supply a letter to verify that no modification exists that was contained in GSA KKK-A-1822 on the original date of module manufacture.

~~(c)~~~~(d)~~ A new production ground ambulance that is ordered after January 1, 2019 shall comply fully with the ambulance design criteria contained in the Commission on Accreditation of Ambulance Services Ground Vehicle Standard for Ambulances (GVS), 7/2022~~[7/2016]~~. A decal or letter of verification from the manufacturer certifying that the vehicle meets the GVS standard, if ordered after January 1, 2019, shall be made available upon inspection.

~~(d)~~~~(e)~~ **[The agency shall require]** For any GVS certified vehicle~~[,]~~ in which the chassis of an ambulance is later replaced, **the agency shall require** the conversion company **to [shall]** supply a letter to verify that no modification exists that was contained in the GVS standard on the original date of module manufacture.

(3) In addition to the GSA KKK-A-1822 or the GVS standards, additional requirements shall be met as established in paragraphs (a) through (d) of this subsection.

(a) The air-conditioning system shall minimally deliver a temperature of sixty-five (65) degrees Fahrenheit or less from the vent or vents in the driver and patient compartments in warm weather conditions as determined by a standard automotive testing thermometer.

(b) The heating system shall minimally deliver a temperature of eighty-five (85) degrees Fahrenheit or more from the vent or vents in the driver and patient compartments in cool weather conditions as determined by a standard automotive testing thermometer.

(c) There shall **not** be **[no]** more patients, personnel, and other persons than can be safely secured by means of permanently installed safety belts in the vehicle while the vehicle is in motion.

(d) The patient care area lighting shall be fully functional.

(4) A preventive maintenance program shall be maintained for each vehicle and its equipment to keep them in optimum working order to protect the health and safety of the patient and ambulance personnel.

(5) Documentation shall be maintained by the agency to support evidence of periodic inspections as recommended by the manufacturer, including calibrations required for maintenance and operation of the vehicle and its equipment.

(6) **Unless precluded by emergency conditions,** each vehicle and its equipment shall be checked after each use to ensure that it is in a clean and sanitary condition~~[, unless precluded by emergency conditions]~~.

(7) (a) Except as established in paragraph (b) of this subsection, all linen used for patient care including sheets, blankets, pillowcases, pillows, towels, and washcloths shall be stowed in a

separate cabinet and secured from body fluids.

(b) One (1) pillow, one (1) pillow-case, one (1) fitted sheet, two (2) flat sheets, one (1) towel, and two (2) blankets may be utilized on the stretcher that is in-service and shall not require stowing.

Section 2. Class I, II, and IV Basic Life Support Ambulance Equipment and Supplies.

(1) Each BLS agency shall maintain evidence in the form of a letter that adult and pediatric medical protocols have been reviewed and approved by the board pursuant to KRS 311A.180. A hard copy or electronic equivalent of approved protocols shall be accessible to each provider throughout each call.

(2) Each Class I, II, and IV BLS agency shall carry and maintain, in full operational order, the following minimum basic life support equipment and supplies:

(a) Suction, ventilation, and blood pressure equipment, which shall include:

1. Two (2) sources of suction apparatus, one (1) of which shall be mechanically operated;
2. Rigid catheters;
3. Flexible catheters in adult, pediatric, and infant sizes;
4. Bulb syringe for infant and neonate suction;
5. Disposable adult and pediatric bag-valve-mask with a pediatric pop-off valve with oxygen reservoir, oxygen tubing, and adult, pediatric, infant, and neonate masks;
6. Nasopharyngeal airways (16F-34F; adult and child sizes) with water-soluble lubricant;
7. Oropharyngeal airways (sizes 0-5; adult, child, and infant sizes);
8. Blind-Insertion Airway Device (BIAD) (adult and pediatric); and
9. Manual pediatric and adult regular and large sphygmomanometer cuffs with stethoscope; ~~;~~

(b) Oxygen equipment, including:

1. A fixed oxygen system for each ambulance;
2. Two (2) portable, adequately filled, secured oxygen tanks that are minimally size D;
3. Pressure gauge and flow rate regulator for fixed and portable units with a range of zero to fifteen (15) liters per minute; and
4. Transparent non-rebreather oxygen masks and nasal cannulas for adults and pediatrics; ~~;~~

(c) Bandages, bandaging supplies, and tape, including:

~~1. Commercially packaged or sterile burn sheets;~~

~~1.~~ ~~2.~~ Triangular bandages;

~~2.~~ ~~3.~~ Dressings of the following types:

a. Sterile dressings, including gauze sponges of suitable size; and

b. Abdominal dressings;

~~3.~~ ~~4.~~ Gauze rolls, various sizes;

~~4.~~ ~~5.~~ Occlusive dressing, or equivalent;

~~5.~~ ~~6.~~ Adhesive tape of various sizes (**including [include]** one (1) inch and two (2) inch);

~~6.~~ ~~7.~~ A minimum of four (4) arterial [~~Arterial~~] tourniquets; and

~~7.~~ ~~8.~~ Shears for bandages; ~~;~~

(d) Miscellaneous supplies, including:

1. **Handheld [Hand-held]** flashlight capable of providing adequate lighting to assess a scene or a patient away from the vehicle;
2. Penlight;

3. A copy or electronic equivalent of the most recent version of the[2016] U.S. Department of Transportation, Emergency Response Guidebook;

4. A minimum of ten (10) triage tags consistent with a commercial system of triage[START System of Triage];

5. Obstetrical supplies that shall include at a minimum:

a. Sterile scalpels or scissors;

b. Sterile gloves;

c. Bulb suction;

d. Two (2) umbilical clamps; and

e. Thermal absorbent blanket and head cover, aluminum foil roll, or appropriate heat-reflective material **sufficient[, e.g., enough]** to cover a newborn infant;

6. Sterile irrigation fluids;

7. Glucometer or blood glucose measuring device with reagent strips and lancets for obtaining a blood glucose sample;

8. Oral glucose;

9. Cold packs;

10. Heat packs;

11. An AED with a minimum of two (2) complete sets of pads suitable for adult and pediatric populations for all non-ALS vehicles;

12. Pulse oximeter with pediatric and adult probes;

13. **[A]** ~~[length-based resuscitation tape or a]~~ Reference material or a guide that **shall be assigned to the ambulance and may be in an electronic or physical format that** provides appropriate guidance for pediatric drug dosing and equipment sizing based on age, length, or weight;

[a. The reference material or guide shall be assigned to the ambulance; and

b. The reference material or guide may be in an electronic or physical format.]

(e) Splints, including:

1. Lower extremity mechanical traction splint in adult and pediatric sizes; and

2. Upper and lower extremity rigid splint devices for adult and pediatric patients;

(f) Immobilization devices, including:

~~1. Short extrication and immobilization device;~~

1.[2.] One (1) adult[Adult] and one (1) pediatric impervious long spine board[boards], scoop stretcher, or other full body device that provides spinal protection[immobilization devices] with a minimum of three (3) appropriate restraint cross-straps;

2.[3.] Cervical collars in the following sizes:

a.(i) Cervical collars for pediatric patients ages two (2) years or older; and

(ii) Cervical collars for adults in small, medium, large, and other available sizes; or

b. Pediatric and adult adjustable cervical collars; and

3.[4.] Towel rolls or other commercially available cervical immobilization devices for adults and pediatrics;

(g) Two (2) currently certified five (5) pound size or larger, secured, ABC multipurpose fire extinguishers, approved by Underwriters Laboratory, Coast Guard, or Factory Mutual. One (1) shall be accessible to the driver and the other to the attendant or attendants in the patient compartment in the ambulance;

(h) Multi-position stretcher with wheels and a minimum of three (3) cross-straps in addition to one (1) set of shoulder straps for securing the patient to the stretcher and a fixed mechanism to secure the stretcher while in transit;

(i) Until January 1, 2025, a[A] pediatric transport device with a minimum weight range of ten (10) to forty (40) pounds; ~~and~~

(j) On and after January 1, 2025, a pediatric transport device with a minimum weight range of five (5) to ninety-nine (99) pounds; and

~~(k)[(j)]~~ A stair chair for the movement of patients in a seated position.

(3) Personal protective equipment shall be available to each staff member responding on the vehicle, including:

(a) One (1) clean scrub gown (or substitute, such as disposable coveralls);

(b) Simple disposable face mask;

(c) Clear protective goggles or safety glasses;

(d) Disposable gloves;

(e) One (1) particulate filter mask rated at N95 or better without an exhaust port for patient use;

(f) One (1) particulate filter mask rated at N95 or better with or without an exhaust port for protection of crew members; and

(g) A means of cleansing the hands, such disposable ~~towelettes~~[~~towellettes~~] or other solutions.

(4) Cleaning materials shall be available including:

(a) Hospital grade disinfectants;

(b) Trash bags for disposal of nonbiohazard waste materials;

(c) Biohazard bags for the disposal of biohazard waste; and

(d) Puncture resistant containers for disposal of sharp objects that are secured to the vehicle.

(5) Patient comfort items shall be available including:

(a) Two (2) clean blankets, sheets, pillows, and pillowcases;

(b) A disposable urinal;

(c) A disposable bed pan; and

(d) An emesis container or similar substitute.

(6) All items with an expiration date shall not be expired.

Section 3. Class I ALS, Class III ACC, Class III PSC, and Class IV Advanced Life Support Ambulance Equipment and Supplies.

(1) Each ALS agency shall maintain evidence in the form of a letter that adult and pediatric medical protocols have been reviewed and approved by the board pursuant to KRS 311A.180. A hard copy or electronic equivalent of approved protocols shall be accessible to each provider throughout each call.

(2) In addition to the BLS equipment required in Section 2 of this administrative regulation, each Class I ALS, Class III ACC, Class III PSC, and Class IV ALS vehicle shall maintain, in fully operational order, supplies and equipment required by the agency's protocols, including a minimum of:

(a) Endotracheal intubation equipment consisting of:

1. Laryngoscope handle with extra batteries, bulbs, or blades if applicable;

2. At least four (4) laryngoscope~~[Laryngoscope]~~ blades to allow intubation of patients in

accordance with agency protocols, including a minimum of:[in the following sizes:]

a. 0-4, straight Miller; or[and]

b. 2-4, curved Macintosh;

3. Endotracheal tubes in the following sizes:

a. 2.5, 3.0, 3.5, 4.0, 4.5, 5.0, and 5.5 cuffed or uncuffed; or

b. If intubation is not included in the agency's protocols for pediatric patients, supraglottic airways in all available sizes per the manufacturer of the specific device chosen; and

c.[b.] 6.0, 6.5, 7.0, 7.5 and 8.0 cuffed;

4. Stylettes in adult and pediatric sizes;

5. 10-mL syringes;

6. Magill forceps in adult and pediatric sizes;

7. Water-soluble lubricant for lubrication of endotracheal and nasotracheal tubes;

8. End-Tidal CO₂ detection capability (adult and pediatric);

9. One-half (1/2) inch wide twill tape or equivalent for securing endotracheal tubes;

10. Equipment necessary to perform emergency percutaneous cricothyrotomy; ~~and~~

11. Disposable nebulizer; and

12. Continuous waveform capnography;

(b) A portable, battery-operated monitor defibrillator that:

1. Has a tape write-out or recorder, hands-free defibrillator pads, electrocardiogram monitoring leads, and electrodes for adults and pediatrics;

2. Is capable of delivering direct current energy over a variable range, which is suitable for pediatric and adult usage;

3. Has synchronized counter-shock capability for cardioversion;

4. Has a transcutaneous cardiac pacemaker, including adult and pediatric pads and cables; and

5. Has 12-Lead ECG capability if the vehicle is staffed to provide ALS services;

(c) Vascular Access supplies consisting of:

1. Isotonic crystalloid solutions;

2. Antiseptic solution (alcohol wipes and providone-iodine wipes);

3. Intravenous catheters, 14G-24G;

4. Long-large bore needles or angiocatheters (at least 3.25 inches in length for needle chest decompression in large patients);

5. Intraosseous needles or intraosseous devices appropriate for children and adults; and

6. Latex-free tourniquet;

(d) Needles of various sizes, including suitable sizes for intramuscular injections;

(e) Intravenous macrodrip and microdrip administrations sets; and

(f) Intravenous arm boards, adult and pediatric, or appropriate substitute.

(3) An ALS agency shall stock and maintain drugs and medications as required by the master drug list contained in protocols established in accordance with this section.

(4) Controlled drugs shall be stored in a locked storage box in a locked compartment on the vehicle that is immediately accessible to personnel.

(5) This administrative regulation shall not prevent an agency from maintaining other supplies or equipment that are required to carry out its protocols as approved by the board in accordance with KRS 311A.180.

(6) All items with expiration dates shall not be expired.

Section 4. Class III Adult Critical Care (ACC) Transport Equipment.

(1) Each Class III ACC agency shall maintain evidence in the form of a letter that medical protocols have been reviewed and approved by the board in accordance with KRS 311A.180. A hard copy or electronic equivalent of approved protocols shall be accessible to each provider throughout each call.

(2) In addition to the BLS equipment required in Section 2 of this administrative regulation and the ALS equipment required in Section 3 of this administrative regulation, Class III Adult Critical Care agencies shall carry on each vehicle and maintain in fully operational order all supplies and equipment required by the agency's protocols, including at a minimum:

(a) A portable transport ventilator, the capabilities of which shall include:

1. Controlling rate;
2. Volume;
3. FiO₂ up to 100 percent;
4. I:E ratio;
5. PEEP;
6. Volume control;
7. Pressure control;
8. SIMV mode;
9. NPPV mode; and
10. Low- and high-pressure warning alarms;

(b) Two (2) portable transport ventilator circuits appropriately sized for the patient being transported;

(c) Continuous Positive Airway Pressure (CPAP) ventilation portable equipment;

(d) Electronic waveform capnography, intubated patient, capable of waveform display;

(e) Difficult airway equipment in the form of a bougie gum elastic ET introducer;

(f) Sterile cricothyrotomy set, surgical or needle;

(g) Invasive pressure monitoring capability electronic waveform available on two (2) channels;

(h) An infusion pump or pumps capable of infusing three (3) separate medications simultaneously;

(i) Six (6) IV infusion pump tubing sets;

(j) Two (2) blood infusion sets; and

(k) A device to monitor core body temperature through rectal or esophageal probe.

Section 5. Class III Pediatric Specialty Care (IIIPSC) Transport Equipment.

(1) Each Class III Pediatric Specialty Care agency shall maintain evidence in the form of a letter that all medical protocols have been reviewed and approved by the board in accordance with KRS 311A.180. A hard copy or electronic equivalent of approved protocols shall be accessible to each provider throughout each call.

(2) In addition to the BLS equipment required in Section 2 of this administrative regulation, the ALS equipment required in Section 3 of this administrative regulation, and the Critical Care equipment listed in Section 4 of this administrative regulation, each Class III Pediatric Specialty Care agency shall carry on each vehicle and maintain in fully operational order supplies and equipment required by the agency's protocols, including:

- (a) Two (2) 250 ml bags of normal saline or lactated ringers;
- (b) Twelve (12) syringes assorted from 1cc to 2cc;
- (c) Four (4) three-way stopcocks;
- (d) A needle cricothyrotomy kit for children from the ages of twenty-nine (29) days until twenty-one (21) years of age; and
- (e) A blind-insertion airway device (BIAD) in appropriate sizes for children from the ages of twenty-nine (29) days until twenty-one (21) years of age.

Section 6. Class III Neonatal Specialty Care (III NSC) Transport Equipment.

(1) Each Class III Neonatal Specialty Care agency shall maintain evidence in the form of a letter that all medical protocols have been reviewed and approved by the board in accordance with KRS 311A.180. A hard copy or electronic equivalent of approved protocols shall be accessible to each provider throughout each call.

(2) In addition to compliance with Section 1 of this administrative regulation, each Class III Neonatal Specialty Care agency shall carry on each vehicle and maintain in fully operational order all supplies and equipment required by the agency's protocols, including:

- (a) Direct two-way communications with the designated neonatologist, attending physician, or receiving NICU;
- (b) A standby or backup power source other than the one (1) contained in the isolette;
- (c) A source of electrical power sufficient to operate the isolette and ancillary electrically powered equipment;
- (d) A transport incubator with portable power supply, portable oxygen tanks, or liquid oxygen, and a source of compressed air, including appropriate valves, meters, and fittings. The transport incubator shall be secured in the vehicle using a manufacturer-approved vehicle-mounting device;
- (e) One (1) portable heart rate monitor with visual or audible display and alarm system per patient;
- (f) One (1) portable blood pressure monitor with an assortment of cuff sizes suitable for infants;
- (g) Three (3) battery powered mechanical IV pumps capable of delivering as low as 1cc increments for IV fluids;
- (h) A battery or self-powered oxygen sensor and transcutaneous oxygen monitor or oxygen saturation monitor;
- (i) Oxygen delivery devices and tubing capable of administering high concentrations of oxygen;
- (j) A temperature-monitoring device;
- (k) A portable ventilator appropriate for neonatal patients;
- (l) An anesthesia or self-inflating bag with an oxygen reservoir of less than 750 ml, a manometer pressure gauge, and premature newborn and infant size clear masks;
- (m) A laryngoscope handle;
- (n) Laryngoscope Blades in Miller sizes 00, 0, 1, 2, 3;
- (o) Two (2) bulbs;
- (p) Two (2) batteries;
- (q) Endotracheal tubes in various sizes;
- (r) Two (2) stylets;
- (s) Two (2) meconium aspirators;
- (t) Oral airways in various sizes;

- (u) Suction equipment with low suction capabilities of less than eighty (80) mmHg;
- (v) Two (2) suction catheters in sizes 5.0, 6, 6.5, 8, and 10 each;
- (w) Syringes sizes 1 cc through 60 cc in various sizes;
- (x) Two (2) medication access devices;
- (y) 23-27 gauge vascular access devices in various sizes;
- (z) Sterile gloves in various sizes and sufficient quantity for all crewmembers;
- (aa) Medications as required by the master drug list contained in protocols established in accordance with this section;
- (bb) IV extension tubing in sufficient length to administer IV fluids or medications;
- (cc) IV securing devices in various sizes;
- (dd) Two (2) IV filters;
- (ee) Two (2) umbilical catheters, sizes 3.5 and 5;
- (ff) Ten (10) antiseptic solution wipes;
- (gg) One (1) blood glucose-monitoring device;
- (hh) Five (5) lancets for obtaining a blood glucose sample;
- (ii) One (1) neonatal stethoscope;
- (jj) One (1) flashlight;
- (kk) Gauze pads;
- (ll) One (1) No. 5 and one (1) No. 8 French feeding tube;
- (mm) One (1) high intensity light capable of transillumination;
- (nn) A biomedical waste plastic bag or impervious container;
- (oo) Puncture resistant containers for disposal of sharp objects that shall be secured to the vehicle;
- (pp) Gloves made of nitrile or other suitable materials in sufficient quantity for all crewmembers;
- (qq) Respiratory face masks in sufficient quantity for all crew members;
- (rr) Special procedure trays or instruments capable of performing umbilical catheterization, venous cutdown, and thoracostomy in accordance with established protocol;
- (ss) One (1) bulb syringe;
- (tt) One (1) cord clamp;
- (uu) One (1) age appropriate chest tube evacuation device; and
- (vv) Needle aspiration device or chest tubes in appropriate sizes for a neonate patient.

Section 7. Class VI and Class VIII BLS Agency Equipment.

(1) Each Class VI and VIII BLS agency shall maintain evidence in the form of a letter that all medical protocols have been reviewed and approved by the board in accordance with KRS 311A.180. A hard copy or electronic equivalent of approved protocols shall be accessible to each provider throughout each call.

(2) Each Class VI and VIII BLS agency shall be exempt from the ground ambulance requirements established in Sections 1 through 6 of this administrative regulation.

(3) Each Class VI and VIII BLS agency shall provide ready access to and maintain in fully operational order all supplies and equipment required by the agency's protocols.

(4) (a) Each Class VIII BLS agency shall have ready access to and maintain in operational order, two (2) complete sets of equipment required by the agency's protocols and this administrative

regulation.

(b) Each Class VI BLS agencies shall be required to maintain one (1) complete set of equipment.

(5) Each basic life support non-transport vehicle shall wrap, properly store, and handle all single-service implements to be inserted into the patient's nose or mouth.

(6) Each Class VI and VIII BLS agency shall properly store and keep multiuse items clean and sterile if indicated.

(7) Each Class VI and VIII BLS agency shall carry the following assembled and readily accessible equipment:

(a) Respiratory and resuscitation equipment, including:

1. Portable suction apparatus, capable of a minimum vacuum of 300 millimeters mercury, equipped with two (2) each of the following:

- a. Wide-bore tubing;
- b. Rigid catheters;
- c. Soft pharyngeal suction tips in child size; and
- d. Soft pharyngeal suction tips in adult size;

2. One (1) hand-operated bag-mask ventilation unit equipped with clear facemasks and oxygen reservoirs with oxygen tubing in each of the following sizes:

- a. Adult;
 - b. Child;
 - c. Infant; and
 - d. Neonatal mask only;
3. Two (2) oropharyngeal airways in each of the following sizes:
- a. Adult;
 - b. Child; and
 - c. Infant;

~~4. One (1) pocket mask with a one (1) way valve;~~

~~4.~~^{5.} Blind-Insertion Airway Devices (BIAD) in adult and pediatric sizes; and

~~5.~~^{6.} Portable oxygen equipment of at least 300 liters capacity and D size cylinder with a regulator capable of delivering 25LPM;

(b) Oxygen delivery devices, including:

1. Two (2) non-rebreathing oxygen masks in both adult and pediatric sizes;
2. Two (2) nasal cannula in both adult and pediatric sizes;
3. Two (2) nasopharyngeal airways with water-soluble lubricant in each of the following sizes:
 - a. Adult;
 - b. Child; and
 - c. Infant;

(c) Wound care supplies, including:

1. Two (2) airtight dressings for open chest wounds;
2. Assorted bandaging supplies for the care of soft tissue injuries; and
3. Sterile water for irrigation;

(d) An AED with a minimum of two (2) complete sets of pads for all non-ALS providers and vehicles;

(e) Patient stabilization equipment, including:

1. Two (2) upper and two (2) lower extremity-splinting devices; and

2. Two (2) cervical collars in each of the following sizes or adjustable equivalents:

- a. Pediatric;
- b. Small;
- c. Medium;
- d. Large; and
- e. No-Neck;

(f) Personal protection and body substance isolation equipment, including at least one (1) of each of the following for each EMS provider:

1. Gown;
2. Face mask and shield;
3. Gloves;
4. Biohazard bag;
5. Puncture resistant container for the disposal of sharp objects; and
6. Antimicrobial hand cleaner; and

(g) Miscellaneous items, including:

1. Obstetrical supplies, including:

- a. Sterile scalpels or scissors;
- b. Sterile gloves;
- c. Bulb suction; and
- d. Two (2) umbilical clamps;

2. One (1) blood pressure sphygmomanometer in each of the following cuff sizes:

- a. Large adult;
- b. Adult; and
- c. Pediatric;

3. One (1) stethoscope in each of the following sizes:

- a. Adult; and
- b. Pediatric; and

4. A glucometer or blood glucose-measuring device with reagent strips and lancets for obtaining a blood glucose sample.

Section 8. Class VI and VIII ALS Agency Equipment.

(1) Each Class VI and VIII ALS agency shall maintain evidence in the form of a letter that medical protocols have been reviewed and approved by the board in accordance with KRS 311A.180. A hard copy or electronic equivalent of approved protocols shall be accessible to each provider throughout each call.

(2) Each Class VI and VIII ALS agency shall be exempt from the ambulance requirements established in Sections 1 through 6 of this administrative regulation.

(3) (a) Each Class VIII ALS agency shall have ready access to and maintain in operational order, two (2) complete sets of equipment required by the agency's protocols and this administrative regulation.

(b) Each Class VI ALS agency shall be required to maintain one (1) complete set of equipment.

(4) In addition to the BLS equipment required in Section 7 of this administrative regulation, each Class VI and VIII ALS agency shall provide ready access to and maintain in fully operational order, supplies and equipment required by the agency's protocols, including a minimum of:

(a) Endotracheal intubation equipment consisting of:

1. Laryngoscope handle;
2. Various laryngoscope blades in adult, pediatric, and infant sizes;
3. Extra batteries and bulbs for handles or blades;
4. A minimum of seven (7) different sizes of endotracheal tubes for oral and nasal placement

in adult, pediatric, and infant sizes;

5. Equipment necessary to perform emergency cricothyrotomy;
6. An end tidal carbon dioxide detection device;
7. Stylettes in adult and pediatric sizes;
8. Magill forceps in adult and pediatric sizes;
9. One-half (1/2) inch wide twill tape or equivalent for securing endotracheal tubes; and
10. Water-soluble lubricant for lubrication of endotracheal and nasotracheal tubes;

(b) A portable monitor defibrillator that:

1. Is capable of displaying a visual display of cardiac electrical activity;
2. Is capable of providing a hard copy of cardiac electrical activity measure;
3. Is capable of delivering direct current energy over a variable range, which is suitable for pediatric and adult usage;
4. Is capable of providing external cardiac pacing;
5. Has adult and pediatric external pads, capable of utilization for immediate monitoring of heart activity and delivery of counter shock in both the adult and pediatric patient;
6. Is capable of being operated from internal rechargeable batteries;
7. Has synchronized counter shock capability for cardioversion; and
8. Has a patient monitoring cable with electrode pads or equivalent for use with the patient monitoring cable;

(c) Sterile, disposable needles, in types and sizes sufficient for personnel to administer medications and perform procedures allowed by the agency's patient treatment protocols;

(d) Disposable syringes in types and sizes sufficient for personnel to administer medications and perform procedures allowed by the agency's patient treatment protocols;

(e) Restriction band appropriate for use with venipuncture procedure;

(f) Disposable, individually packaged antiseptic wipes;

(g) Intravenous fluids as required by the agency's protocol, with macrodrip and microdrip fluid sets, and accessory items including over the needle catheter devices in sizes fourteen (14) to twenty-four (24) gauge;

(h) Intraosseous needles or intraosseous devices appropriate for children and adults; and

(i) Pediatric drug dosage tape or equivalent that provides easy reference for pediatric and infant treatment and drug dosages.

(5) All items with expiration dates shall not be expired.

(6) An ALS agency shall stock and maintain drugs and medications as required by the master drug list contained in protocols established in accordance with this section.

(7) Controlled drugs shall be stored in a locked storage box in a locked compartment that is immediately accessible to personnel.

(8) This administrative regulation shall not prevent an agency from maintaining other supplies or equipment that are required to carry out its protocols as approved by the board in accordance with KRS 311A.180.

Section 9. Safety Equipment.

(1) Each ground agency licensed to respond to emergency pre-hospital responses shall provide and maintain in full operational order the following minimum light access and extrication equipment on the ambulance for each staff member:

- (a) Eye protection goggles or safety glasses;
- (b) Heavy work gloves;
- (c) Hard hats that meet ANSI standards, as stated in 29 C.F.R. 1910.135;
- (d) Reflective safety wear for each crew member that meet current ANSI standard ANSI 107-2010 or ANSI 207-2011; and
- (e) Three (3) reflective triangles or strobes, or equivalent warning devices.

(2) A ground ambulance agency subject to emergency pre-hospital response not equipped to provide extrication and rescue services shall execute an agreement with an agency capable of providing extrication and rescue services to the primary geographic service area.

(3) Each Class II, III ACC, III PSC, III NSC, and VIII agency shall be exempt from the requirements of this section unless emergency pre-hospital response is included in the agency's scope of care.

Section 10. Equipment or Medication Waiver.

(1) The board for good cause shall grant a waiver of any section of this administrative regulation upon request. An applicant for waiver shall submit **[an]**:

- (a) **An** "EMS Equipment or Staff Waiver Request"; and
 - (b) A nonrefundable application fee of \$500 per waiver request.
- (2) The application request shall include:
- (a) Evidence of prior good faith efforts to comply with each section for which a waiver is requested;
 - (b) A written explanation of the agency's inability to comply with each section for which a waiver is requested, including any financial or other significant hardship resulting from the agency's efforts to comply;
 - (c) A written plan for providing adequate care to patients;
 - (d) The length of time **for which** the waiver is requested; and
 - (e) A plan for compliance with each section of this administrative regulation for which a waiver has been requested.

(3) Requests for waivers shall be submitted to the executive director of the board.

(4) The administrator and medical director of the agency requesting a waiver shall appear before the board's executive committee and the full board at a regularly scheduled meeting to present evidence of hardship that compliance with this administrative regulation **may [will]** cause.

(5) Waivers shall not be issued for minimum staffing requirements.

(6) Any waiver issued by the board shall expire on December 31 of the year of issue.

(7) Within twenty (20) days of the board's decision, the executive director shall notify the applicant of the decision in writing.

(8) A waiver approved by the board upon a finding of good cause shall be considered a fulfillment of the licensing requirements established in the waiver through December 31 of the year of issue.

(9) The board shall deny the waiver request if, after reviewing the application, it is determined that if the waiver is granted the:

(a) Agency is no longer able to meet the needs of the agency's patients or geographic service area; or

(b) Health or safety of the agency's patients or geographic service area may be jeopardized.

(10) An applicant whose request for waiver is denied may file a written request for a hearing before the board within thirty (30) days of the written notice of denial.

(11) A hearing shall be conducted in accordance with KRS Chapter 13B.

Section 11. Public Notice of Negative Action. The board office shall cause to be published, on the KBEMS Web site or similar publication of the board, or otherwise disseminate, the name of any licensed agency that is fined, placed on probationary status, placed on restricted status, suspended, or had a license revoked.

Section 12. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "EMS Equipment or Staff Waiver Request", (12/2017), <http://kemsis.ky.gov/>;

(b) "U.S. Department of Transportation, Emergency Response Guidebook", (2020), www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2021-01/ERG2020-WEB.pdf[(2016)];

(c) "Commission on Accreditation of Ambulance Services Ground Vehicle Standard for Ambulances (GVS)", (7/2022), www.groundvehiclestandard.org/wp-content/uploads/2022/06/CAAS_GVS_V3_Final_07_01_2022_2.pdf[(7/2016)]; and

(d) "U.S. General Services Administration Federal Specification for the Star-of-Life Ambulance (GSA KKK-A-1822F)", (8/2007), www.ehsf.org/sites/default/files/2017-07/Federal%20Specification%20for%20the%20Star-of-Life%20Ambulance.pdf.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Kentucky Board of Emergency Medical Services, 500 Mero Street, 5th Floor, 5SE32, Frankfort, Kentucky 40601[~~118 James Court, Suite 50, Lexington, Kentucky 40505~~], Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: John K. Wood, Legal Counsel, Kentucky Board of Emergency Medical Services, 163 E. Main Street, Suite 200, Lexington, Kentucky 40507, phone (859) 225-4714, fax (859) 225-1493, email administrativeregulations@wgmfirm.com.



KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES

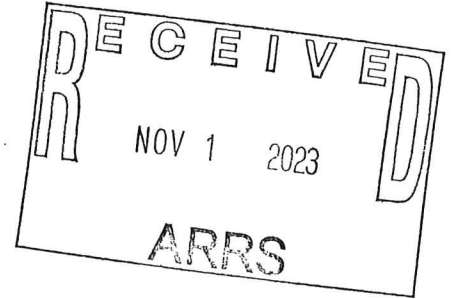
Rich Storm
Commissioner

#1 Sportsman's Lane
Frankfort, Kentucky 40601
Phone (502) 564-3400
Fax (502) 564-0506

Brian Clark
Deputy Commissioner

November 1, 2023

Senator Stephen West, Co-Chair
Representative Derek Lewis, 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 2:172. Deer hunting seasons, zones and requirements., 301 KAR 1:115.
Propagation of aquatic organisms., 301 KAR 1:125. Transportation of fish.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 2:172, 301 KAR 1:115, 301 KAR 1:125, Kentucky Department of Fish and Wildlife Resources proposes the attached amendment to 301 KAR 2:172, 301 KAR 1:115, 301 KAR 1:125.

Sincerely,

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

SUGGESTED SUBSTITUTE

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

301 KAR 1:115. Propagation of aquatic organisms.

RELATES TO: KRS ~~13B,~~ 150.290, 150.485

STATUTORY AUTHORITY: KRS 150.025, 150.180(2), 150.280, 150.450, 50 C.F.R. 17.11

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025 authorizes the Department **of Fish and Wildlife Resources** to promulgate administrative regulations regarding the buying, selling, and transporting of fish and wildlife; ~~the restriction of~~ **the restriction of** ~~restrict the~~ places where taking is permitted; ~~and~~ **the application of** ~~to make~~ administrative regulations ~~apply~~ to a limited area or to the entire state. KRS 150.180(2) authorizes the department to promulgate administrative regulations regarding the buying, selling, and transporting of mussels and fishes by licensed fish propagation permit holders. KRS 150.280 requires the department to promulgate administrative regulations governing the propagation or holding of protected wildlife. KRS 150.450 requires the department to promulgate reasonable administrative regulations governing the taking of minnows and crayfish from the waters of the Commonwealth. 50 C.F.R. 17.11 establishes federally threatened and endangered fish species. This administrative regulation establishes the requirements for obtaining a propagation permit for aquatic organisms and establishes the requirements for propagation permit holders.

Section 1. [Definitions.

(1) "Aquatic organisms" means fishes, frogs, crayfish, and other aquatic vertebrates and invertebrates.

(2) "Live bait fishes" means:

(a) ~~Rough fishes, except Asian carp and federally threatened or endangered species as established in 50 C.F.R. 17.11; or~~

(b) ~~Redear sunfish less than six (6) inches in length.~~

(3) ~~"Permit" means a fisheries commercial propagation permit.~~

(4) "Water supply lake" means a lake that:

(a) ~~Is owned by a municipality or other public water supply entity;~~

(b) ~~Provides potable water supply for the public;~~

(c) ~~Is not owned by the state; and~~

(d) ~~Is not managed by the department.~~

~~Section 2.] Permit Requirements and Application Procedures.~~

(1) Before acquiring or propagating aquatic organisms, an individual, corporation, or other business entity ~~a person~~ shall obtain a permit from the department by:

(a) Completing **the Fisheries Commercial Propagation Permit** ~~an~~ application

provided by the department; and

(b) Paying the permit fee as established in 301 KAR ~~5:022~~[3:022].

(2) The department shall issue a free permit to elementary, middle, and secondary schools and similar educational institutions if the propagated organisms are to be used for educational purposes.

Section 2.~~[Section 3.]~~ Acquisition of Brood Stock from Public Waters.

(1) A permit holder may obtain from public waters a maximum of 1,500 live bait fishes or crayfish per surface acre of water used for propagation of a particular species.

(2) Each permit holder shall obtain brood stock from public waters no more than one (1) time for both live bait fishes and crayfish.

(3) A conservation officer shall supervise the acquisition of brood stock from public waters.

(4) A permit holder shall use gear as established in 301 KAR 1:130 to acquire aquatic organisms from public waters.

(5) A permit holder may sell propagated aquatic organisms.

Section 3.~~[Section 4.]~~ An individual, corporation, or other business entity~~[A person]~~ may request a permit for paddlefish to be stocked and reared in a water supply lake for aquaculture purposes as established in 301 KAR 1:110 by completing a permit application and submitting it to the department.

(1) A municipality may allow a permitted second party to rear paddlefish in a water supply lake.

(2) If a municipality or other public water supply entity allows a second party to rear paddlefish, a contractual agreement between the two (2) granting permission to use the lake for rearing paddlefish shall be required for the extent of the rearing period. A copy of the contractual agreement shall be submitted to the department before a permit is issued.

(3) Water supply lakes that are currently open to sport fishing shall be required to remain open to sport fishing throughout the length of the rearing of paddlefish.

(4) Paddlefish shall be the only species permitted to be stocked by the permit holder in a water supply lake.

(5) The number of paddlefish stocking events for each rearing period shall be limited to one (1) for each approved water supply lake. Any additional stocking events shall require prior **written approval from the Fisheries Division. A permit holder may request approval from the Fisheries Divisions by submitting a written request. Approval shall be granted for any single mortality event where ten (10) percent or more of fish from the initial stocking, calculated as fish per acre, are observed dead**~~[approval by the commissioner]~~.

(6) The permit applicant shall list the name of each water supply lake on the permit

application.

(7) A permit shall be obtained for every year of the paddlefish rearing period.

(8) The department shall not[~~;~~

—~~(a)~~ enforce the protection of the stocked paddlefish[~~;~~ ~~or~~

—~~(b) Establish paddlefish sport fish administrative regulations in any of the water supply lakes~~].

(9) Paddlefish that escape in the stream, either above or below the lake, shall not be considered property of the permit holder.

(10) The department shall not be responsible for any corrective actions associated with fish populations in the water supply lakes used for aquaculture purposes.

(11) If a municipality rears paddlefish without a contractual agreement with a second party, it shall provide the department with a name of a person responsible for the rearing of the paddlefish in the water supply lake.

(12) A permit holder may use gill nets to take paddlefish only from the water supply lakes listed on the permit. A permit holder or a designated representative in possession of a valid copy of the permit shall be on site each time gill nets are used in the water supply lakes.

(a) The department shall be notified at least three (3) days in advance of any paddlefish harvest from a water supply lake, including the random sampling of the stocked paddlefish that require the use of gill nets.

(b) Gill nets shall only be used in a water supply lake from November 1 through March 31.

(c) Gill nets shall not have a bar mesh size smaller than five (5) inches.

(d) A permit holder shall attach a metal tag provided by the department to each gill net used.

(e) Paddlefish shall be the only species of fish harvested, and any other species of fish captured shall be immediately released without undue injury.

Section 4.[~~Section 5.~~] Inspection of Facilities and Revocation or Denial of Permits.

(1) A permit holder shall allow a conservation officer to inspect his or her facilities.

(2) The department shall:

(a) Revoke the permit of an individual, corporation, or other business entity[~~a person~~] who violates KRS Chapter 150[~~a statute~~] or 301 KAR Chapter 1[~~administrative regulation~~] pertaining to propagation of aquatic organisms;

(b) Deny a permit;

1. For an individual, corporation, or other business entity[~~a person~~] who has violated KRS Chapter 150[~~any department statute~~] or 301 KAR Chapter 1[~~administrative regulation~~] within the last year; or[~~and~~]

2. For propagation of aquatic organisms that are determined to be potentially

damaging to Kentucky's native ecosystems; and

(c) Not renew the permit for a period of up to two (2) years of an individual, corporation, or other business entity~~[a person]~~ that has been found guilty of violating ***KRS Chapter 150***~~[a statute]~~ or ***301 KAR Chapter 1***~~[administrative regulation]~~ pertaining to propagation of aquatic organisms.

(3) Fees paid for revoked permits shall not be refunded.

(4) An individual, corporation, or other business entity whose permit has been denied, revoked, or to whom a non-renewal period has been applied may request an administrative hearing pursuant to KRS Chapter 13B.

(5) A request for a hearing shall be in writing and postmarked or delivered in person to the department no later than thirty (30) days after notification of the denial or revocation.

(6) Upon receipt of the request for a hearing, the department shall proceed according to the provisions of KRS Chapter 13B.

(7) The hearing officer's recommended order shall be considered by the commissioner, and the commissioner shall issue a final order pursuant to KRS Chapter 13B.

Section 5.~~[Section 6.]~~ Incorporation by Reference.

(1) "Fisheries Commercial Propagation Permit Application", 2006 edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Fisheries, Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. ***or may be obtained at <https://fw.ky.gov/Fish/Pages/Commercial-Fishing.aspx>.***



KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES

Rich Storm
Commissioner

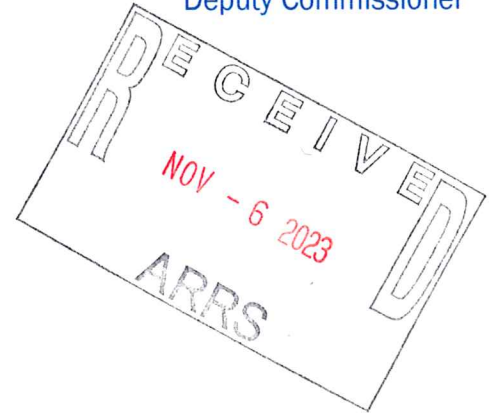
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Brian Clark
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Gabe Jenkins
Deputy Commissioner

November 6, 2023

Senator Stephen West, Co-Chair
Representative Derek Lewis, 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 1:125** Transportation of Fish

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 1:125, Kentucky Department of Fish and Wildlife Resources proposes the attached amendment to 301 KAR 1:125.

Sincerely,

A handwritten signature in black ink that reads "Jenny Gilbert".

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

REVISED:
10/31/2023 11:24 AM
SUGGESTED SUBSTITUTE

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

301 KAR 1:125. Transportation of fish.

RELATES TO: KRS ~~13B~~, 150.010, 150.170, 150.235, 150.485

STATUTORY AUTHORITY: KRS 150.025(1)(c), 150.180(6), 150.280(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1)(c) authorizes the Department of Fish and Wildlife Resources to promulgate administrative regulations to regulate the buying, selling, or transporting of game and fish. KRS 150.180(6) requires ***the commissioner to promulgate administrative regulations relating to issuance of***~~*any person importing or transporting live fish into or within the state to first procure*~~ a fish transportation permit. KRS 150.280(2) ~~requires~~***authorizes*** the department ***to promulgate***~~*by*~~ administrative ***regulations identifying***~~*regulation, to identify*~~ species of wildlife ***that are*** potentially damaging to native ecosystems and ***prohibiting***~~*to prohibit*~~ the transporting or holding of that wildlife. This administrative regulation provides for control of the transportation of fish, fish eggs, live bait, and other aquatic organisms into, through, and within the state to protect the resident fish population.

Section 1. [Definitions.

- ~~—(1) "APHIS" means U.S. Department of Agriculture Animal and Plant Health Inspection Service.~~
- ~~—(2) "APHIS approved laboratory" means a laboratory authorized by a state, tribal, or federal primacy authority to analyze aquatic animal health and perform assays for the detection of the VHS virus.~~
- ~~—(3) "Aquarium species" means the species of fish that are legally sold in the pet and ornamental trade business and not stocked into waters of the Commonwealth.~~
- ~~—(4) "Certified VHS free facility" means a fish-rearing facility that has been certified VHS free by an APHIS approved laboratory.~~
- ~~—(5) "Roe-bearing fish" means paddlefish, shovelnose sturgeon, and bowfin, regardless of the sex of the fish or the presence or absence of roe.~~
- ~~—(6) "VHS" means Viral Hemorrhagic Septicemia, a disease of fish.~~
- ~~—(7) "VHS positive state" means any state in the United States, or any Canadian province, listed on the APHIS Web site www.aphis.usda.gov as being positive for Viral Hemorrhagic Septicemia (VHS).~~
- ~~—(8) "VHS-regulated fish species" means any species of fish deemed susceptible to VHS and listed on the APHIS Web site at www.aphis.usda.gov.~~

~~—Section 2:] A Fish Transportation Permit shall not be required:~~

- (1) By an individual to transport aquarium species;
- (2) By permitted Kentucky fish propagators as established in 301 KAR 1:115, except if transporting fish into Kentucky from outside of Kentucky;
- (3) By individuals with a sport or commercial fishing license to transport legally caught bait or fish;
- (4) By individuals transporting fish purchased from a licensed live bait dealer or permitted commercial fish propagator for stocking in private waters;
- (5) By agents of the department while performing their normal duties; or
- (6) To transport live fish or other aquatic organisms that were purchased for consumption from a licensed retailer.

Section 2.~~[Section 3.]~~ Live Fish, Live Bait, or Other Aquatic Organisms.

(1) **(a)** All individuals, corporations, or other business entities that transport any live fish, live bait as defined in 301 KAR 1:001~~[1:132]~~, Section 1, or other live aquatic organism, except those individuals listed in Section 1~~[2]~~ of this administrative regulation **shall have in possession the documents required by paragraph (b) of this subsection, if transporting[-:]** into, within, or through Kentucky. ~~**shall have in possession a:**~~

(b)1. A~~**(a)**~~ Fish Transportation Permit, to be renewed annually by calendar year, issued in the name of the individual, corporation, or other business. ~~**entity transacting the business; and]**~~

2. A~~**(b)**~~ bill of lading showing the origin and destination of the organisms being transported.

(2) An individual shall also possess a Live Fish and Bait Dealers License, as established in 301 KAR 1:132, if the organisms will **be:**

(a) Sold to another individual, corporation, or other business entity in Kentucky; or

(b) Transported from Kentucky to be sold outside of Kentucky.

(3) All organisms in transport shall be disease free, and any prohibited species listed in 301 KAR 1:122 shall not be present.

(4) If any **Viral Hemorrhagic Septicemia-** or VHS-regulated fish species from a VHS positive state are transported and unloaded in Kentucky, in addition to the requirements established in subsections (1), (2), and (3) of this section, the following requirements shall apply:

(a) If the origin of the VHS-regulated fish species is from a certified VHS free facility, the individual shall possess a copy of the documentation showing that the facility is VHS free.

(b) If the origin of the VHS-regulated fish species is from a non-certified VHS free facility:

1. The VHS-regulated fish species shall only be unloaded at a:

a. State inspected fish-processing plant; or

b. Research and diagnostic laboratory;

2. The individual shall possess a copy of the **U.S. Department of Agriculture Animal and Plant Health Inspection Service, or APHIS,** VS 1-27 permit for Movement of Restricted Animals issued by an APHIS Veterinary Services office or by a state, tribal, or federal accredited veterinarian; and

3. Water from the fish transportation tank shall only be discharged into a municipal sewage system that includes wastewater~~[waste—water]~~ disinfection or into a non-discharging~~[nondischarging]~~ settling pond devoid of fish.

(5) If the origin of the VHS-regulated fish species is from a VHS positive state and are only being transported through Kentucky, then only the requirements established in subsections (1) and (3) of this section and Section 3~~[4]~~ of this administrative regulation shall apply.

(6) VHS-regulated fish species being transported from a known VHS positive state into, within, or through Kentucky that do not meet all requirements established in Sections 2~~[3]~~ and 3~~[4]~~ of this administrative regulation shall be confiscated for disposal purposes.

Section 3~~[Section 4]~~ Fish Transportation Permit Application.

(1) If an individual, corporation, or other business entity wants to transport fish, live bait, or other aquatic organisms into, within, or through Kentucky they shall submit a completed Application for Fish Transportation Permit to the department, along with permit fees as established in 301 KAR 5:022~~[3:022]~~.

(2) **In addition to the requirements established in subsection (1) of this section,**~~[If]~~ an individual, corporation, or other business entity **that** wants to transport VHS-regulated fish species into or through Kentucky from a VHS positive state~~[, in addition to the requirements established in subsection (1) of this section they]~~ shall also submit a:

(a) Copy of the documentation showing that the facility that the VHS-regulated fish species are coming from is certified as being VHS free; or

(b) Copy of the APHIS VS 1-27 permit if the facility is not certified as being VHS free.

(3) An individual, corporation, or other business entity shall not transport fish, live bait, or other aquatic organisms into, within, or through Kentucky without an approved Fish Transportation Permit in possession.

(4) If an individual, corporation, or other business entity desires to transport VHS-regulated fish species from a facility in a VHS positive state that is currently not listed on their Fish Transportation Permit, the permittee shall:

(a) Notify the department; and

(b) If approved by the commissioner, based on risk of contagion to fish of the Commonwealth, be sent an updated Fish Transportation Permit listing the approved facility.

Section 4~~[Section 5]~~ Transportation of Roe-Bearing Fish and Roe.

(1) All individuals, with the exception of permitted roe-bearing fish harvesters as established in 301 KAR 1:155, who transport roe-bearing fish or unprocessed roe as established in 301 KAR 1:155 into, within, or through Kentucky, shall have in possession a Fish Transportation Permit issued in the name of the individual with the associated roe-bearing fish harvester's name and commercial fishing license and roe-bearing harvester's permit numbers listed.

(2) All individuals who transport unprocessed roe from a fish processing facility to a permitted roe-bearing fish dealer shall also have in possession a bill of lading as established in 301 KAR 1:155, Section 8(4)(c)~~[4(4)(d)3]~~.

Section 5.~~[Section 6.]~~ **The transporter shall not transport the prohibited species listed in 301 KAR 1:122, and all officers and agents of the department shall have the authority to demand that the transporter submit proof of all appropriate permits and documentation.**~~[All officers and agents of the department have the authority to demand of the transporter, at any time, that prohibited species listed in 301 KAR 1:122 shall not be present and proof that the transporter possesses all appropriate permits and documentation.]~~

Section 6.~~[Section 7.]~~ Fish Transportation Permit Denial, Revocation, and Nonrenewal.

(1) The department shall deny a Fish Transportation Permit for transportation of aquatic organisms determined potentially damaging to Kentucky's native ecosystems.

(2) The department shall revoke and **shall** not renew the Fish Transportation Permit of an individual, corporation, or other business entity for a period of two (2) years if they:

(a) Falsify the documentation needed to transport fish, eggs, live bait, or any other aquatic organism into, within, or through Kentucky;

(b) Falsify information on the Application for Fish Transportation Permit; or

(c) Are convicted of any federal or state violation involving the transportation of fish, eggs, live bait, or any other aquatic organism.

(3)~~(2)~~ An individual, corporation, or other business entity whose Fish Transportation Permit has been denied or revoked may request an administrative hearing pursuant to KRS Chapter 13B.

(4)~~(3)~~ A request for a hearing shall be in writing and postmarked, or delivered in person to the department, no later than thirty (30) days after notification of the denial or revocation.

(5)~~(4)~~ Upon receipt of the request for a hearing, the department shall **comply with**~~[proceed according to]~~ the provisions of KRS Chapter 13B.

(6)~~(5)~~ The hearing officer's recommended order shall be considered by the commissioner, and the commissioner shall issue a final order pursuant to KRS Chapter 13B.

Section 7.~~[Section 8.]~~ Incorporated by Reference.

(1) "Application for Fish Transportation Permit", 2023~~[2008]~~ 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. to 4:30 p.m. **or obtained at <https://fw.ky.gov/Fish/Pages/Commercial-Fishing.aspx>**.



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

Gabe Jenkins
Deputy Commissioner

November 1, 2023

Senator Stephen West, Co-Chair
Representative Derek Lewis, 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 2:083** Holding and intrastate transportation of captive cervids.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 2:083, Kentucky Department of Fish and Wildlife Resources proposes the attached amendment to 301 KAR 2:083.

Sincerely,

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

Staff-suggested Amendment

**Final Version 10/16/2023
TOURISM, ARTS AND HERITAGE CABINET**

301 KAR 2:083. Holding and intrastate transportation of captive cervids.

Page 1

RELATES TO paragraph

Line 5

After "KRS 150.010", insert "(42)".

Delete "(41)".

After "150.740", delete ", 164.772".

Page 1

NECESSITY, FUNCTION, AND CONFORMITY paragraph

Lines 8, 10, and 16

After "KRS 150.280", insert "requires".

Delete "authorizes".

After "KRS 150.720", insert "requires".

Delete "authorizes".

After "intrastate transporting", insert "of".

Page 6

Section 2(8)

Line 4

After "fence height", insert ","".

Page 6

Section 2(10)

Line 7

After "noncommercial captive", insert "cervid".

Page 6

Section 2(10)(e)

Line 14

After "(48) hours", insert "; and".

Delete "and;".

Page 7

Section 4(3)

Lines 11 and 13

After "(3)", insert "Upon written request".

After "educational institutions", delete "upon written request".



KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES

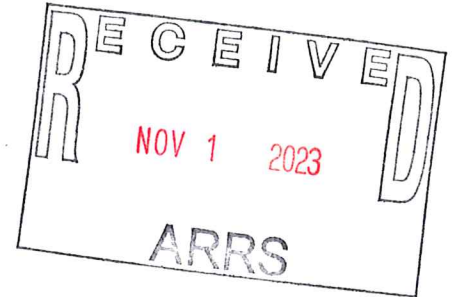
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November 1, 2023

Senator Stephen West, Co-Chair
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Frankfort KY 40601



Re: **301 KAR 2:172**. Deer hunting seasons, zones and requirements., 301 KAR 1:115.
Propagation of aquatic organisms., 301 KAR 1:125. Transportation of fish.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 2:172, 301 KAR 1:115, 301 KAR 1:125, Kentucky Department of Fish and Wildlife Resources proposes the attached amendment to 301 KAR 2:172, 301 KAR 1:115, 301 KAR 1:125.

Sincerely,

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

SUGGESTED SUBSTITUTE

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

301 KAR 2:172. Deer hunting seasons, zones, and requirements.

RELATES TO: KRS 150.010, 150.170, 150.177, 150.180, 150.411(3), 150.990~~[, 237.110]~~

STATUTORY AUTHORITY: KRS 150.025(1), 150.170, 150.175, 150.390(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the Department ***of Fish and Wildlife Resources*** 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 ***or the entire state***. KRS 150.170 authorizes exemptions for certain people from hunting license and permit requirements. KRS 150.175 ***requires the department to promulgate administrative regulations relating to[authorizes]*** the kinds of licenses and permits ***listed in the statute[to be issued by the department]***. KRS 150.390(1) prohibits the taking of deer in any manner contrary to any provisions of KRS Chapter 150 or KAR Title 301. This administrative regulation establishes deer hunting seasons and zones, bag limits, legal methods of taking, and checking and recording requirements for deer hunting.

Section 1. Definitions.

(1) "Additional deer permit" means a permit that allows the holder to take up to two (2) additional deer beyond those allowed by the statewide deer permit in the following combinations:

- (a) One (1) antlered deer and one (1) antlerless deer; or
- (b) Two (2) antlerless deer.

(2) "Adult" means a person who is at least eighteen (18) years of age.

(3) "Air gun" means a pneumatic gun fired by a charge of compressed air.

(4) "Antlered deer" means a male or female deer, excluding male fawns, with a visible antler protruding above the hairline.

(5) "Antlerless deer" means a male or female deer with no visible antler protruding above the hairline.

(6) "Archery equipment" means a long bow, recurve bow, or compound bow incapable of holding an arrow at full or partial draw without aid from the archer.

(7) "Arrow" means the projectile fired from a bow or crossbow.

(8) "Centerfire" means a type of gun that detonates a cartridge by the firing pin striking a primer in the middle of the end of the cartridge casing.

(9) ~~["Crossbow" means a bow with a string designed or fitted with a device to hold an arrow at full or partial draw without aid from the archer.]~~

—~~(10)~~ "Chronic Wasting Disease" or "CWD" means a transmissible spongiform encephalopathy found in cervids.

(10) "Crossbow" means a bow with a string designed or fitted with a device to hold an arrow at full or partial draw without aid from the archer.

(11) "CWD Surveillance Zone" means an area designated as being subject to special deer hunting regulations due to a CWD positive cervid detection.

(12) "Deer" means a member of the species *Odocoileus virginianus*.

(13) "Firearm" means a breech or muzzle-loading rifle, shotgun, or handgun.

(14) **"KDSS" means the Kentucky Direct Sales System.**

(15) "License year" means the period from March 1 through the last day of February.

(16)[(15)] "Modern gun" means an air gun, rifle, handgun, or shotgun that is loaded from the rear of the barrel.

(17)[(16)] "Muzzle-loading gun" means a rifle, shotgun, or handgun that is loaded from the discharging end of the barrel or discharging end of the cylinder.

(18)[(17)] "Novice deer hunter" means a person who has not harvested more than two (2) deer in Kentucky in the last ten (10) years.

(19)[(18)] "Shed" means an antler that has naturally been cast off the skull as a part of the annual growth and replacement process.

(20)[(19)] (19) "Special deer hunt" means a one (1) or two (2) day deer hunt sponsored and overseen by the department on private land that:

(a) Allows a novice deer hunter to use a modern gun outside of modern gun deer season; and

(b) Shall be made available only to a:

1. Kentucky resident;

2. Person enrolled as a resident or non-resident student in a public or non-public postsecondary institution located in Kentucky; or

3. Member of the United States military, or his or her spouse or children, stationed at a military base in Kentucky.

(21)[(20)] "Statewide deer hunting requirements" means the season dates, zone descriptions, bag limits, and other requirements for deer hunting established in this administrative regulation.

(22)[(21)] "Statewide deer permit" means a permit, which, in conjunction with appropriate licenses, seasons, and methods, allows the holder to take:

(a) One (1) antlered deer and no more than three (3) antlerless deer; or

(b) No more than four (4) antlerless deer.

(23)[(22)] "Youth" means a person under the age of sixteen (16) by the date of the hunt.

(24)[(23)] "Youth deer permit" means a permit, which in conjunction with appropriate licenses, seasons, and methods, allows the holder to take:

(a) One (1) antlered deer and no more than three (3) antlerless deer; or

(b) No more than four (4) antlerless deer.

~~(25)~~~~(24)~~ "Zone" means an area consisting of counties designated by the department within which deer hunting season dates and limits are set for the management and conservation of deer in Kentucky.

Section 2. License and Deer Permit Requirements.

(1) Unless license exempt, as established in KRS 150.170, a person who is hunting deer shall carry a valid:

- (a) Kentucky hunting license ~~[while hunting]~~; and
- (b) Deer permit ~~[while hunting]~~.

(2) Unless license exempt, as established in KRS 150.170, a youth who is hunting deer shall carry a valid:

- (a) Kentucky youth hunting license ~~[while hunting]~~; and
- (b) Youth deer permit ~~[while hunting]~~.

Section 3. Hunter Restrictions.

(1) A deer hunter shall not:

- (a) Take a deer except during daylight hours;
- (b) Use dogs, except leashed tracking dogs, to recover a wounded deer;
- (c) Take a deer that is swimming;

(d) From a vehicle, boat, or on horseback, take a deer, except that a hunter with a disabled hunting exemption permit issued by the department may use a stationary vehicle as a hunting platform; and

(e) Possess or use a decoy or call powered by electricity from any source.

(2) A person shall only use the equipment established in paragraphs (a) through (e) of this subsection to take a deer:

(a) A crossbow or archery equipment loaded with a broadhead of seven-eighths (7/8) inch or wider upon expansion;

(b) A firearm:

1. With an action that fires a single round of ammunition upon each manipulation of the trigger; and

2. Loaded with centerfire, single projectile ammunition designed to expand upon impact;

(c) A muzzle-loading gun;

(d) A shotgun loaded with a shell containing single projectile ammunition designed to expand upon impact; or

(e) An air gun:

1. Of .35 caliber or larger;

2. Charged by an external tank; and

3. Loaded with single projectile ammunition designed to expand upon impact.

(3) A person shall only use a weapon that complies with the appropriate season established in Section 5 of this administrative regulation to take a deer.

(4) A crossbow shall contain a working safety device.

(5) A person shall not use a magazine capable of holding more than ten (10) rounds to take a deer.

Section 4. Hunter Orange Clothing Requirements.

(1) During the modern gun deer season, muzzle-loader season, and any youth gun season, a person hunting any species during daylight hours and any person accompanying a hunter, shall display solid, unbroken hunter orange visible from all sides on the head, back, and chest except while hunting waterfowl or mourning dove.

(2) During an elk firearm season, as established in 301 KAR 2:132, a person hunting any species and any person accompanying a hunter within the elk restoration zone, shall display solid, unbroken hunter orange visible from all sides on the head, back, and chest, except while hunting waterfowl or mourning dove.

(3) The hunter orange portions of a garment worn to fulfill the requirements of this section:

(a) May display a small section of another color; and

(b) Shall not have mesh weave openings exceeding one-fourth (1/4) inch by any measurement.

(4) A camouflage-pattern hunter orange garment worn without additional solid hunter orange on the head, back, and chest shall not meet the requirements of this section.

Section 5. Statewide Season Dates.

(1) A deer hunter may use archery equipment to hunt deer statewide from the first Saturday in September through the third Monday in January.

(2) A deer hunter may take deer with a modern gun statewide beginning the second Saturday in November for sixteen (16) consecutive days.

(3) A deer hunter may use a muzzle-loading gun to hunt deer statewide:

(a) For two (2) consecutive days beginning the third Saturday in October;

(b) For nine (9) consecutive days beginning the second Saturday in December; and

(c) During any season in which a modern gun may be used to take deer.

(4) A deer hunter may use a crossbow to hunt deer statewide from the third Saturday in September through the third Monday in January.

(5) A youth or a legal resident hunter sixty-five (65) years or older may hunt with a crossbow from the first Saturday in September through the third Monday in January.

(6) There shall be a youth-only modern gun season for two (2) consecutive days beginning on the second Saturday in October, in which a youth deer hunter shall comply with this administrative regulation and all other statewide deer hunting requirements.

(7) There shall be a free youth-only modern gun season~~[weekend]~~ for two (2)

consecutive days beginning on the Saturday after Christmas during which a youth:

- (a) Shall not be required to have a hunting license or deer permit; and
- (b) Shall comply with this administrative regulation and all other statewide deer hunting requirements.

Section 6. Zones.

(1) Zone 1 shall consist of Anderson, Ballard, Boone, Bracken, Bullitt, Caldwell, Calloway, Campbell, Carlisle, Carroll, Christian, Crittenden, Franklin, Fulton, Gallatin, Grant, Graves, Green, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jefferson, Kenton, Larue, Livingston, Lyon, Marshall, Mason, McClean, McCracken, Mercer, Muhlenberg, Nelson, Oldham, Owen, Pendleton, Robertson, Scott, Shelby, Spencer, Todd, Trigg, Trimble, Union, Washington, Webster, and Woodford Counties.

(2) Zone 2 shall consist of Adair, Allen, Barren, Bath, Bourbon, Boyd, Boyle, Breckinridge, Butler, Carter, Casey, Clark, Daviess, Edmonson, Fayette, Fleming, Grayson, Greenup, Hancock, Jessamine, Lawrence, Lewis, Lincoln, Logan, Madison, Marion, Meade, Metcalf, Monroe, Montgomery, Nicholas, Ohio, Simpson, Taylor, and Warren Counties.

(3) Zone 3 shall consist of Cumberland, Elliott, Estill, Garrard, Johnson, Laurel, Morgan, Powell, Pulaski, Rowan, [~~Simpson~~] Wayne, and Wolfe Counties.

(4) Zone 4 shall consist of Bell, Breathitt, Clay, Clinton, Floyd, Harlan, Jackson, Knott, Knox, Lee, Leslie, Letcher, Magoffin, Martin, McCreary, Menifee, Owsley, Perry, Pike, Rockcastle, Russell, and Whitley Counties.

Section 7. Season and Zone Limits.

(1) A person shall not take more deer than each zone allows, as established in this section.

(2) A person shall not take more than one (1) antlered deer per license year, regardless of permit type used or zone hunted, except as established in 301 KAR 2:111, 2:178, or 3:100.

(3) A person may take an unlimited number of antlerless deer in Zone 1 if the person has purchased the appropriate additional deer permits.

(4) A person may take up to a total of four (4) deer in Zone 2.

(5) In Zone 3, a person may take up to a total of four (4) deer, except that a firearm or air gun shall not be used to take a total of more than one (1) antlerless deer.

(6) In Zone 4, a person may take one antlerless deer, but only during:

(a) Archery season, except that a person shall not take an antlerless deer during modern gun season, the October muzzleloader season, or the first six (6) days of the December muzzleloader season;

(b) Crossbow season, except that a person shall not take an antlerless deer during modern gun season, the October muzzleloader season, or the first six (6) days of the December muzzleloader season;

- (c) Any youth weekend; or
- (d) The last three (3) days of the December muzzleloader season.

Section 8. Supervision of Youth Gun Deer Hunters.

- (1) An adult shall:
 - (a) Accompany a person under sixteen (16) years old; and
 - (b) Remain in a position to take immediate control of the youth's gun.
- (2) An adult accompanying a youth hunter shall not be required to possess a hunting license or deer permit if the adult is not hunting.

Section 9. Harvest Recording.

- (1) Immediately after taking a deer, and prior to moving the carcass, a person shall record, in writing:
 - (a) The species taken;
 - (b) The date taken;
 - (c) The county where taken; and
 - (d) The sex of the deer taken on one (1) of the following:
 - 1. The hunter's log section on the reverse side of a license or permit;
 - 2. The hunter's log produced in a hunting guide;
 - 3. A hunter's log printed from the Internet;
 - 4. A hunter's log available from any KDSS agent; or
 - 5. An index or similar card.
- (2) The person shall retain and possess the completed hunter's log while the person is in the field during the current hunting season.

Section 10. Checking a Deer.

- (1) A person shall check a harvested deer before 11:59 p.m. on the day the deer is recovered by:
 - (a) Calling (800) 245-4263 and providing the requested information; or
 - (b) Completing the online check-in process at fw.ky.gov.
- (2) A person who has checked in a deer shall record the confirmation number on a hunter's log.
- (3) If a hunter removes the hide or head of a harvested deer before the deer is checked in, then the hunter shall retain the deer parts established in paragraphs (a) and (b) of this subsection:
 - (a) For antlered deer, the:
 - 1. Head with antlers; or
 - 2. Testicles, scrotum, or penis attached to the carcass; or
 - (b) For antlerless deer, the:
 - 1. Head; or

2. Udder or vulva attached to the carcass.

(4) If a hunter transfers possession of a harvested deer, or if the harvested deer is out of the hunter's possession, the hunter shall attach to the carcass a hand-made tag that contains the following information:

- (a) The confirmation number;
- (b) The hunter's name; and
- (c) The hunter's telephone number.

(5) A person shall not provide false information while:

- (a) Completing the hunter's log;
- (b) Checking a deer; or
- (c) Creating a carcass tag.

Section 11. Transporting and Processing Deer.

(1) A person shall:

- (a) Not transport an unchecked deer out of Kentucky;
- (b) Have proof that a deer or parts of deer brought into Kentucky were legally taken;

or

(c) Not sell deer hides except to a licensed:

- 1. Fur buyer;
- 2. Fur processor; or
- 3. Taxidermist.

(2) A taxidermist or an individual who commercially butchers deer shall not accept a deer carcass or any part of a deer without a valid disposal permit issued by the department pursuant to KRS 150.411(3) or a proper carcass tag as established in Section 10 of this administrative regulation.

(3) An individual who commercially butchers deer shall keep accurate records of the hunter's name, address, confirmation number, and date received for each deer in possession and retain the records for a period of one (1) year.

Section 12. Special Deer Hunt Program.

(1) A special deer hunt shall:

(a) Consist of a minimum of ten (10) novice deer hunters selected on a first-come, first-served basis;

- (b) Take place on private land with the permission of the landowner;
- (c) Only be overseen and sponsored by department employees; and
- (d) Take place during the archery deer season.

(2) A special deer hunt participant shall possess a valid hunting license and deer permit, except if the participant is license-exempt, as established in KRS 150.170.

Section 13. Antlers.

(1) A person shall not use a device that is designed to entangle or trap the antlers of a deer.

(2) A shed of a deer shall be legal to possess.

Section 14. CWD Surveillance Zone Requirements.

(1) A CWD Surveillance Zone shall be limited to an area surrounding the location(s) of CWD positive cervid detections as biologically and logistically necessary to monitor and combat the spread of CWD. The areas designated as part of the CWD Surveillance Zone shall be published on the department's Web site at fw.ky.gov.

(2) In any area identified as a CWD Surveillance Zone, the following requirements shall be effective:

(a) In addition to items in Sections 10 and 11 above a hunter harvesting deer in a CWD Surveillance Zone shall:

1. Transport the entire carcass or the entire head; and
2. Telecheck confirmation number to a KDFWR authorized check station in the CWD Surveillance Zone during the identified time periods as advertised by the department at <https://fw.ky.gov>.

(b) A hunter harvesting deer in a CWD Surveillance Zone shall not:

1. Transport a full carcass or any part thereof outside of the CWD Surveillance Zone, except deboned meat, clean skull plates, antlers, antlers attached to a clean skull plate, clean skulls, clean teeth, finished taxidermy work, and hides of legally harvested cervids;
or

2. Bait or feed any wildlife inside the CWD Surveillance Zone, except for:

- a. Normal agricultural practices, including food plots;
- b. Hanging bird feeders within the curtilage of the home; and
- c. Furbearer trapping attractants, except grain salt or mineral.

Ryan F. Quarles
Commissioner



Corporate Drive
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Frankfort, KY 40601
(502) 573-0282

Kentucky Department of Agriculture

November 8, 2023

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



Re: 302 KAR 22:150. Cervids.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 302 KAR 22:150 the Kentucky Department of Agriculture proposes the attached amendments to 302 KAR 22:150.

Sincerely,

A handwritten signature in black ink, appearing to read "Clint Quarles".

Clint Quarles
Staff Attorney
Kentucky Department of Agriculture
107 Corporate Drive
Frankfort, KY 40601



SUGGESTED SUBSTITUTE

**GENERAL GOVERNMENT
Department of Agriculture
Office of the State Veterinarian**

302 KAR 22:150. Cervids.

RELATES TO: KRS 150.730-150.735, 246.030(4), 257.020, 257.030, 257.080, 257.990, Chapter 321, 9 C.F.R. Part 55, 81.4, 161.1-161.4

STATUTORY AUTHORITY: KRS 150.720(1), 246.295(1), 257.550, 257.552

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.720(1), 246.295(1), and 257.550 require the Department of Agriculture, in cooperation with the Department of Fish and Wildlife Resources, to promulgate administrative regulations pertaining to health requirements, eradication of diseases, and identification of privately owned and farm-raised cervids maintained for the production of meat and other products. This administrative regulation establishes criteria and health requirements necessary to prevent the introduction of chronic wasting disease into Kentucky and develop a herd monitoring system, and establishes requirements for intrastate and interstate movement of farmed cervids.

Section 1. Definitions.

- (1) "Adjacent herd" means ~~is~~ a herd of cervids occupying premises that shares a border or boundary line with premises occupied by a chronic wasting disease positive herd, including herd separated by a road or stream. ~~is~~ **and**
- (2) "Animal identification number" or "AIN" means a numbering system for the official identification of individual animals in the United States that provides a nationally unique identification number for each animal. The AIN consists of fifteen (15) digits, with the first three (3) being the country code (either 840 for the United States at large or a unique code for any U.S. territory that elects to use it in place of the 840 code).
- (3) "APHIS" means the Animal and Plant Health Inspection Service of the United States Department of Agriculture.
- (4) "Approved laboratory" means the National Veterinary Service Laboratory in Ames, Iowa, or any other laboratory approved by the APHIS.
- (5) "Certificate of Veterinary Inspection" or "CVI" means an official document, on a form approved by the chief animal health official of the state of origin or by USDA APHIS Veterinary Services for verification of veterinary inspection that is issued by a licensed and accredited veterinarian.
- (6) "Certified" means the status achieved by a herd that has met the standards of the Chronic Wasting Disease Herd Certification Program continuously for at least five (5) years.
- (7) "Certified Chronic Wasting Disease (CWD) Herd" or "herd" means a group of cervids under common ownership or supervision that has achieved "certified" status in the Kentucky Herd Certification Program, the federal Chronic Wasting Disease Herd Certification Program, or a state Chronic Wasting Disease Certification Program approved by APHIS or the State Veterinarian.
- (8) "Cervid" means deer, elk, moose, caribou, reindeer, and related species and hybrids thereof, including all members of the Cervidae family and hybrids thereof.
- (9) "Cervid Chronic Wasting Disease Surveillance and Identification" or "CCWDSI" means the:
 - (a) Chronic Wasting Disease HCP; and
 - (b) Chronic Wasting Disease HMP.
- (10) "Cervid Herd Plan" means a written herd management agreement or premises management agreement:
 - (a) Developed by OSV in collaboration with the herd owner to address compliance issues within an[a] HCP or HMP herd; or

(b) That establishes the steps needed to eradicate CWD from a CWD positive herd, to control the risk of CWD in a CWD exposed or CWD-suspect herd, or to prevent introduction of CWD into that herd or any other herd.

(11) "Chronic Wasting Disease" or "CWD" means a transmissible spongiform encephalopathy of cervids.

(12) "Farmed cervid":

(a) Means cervid livestock that are enrolled in a CCWDSI program and are maintained for propagation, selling, trade, or barter or for taking by any harvest or slaughter method; and

(b) Does not mean any cervid that has not originated from and been continuously maintained within a herd that is enrolled in and complies with an[a] HCP or HMP.

(13) "Exposed" means a cervid that is part of a CWD positive herd, or that has been exposed to a CWD-positive cervid or contaminated premises within the previous five (5) years.

(14) "Harvest" means to slaughter or take by hunting farmed cervids for meat and other products.

(15) "Herd Certification Program" or "HCP" means a program established by this administrative regulation to determine the CWD status of farmed cervid herds.

(16) "Herd Monitoring Program" or "HMP" means a program established by this administrative regulation to monitor farmed cervids in harvesting facilities for CWD.

(17) "Identification" means a device or means of identification approved for use under this administrative regulation by the State Veterinarian.

(18) "Interstate movement" means movement from another state into or out of Kentucky.

(19) "Intrastate movement" means movement solely within the boundaries of Kentucky.

(20) "Move" means to carry, enter, import, ship, or transport; to aid, abet, cause, or induce carrying, entering, importing, mailing, shipping, or transporting; to offer to carry, enter, import, mail, ship, or transport; to receive in order to carry, enter, import, mail, ship, or transport; or to allow any of these activities.

(21) "National Uniform Eartagging System" or "NUES" means a numbering system for the official identification of individual animals in the United States that provides a nationally unique identification number for each animal that is USDA approved.

(22) "Office of State Veterinarian" or "OSV" means that office within the Kentucky Department of Agriculture as established in KRS 246.030(4).

(23) "Official Chronic Wasting Disease test" or "CWD test" means any test for the diagnosis of Chronic Wasting Disease approved by APHIS and conducted in a laboratory approved by APHIS in accordance with 9 C.F.R. Part 55.

(24) "Official eartag" means an identification tag approved by APHIS that bears an official identification number for individual animals. Beginning March 11, 2014, all official eartags manufactured bear an official eartag shield. Beginning March 11, 2015, all official eartags applied to animals bear an official eartag shield. The design, size, shape, color, and other characteristics of the official eartag depend on the needs of the users, subject to the approval of the USDA Administrator. The official eartag is tamper-resistant and has a high retention rate in the animal.

(25) "Official identification number" means a nationally unique number that is permanently associated with a cervid and complies with:

(a) National Uniform Eartagging System (NUES);

(b) Animal Identification Number (AIN); or

(c) Any other numbering system approved by the Administrator for the official identification of animals, including a group identification number.

(26) "Owner" is defined by KRS 257.010(14).

(27) "Person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or other legal entity.

(28) "Physical inventory" means an inventory that confirms individual identification of each cervid by hands on observation to include physical or chemical restraint as needed.

(29) "Positive" means a cervid has had a diagnosis of CWD confirmed by means of two (2) official CWD tests.

(30) "Premises identification number" or "PIN" means a nationally unique number allocated to a premises by a state or federal animal health official and:

(a) Is used in conjunction with a producer's own livestock production numbering system to provide a nationally unique and herd-unique identification number for an animal; and

(b) Is the number system permitted by the state of origin specifically as a CWD program site.

(31) "Quarantine" means an imposed restriction prohibiting movement of live or dead cervids, or parts thereof, to any location without specific written approval of the State Veterinarian.

(32) "Radio Frequency Identification Device" or "RFID" means a device electronically encoded with a unique identification and that complies with the applicable International Standards Organization (ISO) standards and that bears the visual number.

(33) "State" means any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or Guam.

(34) "USDA" means the United States Department of Agriculture.

(35) "USDA-accredited veterinarian" means a veterinarian accredited by the USDA as category II in accordance with the provisions of 9 C.F.R. 161.1 to 161.4, and licensed to practice veterinary medicine in their home state.

(36) "Visual inventory" means an inventory done when distance observation of identification of identification devices is possible.

Section 2. All Farmed Cervids Shall Be in a Program. Every farmed cervid in Kentucky shall be enrolled in either the Chronic Wasting Disease Herd Certification Program or the Chronic Wasting Disease Herd Monitoring Program.

Section 3. Required CWD program Training.

(1) Prior to initial enrollment in a CWD program, a minimum of one (1) hour initial educational training provided by the OSV shall be completed.

(2) Supplemental trainings provided by OSV shall be required when there is a change in Chronic Wasting Disease prevalence, change in Kentucky program administrative regulations, or a change in USDA CWD program standards, or any other time deemed necessary by the State Veterinarian to prevent the spread of disease. Notice for any additional training shall be provided at least thirty (30) days in advance of the date.

~~[(3)] [All persons with a HCP or HMP permit at the date this administrative regulation becomes effective shall complete an educational training for one (1) hour prior to their renewal for the following year.]~~

Section 4. Chronic Wasting Disease Herd Certification Program (HCP).

(1) An[A] HCP permit shall be required to participate in the HCP program. An[A] HCP permit shall be valid from January 1 to December 31 of each year, regardless of the date of application or enrollment.

(a) The applicant for the HCP shall submit:

1. A complete Cervid Chronic Wasting Disease Surveillance Identification (CCWDSI) Herd Certification Program (HCP) or Herd Monitoring Program (HMP) Application;

2. A written statement by a Kentucky-licensed and USDA accredited veterinarian certifying that the veterinarian and the herd owner have a valid veterinarian-client-patient relationship; and

3. An initial fee of \$150. Renewal fees the next year are described in subsection (2) of this section.

(b) The OSV shall grant an[a] HCP permit within thirty (30) days after it receives the completed application package with the required fee. Incomplete applications or insufficient fees shall be returned to the applicant without approval. The OSV shall not approve any application if the applicant owes fees or fines to the KDA.

(c) An[A] HCP participant whose permit expires prior to renewal shall be subject to the penalties established in Section 19 of this administrative regulation.

(2) Annual HCP permit renewal required.

(a) Fees shall be based on the officially tagged inventory submitted in subparagraph 5.[paragraph (e)] of this paragraph[subsubsection]. Renewal applicants shall:

1.[(a)] Submit a complete Cervid Chronic Wasting Disease Surveillance Identification (CCWDSI) Herd Certification Program (HCP) or Herd Monitoring Program (HMP) Application by November 30 of each year;

2.[(b)] Pay a fee of \$135 for herds up to fifty (50) cervids, \$250 for herds between fifty-one (51) and 100, or \$450 for herds containing more than 101 cervids, for applications submitted prior to December 1, preceding the applicable permit year;

3.[(c)] Pay a fee of \$150 for herds up to fifty (50) cervids, \$275 for herds between fifty-one (51) and 100, or \$500 for herds containing more than 101 cervids, for applications submitted between December 1 and December 31, preceding the applicable permit year;

4.[(d)] Pay a fee of \$250 for herds up to fifty (50) cervids, \$375 for herds between fifty-one (51) and 100, or \$600 for herds containing more than 101 cervids, for applications submitted late, January 1 and after of the applicable permit year; and

5.[(e)] Submit a current herd inventory as of the time of application submission, and the most recent reporting documents due to the OSV as required in subsection (3)(c) of this section if not already on file with the OSV.

(b) [(f)] Permits not renewed by February 15 of the applicable program year shall[will] be terminated from the program effective February 16 and not be eligible for renewal. Section 20 of this administrative regulation shall apply as those cervids would be not continuously enrolled and shall not be deemed farmed cervids.

(3) HCP Requirements.

(a) Herds enrolled in this program shall comply with the requirements established in this section and 9 C.F.R. Part 55, Subpart B, and shall follow the USDA Chronic Wasting Disease Standards, and the RFID official identification requirements of Section 8.

1. After an initial permit is issued, the participant shall enroll the herd into the HCP by obtaining movement permits for those cervids moving into the premises. Any additions subsequent to the initial delivery shall be recorded and submitted according to the other timelines established in this administrative regulation.

2. After the first year in the HCP, the participant shall:

- a. Conduct the physical inventory and continuously identify cervids as required;
- b. Provide any records required by this administrative regulation to the OSV for the cervids; and
- c. Maintain and complete the provisions of this administrative regulation and a Cervid Herd Plan, if developed.

(b) Cervid identification requirement.

1. Each cervid shall have at least two (2) forms of cervid identification prior to or at the time of the annual herd inventory, one (1) of which shall be a RFID official identification and one (1) form shall be a visual type of identification, both of which shall be unique to that cervid within the herd.

2. A cervid of any age shall have official identification before being moved from the premises for any purpose.

(c) Cervid inventory.

1. The baseline herd inventory shall consist of the cervids that were delivered initially after program enrollment.

2.

a. An annual herd inventory shall be conducted that reviews all records and includes observation of all cervids in an enclosed area, including physical restraint if necessary, to reconcile all visible identification devices with available records. This required inventory shall be conducted in January, February, March, or April.

b. Beginning May 1, the herd shall be placed in quarantine and no movement shall be permitted until the physical or visual inventory is completed for those herds not completing a visual[physical] inventory January, February, March, or April. The OSV shall determine what style of inventory is required for those not completed by OSV staff prior to May 1.

3. The state veterinarian or an APHIS representative may request additional physical inventories to verify herd compliance with program standards. A physical inventory shall be conducted at least

once in any three (3) year time period, but may occur at any time of the calendar year so that it may be completed at a time when the owner deems appropriate.

4. The owner shall be responsible for assembling, handling, and restraining the cervids, and for all risks and costs incurred, to present the cervids for visual or physical inspection.

5. Additional herd inventory record inspections and reviews shall be conducted quarterly at the cervid premises or at another location mutually agreed to by the owner and the OSV.

(d) Herd Additions.

1. New cervids shall be introduced into the herd only from other herds enrolled in the Kentucky HCP, or from a herd in a state, approved by the OSV, with an USDA-approved CWD Certification Program in which CWD has never been confirmed.

2. New cervids shall not be introduced into the herd unless it has been approved by the State Veterinarian.

3. If cervids are introduced from a herd of lower status, the receiving herd status shall revert to the lower status.

(e) HCP Reporting requirements. The owner shall report to OSV any cervids that escape or disappear and all deaths (including cervids killed by harvest or slaughter) of cervids in the herd.

1. The reporting time frame shall be:

a. For cervids that escape or disappear, a report shall be made within forty-eight (48) hours;

b. For cervids taken by harvest, a report shall be submitted within seven (7) days; and

c. For cervids that die from illness or any other reason, a report shall be submitted within seven (7) days.

2. The report shall include all applicable identification numbers, including the visual tag and the date of the death, disappearance, or escape.

3. Cervids that die or are harvested shall have the required tissue specimens collected and submitted for Chronic Wasting Disease testing except if exempted in writing by request to, and approval of, the OSV. Exemptions shall only be granted in extenuating circumstances, such as natural disaster or a disease event.

4. An APHIS or OSV representative shall investigate herds that fail to comply with testing requirements and shall evaluate the herd's status.

5. Cervid escapes return protocol.

a. Cervids that escape may be returned to the herd only if:

(i) Within seventy-two (72) hours, the cervids are re-captured and the fence is repaired and secured to prevent further escape and meet the requirements established by Kentucky Department of Fish and Wildlife Resources in 301 KAR 2:083. Any cervid recaptured after seventy-two (72) hours shall be introduced back into the herd only with written permission of the OSV; and

(ii) Within seven (7) days of initial escape, an updated inventory is provided to the OSV representative in writing.

b. An OSV representative may require physical inspection of cervids to confirm inventory.

(f) Herd Veterinarian Notice Requirement. The herd veterinarian shall be notified within twenty-four (24) hours of observance of a cervid with clinical signs suggestive of Chronic Wasting Disease.

(g) An owner maintaining separate herds shall comply with the separate-herd requirements established in 9 C.F.R. 55.23.

(h) The herd premises shall have a valid Kentucky Department of Fish and Wildlife Resources permit and shall maintain perimeter fencing meeting the requirements established in KRS 150.730 through 150.735.

(i) The owner shall maintain and provide to the OSV representative upon request the following herd records:

1. Complete inventory of cervids including the official identification and any other identification, and the age and sex of each cervid;

2. A record for each purchased or natural addition to the herd including:

a. The official identification, species, age, and sex of the cervid;

b. The name and address of the person from whom the cervid was purchased;

- c. The address of the herd from which the cervid was purchased;
 - d. A copy of the CVI that accompanied the cervid for intrastate or interstate movement;
 - e. Date the purchased addition entered the herd; and
 - f. Approximate date of birth, if a natural addition;
3. A record of each cervid leaving the herd, including:
- a. The date of movement, the name of the person to whom it was shipped, the place to which it was shipped, and a copy of the Certificate of Veterinary Inspection related to the shipment; and
 - b. A cervid's death or harvest on the premises, including the date of death, the apparent cause of death; the cervid's age, sex, and state-federal official individual cervid identification; date and laboratory submitted for CWD testing, if required; and the disposition of the cervid's carcass. If the carcass was removed from the premises, the record shall identify the carcass' destination and recipient;
4. A record of all individual CWD tests that were conducted on cervids in the herd;
5. Records received from the herd veterinarian related to the veterinary services he or she provided to the herd; and
6. All individual identification numbers (from, for example, tags and electronic implants) associated with each cervid.
- (j) Herd status levels.
- 1. Upon a herd being first enrolled in the Herd Certification Program, the herd shall be placed in first-year status, except that if the herd is comprised solely of cervids obtained from herds already enrolled in the Herd Certification Program, the newly enrolled herd shall have the same status as the lowest status of any herd that provided cervids for the herd.
 - 2. If a herd continues to comply with the requirements of the Herd Certification Program, the herd status shall be upgraded by one (1) year on the anniversary of the program enrollment date.
 - 3. One (1) year after the date a herd was placed in fifth-year status, the herd status shall be changed to "certified". The herd shall remain in "certified" status as long as the herd remains enrolled in the program, if its status is not revoked or suspended in accordance with this administrative regulation or 9 C.F.R. 55.24.
 - 4. A herd owner shall be issued a certificate of "Certified" status upon completing the Herd Certification Program requirements established in this administrative regulation.
 - 5. Renewal of a Certified Cervid Herd. A herd shall be certified for twelve (12) months. For continuous certification, adherence to the provisions in this administrative regulation and all other state laws and administrative regulations pertaining to holding cervids shall be required.
 - 6. The herd enrollment date shall be the latter date of:
 - a. The physical inventory being completed in accordance with paragraph (c) of this subsection; or
 - b. The initial cervid delivery.
- (k) Disease surveillance procedures. A cervid that is twelve (12) months or older that dies for any reason, including harvest, shall be tested for CWD. The herd owner shall be responsible for sample collection by an OSV certified CWD sample collector, submission, and testing. Samples for testing shall be properly collected, handled, and preserved, and shall be submitted to an approved laboratory within seven (7) days of death and collection. If incidents of mass casualty or mortality events are confirmed by the OSV, the OSV may waive the testing requirements for all cervids and instead only require testing based on risk.
- (l) USDA Chronic Wasting Disease Program Standards deficiencies may, based on the nature of the deficiencies, require a Cervid Herd Plan in lieu of, or in addition to, administrative penalties. Deficiencies in required testing, from poor sample quality or for failure to submit a sample, may result in an order from the OSV requiring a similar living cervid be euthanized for CWD testing.

Section 5. Chronic Wasting Disease Herd Monitoring Program (HMP).

- (1) An[A] HMP permit shall be required to participate in the HMP program. An[A] HMP permit shall be valid from January 1 to December 31 of each year, regardless of the date of application or enrollment.
- (a) The applicant for the HMP program shall submit:

1. A complete Cervid Chronic Wasting Disease Surveillance Identification (CCWDSI) Herd Certification Program (HCP) or Herd Monitoring Program (HMP) Application;
 2. A written statement by a Kentucky-licensed and USDA accredited veterinarian, certifying that the veterinarian and the herd owner have a valid veterinarian-client relationship; and
 3. A fee of \$500.
- (b) OSV shall grant the HMP permit within thirty (30) days after it receives the completed application package with the required fee. Incomplete applications or insufficient fees shall be returned to the applicant without approval. The OSV shall not approve any application if the applicant owes any fees or fines to the KDA.
- (c) HMP participants whose permit expires prior to renewal shall be subject to the penalties in Section 19 of this administrative regulation.
- (2) Annual HMP permit renewal required. Renewal applicants shall:
- (a) Submit a completed Cervid Chronic Wasting Disease Surveillance Identification (CCWDSI) Herd Certification Program (HCP) or Herd Monitoring Program (HMP) Application by November 30 of each year.
 - (b) Pay a fee of \$500.
 - (c) Submit a current herd inventory as of the moment of application, and the most recent reporting documents due to the OSV as required in subsection (4)(c) of this section if not already on file with the OSV.
 - (d) The permit shall be effective January 1 through December 31 of each year.
- (3) Restrictions and limitations on HMP-enrolled cervids and herds.
- (a) A cervid shall not leave an HMP-enrolled herd alive.
 - (b) A cervid shall not be moved to another HMP-enrolled herd.
 - (c) An[A] HMP herd, or any cervid within an[a] HMP-enrolled herd shall not be eligible to enter the HCP.
- (4) HMP Requirements.
- (a) Herds enrolled in this program shall comply with the requirements established in this section.
 1. After an initial permit is issued, the participant shall enroll the herd into the HMP by obtaining movement permits for those cervids moving into the premises. Any additions subsequent to the initial delivery shall be recorded and submitted according to the other timelines established in this administrative regulation.
 2. After the first year in the HMP, the participant shall:
 - a. Conduct the inventory and continuously identify cervids as required;
 - b. Submit records to the OSV for the cervids that are required in this administrative regulation; and
 - c. Maintain and complete the provisions of this administrative regulation and a herd-specific Cervid Herd Plan, if developed.
 - (b) Cervid identification requirement.
 1. Each cervid twelve (12) months of age or older shall have at least two (2) forms of cervid identification, one (1) of which shall be a RFID official identification and one (1) form shall be a visual type of identification, which shall be unique to that cervid within the herd.
 2. Any untagged cervid that dies or is harvested shall be officially identified and shall be CWD tested.
 - (c) Cervid inventory.
 1. The baseline herd inventory shall consist of the cervids that were delivered initially after program enrollment.
 2. An annual herd inventory shall be conducted and submitted to the OSV that reviews all records and documents that would change the baseline herd inventory.
 3. The state veterinarian or an APHIS representative may request a visual or physical inventory **conducted by OSV staff** to verify herd compliance with program standards. A herd plan may be created to allow images or other data in lieu of a visual inventory.
 4. The owner shall be responsible for assembling, handling, and restraining the cervids, and for all risks and costs incurred, to present the cervids for inspection.

5. Cervids that have been in inventory for four (4) years without a visual confirmation shall be presumed dead by the permit holder and written notice **shall** be provided to the OSV via mail or email. **If the presumed dead cervid is later found alive it shall be added back to the inventory.**

(d) Herd Additions. New cervids shall be introduced into the herd only from other herds enrolled in the Kentucky HCP, or from a herd in a state, approved by the OSV, with an USDA-approved CWD Certification Program in which CWD has never been confirmed. All female cervid additions in an HMP shall be spayed or otherwise confirmed by a veterinarian to be incapable of reproduction aft March 31, 2024.

(e) If evidence of natural additions are found, a Cervid Herd Plan shall be developed to eliminate future breeding. Intentional breeding shall not be allowed.

(f) HMP Participant Reporting requirements. The owner shall report to the OSV any cervids that escape or disappear, and all deaths (including cervids killed by harvest or slaughter) of cervids in the herd.

1. This report shall be submitted to the OSV by the close of business on the first business day of each month for the activities of the previous calendar month.

2. The report shall include applicable cervid identification numbers, including the visual tag; the date of the death, disappearance, escape; and the dates the CWD tests were submitted for testing.

3. All cervids that die or are harvested shall have the required tissue specimens collected and submitted for CWD testing.

4. In accordance with 9 C.F.R. 55.23, an APHIS or OSV representative shall investigate herds that fail to comply with testing requirements, which shall be considered noncompliance.

5. Cervid escapes return protocol.

a. Cervids that escape may be returned to the herd only if:

(i) Within seventy-two (72) hours, the cervids are re-captured and the fence is repaired and secured to prevent further escape and meet the requirements established by Kentucky Department of Fish and Wildlife Resources in 301 KAR 2:083. Any cervid recaptured after seventy-two (72) hours shall be introduced back into the herd only with written permission of the OSV; and

(ii) Within seven (7) days of initial escape, an updated inventory is provided to the OSV representative in writing.

b. An OSV representative may require physical inspection of cervids to confirm inventory.

(g) Herd Veterinarian Notice Requirement. The herd veterinarian shall be notified within twenty-four (24) hours of observance of a cervid with clinical signs suggestive of Chronic Wasting Disease.

(h) The herd premises shall have a valid Kentucky Department of Fish and Wildlife Resources permit and shall maintain perimeter fencing meeting the requirements established in KRS 150.730 through 150.735.

(i) The owner shall maintain and provide to the OSV representative upon request the following herd records:

1. Complete inventory of cervids, including the official identification, and any other identification, and the age and sex of each cervid;

2. A record for each purchased or natural addition to the herd, including:

a. The official identification, species, age, and sex of the cervid;

b. The name and address of the person from whom the cervid was purchased;

c. The address of the herd from which the cervid was purchased;

d. A copy of the CVI that accompanied the cervid for intra- or interstate movement;

e. Date the purchased addition entered the herd; and

f. Approximate date of birth, if a natural addition;

3. A record of each cervid leaving the herd including a record of each cervid that died or was harvested on the premises including:

a. The date of death;

b. The apparent cause of death;

c. The cervid's age and sex;

- d. State-federal official individual cervid identification, date, and laboratory submitted for CWD testing, if required; and
- e. The disposition of the cervid's carcass. If the carcass left the premises, the record shall identify the carcass destination and recipient;
- 4. A record of all individual CWD tests that were conducted on cervids in the herd;
- 5. Records received from the herd veterinarian related to the veterinary services he or she provided to the herd; and
- 6. All individual identification numbers (from, for example, tags and electronic implants) associated with each cervid.
- (j) Disease surveillance procedures. A cervid that is twelve (12) months or older that dies for any reason, including harvest, shall be tested for CWD. The herd owner shall be responsible for sample collection, submission, and testing. Samples for testing shall be properly collected, handled, and preserved, and shall be submitted to an approved laboratory within thirty (30) days of collection. Deficiencies in required testing, from poor sample quality or for failure to submit a sample, may result in an order from the OSV requiring a similar living cervid be euthanized for CWD testing.

Section 6. Testing, Investigation, and Quarantine.

- (1) Surveillance testing procedures.
 - (a) CWD testing shall be in accordance with the procedures established in 9 C.F.R. 55.8.
 - (b) A positive or non-negative of CWD by an approved laboratory shall be sent to the National Veterinary Service Laboratory for confirmation.
 - (c) If required tissues from test eligible cervids are not submitted for laboratory diagnosis by the cervid owner, the state veterinarian shall revoke the permit or implement a mutually agreed upon Cervid Herd Plan.
- (2) Investigation of CWD-positive cervids.
 - (a) An epidemiological investigation in accordance with 9 C.F.R. 55.23 shall be conducted by OSV or APHIS VS for all cervids diagnosed at an approved laboratory CWD positive or suspect.
 - (b) All CWD-positive herds and all source, exposed, and adjacent herds and the premises where these herds are located shall be investigated epidemiologically by OSV.
- (3) Duration of Quarantine. Quarantines issued by the State Veterinarian for CWD in accordance with this administrative regulation shall be removed as established in paragraphs (a) and (b) of this subsection.
 - (a) A premises shall not be removed from quarantine until after completion of the cervid herd plan and five (5) years of compliance with all provisions of 9 C.F.R. Part 55.
 - (b) An adjacent or exposed herd or premises may be removed from quarantine only after an epidemiological investigation and by order of the OSV.

Section 7. CWD Sample Collection Training.

- (1) Required CWD samples shall be collected by a licensed accredited veterinarian or an individual certified by the OSV.
- (2) To become certified, an individual shall:
 - (a) Submit a request for certification to the OSV at Statevet@ky.gov or contact the OSV; and
 - (b) Attend a training course offered by the OSV.
- (3) Certification is valid for five (5) years from the date of training course or until new sample collection protocols have been mandated by OSV or USDA. Renewal certification shall require completion of a renewal form.
- (4) Certified individuals shall comply with CWD collection and submission protocols. Failure to submit quality samples may result in revocation of certification status.
- (5) Certified individual shall maintain record of sample collections for ten (10) years. Records shall include a copy of the laboratory submission form or a generated report which contains the following:
 - (a) Date of sample collection;
 - (b) Premises Name and City where sample collection occurred;
 - (c) List of official identification devices of each sample;

- (d) Number of samples collected; and
- (e) Name of Laboratory where samples were submitted.

Section 8. Certificate of Veterinary Inspection.

- (1) A Certificate of Veterinary Inspection shall remain valid for thirty (30) days after date of inspection.
- (2) A CVI shall contain:
 - (a) Identification of each animal recorded on the certificate;
 - (b) A RFID and visual identification for each cervid;
 - (c) The species, breed, sex, and age of each cervid;
 - (d) The name and address of the owner, cosigner, or agent shipping the cervid, and phone number of each;
 - (e) The location from which the animal is loaded for movement;
 - (f) The name and address of the consignee or person receiving the cervid;
 - (g) The location at which the animal will be received;
 - (h) The purpose of the movement and the total number of cervids;
 - (i) All non-applicable data fields crossed out by the USDA-accredited Veterinarian prior to signing;
 - (j) The movement permit number issued by the OSV;
 - (k) The following statement or one substantially similar: "I certify as an accredited veterinarian that the above described animals have been inspected by me on this date and that they are not showing signs of infection or communicable disease. The vaccinations and results of tests are as indicated on the certificate. The animals listed on this certificate meet the state of destination requirements and federal interstate requirements"; and
 - (l) The signature, USDA category II accreditation number, and phone number of the veterinarian.
- (3) Paper submitted Certificate of Veterinary Inspection.
 - (a) The first physical page shall be mailed or otherwise delivered to the office of the state veterinarian in the origin state within seven (7) days of the date it is written.
 - (b) An exact replica image (a scan in a PDF) of the first page may be submitted in lieu of the first physical page required in paragraph (a) of this subsection by submitting via electronic mail within seven (7) days of the date it is written to Statevet@ky.gov.
 - (c) The second page shall physically accompany the cervid being moved and be readily accessible during the movement.
 - (d) The third page shall be sent to the Animal Health Official in the state of destination within seven (7) days of the date it is written.
 - (e) The fourth page shall be retained by the issuing veterinarian for at least five (5) years from the date of issuance.
 - (f) A legible copy of any supplemental pages shall be stapled to the original and each copy of the CVI.
- (4) Electronically submitted CVIs.
 - (a) Certificate of Veterinary Inspection and Permit may be submitted via an importable format as approved by the OSV.
 - (b) Cervids moving with an electronically submitted Certificate of Veterinary Inspection shall be accompanied by a paper copy or have the electronic material stored on a device that may be read immediately upon request.
- (5) A person shall not issue a CVI bearing the seal of the Commonwealth of Kentucky unless that person is a Kentucky licensed and USDA category II accredited veterinarian.

Section 9. Movement Permit.

- (1) A person shall not move a cervid within or into Kentucky without first obtaining a permit from the OSV at least forty-eight (48) hours prior to the movement, unless approved in writing by the OSV after consideration of the risks involved.
- (2) Proof of required vaccinations or other applicable health practices to ensure disease prevention based on place or origin, as found on the Web site at www.kyagr.gov, shall be completed prior to permit issuance. Instructions for a permit may be obtained on the Web site.

- (3) Movement permit instructions may be obtained by calling OSV at 502-573-0282, Monday through Friday, 8 a.m. EST to 4:30 p.m. EST.
- (4) Required testing or vaccination. Required tests and vaccinations shall be performed or verified by a:
- (a) Licensed and USDA category II accredited veterinarian;
 - (b) Designee of the State Veterinarian; or
 - (c) Designee of the federal government.
- (5) Required tests shall be conducted at no expense to the Commonwealth of Kentucky.
- (6) Required laboratory tests shall be conducted in a state-federal approved laboratory.

Section 10. Official Identification and Other Required Identification.

- (1) Beginning July 1, 2020, RFID official identification shall be applied in any initial tagging event, retagging event, or anytime a cervid is restrained by any method, including permitted movements. All imported cervids shall require an RFID at the time of importation beginning July 1, 2020. This RFID shall be cross referenced with any other existing official identification at the time of application. Existing official identification shall not be removed without the prior written approval of the OSV.
- (2) Methods of official identification. An official individual identification shall consist of a set of alphanumeric characters or physical characteristics that are uniquely associated with an individual cervid and that constitute:
- (a) Official USDA NUES that was applied prior to June 30, 2020; and
 - (b) An RFID that:
 - 1. The RFID uniquely identifies the animal and is USDA approved;
 - 2. The RFID is attached to the animal;
 - 3. The RFID is registered to a PIN or to a person; and
 - 4. Only one (1) official RFID is placed on an animal.
- (3) Use of more than one (1) official eartag.
- (a) Any person applying the additional official eartag shall record the following information about the event, and submit to the OSV within seven (7) days the required information, and maintain the record for at least ten (10) years:
 - 1. The date the additional official eartag is added;
 - 2. The reason for the additional official eartag device; and
 - 3. The official identification numbers of the new official eartag and the one or ones already attached to the animal.
 - (b) An eartag with an Animal Identification Number (AIN) beginning with the 840 prefix (either radio frequency identification or visual-only tag) may be applied to a cervid that is already officially identified with one (1) or more National Uniform Eartagging System tags. The person applying the Animal Identification Number eartag shall record the date the Animal Identification Number tag is added and the official identification numbers of any official eartags and shall maintain those records for at least ten (10) years.
- (4) Removal or loss of official identification devices.
- (a) Removal of official identification shall be prohibited, except as approved in writing by the OSV or a USDA area veterinarian in charge if a device needs to be replaced.
 - (b) If a cervid loses an official identification device:
 - 1. A replacement tag with a different official identification number may be applied. The person applying a new official identification device with a different official identification number shall record the following information about the event and maintain the record for at least ten (10) years:
 - a. The date the new official identification device was added;
 - b. The official identification number on the device; and
 - c. The official identification number on the old device, if known.
 - 2. Replacement of a temporary identification device with a new official identification device shall be considered to be a retagging event and shall be noted on the Retag Form.
- (5) Removal of official identification, without prior written approval of the OSV shall be strictly prohibited.

(6) Replacement records required. Any time an official identification device is replaced, as authorized by OSV or the USDA, the person replacing the device shall record the following information about the event and maintain the record for at least five (5) years:

- (a) The date on which the previous device was removed;
- (b) Contact information for the location where the device was removed;
- (c) The official identification number (to the extent possible) on the device that was removed;
- (d) The type of device removed (for example, metal eartag or RFID eartag);
- (e) The reason for the removal of the former device;
- (f) The new official identification number on the replacement device; and
- (g) The type of replacement device that was applied to replace the former device.

Section 11. Premises of Origin Location.

- (1) POL information shall be provided by the person seeking the permit for the premises from which the cervids are to be loaded upon seeking a movement permit.
- (2) The POL of the specific location the cervids were loaded shall include:
 - (a) A PIN issued by the USDA or the Animal Health Official in the state of origin or a LID; and
 - (b) The owner at the time of movement and that owner's address and contact information.

Section 12. Requirements for Interstate Movement into Kentucky.

- (1) A person or hauler shall not move a cervid into Kentucky without first obtaining a CVI from a licensed and USDA category II accredited veterinarian;
- (2) Obtained a movement permit from the OSV at least forty-eight (48) hours prior to movement and scheduling by the OSV, that includes a scheduled appointment for delivery of cervids between the hours of 6 a.m. and 9 p.m.; and
- (3) An OSV representative, USDA representative, or an USDA category II accredited veterinarian shall be present for the unloading of the cervids at the point of destination at the time scheduled in (2) and shall be responsible for removing the transport seal and observing the offloading.
- (4) An entry permit shall not be issued for a cervid that does not have certified status or an equivalent status, as documented by a certificate issued in accordance with 9 C.F.R. 81.4. An entry permit shall not be issued for a cervid that originated in, or at any time resided, in a state where CWD has been confirmed in either wild or captive cervids.
- (5) An entry permit shall not be issued for a cervid that is not:
 - (a) Negative to an official tuberculosis test within ninety (90) days of entry; or
 - (b) Originating from a cervid tuberculosis accredited herd. The herd accreditation number and the last herd test date shall be listed on the CVI.

Section 13. Requirements for Movement Within Kentucky.

- (1) A movement permit issued by the OSV and CVI shall be required prior to cervid movement within Kentucky.
- (2) A CVI shall not be required if the movement is from the same herd to a different permitted premises within the same farm, if the cervid has official identification, prior to the movement.
- (3) Movement shall not commence until forty-eight (48) hours after the issuance of the permit.
- (4) An OSV representative, USDA representative, or an USDA category II accredited veterinarian shall be present at the loading at the point of origin, or the unloading of the cervids at the point of destination for movements to a different premises.
- (5) The requirements of this section shall be the responsibility of the owners, agents, and haulers of the moved cervid.

Section 14. Requirements for Movement for Export from Kentucky.

- (1) A movement permit issued by the OSV and CVI shall be required prior to cervid movement from Kentucky.
- (2) Movement shall not commence until forty-eight (48) hours after the issuance of the permit by the OSV and scheduling.

(3) All cervids being exported from Kentucky shall have movement documentation and any applicable permits as required by the state of destination, and have these documents immediately available for inspection.

(4) A cervid shall not leave Kentucky until:

(a) The CVI is written to meet the state of destination requirements by a Kentucky licensed category II veterinarian; and

(b) The owner, agent, or hauler contacts the OSV designee at least forty-eight (48) hours in advance of the movement to schedule an appointment for departure inspection and movement documentation between the hours of 6 a.m. and 9 p.m.

Section 15. Requirements for Movement Through Kentucky. Cervids moving through Kentucky shall have movement documentation and any applicable permits as required by the state of destination, and have these documents immediately available for inspection. A Kentucky movement permit shall not be required for direct movement through Kentucky. Persons directly moving cervids through Kentucky may voluntarily obtain a permit from the OSV.

Section 16. Reindeer Exhibition.

(1) Any reindeer exhibiting in the state of Kentucky shall obtain written permission of the OSV.

(2) Requests for an exhibition permit shall be made to the OSV in writing or electronically at statevet@ky.gov a minimum of ten (10) business days prior to the movement to the exhibit.

Section 17. Voluntary Accreditation and Certification Programs.

(1) Cervid owners wishing to seek a voluntary herd certification for brucellosis shall follow the provisions established in APHIS 91-45-16, Brucellosis in Cervidae.

(2) Cervid owners wishing to seek a voluntary herd accreditation for tuberculosis eradication shall follow the provisions established in APHIS 91-45-011, Bovine Tuberculosis Eradication. (3) After the completion of terms in APHIS 91-45-011 or APHIS 91-45-16, the OSV shall issue a certificate, for the respective disease, that shall be valid in Kentucky for a period of thirty-six (36) months from issuance.

Section 18. Retention of Records.

(1) Intrastate movement or sales documents shall be maintained by both the buyer and the seller for at least ten (10) years after the movement of the cervids.

(2) Official identification device distribution records. Any veterinarian who distributes official identification, shall maintain distribution lists and documents for at least ten (10) years after issuance.

(3) Interstate movement records and documentation that is required by this administrative regulation shall be maintained for at least ten (10) years.

(4) Herd plans, inventory records, and disposition of cervid records shall be maintained for at least ten (10) years.

Section 19. Penalties.

(1) Penalties for failure to comply with standards established in this administrative regulation.

(a) OSV shall have the authority to revoke or suspend a herd's permit for the Herd Certification Program or the Herd Monitoring Program if a person:

1. Falsifies information on an enrollment application, falsifies subsequent information required for continued enrollment, or refuses to produce documents requested by a representative of OSV;

2. Fails to comply with requirements in this administrative regulation on cervid identification, cervid inventory, herd records, testing, or cervid movement;

3. Or facility fails to remain in compliance with KRS Chapters 257 or 150, or any administrative regulation promulgated under the authority thereof;

4. Fails to comply with an instruction from a representative of OSV; or

5. Fails to produce any document require to be created or maintained by this administrative regulation.

- (b) In accordance with KRS 257.990, a permit holder shall be subject to a monetary fine for violation of this administrative regulation.
- (2) Penalties for failure to comply with Section 8, 9, 10, or 11 of this administrative regulation.
- (a) In accordance with KRS 150.740(6), a person shall be guilty of a Class D felony upon conviction; and
- (b) Upon conviction of a second violation, a person shall be permanently ineligible for renewal of a captive cervid permit.
- (3) In accordance with KRS 150.740(7), the Kentucky Department of Fish and Wildlife Resources shall have authority to seize captive cervids that were imported into the Commonwealth in violation of this administrative regulation or KRS 150.740 and 257.550.
- (4) Any person whose permit is revoked shall not reapply to the HCP or HMP programs for a period of five (5) years.
- (5) Herds enrolled in HMP or HCP programs whose permit holders fail to reapply for permits on or before the application deadline shall be immediately placed in quarantine. These herds shall be subject to a physical herd inventory prior to permit issuance. A hunting or harvest shall not take place during the quarantine period. Herds shall not be re-enrolled in any program without first paying the initial fee of \$150 and the renewal fee as required in either the HCP or HMP program.
- (6) Removal of official identification, from a cervid without written permission of the OSV shall result in the loss of status for all cervids inside the herd.

Section 20. Expiration or Removal of HCP or HMP Status. All entities that exit an HCP or HMP program that have remaining inventory shall be placed under quarantine until ~~the[such]~~ inventory is eliminated by harvest or sales permitted by the OSV to other HCP or HMP permit holders[shall be referred to the Kentucky Department of Fish and Wildlife for herd disposal].

Section 21. Restriction on hog hunting. No hunting of hogs or any member of the porcine species shall be allowed in any HCP or HMP permit area.

Section 22. Material Incorporated by Reference.

- (1) The following material is incorporated by reference:
- (a) "Cervid Chronic Wasting Disease Surveillance Identification (CCWDSI) Herd Certification Program (HCP) or Herd Monitoring Program (HMP) Application", October 2020;
- (b) "Deceased Animal Report", May 2019;
- (c) "Herd/Flock Additions", October 2020;
- (d) "Herd/Flock Deletions", October 2020;
- (e) "Retag Form", February 2017;
- (f) "USDA Chronic Wasting Disease Program Standards", May 2019;
- (g) "APHIS 91-45-16, Brucellosis in Cervidae", September 2003; and
- (h) "APHIS 91-45-011, Bovine Tuberculosis Eradication", January 1999.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, Division of Animal Health, 111 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. **This material is also available on the department's Web site at <https://kyagr.com/statevet/farmed-cervids.html>.**

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 330-6360, email clint.quarles@ky.gov.



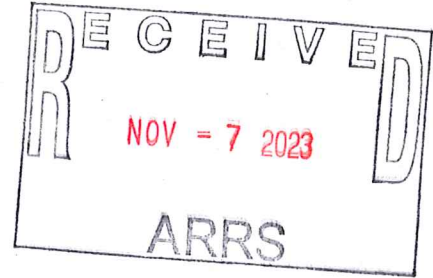
Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

Kerry Harvey
SECRETARY

125 Holmes Street
Frankfort, Kentucky 40601
Phone: (502) 564-7554
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November 7, 2023



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

Re: 501 KAR 16:310. Pre-execution medical actions.

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 501 KAR 16:310, the Justice and Public Safety Cabinet, Department of Corrections proposes the attached suggested amendment to 501 KAR 16:310.

Sincerely,

Nathan Goens, Attorney
Justice and Public Safety Cabinet

enclosure

SUGGESTED SUBSTITUTE

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

501 KAR 16:310. Pre-execution medical actions.

RELATES TO: KRS 196.030, 196.070, 196.180, 431.213-431.270, 532.135, 532.140

STATUTORY AUTHORITY: KRS 196.035, 197.020, 314.011, 431.218, 431.220, 431.224, 431.240, 431.250, 431.260, 431.270

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 and 197.020 authorize the Justice and Public Safety Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the cabinet or any of its divisions. KRS 431.220 establishes requirements for the execution of the death penalty. This administrative regulation establishes medical actions to be performed after receipt of the execution order and prior to the execution.

Section 1. Pre-execution Medical Actions after Receipt of Execution Order.

(1) For the fourteen (14) days prior to an execution, or for the remaining days if an execution order is received less than fourteen (14) days prior to an execution:

(a) All medical documentation shall be made in special notes in the condemned person's medical record.

(b) The department shall arrange for nurse visits for the condemned person during each shift daily. The contacts and observations from these nurse visits shall be recorded in the special notes of the medical record referenced in paragraph (a) of this subsection. The nurse notes shall state the presence or absence of signs of physical or emotional distress observed.

(c) A licensed psychologist shall:

1. Personally observe and evaluate the condemned person five (5) days per week on Monday through Friday;

2. Document his or her observations and evaluations in the condemned person's medical record immediately after personal contact with the condemned person;

3. Review the department medical records for the condemned person for:

a. A diagnosis of an intellectual disability as:

(i) Indicated by the criteria in the Diagnostic and Statistical Manual (DSM);~~[-or]~~

(ii) Defined by the American Association on Intellectual and Developmental Disabilities (AAIDD);

or

(iii) Indicated by other similar prevailing medical standards and clinical guidelines; or

b. An IQ test score of seventy-five (75) or lower after adjustment for the applicable standard error of measurement; and

4. **Notify the warden** if any record is located that meets the criteria in subparagraph 3 of this paragraph~~[-, the psychologist shall notify the warden].~~

(d) The designated medical professional shall review and sign the nursing documentation referenced in paragraph (b) of this subsection daily.

(e) A psychiatrist shall review the nursing documentation referenced in paragraph (b) of this subsection and any other mental health or medical documentation weekly.

(2) For the seven (7) days prior to an execution, or for the remaining days if an execution order is received less than seven (7) days prior to an execution:

(a) A doctor or advanced practice registered nurse shall:

1. Complete a physical examination; and

2. Place the documentation of the physical in the condemned person's medical record upon completion of the documentation.

(b) A psychiatric interview and evaluation to assess for signs of insanity shall be:

1. Completed by a licensed psychiatrist or a licensed advanced practice registered nurse (APRN) certified in a psychiatric mental health population focus;
 2. Placed in the condemned person's medical record; and
 3. Sent to the warden.
- (3) The designated medical professional shall:
- (a) Personally observe and evaluate the condemned person's medical condition at least twice on nonconsecutive days; and
 - (b) Document his or her observations and evaluations in the special notes of the condemned person's medical record immediately after personal contact with the condemned person.
- (4) All Kentucky State Penitentiary medical and mental health staff shall be instructed to immediately notify the warden and the designated professionals of any change in the condemned person's medical or psychiatric condition.

Section 2. Pregnancy Testing for Female Condemned Persons.

- (1) If the condemned person is female, a pregnancy test shall be administered.
- (2) A pregnancy test shall be administered at least seven (7) days prior to the scheduled date of execution, unless the execution order is received less than seven (7) days prior to the scheduled date of execution.
- (3) If the execution order is received less than seven (7) days prior to the scheduled date of execution, a pregnancy test shall be administered as soon as practicable.
- (4) If a pregnancy test is positive, then the department shall:
 - (a) Give written notice to the Attorney General or his designee, the condemned person's counsel, the condemned person, and the Governor's Office or court issuing the mandate that the condemned person is pregnant; and
 - (b) Suspend the execution pursuant to KRS 431.240(2).

Section 3. Insanity Issues.

- (1) If the warden receives information from medical or mental health staff that the condemned person exhibits signs or symptoms indicating that he or she may be insane as **demonstrated by an inability to rationally understand why the state wants to execute him or her**~~[defined in KRS 431.213(2)]~~, the warden shall inform the designated medical professional.
- (2) If the designated medical professional receives information from the warden or department medical or mental health staff, he shall determine:
 - (a) The source of the information; and
 - (b) If the information is not from the department psychiatrist, whether it is sufficient to indicate that an additional psychiatric evaluation needs to be performed on the condemned person.
- (3) The designated medical professional shall order a psychiatric evaluation if he determines one is needed.
- (4) If a department psychiatric evaluation determines that the condemned person may be insane as **demonstrated by an inability to rationally understand why the state wants to execute him or her**~~[defined in KRS 431.213(2)]~~, the department shall:
 - (a) Give written notice to the Attorney General or his designee, the condemned person's counsel, the condemned person, and the Governor's Office or court issuing the mandate that the condemned person appears to be insane; and
 - (b) Suspend the execution pursuant to KRS 431.240(2) to allow procedures consistent with KRS 431.2135.

Section 4. Serious Intellectual Disability. If the warden is notified by the psychologist described in Section 1(1)(c) of this administrative regulation concerning **a diagnosis of**~~[a diagnosis of]~~ an intellectual disability or an IQ test score of seventy-five (75) or less for the condemned person after adjustment for the applicable standard error of measurement, the:

- (1) Warden shall notify the Commissioner;~~[and]~~

- (2) Commissioner shall notify in writing the Attorney General or his designee, the condemned person's counsel, and the condemned person of the record located~~[-The notice shall state that a court order is required for the execution to be suspended.]; and~~
- (3) Commissioner shall suspend the execution pursuant to KRS 532.140 to allow procedures consistent with KRS 532.135.

Section 5. Execution Substances.~~[-The warden shall:]~~

(1) The warden shall:

(a) Notify medical staff and the ambulance service of the substances that may be used for the execution so that planning can be done in case of suspension of the execution after the drugs have been administered; and

(b)~~[(2)]~~ Direct medical staff to review the medications of the condemned person for a potential adverse reaction to the substances and notify the warden if a known potential adverse reaction is identified.

(2) If the warden is notified that a known potential adverse reaction has been identified, the warden shall notify the commissioner and the ambulance service.

(3) If the commissioner is notified that a known potential adverse reaction has been identified, the commissioner shall notify the Attorney General or designee, the condemned person's counsel, the condemned person, and the Governor's Office in writing of the potential adverse reaction.

CONTACT PERSON: Nathan Goens, 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.



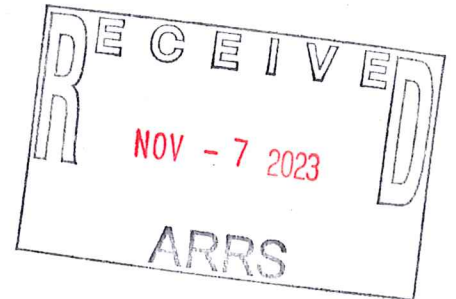
Andy Beshear
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JUSTICE AND PUBLIC SAFETY CABINET

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November 7, 2023



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

Re: 503 KAR 1:140. Peace officer, telecommunicator, and court security officer professional standards.

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 503 KAR 1:140, the Justice and Public Safety Cabinet, Department of Corrections proposes the attached suggested amendment to 503 KAR 1:140.

Sincerely,

Jonathan Gifford
Attorney at Law

enclosure

Staff-suggested Amendment

**Final Version 9/29/2023
JUSTICE AND PUBLIC SAFETY CABINET
Kentucky Law Enforcement Council**

503 KAR 1:140. Peace officer, telecommunicator, and court security officer professional standards.

Page 5

Section 4

Line 20

After "Minimum Requirements", insert ".".

Delete ":".

Page 6

Section 4(3)(a)

Line 21

After "spectrum of abilities", insert "that".

Delete "which".

Page 7

Section 4(3)(b)

Line 5

After "psychometric measures", insert "that".

Delete "which".

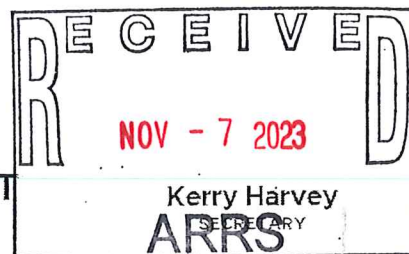
Page 21

Section 10(2)(d)

Line 16

After "training course in", insert "paragraph (a) of this".

Delete "(2)(a) of this section".



Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

125 Holmes Street
Frankfort, Kentucky 40601
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November 7, 2023

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

Re: 505 KAR 1:010. Definitions.
505 KAR 1:100. Admissions.
505 KAR 1:110. Intake and Orientation.
505 KAR 1:180. Day treatment admissions.
505 KAR 1:185. Day Treatment Programs
505 KAR 1:210. Restraints
505 KAR 1:220. Transportation of Juveniles
505 KAR 1:240. Dietary Services.
505 KAR 1:260. Education.
505 KAR 1:270. Grievances.
505 KAR 1:280. Hair and Grooming.
505 KAR 1:290. Juvenile allowance and work detail.
505 KAR 1:300. Juvenile records and information.
505 KAR 1:310 Leave, Releases and Furloughs.
505 KAR 1:360. Searches.
505 KAR 1:370. Treatment.
505 KAR 1:400. Behavior Management and Progressive Discipline.
505 KAR 1:410. Isolation and Protective Custody.
505 KAR 1:420. Youthful Offenders.

Dear Ms. Caudill:

After discussions with Legislative Research Commission staff of the issues raised by 505 KAR 1:010, 505 KAR 1:100, 505 KAR 1:110, 505 KAR 1:180, 505 KAR 1:185, 505 KAR 1:210, 505 KAR 1:220, 505 KAR 1:240, 505 KAR 1:260, 505 KAR 1:270, 505 KAR 1:280, 505

KAR 1:290, 505 KAR 1:300, 505 KAR 1:310, 505 KAR 1:360, 505 KAR 1:370, 505 KAR 1:400, 505 KAR 1:410 and 505 KAR 1:420, the Justice and Public Safety Cabinet, Department of Juvenile Justice proposes the attached suggested amendment to 505 KAR 1:010, 505 KAR 1:100, 505 KAR 1:110, 505 KAR 1:180, 505 KAR 1:185, 505 KAR 1:210, 505 KAR 1:220, 505 KAR 1:240, 505 KAR 1:260, 505 KAR 1:270, 505 KAR 1:280, 505 KAR 1:290, 505 KAR 1:300, 505 KAR 1:310, 505 KAR 1:360, 505 KAR 1:370, 505 KAR 1:400, 505 KAR 1:410 and 505 KAR 1:420.

Sincerely,



Deanna Smith
Paralegal Consultant

enclosures

SUGGESTED SUBSTITUTE

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice**

505 KAR 1:010. Definitions for 505 KAR Chapter 1.

RELATES TO: KRS 15A.065, 15A.067, 15A.305, 200.080-200.120, Chapters 600-645, ~~500 KAR 13:020~~^[15A.300]

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.067, 15A.160, 15A.305, 158.281, 197.045, 200.115, 197.045, ~~605.035, 605.150, 635.095, 635.100(7), 640.120, 645.250~~^[15A.300]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.067, 15A.160, 15A.210, ~~15A.305(5), 605.150, 635.095 and 640.120~~ authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. ~~[15A.300 requires the Department of Juvenile Justice to promulgate administrative regulations that relate to the formation, operation and duties of local juvenile delinquency prevention councils, as well as the administration and operation of the grant program.]~~ This administrative regulation defines terms used in ~~[sets forth definitions that apply to]~~ 505 KAR Chapter 1.

Section 1. Definitions.

(1) "Absent without leave" or "AWOL" means a juvenile who:

(a) Leaves an approved placement without advanced approval from the supervising authority; or

(b) Is absent from an approved community setting for more than three (3) hours without notification [is absent without permission from an alternative to detention placement or a DJJ probated or committed public offender or a youthful offender who is absent without permission while on conditions of probation, conditions awaiting placement, or who violates the terms or conditions of supervised placement].

(2) "ADO" means Administrative Duty Officer.

(3) "Administrative transfer request" or "ATR" means a request for consideration of change in placement for any juvenile in out-of-home placement.

(4) "Aftercare" means a continuum of planned supervision, schedules, activities, and services coordinated for or provided to a juvenile who:

(a) Has been released from a department operated or contracted out of home treatment placement; [group home or private child care provider] and

(b) [who] is being integrated into a local community setting.

(5) "Aggressive behavior" means behavior or acting out that could lead to the infliction of harm or injury to self, others, or property.

(6) "Alternative to Secure Detention Program" or "ATD" means any resource that provides a less restrictive environment than secure detention, such as emergency shelter care, a court resource home, a day reporting center, ~~[or]~~ home detention, **or foster care.**

(7) "Anniversary date" means the date sentenced, by which eligibility for meritorious good time shall be reviewed.

(8) "Career and technical education" means education or training in skilled trades, applied sciences, modern technologies, and career preparation offered or approved by the department.

(9) "Caregiver" means a guardian or other person exercising custodial control or supervision of a juvenile.

(10) "Case management" means a collaborative process to coordinate services and

supervision for the family unit. Components of case management include assessment, case planning, resource linkage, monitoring, documentation, advocacy, promoting family strengths, and engaging the family.

(11) "Case plan" means a written document that:

(a) Builds a plan for supervision and services that targets the risk and need factors identified in the juvenile's Criminogenic Needs Questionnaire and Risk and Criminogenic Needs Assessment;

(b) ~~and~~ Involves the juvenile, family, service providers, and natural supports; and

(c) ~~Includes~~, ~~The plan shall include~~ the goals to be pursued, the specific roles of the participants in carrying out the plan, and the specific timetable for completion of the plan.

(12) "Cavity search" means a manual or instrument inspection of a person's anal, vaginal or other body cavity by trained medical personnel. **An instrument inspection does not include whole body imaging for security.**

(13) "Chain of custody" means documented accountability for the custody of evidence from the moment it reaches the staff's custody until the moment it is presented in court, transferred, or destroyed.

(14) "Chemical agent" means non-lethal gases including Chlorobenzalmalononitrile (CS) gas and Oleoresin Capsicum (OC) gas, spray, and pepper ball delivery methods; and hexachloroethane (HC) smoke and similar chemicals used to control individuals or crowds. **~~This does not include chloroacetophenone or hydrogen cyanide (CN) (chemical mace), which is not authorized for use within DJJ or for training.~~**

(15) "Child Find" means a component of the Individuals with Disabilities Education Improvement Act 2004, **20 U.S.C. 1400-1482**, that requires states and local education agencies to identify, locate, and evaluate all children with disabilities residing in the state, regardless of the severity of their disability, who are in need of special education and related services as described by 34 C.F.R. **[§]300.111.**

(16) "Chronic program disruption" means a pattern of behavior that threatens the safety and security of the facility, self, or others where less restrictive responses have failed to modify the behavior.

(17) "Classification" means a process to determine the risks, needs, and requirements of a juvenile.

(18) "Classification placement" means the out-of-home placement of a committed juvenile as determined by the department's Classification Branch Placement Services.

(19) "Cognitive behavioral therapy" means using treatment techniques:

(a) Emphasizing the role of thoughts, feelings, and behaviors in a person's functioning and well-being; and

(b) ~~;~~ Helping a juvenile recognize ~~their~~ problematic thoughts, feelings, and behaviors and learn alternative ways to cope and prevent relapse.

(20) "Commissioner" means the commissioner of the department.

(21) "Commissioner's warrant" means a document issued by the department directing that a juvenile be taken into custody.

(22) "Commitment" means an order by a court ordering a juvenile to the care, custody, and treatment of an agency or private or state institution maintained for ~~that~~**[such]** purpose.

(23)~~(2)~~ "Community Juvenile Justice Partnership Grant Program" means the grant program utilizing state general funds for a local community to support the development of a prevention program.

(24)~~(3)~~ "Comprehensive plan" means the plan developed and adopted by the council, and approved by the commissioner, that directs the development and funding of programs and initiatives of the council for a designated period of time.

(25) "Conductive energy device" means a device that functions by applying electrical impulses to the receiver, causing involuntary muscle contractions and temporary immobilization.

(26) "Consequence" means suspension of privileges or behavioral penalty issued due to a negative behavior that is being displayed or an infraction of the facility's rules.

(27) "Contraband" is defined by KRS 520.010(1) and includes tobacco, lighters, matches, pins, needles, sewing equipment, aerosol cans, toxic cosmetics (such as nail polish remover), modeling glue, cleaning fluids, paints, razors, tools, ropes, chains, extremely toxic house plants, broken articles, vaping articles or supplies, inappropriate photos or depictions (such as nudity, sexual content, or gang signs or symbols), drug paraphernalia as defined by KRS 218A.500, and any other item used to subvert security measures, assist in an escape event, or items identified in writing by the facility or program to the juvenile.

(28)[(4)] "Council" means the local juvenile delinquency prevention council whose members are appointed by the Commissioner of the Department of Juvenile Justice.

(29) "Criminogenic Needs Questionnaire" or "Needs-Q" means a tool that identifies dynamic or changeable risk factors, called criminogenic needs, that:

(a) Contribute to the juvenile's likelihood of reoffending; and

(b) ~~[which-]~~Are to be utilized in case planning allowing for the targeting of treatment interventions for the juvenile and family in order to reduce recidivism.

(30) "Critical incident" means a sudden, unexpected occurrence that puts a person's safety at risk. This incident falls outside of the range of a day-to-day operations. If it goes unaddressed, a critical incident may lead to injury or death.

(31) "Dangerous contraband" is defined by KRS 520.010(3) and:

(a) Means contraband that is capable of endangering the safety or security of a facility or persons therein, including saws, files, and similar metal cutting instruments, any controlled substance, any quantity of an alcoholic beverage, any quantity of marijuana, THC delta-8, or THC delta-9, dangerous instruments, and deadly weapons as defined by KRS 500.080; and

(b) ~~Does[-. The definition shall]~~ not include the parts of the human body portion of the definition of dangerous instrument.

(32) "Dangerous instrument" is defined by KRS 500.080(3).

(33) "Day release" means both escorted and unescorted leave into the community of less than twenty-four (24) hours duration from placement.

(34) "Day treatment" means a community-based treatment program for a juvenile **in need of intensive therapeutic supports outside of a residential or hospital setting that[and] offers a range of services including education; clinical assessment; rehabilitation activities; individual, family, and group therapy; and other interventions[whose behavior precludes participation in a regular school].**

(35) "DCBS" means the Department of Community Based Services.

(36) "Deadly weapon" is defined by KRS 500.080(4).

(37)[(36)][(5)] "Department" or "DJJ" means the Department of Juvenile Justice.

~~[(37) "DCBS" means Department of Community Based Services.]~~

(38) "Detention Alternative Coordinator" or "DAC" means a person employed by the Department of Juvenile Justice who is responsible for:

(a) The development of alternatives to secure detention programs;

(b) Screening of juveniles to determine who is appropriate for non-secure detention; and

(c) Oversight of the juveniles placed in these programs.

(39) "Detention facility" is defined by KRS 520.010(4).

~~[(39) "Detention Alternative Coordinator" or "DAC" means a person employed by the Department of Juvenile Justice that is responsible for the development of alternatives to secure detention programs, screening of juveniles to determine who is appropriate for non-secure detention, and oversight of the juveniles placed in these programs.]~~

(40) "Detention risk assessment instrument" means the scoring instrument used by the Department of Juvenile Justice to determine whether a juvenile should be placed in secure, non-

secure, or home detention care.

(41) ***["Discrimination" means an abridgement of rights based upon a person's race, color, religion, national origin, sex, age, disability, sexual orientation, gender identity, genetic information, or veteran status.***

(42) ***"Discharge planning conference" means a meeting of the treatment team to finalize the aftercare plan and facilitate the transition of the juvenile to a lower level placement.***

(42)(43) ***"Discipline" means a process to assist the juvenile in learning socially acceptable behaviors and rule compliance through the use of natural and logical consequences.***

(43)(44) ***"Disciplinary review" means a non-judicial administrative procedure to determine if grounds exist to support discipline for a major rule violation.***

(44)(45) ***"Disciplinary Review Committee" means staff designated to conduct a disciplinary review.***

(45) ***"Discrimination" means an abridgement of rights based upon a person's race, color, religion, national origin, sex, age, disability, sexual orientation, gender identity, genetic information, or veteran status.***

(46) ***"Drug screen" means a preliminary screening of a urine specimen for the presence of selected categories of drugs.***

(47) ***"Drug test" means processing a urine specimen for confirmation of the presence of drugs.***

(48) ***"Educational good time" means a sentence credit for a youthful offender for an educational accomplishment pursuant to KRS 197.045(1)(a)2.(2) and 3.(3) and approved pursuant to 505 KAR 1:260.***

(49) ***"Electronic monitoring" means a supervision tool that provides electronic information about the juvenile's presence at, or absence from, his or her residence or other location.***

(50) ***"Emergency ATR" or "E-ATR" means an electronic request for transfer that is executed through supervisory channels, without committee review, and subsequently supported with written documentation.***

(51) ***"Emergency furlough" means a furlough that may be granted as a result of a crisis or urgent situation.***

(52) ***"Escape" is defined by KRS 520.010(5).***

(53) ***"Escorted day leave" means the authorized absence of a juvenile from the detention facility into the community for a period of less than 24-hours under direct escort and supervision of the detention center staff.***

(54) ***"Extraordinary meritorious good time" means a sentence credit that may be awarded to a youthful offender pursuant to KRS 197.045(1)(b)3. for exceptional service in connection with facility operations and programs in emergencies.***

(55) ***"Facility" means a place, institution, building (or part thereof), set of buildings, structure, or area (whether or not enclosing a building or set of buildings) that is used by an agency for the confinement of individuals as established in 28 C.F.R. [§] 115.5.***

(56)(55) ***"Facility restriction" means restricting a juvenile to the confines of the facility or program grounds.***

(57)(56) ***"Family Accountability, Intervention, and Response Team" or "FAIR Team" means the team described in KRS 605.035(1).***

(58)(57) ***"Family engagement" means working with the juvenile's family or caregiver as a partner with the Department of Juvenile Justice in the juvenile's treatment throughout the continuum of care.***

(59) ***"FRA" means Facilities Regional Administrator.***

(60)(58) ***"Fixed restraint" means the restraining of an individual to a bed, restraint chair, or any stationary object and is commonly referred to as "four/five-point restraint".***

(59) ***"Furlough" means an approved, unescorted leave of absence granted to a juvenile extending beyond a twenty-four (24) hour period from placement.***

[(60) "FRA" means Facilities Regional Administrator.]

(61) "Grievance" means a written statement in which a complaint or dissatisfaction is documented and filed in the department grievance process.

(62) "Grievance officer" means a facility staff person trained by the department Ombudsman and assigned to process juvenile grievances.

(63) "Group home" or "GH" means a residential program emphasizing family-style living in a homelike environment that generally houses eight (8) to ten (10) juveniles.

(64) "Home detention" means ordered supervision of a juvenile in his or her own home with or without electronic monitoring.

(65) "Home evaluation" means an evaluation and subsequent report of findings to determine if supervision in a proposed residence is in the best interest of the juvenile and the community.

(66) "Home state" means the state where the juvenile's legal guardian or custodial agency is located.

(67) "Human trafficking" is defined by KRS 529.010(7).

(68) "Immediate family" means:

(a) Spouse;

(b) Children or stepchildren;

(c) Parents or stepparents;

(d) Grandparents;

(e) Siblings or stepsiblings and their spouses; and

(f) Aunts and uncles and their spouses.

(69) "Incident" means an unusual event or occurrence including:

(a) Use of isolation;

(b) AWOL or escape;

(c) Assault by juvenile on juvenile;

(d) Assault by juvenile on staff;

(e) Major property destruction;

(f) Possession of contraband;

(g) Death of a resident;

(h) Major injury;

(i) Suicide attempt;

(j) Use of restraint;

(k) Taking of hostages;

(l) Medication error;

(m) Rioting or attempting to incite a riot;

(n) Self-harming behavior; or

(o) Other similarly serious occurrence that a DJJ supervisor determines is an incident.

(70) "Individual client record" or "ICR" means the electronic case file, sometimes referred to as "juvenile offender records index" or "JORI", and hard case file of an individual juvenile by which information and documentation is maintained.

(71) "Individual Education Program" or "IEP" means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with 707 KAR 1:320.

(72) "Individual Learning Plan" or "ILP" means a document usually developed online for a student in middle and high school that focuses on career exploration, assessment of skills and interests, reflection on work related experiences, and the creation of an education plan that includes personal goals and exploration of college and post-secondary opportunities.

(73) "Individual Learning Plan Addendum" or "ILPA" means an educational action plan recorded in Infinite Campus that addresses the changed educational needs of a student based upon entry into or exit from an alternative education program.

(74) "Individual Program Plan" or "IPP" means a plan for a juvenile who struggles to participate in the normal routine of the facility, including a juvenile who is assaultive, has chronic program disruption, or who presents a danger to themselves.

- (75) "Individual Treatment Plan" or "ITP" means a written document that:
- (a) Takes into consideration the severity of the current offense, the risk and need factors identified in the juvenile's needs assessment, and any additional assessments;
 - (b)[, and] Identifies the treatment goals to be pursued;
 - (c)[,] Specifies the roles of the participants in carrying out the plan;[,] and
 - (d) Specifies a timetable for completion of the plan.
- (76) "Intensive room supervision" means constant staff supervision of a juvenile placed in a room with the door open for a period of time.
- (77) "Internal Investigations Branch" or "IIB" means the office within the Justice and Public Safety Cabinet that investigates complaints of abuse or a special incident ***following the procedures established in 500 KAR 13:020.***
- (78) "Isolation" means the removal of a juvenile from the general population and placement in a room with the door closed due to a threat to the safety or security of the facility, staff, or juvenile.
- (79) "Jail" means county jails and correctional or detention facilities, including correctional facilities defined in KRS 600.020 operated by and under the supervision of any political subdivision.
- (80) "JSW" means Juvenile Service Worker.
- (81) "Juvenile" means:
- (a) Any person probated, committed, or under the supervision of the Department of Juvenile Justice who is subject to the jurisdiction of the juvenile court;
 - (b) Any youthful offender in the custody of the Department of Juvenile Justice prior to final sentencing; and
 - (c) Any person under the age of 18, unless under adult court supervision and confined or detained in a prison or jail as established in 28 C.F.R. [§] 115.5.
- (82) "Juvenile holding facility" means a physically secure setting ***that:***
- (a)[-which] Is an entirely separate facility or portion or wing of a building containing an adult jail;
 - (b)[, -which] Provides total separation between juvenile and adult facility spatial areas; and
 - (c)[-which] Is staffed by sufficient certified staff to provide twenty-four (24) hour per day supervision.
- (83)[(6)] "Juvenile Justice Advisory Board" means the board created by KRS 15A.065.
- (84) "Juvenile sexual offender" is defined by KRS 635.505(2) and includes a juvenile adjudicated for an offense involving sex or of a sexual nature as determined by the sending state or who may be required to register as a sex offender in the sending or receiving state.
- (85) "Lateral transfer" means the transfer of a juvenile from one placement to another within the same placement level.
- (86) "Least restrictive alternative" is defined ***by[in]*** KRS 600.020(38).
- (87) "Legal guardian" means a parent or other person who is legally responsible for the care and management of the juvenile.
- (88) "Leisure time" means ***[structured]*** free time in which juveniles are given the opportunity to engage in constructive activities such as drawing, writing, reading, or listening to music.
- (89) "Level 4 facility" means a maximum security youth development center as ***established[set forth]*** in KRS 15A.0652.
- (90) "Level of Placement Continuum" means the movement of a juvenile within placement levels.
- (91) "Level system" means a ***[three -3]*** tiered system to provide a structured system for measuring progression toward treatment goals.
- (92) [(7)] "Local community" means the area represented by the council.
- (93) "Maximum secure facility" means a juvenile residential facility that is physically secure.
- (94) "Mechanical restraint" means a device, including handcuffs, ***flexicuffs, leg shackles,[anklet][, and]*** waist chains, and black boxes used by department staff to restrict the

free movement of a juvenile.

(95) "Meritorious good time" means a sentence credit that may be awarded to a youthful offender pursuant to KRS 197.045(1)(b) ~~2. (2)~~ for ~~[good behavior,]~~ performing **exceptionally meritorious service or performing** duties of outstanding importance ~~[, or exceptional service]~~ in connection with facility operations and programs ~~[and pursuant to KRS 197.045(1)(b)(3) in emergencies].~~

(96) "Natural supports" means personal associations and relationships typically developed in the community that enhance the quality and security of life for people, including ~~[, but not limited to,]~~ family relationships; friendships reflecting the diversity of the neighborhood and the community; association with fellow students or employees in regular classrooms and work places; and associations developed through participation in clubs, organizations, and other civic activities.

(97) "Needs assessment" means identifying dynamic or changeable risk factors, called criminogenic needs, that:

(a) Contribute to the juvenile's likelihood of reoffending; and

(b) ~~[which]~~ Are to be utilized in case planning allowing for the targeting of treatment interventions for the juvenile and family or caregiver in order to reduce recidivism.

(98) "Office of Career and Technical Education" or "OCTE" means an office within the Kentucky Department of Education that addresses career and technical education as a component of the high school curriculum.

(99) "One-to-one supervision" means an individual staff member is assigned to directly supervise no more than one (1) juvenile with the staff staying within very close proximity to ensure constant supervision and immediate intervention if needed for safety reasons.

(100) "Open entry-open exit" means allowing a juvenile to enter school and exit school as the student enters and exits DJJ custody rather than during normal school semester or quarter schedules.

(101) "Orientation Treatment Plan" or "OTP" means a written document outlining short term objectives and expectations and any problems that require immediate attention and will be in effect until an Individual Treatment Plan is written.

(102) "Out-of-home placement" is defined by KRS 600.020(45).

(103) "Pat-down search" means a running of the hands over the clothed body of a juvenile by an employee to determine if the individual possesses contraband.

(104) "Physical restraint" means a set of techniques used to physically manage ~~[an out of control]~~ a juvenile exhibiting aggressive behavior.

(105) "Physically secure facility" is defined by KRS 600.020(50).

(106) ~~[(8)]~~ "Plan year" means the period beginning July 1 of the fiscal year for which the commissioner approves a council's comprehensive plan, and ending on June 30 of the fiscal year.

(107) "Program days" means scheduled days for a student's attendance at a day treatment program.

~~(108) [(106)]~~ "Public offender" means a juvenile who is accused of an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense.

~~[(108) "Program days" means scheduled days for a student's attendance at a day treatment program.]~~

(109) "Reasonable suspicion" means a less stringent standard than probable cause requiring the authority acting to be able to point to specific and articulable facts that, taken together with rational inferences from those facts, reasonably warrant a belief that an individual is in possession of contraband.

(110) ~~[(9)]~~ "Regional director" means the Department of Juvenile Justice Regional Director for the area in which the council is based.

(111) "Risk assessment" or "Risk and criminogenic needs Assessment" or "RCNA" means a

standardized method of data collection that estimates the likelihood that continued delinquent behaviors will occur without intervention and guides intervention planning.

(112) "Room confinement" means a juvenile at a Level 4 facility is placed in a room in a general population unit with the door closed for a period of time not to exceed four (4) hours for the purposes of assisting the juvenile with regaining control of **the juvenile's[their]** behavior while avoiding a placement in isolation.

(113) "Room restriction" means temporary removal of a juvenile from the general population to a specified location for behavior management with the door open.

(114) "Runaway" means any child under the juvenile jurisdictional age limit established by **the child's[their]** home state who has run away from **his or her[their]** residence without consent of the parent, legal guardian, person, or custodial agency entitled to **[their-]legal custody.**

(115) "Section 504 plan" or "504 plan" means a written statement developed for a student with a disability that includes the provision of regular or special education and related aids and services designed to meet individual educational needs in accordance with **[the federal regulations issued under]** 34 C.F.R. **[sec-]104.33.**

(116) "Secure facility" means a facility **[which is]** approved for the holding of juveniles **that:**

(a) [and-]s [one which is] either staff-secured or locked; and

(b) [which-] Prohibits a juvenile in custody from leaving.

(117) "Secure juvenile detention facility" is defined by KRS 15A.200(2)**[(4)].**

(118) "Security staff" means employees primarily responsible for the supervision and control of juveniles in housing units, recreational areas, dining areas, and other program areas of the facility as established in 28 C.F.R. **[§-]115.5.**

(119) "Security threat group" or "STG" means a formal or informal ongoing group of juveniles varying in organization and composition that **[have-]:**

(a) Have common characteristics, interests, and goals distinguishing them from other juveniles;

(b) Have a common name or common identifying signs, colors, or symbols;

(c) Individually or collectively engage in or have engaged in a pattern of continued criminal activity or departmental rule violations; and

(d) Have the potential to act in concert to:

1. Interrupt the safe, secure, and orderly operations of an institution or any other department facility; or

2. Pose a threat or potential threat to public safety.

(120) "Sex Offender Registry" means a registration system for adults or youthful offenders who have committed a sex crime and have been tried and sentenced as adults.

(121) "Sexual abuse" means the behavior described in 28 C.F.R. **[§-]115.6.**

(122) "Sexual offender" is defined by KRS 17.500(9).

(123) "Shift log" means a written record that documents routine information, emergency situations, and unusual incidents.

(124) "Special incident" is defined by 500 KAR 13:020.

(125) "Special Management Plan" means a specific therapeutic intervention for an identified juvenile to work through difficult treatment issues and develop personal behavior management skills without disrupting the treatment culture of the overall program.

~~(126) "Specialized programming" means DJJ-operated or, if reasonably available, private child care programs that provide specialized treatment services to identified populations served by the department, which may include sexual offender treatment programs or programs for a juvenile with an identified mental health need such as a juvenile with a severe emotional disability.~~

(126)~~[(127)]~~ "Staff secure" is defined by KRS 600.020(64).

(127)~~[(128)]~~ "Staff-secure shelter" means **short-term**, 24-hour custodial care for a juvenile in a **[non-department]** staff secure setting.

(128)[(129)] "Status offender" means a juvenile who is accused of committing **an act[acts]**, which if committed by an adult, would not be a crime.

(a) Status offenses **[shall]** include:

1. Beyond the control of school or beyond the control of parents;
2. Habitual runaway;
3. Habitual truant; and
4. Alcohol offenses as provided in KRS 244.085.

(b) Status offenses **do[shall]** not include violations of state or local ordinances **that[which]** may apply to children such as a violation of curfew.

(129)[(130)] "Step-down" means transition of a juvenile from a higher placement level to a lower placement level.

(130)[(131)] "Step-up" means transition of a juvenile from a lower placement level to a higher placement level.

(131)[(132)] "Strip search" means a search that requires a person to remove or arrange some or all clothing so as to permit a visual inspection of the person's breasts, buttocks, or genitalia.

(132)[(133)] "Time out" means the temporary removal of a juvenile from general programming in order for the juvenile to be given a chance to regain control of **the juvenile's[their]** behavior.

(133)[(134)] "Track" means out-of-home timeframes dependent upon type of offense **pursuant to[per]** KRS 15A.0652.

(134)[(135)] "Treatment team" means department staff and professionals who work collaboratively to assist and aid the juvenile in achieving goals.

(135)[(136)] "Unescorted day leave" means the authorized absence from the detention center into the community for a period of less than 24-hours without escort or supervision, or under escort and supervision of anyone other than the detention center staff, and may be referred to as furlough by the court system.

(136)[(137)] "Unfounded" means the charges are false or the employee was not involved in the incident.

(137)[(138)] "Unit restriction" means restricting a juvenile to a specific program area.

~~(139) "Vocational education" means soft-skills courses, including resume building, interviewing, and working relations, which contribute to the development of a successful employee.~~

(138)(140)] "Work detail" means daily work and chore assignments related to housekeeping, maintenance of the facility or its grounds, or personal hygiene needs.

(139)[(141)] "Work experience program" means an organized work training program offered as a component of the educational or career and technical programming with an emphasis on instruction and evaluation rather than task accomplishment.

(140)[(142)] "Work release" means approved day leave for a juvenile to participate in employment.

(141)[(143)] "YDC" means youth development center.

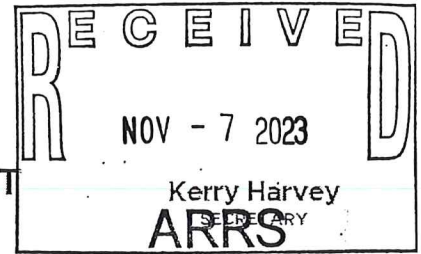
(142)[(144)] "Youth" means a person who is under the custody, control, or supervision of the Department of Juvenile Justice, as a result of a court order or interstate supervision.

(143)[(145)] "Youth Activity Fund Account" means the financial account holding money owned by the current juvenile population through individual juvenile funds earned through allowance and work experience and money held for the benefit of the juvenile population obtained through work projects, sales of articles produced by juveniles, and private donations.

(144)[(146)] "Youth Activity Funds" means a sub-ledger of the youth activity fund account that is comprised of donations, profit from work projects, and vending machine commissions and shall solely be used for benefit of the juveniles including group social and recreational pursuits of the juveniles.

(145)[(147)] "Youth Counselor" means the department staff who is responsible for coordinating treatment within a day treatment, group home, youth development center, or detention facility.

(146)(~~148~~) "Youthful offender" is defined by KRS 600.020(72).



Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

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November 7, 2023

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

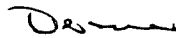
- Re: 505 KAR 1:010. Definitions.
505 KAR 1:100. Admissions.
505 KAR 1:110. Intake and Orientation.
505 KAR 1:180. Day treatment admissions.
505 KAR 1:185. Day Treatment Programs
505 KAR 1:210. Restraints
505 KAR 1:220. Transportation of Juveniles
505 KAR 1:240. Dietary Services.
505 KAR 1:260. Education.
505 KAR 1:270. Grievances.
505 KAR 1:280. Hair and Grooming.
505 KAR 1:290. Juvenile allowance and work detail.
505 KAR 1:300. Juvenile records and information.
505 KAR 1:310 Leave, Releases and Furloughs.
505 KAR 1:360. Searches.
505 KAR 1:370. Treatment.
505 KAR 1:400. Behavior Management and Progressive Discipline.
505 KAR 1:410. Isolation and Protective Custody.
505 KAR 1:420. Youthful Offenders.

Dear Ms. Caudill:

After discussions with Legislative Research Commission staff of the issues raised by 505 KAR 1:010, 505 KAR 1:100, 505 KAR 1:110, 505 KAR 1:180, 505 KAR 1:185, 505 KAR 1:210, 505 KAR 1:220, 505 KAR 1:240, 505 KAR 1:260, 505 KAR 1:270, 505 KAR 1:280, 505

KAR 1:290, 505 KAR 1:300, 505 KAR 1:310, 505 KAR 1:360, 505 KAR 1:370, 505 KAR 1:400, 505 KAR 1:410 and 505 KAR 1:420, the Justice and Public Safety Cabinet, Department of Juvenile Justice proposes the attached suggested amendment to 505 KAR 1:010, 505 KAR 1:100, 505 KAR 1:110, 505 KAR 1:180, 505 KAR 1:185, 505 KAR 1:210, 505 KAR 1:220, 505 KAR 1:240, 505 KAR 1:260, 505 KAR 1:270, 505 KAR 1:280, 505 KAR 1:290, 505 KAR 1:300, 505 KAR 1:310, 505 KAR 1:360, 505 KAR 1:370, 505 KAR 1:400, 505 KAR 1:410 and 505 KAR 1:420.

Sincerely,



Deanna Smith
Paralegal Consultant

enclosures

SUGGESTED SUBSTITUTE

JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice

505 KAR 1:100. [~~Department of Juvenile Justice Policies and Procedures:~~]Admissions.

RELATES TO: KRS 15A.065, 15A.0652, 15A.067, **15A.305**, 200.080-200.120, Chapters 600-645, **2023 Ky. Acts ch. 106, sec. 6**

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.069, 15A.160, [~~15A.210;~~] 15A.305[~~(5)~~], [~~200.145;~~] 605.150, 635.095, 635.100(7), 640.120, 645.250, **2023 Ky. Acts ch. 106, sec. 6**

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.069, 15A.160, [~~15A.210;~~] 15A.305(5), 605.150, 635.095, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation establishes admission, classification, and notice requirements for juveniles in the custody of the department in juvenile detention centers, youth development centers, and group homes[~~incorporates by reference into regulatory form materials used by the Department of Juvenile Justice in the implementation of a statewide juvenile services program~~].

Section 1. Admission to a Juvenile Detention Center. (1) The agency or individual presenting a juvenile at a secure detention facility shall provide documentation authorizing detention or the juvenile shall not be accepted for admission.

(2) A juvenile with a serious physical injury or medical condition requiring skilled nursing care or who reports or appears to be under the influence of a drug or alcohol shall be denied admission until seen by a medical professional and determined to be medically stable.

(3) A juvenile may be housed to best accommodate ***the juvenile's[their]*** medical needs, if possible.

(4) Juveniles shall be housed so as to reduce known risk factors, including proximity and interaction with co-defendants and others with whom they have emergency protective or other no-contact orders, security threat group assessments, suicide risk, and assaultive and disruptive behavior, and meet identified developmental and individual needs.

(5)**(a)1. Until a plan outlined in 2023 Ky. Acts ch. 106, sec. 6[Section 6 of Senate Bill 162 enacted during the 2023 Regular Session] is operational, DJJ shall continue to operate under the current emergency structure, and shall operate at least one female only detention facility and for male youth, DJJ shall[DJJ may] operate both high-security detention facilities and low-security detention facilities.**

2. Once the plan outlined in 2023 Ky. Acts ch. 106, sec. 6 is operational, DJJ shall operate under a regional model of juvenile detention center facilities, while safely segregating males and females and separating violent and nonviolent offenders subject to the provisions established in subsections (6) through (8) of this section.

(b)[(a)] The high-security detention centers shall house juveniles fourteen (14) years of age or older that are accused of having committed a Class C felony or above. The offense allegations for juveniles charged with a Class D felony may be reviewed for concerns of violence and placement in a high-security detention center[-][or an unusually violent Class D felony].

(c)[(b)] The low-security detention centers shall house juveniles thirteen (13) years of age or younger that are accused of having committed a Class C felony or above and all juveniles that are accused of having committed a Class D felony or below, except as provided in

paragraph[subsection] (a) of this subsection.

(6) DJJ may determine and designate the detention center in which a juvenile will be detained based on:

(a) Multiple factors such as safety, security, staffing needs, and the fluctuating number of juveniles and capacities at different locations; and

(b)[, and] Known risk factors, including proximity and interaction with co-defendants and others with whom the juvenile has[they have] emergency protective or other no-contact orders, security threat group assessments, suicide risk, and assaultive and disruptive behavior; and

(c) Meeting[, and meet] identified developmental and individual needs.

(7) DJJ may transfer a juvenile initially placed at a low-security detention center to a high-security detention center if the juvenile has:

(a) Injured or endangered the life or health of self, another juvenile, or staff at the detention center;

(b) Caused **chronic program** disruption in a detention center;

(c) Smuggled contraband into a detention center;

(d) Escaped from a detention center;

(e) Established a pattern of disruptive behavior not conducive to the operations and procedures of a low-security detention center;

(f) A medical issue; or

(g) Another factor that causes an operational or security issue that can be addressed by the transfer.

(8) DJJ may transfer a juvenile initially placed at a high-security detention center to a low-security detention center if the juvenile has:

(a) A special vulnerability, for example, small stature or low weight compared to other juveniles in the facility;

(b) A medical issue; or

(c) Another factor that causes an operational or security issue that can be addressed by the transfer.

Section 2. Placement of Committed Juveniles. (1) Juveniles committed or sentenced to the Department of Juvenile Justice shall be assessed and placed based upon the least restrictive environment within which the juvenile's treatment needs can safely be met, identifying special needs of a juvenile, and identifying the level of structure and supervision required by a juvenile subject to bed availability.

(2) A juvenile shall be placed according to the classification procedures listed in the Classification and Placement Manual.

Section 3. Juvenile Rights. A written list of rights shall be provided to each juvenile during the admission process and signed by the juvenile. The following rights shall be afforded to all juveniles:

(1) Juveniles shall have the right of access to the courts and confidential contact with attorneys.

(2) Juveniles shall be free from discrimination based on race, color, sex, disability, age, national origin, religion, sexual orientation, gender identity, genetic information, political affiliation, or veteran status in making administrative decisions and providing access to programs.

(3) The juvenile and parents or guardians shall be involved in the treatment planning process to the maximum extent possible.

(4) The juvenile's records shall be confidential.

(5) Audiovisual or tape recordings used as a part of the juvenile's treatment shall only be used for teaching or therapy purposes with written permission from the juvenile and parents or guardians.

(6) Juveniles may participate in research studies approved by the Commissioner's Office with prior written **informed** consent of the juvenile and parents or guardians.

(7) Juveniles shall be treated in a humane manner and shall have the right to be protected from exploitation, neglect, and physical, sexual, and emotional abuse. This shall prohibit corporal punishment, intentional injury, use of intimidation, threatening, or abusive language toward the juvenile, either verbally, in writing, or by gesture. Any suspected abuse or neglect of a juvenile shall be reported in accordance with KRS 620.030.

(8) An academic and vocational program to meet an individual juvenile's needs shall be provided.

(9) Each juvenile detention center, youth development center, and group home shall designate space and time frames for juveniles to voluntarily participate in religious activities. Religious practices that pose a danger to the juvenile, other juveniles, or staff, or that create a danger to the security of the facility shall be prohibited.

(10) Juveniles shall have the right to refuse to participate in uncompensated work assignments unless the work is related to housekeeping or maintenance of the facility or personal hygienic needs, or the work is part of an approved vocational or training program.

(11) Access to medical, dental, and mental health care including twenty-four (24) hour emergency medical services shall be provided for juveniles in juvenile detention centers, youth development centers, and group homes.

(12) Living units shall have adequate lighting, heat, ventilation, and an overall safe environment maintained in compliance with state and local fire and safety laws and regulations.

(13) Juveniles shall be afforded daily opportunity for personal hygiene.

(14) Three meals a day and two snacks shall be provided to each juvenile in residential facilities. Special diets shall be provided **if/when** necessary to meet health or religious requirements.

(15) Juveniles shall be afforded the opportunity for a sufficient night's sleep in residential facilities.

(16) Juveniles shall be informed of the right to file a grievance.

(17) Juveniles shall be informed of the procedures for contacting outside investigative units to report any act in which the health or welfare of a resident is harmed or threatened with harm by a facility staff person. The juvenile shall sign an acknowledgment of receipt of these procedures.

(18) Telephones programmed to dial directly to the Internal Investigations Branch shall be installed and kept in good working order in each residential facility. A toll-free number for contacting the IIB shall be available and conspicuously posted in juvenile access areas of group homes and detention facilities. Telephones shall be located in areas that provide maximum availability while preserving program scheduling and services.

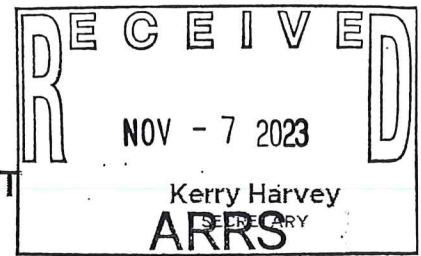
(19) Juveniles may also report allegations of dependency, abuse, neglect, and special incidents to the Cabinet for Health and Family Services.

Section 4. Out-of-State Placement. Referrals for out-of-state placement may be initiated if there are no resources within Kentucky to meet the juvenile's specific treatment needs.

Section 5. Incorporation by Reference. [The following material is incorporated by reference: (a) The "Department of Juvenile Justice Policy and Procedures: Admissions", February 11, 2019, which includes the following: 200Definitions (Amended 2/11/19); 201Classification (Amended 2/11/19); 202Youth Placement Priority (Amended 11/30/18); 203Daily Census and Population (Amended 11/30/18); 204Administrative Transfers (Amended 11/30/18); 205Youth Rights (Amended 2/11/19); 206Youth Access to Outside Investigative Agencies (Amended 11/30/18); and 207Out-of-State Placement (Amended 11/30/18); and (b)]The "Classification and Placement Manual", Amended 2/11/19, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at

the Department of Juvenile Justice, Office of the Commissioner, 1025 Capital Center Drive, Third Floor, Frankfort, Kentucky 40601, or at any department field office, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Juvenile Justice Web site at <https://djj.ky.gov/200%20Policy%20Manual/Classification%20and%20Placement%20Manual%2040519.pdf> [<https://djj.ky.gov/About%20DJJ/Pages/lrrefilings.aspx>].



Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

125 Holmes Street
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November 7, 2023

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

Re: 505 KAR 1:010. Definitions.
505 KAR 1:100. Admissions.
505 KAR 1:110. Intake and Orientation.
505 KAR 1:180. Day treatment admissions.
505 KAR 1:185. Day Treatment Programs
505 KAR 1:210. Restraints
505 KAR 1:220. Transportation of Juveniles
505 KAR 1:240. Dietary Services.
505 KAR 1:260. Education.
505 KAR 1:270. Grievances.
505 KAR 1:280. Hair and Grooming.
505 KAR 1:290. Juvenile allowance and work detail.
505 KAR 1:300. Juvenile records and information.
505 KAR 1:310. Leave, Releases and Furloughs.
505 KAR 1:360. Searches.
505 KAR 1:370. Treatment.
505 KAR 1:400. Behavior Management and Progressive Discipline.
505 KAR 1:410. Isolation and Protective Custody.
505 KAR 1:420. Youthful Offenders.

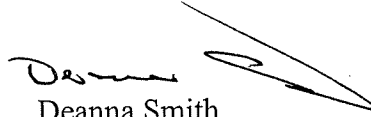
Dear Ms. Caudill:

After discussions with Legislative Research Commission staff of the issues raised by 505 KAR 1:010, 505 KAR 1:100, 505 KAR 1:110, 505 KAR 1:180, 505 KAR 1:185, 505 KAR 1:210, 505 KAR 1:220, 505 KAR 1:240, 505 KAR 1:260, 505 KAR 1:270, 505 KAR 1:280, 505

TEAM
KENTUCKY.

KAR 1:290, 505 KAR 1:300, 505 KAR 1:310, 505 KAR 1:360, 505 KAR 1:370, 505 KAR 1:400, 505 KAR 1:410 and 505 KAR 1:420, the Justice and Public Safety Cabinet, Department of Juvenile Justice proposes the attached suggested amendment to 505 KAR 1:010, 505 KAR 1:100, 505 KAR 1:110, 505 KAR 1:180, 505 KAR 1:185, 505 KAR 1:210, 505 KAR 1:220, 505 KAR 1:240, 505 KAR 1:260, 505 KAR 1:270, 505 KAR 1:280, 505 KAR 1:290, 505 KAR 1:300, 505 KAR 1:310, 505 KAR 1:360, 505 KAR 1:370, 505 KAR 1:400, 505 KAR 1:410 and 505 KAR 1:420.

Sincerely,


Deanna Smith
Paralegal Consultant

enclosures

SUGGESTED SUBSTITUTE

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice**

505 KAR 1:110. Intake and orientation~~[Department of Juvenile Justice Policy and Procedures Manual: program services].~~

RELATES TO: KRS 15A.065, 15A.0652, 15A.067, 15A.305, 200.080-200.120, Chapters 600-645
STATUTORY AUTHORITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, ~~[15A.210, 200.145,]~~605.150, 635.095, 635.100(7), ~~[635.500,]~~640.120, 645.250
NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, ~~[15A.210,]~~605.150, 635.095, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation establishes the requirements for intake and orientation of a juvenile in a department or contracted detention center, youth development center, or group home~~[incorporates by reference into regulatory form materials used by the Department of Juvenile Justice in the implementation of a statewide juvenile services program].~~

Section 1. Intake.

- (1) A juvenile shall be screened and assessed at intake to assist in developing appropriate services for the juvenile.
- (2) A juvenile shall not be discriminated against on the basis of race, color, sex, disability, age, national origin, religion, sexual orientation, gender identity, genetic information, political affiliation, or veteran status.
- (3) A juvenile shall be screened to determine if the juvenile is in crisis and requires referral to a mental health professional pursuant to KRS 15A.305(8)(a).

Section 2. Juvenile Detention Center Intake.

- (1) A juvenile shall be informed of the intake and orientation process at the time of intake.
- (2) Any medication or prescription for medication brought with the juvenile shall be immediately turned over to the facility health authority or designee for instructions regarding disposition.

Section 3. Screening for Detention Centers, ~~Youth~~Juvenile Development Centers, and Group Homes.

- (1) Staff shall provide the individual being screened with a verbal overview of the procedure for intake and orientation.
- (2) A juvenile shall have the following screenings:
 - (a) Initial health;
 - (b) Ectoparasite; and
 - (c) Mental health.
- (3) A juvenile may have a drug and alcohol screening.
- (4) Absent exigent circumstances, screenings shall be conducted by same gendered staff.
- (5) Mental Health Screening. Mental health screening shall be completed by staff trained in use of the screening instrument. If a juvenile is determined to have mental health needs, the facility health authority shall make the determination of need and make contact as appropriate with a mental health provider for a mental health assessment. The mental health screening shall be completed within twenty-four (24) hours of admission.

Section 4. Risk Assessment Screening. After the initial detention hearing, a juvenile ordered detained in a state-operated detention facility shall be screened using the detention risk assessment instrument to determine eligibility for the alternative detention program.~~[.]~~

Section 5. Human Trafficking Screening. A human trafficking screening shall be conducted for a juvenile following completion of the Individual Treatment Plan but no later than thirty (30) days after admission.

Section 6. PREA Screening. The ***Prison Rape Elimination Act*** (PREA) vulnerability assessment shall be completed during intake, ***34 U.S.C. 30301 – 30309.***

Section 7. Security Threat Group Screening. An STG screening shall be completed during intake.

Section 8. Orientation in Juvenile Detention Centers, YDCs, and Group Homes.

(1) A juvenile shall receive orientation in ***the juvenile's[their]*** own language. Material shall either be written or interpreted to ensure understanding of the juvenile's rights and the facility's rules, including grievance procedures, discipline and penalties, and how to access medical and mental health services.

(2) Within twenty-four (24) hours of admission, facility staff shall provide a written handbook of rules and discuss them with the juvenile. If the juvenile handbook is provided electronically, juveniles in isolation shall be provided the information in a written format so that their access to the information is not impeded by their custody status. Receipt of the handbook shall be documented by a statement signed and dated by the juvenile and staff. Staff shall assist the juvenile in understanding the material if a literacy, hearing, or visual impairment issue exists and shall provide interpretation if needed. The orientation information letter to the parent or caregiver shall be in the language of the parent or caregiver if a language barrier exists.

(3) Except for a juvenile transferred from a DJJ detention center, a juvenile shall be provided a shower upon admission.

(4) A juvenile shall be provided personal hygiene instruction and[,] personal hygiene products[, and a shower] upon admission.

(5)[(4)] A juvenile shall be provided a complete set of clean clothing at admission and daily thereafter, including underwear and socks.

(6)[(5)] A juvenile shall receive clean, laundered linens.

(7)[(6)] A juvenile shall be assigned to and given a brief tour of the housing unit.

(8)[(7)] A juvenile shall receive assistance in notifying the juvenile's family of the juvenile's[their] admission, registered number, if applicable, and procedures for mail and visiting.

(9)[(8)] Completion of orientation shall be documented by a signed and dated statement by the juvenile.

Section 9. Orientation Treatment Plan in Group Homes and YDCs. A juvenile's Orientation Treatment Plan shall be written within seven (7) days of admission. [Incorporation by Reference.]

[(1)] [The "Department of Juvenile Justice Policy and Procedures Manual: Program Services", February 11, 2019, is incorporated by reference and includes the following:]

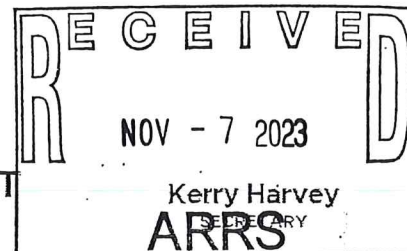
[300]	[Definitions (Amended 2/11/19);]
[300.1]	[Programs and Services (Amended 11/08/18);]
[300.2]	[Correspondence to the Court System (Amended 11/08/18);]
[301]	[Intake and Orientation (Amended 2/11/19);]
[301.1]	[Youth's Personal Property, Dress Code, and Facility Issued Property (Amended 11/08/18);]
[301.2]	[Hair and Grooming (Amended 11/08/18);]
[302]	[Individual Treatment Plan and Aftercare Plan (Amended 2/11/19);]
[303]	[Treatment Team Composition, Function, and Responsibility (Amended 11/08/18);]
[306]	[Track and Level System (Amended 2/11/19);]
[307]	[Counseling Services (Amended 2/11/19);]
[309]	[Family Engagement (Amended 11/08/18);]

[310]	[Family and Community Contacts: Mail, Telephone, and Visitation (Amended 11/08/18);]
[314]	[Youth Council (Amended 11/08/18);]
[315]	[Use of Non-Governmental Funds and Youth Activity Funds Account (Amended 11/08/18);]
[316]	[Youth Allowances and Work Details (Amended 11/08/18);]
[317]	[Recreation (Amended 11/08/18);]
[318]	[Behavior Management (Amended 11/08/18);]
[318.1]	[Graduated Responses, Sanctions, and Incentives (Amended 11/08/18);]
[318.2]	[Disciplinary Review (Amended 11/08/18);]
[319]	[Staff Requirements for the Supervision of Youth (Amended 11/08/18);]
[319.1]	[Facility Capacities (Amended 11/08/18);]
[320]	[Transportation of Youth (Amended 11/08/18);]
[321]	[Incident Reporting (Amended 2/11/19);]
[322]	[Drug Screening and Testing (Amended 11/08/18);]
[323]	[Isolation (Amended 11/08/18);]
[324]	[Restraints (Amended 2/11/19);]
[325]	[Searches (Amended 11/08/18);]
[326]	[Contraband, Seizure, and Chain of Custody (Amended 2/11/19);]
[327]	[Escape and Absent Without Leave (Amended 11/08/18);]
[328]	[Individual Client Records (Amended 11/08/18);]
[329]	[Progress Notes (Amended 11/08/18);]
[330]	[Log and Shift Reports (Amended 11/08/18);]
[331]	[Grievance Procedure (Amended 11/08/18);]
[332]	[Authorized Leave: Day Releases and Furloughs; Supervised Off-grounds Activities (Amended 11/08/18);]
[334]	[Youth Development Centers: Educational and Vocational Programming, Assessment, and Transition (Amended 11/08/18);]
[334.2]	[Group Homes: Educational Services (Amended 11/08/18);]
[335]	[Youth Development Center Educational and Vocational Records (Amended 11/08/18);]
[339]	[Youth Development Center Instructional Staffing (Amended 2/11/19);]
[341]	[Youth Development Center Evaluation of Integrated Educational and Vocational Plan (Amended 11/08/18);]
[343]	[Technical Education Safety (Amended 2/11/19);]
[344]	[Library Services (Amended 11/08/18);]
[345]	[Religious Programs (Amended 11/08/18);]
[346.1]	[Youthful Offenders (Amended 11/08/18);]
[347.1]	[Educational and Meritorious Good Time Credit for Youthful Offenders (Amended 2/11/19);]

[351]	[Youthful Offender Parole (Amended 11/08/18);]
[352]	[Youthful Offender Transfer (Amended 11/08/18);]
[354]	[Sentence Expiration Date and Parole Release for Youthful Offenders (Added 2/11/19);]
[360]	[Revocation Program Admissions (Added 11/08/18); and]
[361]	[Revocation Program Processes (Added 11/08/18).]

[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Juvenile Justice, Office of the Commissioner, 1025 Capital Center Drive, Third Floor, Frankfort, Kentucky 40601, or at any department field office, Monday through Friday, 8 a.m. to 4:30 p.m.]

CONTACT PERSON: Amy 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.



Andy Beshear
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November 7, 2023

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

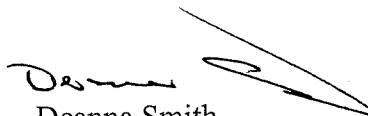
Re: 505 KAR 1:010. Definitions.
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505 KAR 1:410. Isolation and Protective Custody.
505 KAR 1:420. Youthful Offenders.

Dear Ms. Caudill:

After discussions with Legislative Research Commission staff of the issues raised by 505 KAR 1:010, 505 KAR 1:100, 505 KAR 1:110, 505 KAR 1:180, 505 KAR 1:185, 505 KAR 1:210, 505 KAR 1:220, 505 KAR 1:240, 505 KAR 1:260, 505 KAR 1:270, 505 KAR 1:280, 505

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Sincerely,



Deanna Smith
Paralegal Consultant

enclosures

Final: 10/31/23

SUGGESTED AMENDMENT

JUSTICE AND PUBLIC SAFETY CABINET

Department of Juvenile Justice

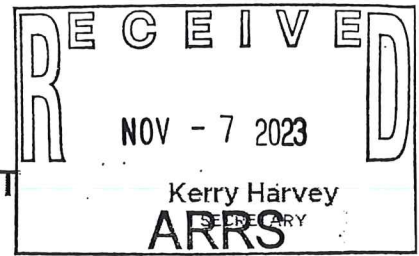
505 KAR 1:180. Day treatment admissions.

Page 1

NECESSITY, FUNCTION, AND CONFORMITY

Line 10

After "15A.160,", delete "15A.210, ".



Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

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November 7, 2023

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

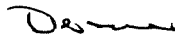
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Sincerely,



Deanna Smith
Paralegal Consultant

enclosures

SUGGESTED SUBSTITUTE

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice**

505 KAR 1:185. Day Treatment Programs.

RELATES TO: KRS 15A.065, 15A.0652, 15A.067, 200.080-200.120, Chapters 600-645, 34 C.F.R. [~~§~~]300.111[, ~~707 KAR 1:320~~]

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, 605.150, 635.095, 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, [~~15A.240,~~] 605.150, 635.095, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation establishes general requirements for day treatment programs for juveniles committed to the department.

Section 1. Educational Services. (1) Educational services shall be provided to juveniles in a day treatment program. Educational services shall be made available to each juvenile upon admission and shall be open entry and open exit.

(2) Educational services shall be individualized to meet the assessment, educational, rehabilitative, and developmental instructional needs of each juvenile.

(3) Vocational Assessment. Juveniles who enter a day treatment program without a previously administered vocational assessment shall be administered a vocational assessment. The results shall be used to: (a) Determine a juvenile's vocational aptitude and interests, learning and working styles, and career clusters;

(b) Assist DJJ and school district educational staff to integrate academic, vocational and work assignments, and treatment goals; and

(c) Provide a juvenile with workplace readiness skills.

(4) The results of educational and vocational assessments from the school district shall be used for the initial development, periodic review, and revision of an integrated Individual **Learning Plan [of Instruction]**, Individual Education Plan under 707 KAR 1:320 if applicable, Individual Treatment Plan, [~~Individual Learning Plan,~~] Individual Learning Plan Addendum if applicable, and Aftercare Plan.

(5) ITP, **ILP[IPI]**, IEP, **Section 504 plan**, and Aftercare Plan. DJJ shall participate with school district staff, **if invited**, in the development, review, and revision of a juvenile's **IEP, and Section 504 plan. DJJ shall integrate any accommodations from an IEP or Section 504 plan in a juvenile's ITP and Aftercare Plan [ITP, IPI, the IEP if applicable, and Aftercare Plan]**. The **ILP[IPI and IEP, if applicable,]** shall be integrated with the ITP and completed within fourteen (14) school days of admission.

(6) Child Find. Any staff who suspects that a juvenile may have an educational disability shall communicate that concern in writing to the Administrative Duty Officer and report it to the treatment team.

Section 2. Technical Programming. (1) If technical programming is available, the program shall have specific criteria for enrolling juveniles, and the criteria shall be included in the orientation handbook.

(2) The Superintendent shall ensure that juveniles only use power driven machines and tools under the following circumstances:

- (a) The juvenile has been enrolled in a technical training program;
- (b) The juvenile is performing tasks designated by the Office of Career and Technical Education for the training program in which the juvenile is enrolled;
- (c) The certified technical teacher of the training program is supervising the juvenile;
- (d) The juvenile has successfully completed the safety training and the safety test necessary to use the machines and tools or complete the task; and
- (e) The certified technical teacher shall document that the student has completed safety training.

(3) The certified technical teacher of the training program and facility staff shall monitor the emotional state and consider the mental stability of the juvenile prior to allowing the juvenile to use power driven machines and tools or perform a potentially hazardous task.

Section 3. Searches. A juvenile may be searched for safety and security purposes. A search may include the juvenile's hair.

Section 4. Behavior. (1) During school hours, teachers shall direct juvenile behavior while juveniles are engaged with educational programming such as lessons, hands-on activities, school-day outings, community mentoring, vocational classes, and all teacher-led learning.

(2) Teachers shall collaborate with DJJ staff regarding appropriate consequences for an undesirable behavior.

(3) Teachers shall be included in the disciplinary review with the juvenile and DJJ staff.

(4) Acceptable school behavior and discipline information shall be incorporated into the Orientation Handbook and reviewed with each juvenile. A copy of the Orientation Handbook shall be posted at the school site. DJJ and education staff shall be provided a copy of the Orientation Handbook.

Section 5. Personal Property. (1) Allowable Personal Property. A juvenile may bring the following to a day treatment program:

- (a) Key to access the juvenile's dwelling;
- (b) Cell phone; and
- (c) Cash, not to exceed ten (10) dollars.

(2) The program may set a different cash limit considering the needs of the juveniles in the program and the negative effects of available cash.

(3) The program may require allowed personal property to be locked away and not in the juvenile's possession during the school day or instructional time.

~~(4)(2)~~ Confiscated personal property shall be logged and secured. Law enforcement may be contacted if the juvenile's personal property poses a safety or security risk to the program.

~~(5)(4)~~ A juvenile may be reimbursed for damaged or lost personal property on a limited basis at the discretion of the superintendent.

~~(6)(5)~~ Unclaimed personal property shall be stored and retained at the program for not longer than thirty (30) school days.

Section 6. Telephone and Visitation. (1) A day treatment program shall provide juvenile access to a telephone for emergency calls.

(2) Visitation. Parental and caregiver visits shall be encouraged, and the program shall make provisions for assisting the parent or caregiver in visitation to the program. Visits shall be permitted for a parent or caregiver, or attorney during program hours, except if there is documented evidence that a visitor poses a threat to the safety of the juveniles or the security of the program or may disrupt the program.

Section 7. Counseling Services. (1) Counseling services shall be provided to each juvenile in accordance with the juvenile's individual treatment plan. Staff shall be available to provide counseling in emergency situations and upon a juvenile's request in accordance with each juvenile's ITP.

(2) Each juvenile attending school in a day treatment program shall have an opportunity for individual and group counseling.

(a) Individual counseling shall be:

1. Provided to each juvenile at a minimum of one (1) scheduled hour per week;
2. Used to help the juvenile make developmentally appropriate changes in thinking and behavior; and
3. Used to assist the juvenile in meeting goals and tasks identified on the juvenile's ITP. **[;]**

(b) Group Counseling. Group counseling shall be:

1. Provided to each juvenile at a minimum of two (2) scheduled hours per week;
2. Used to help the juvenile make developmentally appropriate changes in thinking and behavior;
3. Used to discuss specific and common issues, conflicts, and concerns. **[;]**

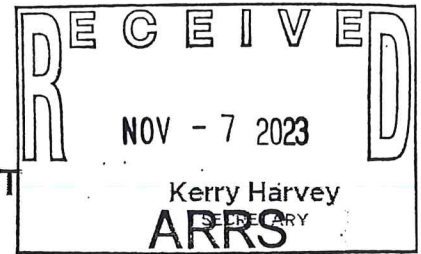
(3) The juvenile's counselor may engage the juvenile's parent or caregiver as needed to assist the juvenile in meeting their educational treatment objectives.

Section 8. Youth Council. (1) A program shall have a youth council that meets monthly with the Superintendent or designee. The youth council shall include representatives from each treatment group who shall present juvenile concerns.

(2) The youth council shall discuss and offer recommendations to the Superintendent on issues including the following:

- (a) Staff and juvenile relations;
- (b) Programming issues;
- (c) Physical plant concerns;
- (d) Recreation;
- (e) Education;
- (f) Health and dietary issues; and
- (g) Youth activity fund.

(3) Written minutes shall be kept of each youth council meeting and shall be held on file for three (3) years by the Superintendent or designee. The Superintendent or designee and all participants shall sign an attendance sheet at the meeting.



Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

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November 7, 2023

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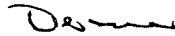
Re: 505 KAR 1:010. Definitions.
505 KAR 1:100. Admissions.
505 KAR 1:110. Intake and Orientation.
505 KAR 1:180. Day treatment admissions.
505 KAR 1:185. Day Treatment Programs
505 KAR 1:210. Restraints
505 KAR 1:220. Transportation of Juveniles
505 KAR 1:240. Dietary Services.
505 KAR 1:260. Education.
505 KAR 1:270. Grievances.
505 KAR 1:280. Hair and Grooming.
505 KAR 1:290. Juvenile allowance and work detail.
505 KAR 1:300. Juvenile records and information.
505 KAR 1:310 Leave, Releases and Furloughs.
505 KAR 1:360. Searches.
505 KAR 1:370. Treatment.
505 KAR 1:400. Behavior Management and Progressive Discipline.
505 KAR 1:410. Isolation and Protective Custody.
505 KAR 1:420. Youthful Offenders.

Dear Ms. Caudill:

After discussions with Legislative Research Commission staff of the issues raised by 505 KAR 1:010, 505 KAR 1:100, 505 KAR 1:110, 505 KAR 1:180, 505 KAR 1:185, 505 KAR 1:210, 505 KAR 1:220, 505 KAR 1:240, 505 KAR 1:260, 505 KAR 1:270, 505 KAR 1:280, 505

KAR 1:290, 505 KAR 1:300, 505 KAR 1:310, 505 KAR 1:360, 505 KAR 1:370, 505 KAR 1:400, 505 KAR 1:410 and 505 KAR 1:420, the Justice and Public Safety Cabinet, Department of Juvenile Justice proposes the attached suggested amendment to 505 KAR 1:010, 505 KAR 1:100, 505 KAR 1:110, 505 KAR 1:180, 505 KAR 1:185, 505 KAR 1:210, 505 KAR 1:220, 505 KAR 1:240, 505 KAR 1:260, 505 KAR 1:270, 505 KAR 1:280, 505 KAR 1:290, 505 KAR 1:300, 505 KAR 1:310, 505 KAR 1:360, 505 KAR 1:370, 505 KAR 1:400, 505 KAR 1:410 and 505 KAR 1:420.

Sincerely,



Deanna Smith
Paralegal Consultant

enclosures

SUGGESTED SUBSTITUTE

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice**

505 KAR 1:210. Restraints and control methods.

RELATES TO: KRS 15A.065, 15A.0652, 15A.067, 15A.305, 196.173, 200.080-200.120, Chapters 600-645

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, 15A.305, 605.150, 635.095, 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, 15A.305, 605.150, 635.095, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. KRS 15A.305(8)(c) requires that appropriate staff working with detained youth have controlled access to and are properly trained in the use of appropriate defensive equipment comparable to that used by the Department of Corrections, including tasers, pepper spray, and shields. This administrative regulation establishes the use of restraints and control methods for juveniles in the custody of or placed with the department.

Section 1. Definitions.

(1) "Planned use" means the prearranged use of a chemical agent or conductive energy device to:

(a) Prevent loss of life, injury to staff or juveniles, damage to state property, or escape; or (b), ~~or to~~ Maintain the secure and orderly operation of the facility.

(2) "Reactive use" means the emergency use of a chemical agent or conductive energy device in response to a specific act to prevent loss of life, injury to staff or juveniles, damage to state property, or escape.

Section 2. Restraint or Control Actions.

(1) In addition to verbal commands and de-escalation, the restraint or control actions allowed shall include physical restraints, mechanical restraints, chemical agents, shields, and conductive energy devices including stun shields.

(2) The restraint or control action shall not be used as punishment.

(3) Staff shall not use any force-related equipment other than what is authorized.

(4) Only the minimum force necessary to accomplish the control action shall be used.

(5) Staff shall use only reasonable force to control the juvenile during a physical restraint.

(6) A show of force may be employed if it is deemed practical and appropriate to the situation. A show of force may include maneuvering by the cell entry team or display of force and equipment available for use if the necessity arises.

Section 3. Mechanical Restraints.

(1) Authorized mechanical restraints shall include handcuffs, flex-cuffs, leg shackles, waist chains, black boxes, and other similar items authorized in writing by the commissioner of the department.

(2) Mechanical restraints shall be applied with only reasonable force necessary to restrain the juvenile.

(3) DJJ shall not use any type of mechanical restraint on a female juvenile during active labor and delivery of a child or during postpartum recovery. Any exception shall require approval by and guidance on methodology from the Director of Medical Services and shall be based on documented security risks. The Director of Medical Services shall provide guidance on the use of restraints on a pregnant juvenile prior to active labor and delivery.

Section 4. Chemical Agents.

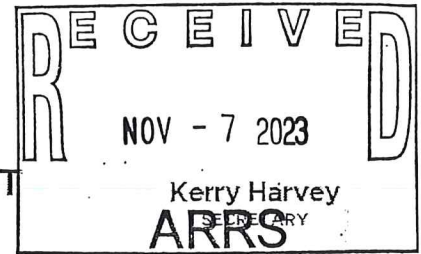
- (1) The only chemical agent authorized for use on a juvenile shall be oleoresin capsicum (OC).
- (2) Reactive use of a chemical agent shall be authorized by the trained staff being issued the chemical agent canister.
- (3) A planned use of a chemical agent shall require authorization from the Superintendent or designee. If time and circumstances reasonably permit, the juvenile's individual client record and medical file, if available, shall be examined by appropriate staff to determine if the juvenile has a significant:
 - (a) Medical problem that may be adversely affected by the chemical agent; or
 - (b) History of psychotic behavior and whether the individual may react significantly different than anticipated to chemical agents.
- (4) A juvenile shall receive a medical evaluation after being exposed to a chemical agent.
- (5) If not in use or issued to staff, chemical agents shall be stored in a secure location with controlled access.

Section 5. Conductive Energy Devices.

- (1) Conductive energy devices shall be used only after all lesser degrees of force have been tried or given due deliberate consideration.
- (2) Use of a conductive energy device shall require authorization from the Superintendent or designee.
- (3) If time and circumstances permit, the juvenile's individual client record and medical file, if available, shall be examined by appropriate staff to determine if the juvenile has a significant:
 - (a) Medical problem that may be adversely affected by the conductive energy device; or
 - (b) History of psychotic behavior and whether the individual may react significantly different than anticipated to conductive energy device.
- (4) A juvenile shall receive a medical evaluation after the use of a conductive energy device.
- (5) When not in use, conductive energy devices shall be stored in a secure location with controlled access.

Section 6. Reporting.

- (1)** An incident report shall be completed any time a physical restraint, chemical agent, or conductive energy device is used outside of authorized training.
- (2)** An incident report shall be completed any time a mechanical restraint is used on a juvenile outside of transport.



Andy Beshear
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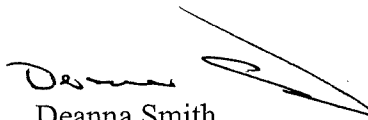
Re: 505 KAR 1:010. Definitions.
505 KAR 1:100. Admissions.
505 KAR 1:110. Intake and Orientation.
505 KAR 1:180. Day treatment admissions.
505 KAR 1:185. Day Treatment Programs
505 KAR 1:210. Restraints
505 KAR 1:220. Transportation of Juveniles
505 KAR 1:240. Dietary Services.
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505 KAR 1:270. Grievances.
505 KAR 1:280. Hair and Grooming.
505 KAR 1:290. Juvenile allowance and work detail.
505 KAR 1:300. Juvenile records and information.
505 KAR 1:310 Leave, Releases and Furloughs.
505 KAR 1:360. Searches.
505 KAR 1:370. Treatment.
505 KAR 1:400. Behavior Management and Progressive Discipline.
505 KAR 1:410. Isolation and Protective Custody.
505 KAR 1:420. Youthful Offenders.

Dear Ms. Caudill:

After discussions with Legislative Research Commission staff of the issues raised by 505 KAR 1:010, 505 KAR 1:100, 505 KAR 1:110, 505 KAR 1:180, 505 KAR 1:185, 505 KAR 1:210, 505 KAR 1:220, 505 KAR 1:240, 505 KAR 1:260, 505 KAR 1:270, 505 KAR 1:280, 505

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Sincerely,



Deanna Smith
Paralegal Consultant

enclosures

SUGGESTED SUBSTITUTE

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice**

505 KAR 1:220. Transportation of juveniles.

RELATES TO: KRS 15A.065, 15A.0652, 15A.305(8)(c), 200.080-200.120, Chapters 600-645
STATUTORY AUTHORITY: KRS 15A.065(1), 15A.0652, 15A.160, 15A.305, 196.173, 605.080, 605.150,
635.095, 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.0652, 15A.160, [~~15A.210,~~
605.150, 635.095, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of
Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and
its programs. KRS 15A.305(8)(c) requires that appropriate staff working with detained youth have
controlled access to, and are properly trained in the use of, appropriate defensive equipment comparable
to that used by the Department of Corrections, including tasers, pepper spray, and shields. This
administrative regulation establishes requirements for the transportation of juveniles in the custody of the
department.

Section 1.

(1) A juvenile shall be searched before being placed in a vehicle for transport. Cross-gender searches shall only be conducted under exigent circumstances. Otherwise, searches shall be conducted by same gendered staff.

(2) Department staff shall determine if a juvenile may be notified in advance of a pending transportation trip.

(a) The default shall be to not give notice unless consideration of the factors in paragraph (b) of this subsection allow for notice.

(b) Consideration shall be given to:

1. The purpose of or reason for the transport;
2. Classification and behavior of the juvenile; ~~and~~
3. Whether the juvenile's parent or caregiver is being informed or will be present; and
4. Safety and security issues, including:
 - a. Timing of the notice; and
 - b. Escape or AWOL risk.

(3) A juvenile in detention or a level 4 youth development center being transported shall be restrained with mechanical restraints and shall be transported in a vehicle with a security screen. Other juveniles may be transported in mechanical restraints if needed for safety or security. However, juveniles shall not be secured or restrained to any part of the vehicle. A pregnant juvenile shall be restrained in compliance with KRS 196.173.

(4) Staff transporting juveniles may be equipped with chemical agents, conductive energy devices, additional mechanical restraints, and a cell phone.

(5) Seat belts shall be used in a vehicle.

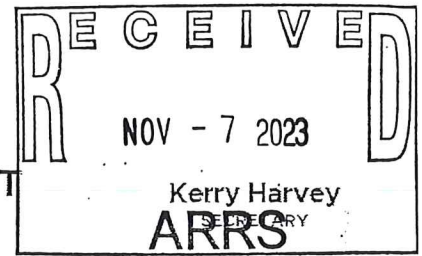
(6) Transporting staff shall not allow a juvenile to visit or contact any person except a parent or caregiver by any means unless authorized in advance by the superintendent or designee.

(7) A juvenile shall not leave the vehicle at any stop unless the transporting staff escorts the juvenile.

(8) In an emergency or a collision, restraints may be removed from the juvenile only if the transportation staff determines that an urgent situation exists requiring removal of the restraints. Any restraints removed shall be limited to those restraints that compromise the health or safety of the juvenile.

(9) If the transportation of a juvenile is expected to extend through a mealtime, a sack lunch shall be prepared and placed in the transport vehicle or provision shall be made to feed the juvenile upon arrival.

(10) DJJ staff transporting a juvenile shall observe the same gender requirements of KRS 605.080(3).



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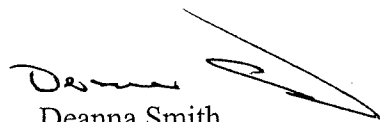
Re: 505 KAR 1:010. Definitions.
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505 KAR 1:410. Isolation and Protective Custody.
505 KAR 1:420. Youthful Offenders.

Dear Ms. Caudill:

After discussions with Legislative Research Commission staff of the issues raised by 505 KAR 1:010, 505 KAR 1:100, 505 KAR 1:110, 505 KAR 1:180, 505 KAR 1:185, 505 KAR 1:210, 505 KAR 1:220, 505 KAR 1:240, 505 KAR 1:260, 505 KAR 1:270, 505 KAR 1:280, 505

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Sincerely,


Deanna Smith
Paralegal Consultant

enclosures



Final: 10/31/23

SUGGESTED AMENDMENT

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice**

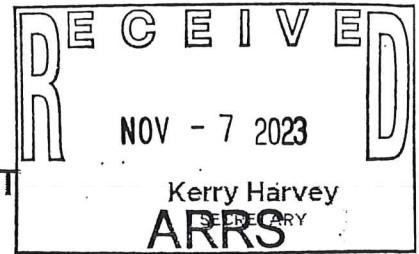
505 KAR 1:240. Dietary Services.

Page 1

NECESSITY, FUNCTION, AND CONFORMITY

Line 8

After "15A.0652,", delete " 15A.067,".



Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

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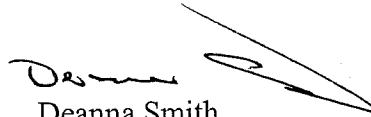
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Dear Ms. Caudill:

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Sincerely,


Deanna Smith
Paralegal Consultant

enclosures

Final: 10/31/23

SUGGESTED AMENDMENT

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice**

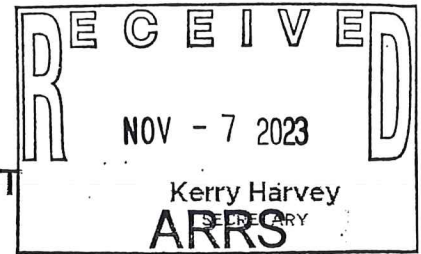
505 KAR 1:260. Education.

Page 1

RELATES TO

Line 6

After "605.110", delete the following:
 , 707 KAR 1:002, 707 KAR 1:320



Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

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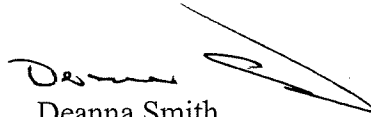
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Sincerely,


Deanna Smith
Paralegal Consultant

enclosures

SUGGESTED SUBSTITUTE

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice**

505 KAR 1:270. Grievances.

RELATES TO: KRS 15A.065, 15A.0652, 15A.067, 200.080-200.120, Chapters 600-645
STATUTORY AUTHORITY: KRS 15A.065(1), 15A.0652, 15A.160, 605.150, 635.095, 640.120
NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.0652, 15A.160, ~~15A.210,~~
605.150, 635.095, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation establishes the grievance process for juveniles in the custody of the department or attending a department day treatment program.

Section 1. General Information.

- (1) Staff shall explain the grievance process to a juvenile upon intake and post the process in the program and living areas. The handbook shall include instructions for the grievance process.
- (2) A juvenile shall have the right to file a grievance without fear of retaliation.
- (3) A juvenile may file a grievance regarding the following:
 - (a) Violation of federal or state law;
 - (b) Violation of department policies and procedures;
 - (c) Violation of department standard operating procedures;
 - (d) Claimed unsafe or unsanitary living conditions within the facility or program; or
 - (e) The level of care provided within the facility or program.
- (4) A juvenile shall not file a grievance on issues already grieved and decided.
- (5) Non-grievable issues shall include:
 - (a) Court decisions;
 - (b) Disciplinary review decisions; and
 - (c) Legislative actions.
- (6) An untimely filed grievance or one that concerns a non-grievable issue shall be returned to the juvenile with an explanation.
- (7) A grievance that is missing information shall be returned to the juvenile explaining the information needed and the juvenile shall have five business days to return the grievance with the missing information. The time for a grievance response shall not begin until the grievance is returned with the missing information.
- (8) Grievance forms shall be located in an area that is easily accessible to the juveniles and each facility shall provide one or more clearly marked lockboxes for the submission of a grievance. The lockbox shall be in an open area accessible to all juveniles.
- (9) Each facility shall have a designated grievance officer. The grievance officer shall manage the lockboxes and oversee the grievance process.
- (10) Deadline. A grievance shall be submitted by the juvenile within fourteen (14) days of the grieving incident occurrence. If the juvenile files a grievance after the deadline, the juvenile shall explain the reason for the delay on the grievance form when the grievance is filed for a delay determination by the **facility manager**~~superintendent~~. The exception to this shall be if the incident falls under the classification of a Prison Rape Elimination Act (**PREA**) occurrence, **34 U.S.C. 30301 - 30309**. A PREA incident shall not have a time limit applied.
- (11) Informal Resolution. Prior to filing a grievance, an effort shall be made to resolve the issue informally. The juvenile shall discuss the matter either with the staff person involved or the grievance officer. In determining whether to deny a grievance for failure to attempt informal resolution, the

grievance officer shall consider the juvenile's and staff person's ability or barriers to informally resolve the grievance issue.

(12) Special Incident and PREA. A special incident shall not be handled informally or through the grievance process and shall be reported immediately to the facility **manager[Superintendent]** and Internal Investigation Branch. A PREA incident shall be reported through the hotline **or in writing to the commissioner or director of compliance.**

Section 2. Grievance Process.

(1) The grievance form shall be submitted in writing and signed and dated by the juvenile. The grievance shall include:

- (a) Name of the juvenile filing the grievance;
- (b) Name of facility;
- (c) Details concerning the issue being grieved;
- (d) Date of occurrence being grieved;
- (e) Information concerning the effort to informally resolve the issue; and
- (f) The desired resolution.

(2) If a juvenile is unable to adequately express the grievance in writing, the juvenile shall be allowed to present the grievance to the designated grievance officer verbally. The designated grievance officer shall make a written summary of the verbal grievance on a grievance form and have the juvenile sign and date it.

(3) A grievance or notification of intent to present a verbal grievance shall be deposited, by the juvenile, into a grievance lockbox.

(4) Grievances shall be retrieved from the lockbox within twenty-four (24) hours for juvenile detention centers and within two (2) business days for group homes, YDCs, and day treatment centers.

(5) The juvenile shall receive a written response with findings within three (3) business days. If a grievance is a medical issue, a facility nurse **or regional nurse** shall be involved in the resolution process at the facility level.

(6) A juvenile may withdraw a current or previously filed grievance at any time.

(7) The juvenile shall acknowledge all grievance findings, including withdrawals, with their signature. The grievance officer shall document any refusals to acknowledge the grievance findings on the grievance form.

(8) A copy of the grievance shall be placed in the juvenile's individual client record and a copy shall be given to the juvenile.

Section 3. Grievance Appeal Process.

(1) If dissatisfied with the resolution, within forty-eight (48) hours, the juvenile may appeal the resolution of the grievance to the **facility manager[superintendent]** by indicating on the grievance form that the juvenile is appealing and depositing it into the lockbox. The juvenile shall provide all previous information submitted.

(2) Within three (3) business days of receiving the appealed grievance resolution, the **facility manager[superintendent]** shall meet with the designated grievance officer and the juvenile and may meet with the staff involved and other witnesses.

(3) The **facility manager[superintendent]** shall have up to five (5) business days **after receiving the appealed grievance resolution** to present a written final response to the juvenile.

Section 4. Grievance Process Deadlines.

(1) If the grievance process deadlines are not met by the juvenile, the juvenile shall explain the reason for the delay in filing the grievance on the grievance form when the grievance is filed.

(2) The grievance officer shall forward the grievance delay explanation to the **facility manager[superintendent]** to determine if the grievance may proceed through the process. The **facility manager[superintendent]** shall decide this within twenty-four (24) hours of receipt and return the grievance to the grievance officer for further steps. The grievance officer shall deny the grievance with

an explanation if the delay is not approved by the **facility manager[Superintendent]** or an explanation for the delay is not made by the juvenile.

(3) If the time frames are not met by the grievance officer, the grievance shall automatically be referred to the **facility manager[superintendent]** by the grievance officer. The **facility manager[superintendent]** shall follow the grievance appeal process deadlines in this section.

(4) If an essential party is unavailable, the time frames may be extended by the **facility manager[superintendent]**. The reason for the extension shall be noted on the grievance documentation.

(5) If more than ten (10) grievances are received by the grievance officer in any one (1) work week, the grievance officer may call a moratorium on the time limits for those grievances.

Section 5. Grievance Limits. If the **facility manager[superintendent]** determines that a juvenile has abused the grievance process by filing numerous frivolous or harassing grievances, the **facility manager[superintendent]** may limit the number of grievances **that[which]** may be filed by the juvenile. A juvenile whose grievances have been limited shall be allowed to file no more than one (1) grievance every ten (10) business days. This limitation shall be placed into effect for no more than six (6) months at which time the juvenile may apply to the **facility manager[superintendent]** for removal of restricted status. Restrictions shall be removed or extended for periods not to exceed six (6) months at each application for release.

Section 6. Incorporation by Reference.

(1) "Grievance Form", 2024, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Juvenile Justice, Office of the Commissioner, 1025 Capital Center Drive, Third Floor, Frankfort, Kentucky 40601, or at any department field office, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Juvenile Justice Web site at <https://djj.ky.gov/About%20DJJ/Pages/Ircfilings.aspx>.

CONTACT PERSON: Amy 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.

(Facility name)

GRIEVANCE FORM

JUVENILE NAME: _____ DATE: _____

UNIT/GROUP: _____ COUNSELOR: _____

Have you made an effort to resolve this grievance informally? Yes No

1. What is your grievance? (Be specific) _____

a. What policy or rule was violated? _____

b. When did this happen? _____

c. List who was involved staff and witnesses? _____

2. What have you done to resolve this issue? _____

a. Who did you talk to and when? _____

3. What do you want to happen? _____

Juvenile Signature

_____/_____/_____
Date

Date received (Grievance Officer): _____

FINDING/RESPONSE TO JUVENILE:

Grievance Officer Signature

_____/_____/_____
Date

Juvenile Signature

_____/_____/_____
Date

I wish to appeal this grievance to the Facility Manager (Appeal must be submitted within 2 days)
 Yes No

Juvenile Signature

_____/_____/_____
Date

FINDING/RESPONSE TO JUVENILE:

Facility Manager Signature

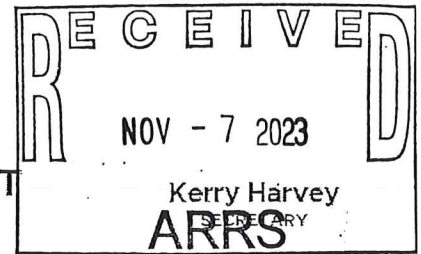
_____/_____/_____
Date

Juvenile Signature

_____/_____/_____
Date

c: Original to Grievance Officer
 Juvenile's File (ICR)
 Juvenile

If grievance is appealed also send copies to:
FRA, Director, and Ombudsman



Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

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

November 7, 2023

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

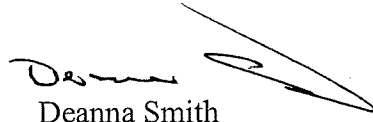
Re: 505 KAR 1:010. Definitions.
505 KAR 1:100. Admissions.
505 KAR 1:110. Intake and Orientation.
505 KAR 1:180. Day treatment admissions.
505 KAR 1:185. Day Treatment Programs
505 KAR 1:210. Restraints
505 KAR 1:220. Transportation of Juveniles
505 KAR 1:240. Dietary Services.
505 KAR 1:260. Education.
505 KAR 1:270. Grievances.
505 KAR 1:280. Hair and Grooming.
505 KAR 1:290. Juvenile allowance and work detail.
505 KAR 1:300. Juvenile records and information.
505 KAR 1:310 Leave, Releases and Furloughs.
505 KAR 1:360. Searches.
505 KAR 1:370. Treatment.
505 KAR 1:400. Behavior Management and Progressive Discipline.
505 KAR 1:410. Isolation and Protective Custody.
505 KAR 1:420. Youthful Offenders.

Dear Ms. Caudill:

After discussions with Legislative Research Commission staff of the issues raised by 505 KAR 1:010, 505 KAR 1:100, 505 KAR 1:110, 505 KAR 1:180, 505 KAR 1:185, 505 KAR 1:210, 505 KAR 1:220, 505 KAR 1:240, 505 KAR 1:260, 505 KAR 1:270, 505 KAR 1:280, 505

KAR 1:290, 505 KAR 1:300, 505 KAR 1:310, 505 KAR 1:360, 505 KAR 1:370, 505 KAR 1:400, 505 KAR 1:410 and 505 KAR 1:420, the Justice and Public Safety Cabinet, Department of Juvenile Justice proposes the attached suggested amendment to 505 KAR 1:010, 505 KAR 1:100, 505 KAR 1:110, 505 KAR 1:180, 505 KAR 1:185, 505 KAR 1:210, 505 KAR 1:220, 505 KAR 1:240, 505 KAR 1:260, 505 KAR 1:270, 505 KAR 1:280, 505 KAR 1:290, 505 KAR 1:300, 505 KAR 1:310, 505 KAR 1:360, 505 KAR 1:370, 505 KAR 1:400, 505 KAR 1:410 and 505 KAR 1:420.

Sincerely,


Deanna Smith
Paralegal Consultant

enclosures

SUGGESTED SUBSTITUTE

JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice

505 KAR 1:280. Hair and grooming.

RELATES TO: KRS 15A.065, 15A.0652, ~~[15A.067,]~~200.080-200.120, Chapters 600-645
STATUTORY AUTHORITY: KRS 15A.065(1), 15A.0652, ~~[15A.067,]~~15A.160, ~~[15A.210,]~~605.150,
635.095, 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.0652, ~~[15A.067,]~~15A.160,
~~[15A.210,]~~605.150, 635.095, and 640.120 authorize the Justice and Public Safety Cabinet and the
Department of Juvenile Justice to promulgate administrative regulations for the proper administration of
the cabinet and its programs. This administrative regulation establishes the requirements for hairstyles
and grooming for juvenile detention centers, youth development centers, and group homes.

Section 1. Definitions.

(1) "Cornrows" means a hairstyle in which the hair is arranged in an intricate pattern of tight rows of
braids close to the scalp. For people with tightly curled hair textures, this style is not removable by
combing or brushing in a brief period of time.

(2) "Dreadlocks" means a hairstyle in which the hair is styled into ropelike sections formed by matting,
braiding, or twisting that causes the strands of hair to lock together and due to the locking of the hair is
not removable by combing or brushing in a brief period of time.

~~[(3) "Religious exemption" means an approved justification to not be required to conform to a
particular grooming standard based upon a sincerely held religious belief.]~~

Section 2. Hairstyles and Grooming.

(1) Each juvenile shall have hair that is clean and styled in a way that does not obscure the face or
make the juvenile hard to identify by staff.

(2) A juvenile may wear braids, cornrows, or dreadlocks that are neatly groomed.

(3) A juvenile shall not wear hairstyles that allow hair to fall lower than the eyebrows.

(4) Hairpins and bobby pins shall be prohibited.

(5) A juvenile shall not be allowed to cut or style designs into their hair or color hair after admission to
the facility.

(6) Long hair shall be pulled up off the shoulders when on work detail or vocational programming, if
safety or sanitation considerations require.

(7) Hairnets shall be provided for and worn by juveniles that work in food service.

(8) Wigs and hairpieces shall not be worn unless medically necessary, and if medically necessary, shall
require approval from the Director of Medical Services or designee.

~~(9) **A haircut shall be provided to each juvenile free of charge once a month. Hair relaxation may
be obtained once a month**~~[Basic hair care services and culturally sensitive hair care
maintenance shall be provided free of charge to the juvenile at least one (1) time a month. Basic
hair care services shall include a haircut. Culturally sensitive hair care maintenance shall
include basic washing. It shall also include]~~[wash and]~~[-relaxation,]~~ if:~~

~~(a) A licensed professional with expertise in culturally sensitive hair care is readily available; and
(b) [-relaxation shall require] Parental permission is given unless the juvenile is/has attained the
age of eighteen (18) years old.~~

(10) A juvenile shall be allowed to grow and maintain facial hair not to exceed a length of one-fourth
(1/4) inch.

(11) A juvenile shall be issued culturally sensitive hair maintenance items or general hair care products
on a daily basis, including combs and brushes.

Section 3. Licensed Professionals.

- (1) Only individuals licensed by the Commonwealth of Kentucky as barbers or cosmetologists shall provide hair care and grooming services to a juvenile. Each contracted barber or cosmetologist shall have a documented pre-service orientation training prior to conducting business at a DJJ residential facility, which shall include training on tool control, control of hazardous materials, and other basic procedures.
- (2) Security. All tools, equipment, and chemicals used by the barber or cosmetologist shall be in the control of and maintained by the barber or cosmetologist when conducting business at a DJJ residential facility.
- (3) Sanitation. The barber or cosmetologist shall adhere to the sanitation standards set for licensure. Equipment used for hair care services shall be sanitized after each use.
- (4) Medical Services.
 - (a) If the barber or cosmetologist observes an open lesion, cut, or wound on the scalp, neck, or facial area, staff shall be notified and the juvenile shall be referred for immediate medical services. If an open lesion, cut, or wound occurs during the barbering process, the supervising DJJ staff shall provide appropriate first aid and the juvenile shall not be provided further barber or cosmetology services until medically cleared.
 - (b) The facility nurse shall be notified and follow-up with the juvenile for medical consultation regarding the lesion, cut, or wound.
 - (c) A barber or cosmetologist shall not perform medical therapy on any skin condition.

Section 4. Photograph. If the appearance of a juvenile changes, including a significant change in hairstyle or length or the presence of facial hair, DJJ staff shall obtain an updated photograph of the juvenile to be scanned into the electronic record.

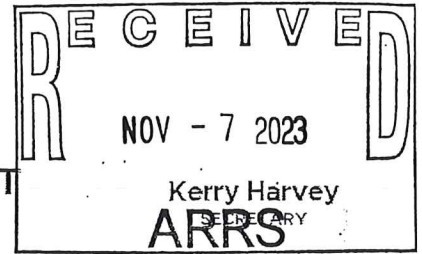
Section 5. Staff prohibited acts.

- (1) DJJ staff shall not cut, shave, groom, or style the hair or facial hair of a juvenile.
- (2) DJJ staff shall not mandate or order that the hair or facial hair of a juvenile be cut, except if:
 - (a) A medical condition exists and the action is approved by the Director of Medical Services;
 - (b) The cutting or styling of designs in the hair represent gang identification symbols or inappropriate language or depictions; or
 - (c) The hair presents a safety or security concern for the facility or its orderly operation and is approved by the Commissioner.
- (3) A juvenile may be required by a juvenile's employer or instructor to restrain or cover hair in a manner that complies with health requirements for food service or other jobs or prevents hair entanglement in equipment.

Section 6. Search.

- (1) DJJ may search a juvenile's hair for contraband.
- (2) Ordinary search procedures may include:
 - (a) Passing a hand-held metal detector over the inmate's hair and scalp to determine whether any metal objects are present;
 - (b) Directing a juvenile to turn the juvenile's head upside down and run their fingers vigorously through the hair including facial hair;
 - (c) Pressing the hair with the thumb and other fingers or squeezing the hair to detect foreign objects; and
 - (d) Using a body scanner to search for contraband.
- (3) For youth development centers and youth detention centers, a juvenile's hair shall be searched:
 - (a) At intake; and
 - (b) After return from a trip outside the facility.

CONTACT PERSON: Amy 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.



Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

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November 7, 2023

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

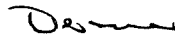
Re: 505 KAR 1:010. Definitions.
505 KAR 1:100. Admissions.
505 KAR 1:110. Intake and Orientation.
505 KAR 1:180. Day treatment admissions.
505 KAR 1:185. Day Treatment Programs
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505 KAR 1:300. Juvenile records and information.
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505 KAR 1:360. Searches.
505 KAR 1:370. Treatment.
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505 KAR 1:410. Isolation and Protective Custody.
505 KAR 1:420. Youthful Offenders.

Dear Ms. Caudill:

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Sincerely,



Deanna Smith
Paralegal Consultant

enclosures

Final: 10/31/23

SUGGESTED AMENDMENT

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice**

505 KAR 1:290. Juvenile allowance and work detail.

Page 1

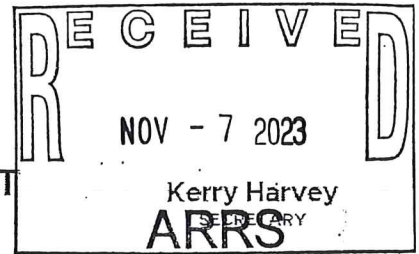
NECESSITY, FUNCTION, AND CONFORMITY

Line 8

After "15A.0652,", delete " 15A.067,".

Line 9

After "15A.160,", delete " 15A.210,".



Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

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

November 7, 2023

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

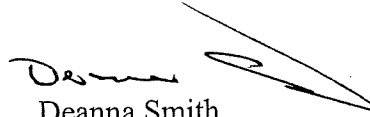
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Sincerely,


Deanna Smith
Paralegal Consultant

enclosures

SUGGESTED SUBSTITUTE

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice**

505 KAR 1:300. Juvenile records and information.

RELATES TO: KRS 15A.065, **15A.0651**, 15A.0652, 15A.067, 200.080-200.120, Chapters 600-645
STATUTORY AUTHORITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, 605.150, 635.095, 635.100(7), 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, ~~15A.210,~~ 605.150, 635.095, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation establishes requirements for juvenile records and information maintained by the department.

Section 1. Confidentiality.

- (1) Staff, consultants, contract personnel, interns, and volunteers shall keep juvenile records and information confidential pursuant to KRS 15A.0651, 610.320, and 610.340. Staff, consultants, contract personnel, interns, and volunteers shall not seek information beyond that needed to perform their responsibilities. All staff, consultants, contract personnel, interns, and volunteers shall sign a confidentiality/security form as a condition of employment or providing services.
- (2) If another juvenile ***needs to/must*** be identified in a juvenile's case record for any reason, the juvenile's name shall be identified by first name and initial of the last name only.
- (3) A juvenile or a juvenile's parent or guardian shall make a written request for the juvenile's records to the offender information administrator.
- (4) Others seeking to access juvenile records shall make a request in writing to the open records coordinator at the address on the department Web site at <https://djj.ky.gov/Pages/index.aspx> at the records request page.

Section 2. Juvenile Records. A record shall be kept for each juvenile committed to, in the custody of, or in placement with DJJ, which shall include the following:

- (1) Court documents, including authority to accept, release, or discharge;
- (2) Initial intake information;
- (3) Photograph;
- (4) Biographical data, including:
 - (a) ***A copy of the[A]*** birth certificate, if available;
 - (b) ***A copy of*** the Social Security card, if available; and
 - (c) ***A copy of*** government-issued identification, if available;
- (5) Juvenile personal property inventory;
- (6) Any grievances filed by or about the juvenile;
- (7) Assessment data, including case history or social history, if available;
- (8) Alternative to Secure Detention Program data, if applicable;
- (9) All incident reports involving the juvenile;
- (10) Any IIB report in which the juvenile was the alleged victim;
- (11) Behavior contracts;
- (12) Release summary for any release;
- (13) Records of any DJJ previous detainment;
- (14) Education records, including:
 - (a) Individual learning plan; and

- (b) Education grades and credits;
- (15) Disciplinary records;
- (16) Transfer records;
- (17) If the juvenile is a youthful offender:
 - (a) Resident record card;
 - (b) Pre-sentence investigation;
- (18) Information regarding co-defendants, emergency protective orders, security threat group affiliation, and other known conflicts; and
- (19) Emergency medical information, such as the need for an **EpiPen**~~**EPEE Pen**~~ or steroid inhaler. All other medical information shall be in the medical record only.

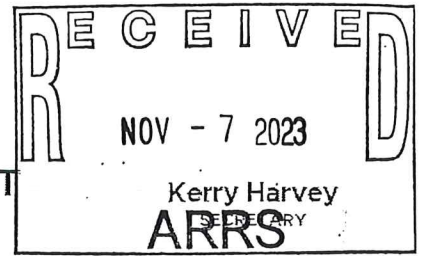
Section 3. Medical Record. The juvenile's medical record shall be maintained separately.

Section 4. Transfer of Records. All records, including medical records, regarding the juvenile shall be available electronically or transferred to any facility to which the juvenile is transferred.

Section 5. Victim Information and Notification Everyday (VINE). For youthful offenders, the statutorily required information shall be entered into the VINE system so that victims are notified of the juvenile's location.

Section 6. Security Threat Groups.

- (1) The department shall identify juveniles active or associated with security threat groups and monitor the STGs for the purpose of maintaining institutional safety.
- (2) All information regarding STGs shall be considered confidential and used only for official department or law enforcement purposes.



Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

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

November 7, 2023

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

Re: 505 KAR 1:010. Definitions.
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Sincerely,


Deanna Smith
Paralegal Consultant

enclosures

SUGGESTED SUBSTITUTE

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice**

505 KAR 1:310. Leave, releases, and furloughs.

RELATES TO: KRS 15A.065, 15A.0652, 15A.067, 200.080-200.120, 439.600, Chapters 600-645
STATUTORY AUTHORITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, 605.150, 635.095, 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, 605.150, 635.095, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation establishes the requirements for leaves, releases, and furloughs for juveniles in the custody of the department.

Section 1.

- (1) Supervised off-grounds activities, day releases, furloughs, and approved leave for emergencies may be permitted to meet the treatment objectives of public offenders who are in custody. Authorized leave may be granted for youthful offenders consistent with the requirements of KRS 439.600.
- (2) Eligibility for day releases and furloughs shall be consistent with the juvenile's track. At a minimum, the plan for day releases and furloughs consistent with the assigned track shall be as follows:
 - (a) Misdemeanor track – one (1) day release and one (1) weekend furlough or up to seventy-two (72) hours.
 - (b) Felony track – one (1) day release and two (2) weekend furloughs or up to seventy-two (72) hours for each approved furlough.
 - (c) A juvenile sentenced as a YO shall not be eligible for day release or furlough without approval of the commissioner.
 - (d) A juvenile probated as a YO but committed as a public offender shall be eligible for day release and furlough as stated in paragraphs (a) – (c) of this subsection.
- (3) Off-grounds activities, day releases, and furloughs shall be used for public offenders, unless extenuating circumstances exist or the treatment team determines that ***they are[the use of furloughs is]*** contraindicated in assisting the juvenile in achieving treatment goals.
- (4) A juvenile assigned to a Level 4 facility may be eligible for individual or group off-grounds activities, community activities, day releases, or furloughs with approval of the division director.
- (5) The juvenile's treatment team shall recommend a day release or furlough only after the juvenile achieves progress level, excluding medical and emergency furloughs. Day ***releases[passes]*** may be issued for a juvenile ***achieving[obtaining]*** progress level. A juvenile shall not be furlough eligible until the last week of progress level.
- (6) Planning for day releases and furloughs shall be discussed during aftercare planning at the initial treatment planning meeting.

Section 2. Day Releases.

- (1) For day releases to the parent or caregiver the following shall occur:
 - (a) If the day release will include the juvenile visiting their home, the home evaluation shall be updated if the preliminary home evaluation was not conducted within the past six (6) months.
 - (b) The juvenile and parent or caregiver shall sign and receive a copy of the day release agreement incorporated by reference in this administrative regulation.
 - (c) The juvenile shall comply with the requirements in the day release agreement.

- (d) The unescorted day release of a youthful offender shall require approval of the commissioner or designee consistent with the provision of KRS 439.600.
- (e) Declared juvenile sexual offenders shall only be approved for a day release, furlough, or emergency leave by the treatment team.
- (2) For day releases for education or work release, the following shall occur:
 - (a) Program procedures may allow for a juvenile's participation in unescorted leave for employment or school programs.
 - (b) Approvals shall be requested for unescorted day releases for ongoing educational or career related activities on an individual basis.
 - (c) For declared juvenile sex offenders, a reassessment shall be completed.
- (3) The conditions of the day release and documentation shall be given to the juvenile prior to the day release.

Section 3. Furloughs.

- (1) Prior to a juvenile being approved for furlough, the following shall occur:
 - (a) An updated home evaluation on the proposed furlough residence shall be completed;
 - (b) A furlough agreement shall be developed and approval obtained prior to a furlough;
 - (c) The juvenile and parent or caregiver shall have the furlough agreement explained to them. The juvenile and parent or caregiver shall sign and receive a copy of the furlough agreement and shall receive furlough documentation to accompany them during the furlough.
 - (d) If the juvenile is a youthful offender, a furlough request shall be submitted to the commissioner for final approval of the furlough.
 - (e) Furlough time for a declared juvenile sex offender, prior to program completion, shall be considered on a case-by-case basis and shall not exceed ten (10) days. A reassessment shall be completed for the declared juvenile sex offender prior to furlough, unless the furlough is less than thirty (30) days away and the juvenile is expected to return to the facility after the furlough.
- (2) While on furlough, the juvenile shall comply with the requirements of the furlough agreement and maintain daily contact with the facility as required in the furlough agreement.
- (3) A furlough shall be planned in a manner that the juvenile's educational needs continue to be met by facility educational staff, including scheduling furloughs around weekends and holidays. Educational staff may also lengthen school days during the week to allow the juvenile to go on furlough on a Friday or Monday, ***if provided*** all local educational requirements continue to be met.
- (4) Furloughs to out-of-state locations shall be pursuant to the DJJ interstate compact policies incorporated by reference in 505 KAR 1:190.

Section 4. Medical Furloughs.

- (1) Medical furloughs for juveniles in a youth development center and group home shall be requested for approval.
- (2) A medical furlough of a youthful offender may be authorized as provided in KRS 439.600.
- (3) A medical furlough shall be governed by a written medical furlough agreement, which shall outline the length of the medical furlough and behavioral expectations of the juvenile during the medical furlough.
- (4) The medical furlough agreement shall be signed by the juvenile and parent or caregiver before the juvenile is placed on medical furlough.
- (5) A copy of the signed agreement shall be given to the juvenile and parent or caregiver supervising the juvenile during the medical furlough.
- (6) Medical furloughs shall be granted for the duration specified by the juvenile's attending physician and approved by director of medical services.

Section 5. Emergency Furlough.

- (1) The circumstances of the emergency shall be verified before an emergency furlough request is submitted for approval.

- (2) An emergency furlough shall not exceed more than seven (7) consecutive days without authorization from the commissioner or designee.
- (3) The emergency furlough for a youthful offender shall only be approved as provided in KRS 439.600. Prior to the emergency furlough of a youthful offender, a written request shall be submitted to the **facility manager[superintendent]** requesting final approval of the emergency furlough.
- (4) The juvenile and parent or caregiver shall have the emergency furlough agreement explained to them. The juvenile and parent or caregiver shall sign and receive a copy of the emergency furlough agreement and shall receive documentation to accompany them during the emergency furlough.
- (5) During the emergency furlough period, contact shall be maintained with the juvenile and parent or caregiver.
- (6) For the critical illness or death of an immediate family member, the juvenile may be allowed to go to the bedside under escort or alone, if statutes and circumstances allow. The procedures for emergency furlough shall be followed.

Section 6. Non-Compliance. If a juvenile is not compliant with the agreement during a day release, medical furlough, emergency furlough, or furlough, the following shall occur:

- (1) The day release, medical furlough, emergency furlough, or furlough may be cancelled at any time due to the juvenile's non-compliance with the agreements or other significant factors related to the juvenile's status in the program.
- (2) If a violation or circumstance occurs that would result in cancellation of the release or furlough, the following shall apply:
 - (a) If the juvenile is with the parent or caregiver, the parent or caregiver shall notify the JSW and youth counselor of the alleged violation or circumstance.
 - (b) A commissioner's warrant shall be used to facilitate the return of a juvenile to the designated facility when the juvenile is absent without leave while on furlough or day release.

Section 7. Leave from a Detention Center.

- (1) Escorted leaves for the purpose of obtaining necessary medical, dental, or mental health care shall require authorization from the **facility manager[Superintendent]** and shall not require an order of the court. All other escorted leaves shall require a written court order.
- (2) Transport during an escorted leave shall be conducted in accordance with 505 KAR 1:~~220~~**[XXX]**.
- (3) Unescorted leave for any purpose shall occur only upon written order of the court.

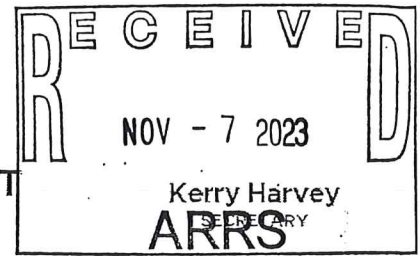
Section 8. Release from Detention.

- (1) A juvenile released on medication shall be provided a minimum of three (3) days medication supply.
- (2) A juvenile in an alternative to secure detention program shall not be required to be physically returned to the detention center to be processed for release upon receipt of a court order authorizing the juvenile's release.

Section 9. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "Day Release **Agreement**", 2023; and
 - (b) "Furlough Agreement", 2023.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Juvenile Justice, Office of the Commissioner, 1025 Capital Center Drive, Third Floor, Frankfort, Kentucky 40601, or at any department field office, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Juvenile Justice Web site at <https://djj.ky.gov/About%20DJJ/Pages/Ircfilings.aspx>.

CONTACT PERSON: Amy 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.



Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

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Frankfort, Kentucky 40601
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Fax: (502) 564-4840

November 7, 2023

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

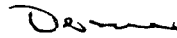
Re: 505 KAR 1:010. Definitions.
505 KAR 1:100. Admissions.
505 KAR 1:110. Intake and Orientation.
505 KAR 1:180. Day treatment admissions.
505 KAR 1:185. Day Treatment Programs
505 KAR 1:210. Restraints
505 KAR 1:220. Transportation of Juveniles
505 KAR 1:240. Dietary Services.
505 KAR 1:260. Education.
505 KAR 1:270. Grievances.
505 KAR 1:280. Hair and Grooming.
505 KAR 1:290. Juvenile allowance and work detail.
505 KAR 1:300. Juvenile records and information.
505 KAR 1:310 Leave, Releases and Furloughs.
505 KAR 1:360. Searches.
505 KAR 1:370. Treatment.
505 KAR 1:400. Behavior Management and Progressive Discipline.
505 KAR 1:410. Isolation and Protective Custody.
505 KAR 1:420. Youthful Offenders.

Dear Ms. Caudill:

After discussions with Legislative Research Commission staff of the issues raised by 505 KAR 1:010, 505 KAR 1:100, 505 KAR 1:110, 505 KAR 1:180, 505 KAR 1:185, 505 KAR 1:210, 505 KAR 1:220, 505 KAR 1:240, 505 KAR 1:260, 505 KAR 1:270, 505 KAR 1:280, 505

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Sincerely,



Deanna Smith
Paralegal Consultant

enclosures

Final: 10/31/23

SUGGESTED AMENDMENT

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice**

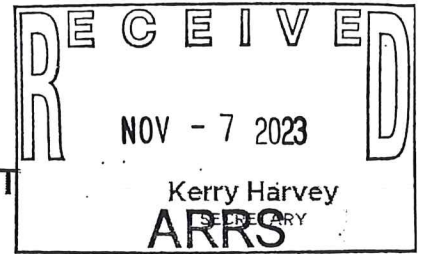
505 KAR 1:360. Searches.

Page 3

Section 5(3)

Line 15

After "viewed by the facility", delete " facility".



Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

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November 7, 2023

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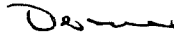
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Sincerely,



Deanna Smith
Paralegal Consultant

enclosures

Final: 10/31/23

SUGGESTED AMENDMENT

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice**

505 KAR 1:370. Treatment.

Page 4

Section 5(5)

Line 3

After "KRS 15A.0652", delete the space before "(3)".

After "(3)(d)", insert "1".

Delete "(1)".

After "and", insert "2".

Delete "(2)".

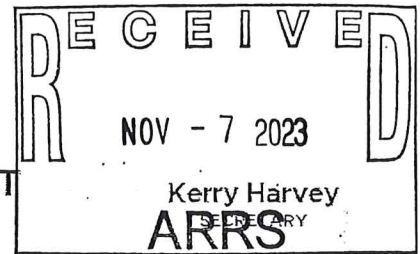
Page 7

Section 6(7)(a)2.

Line 24

After "To return to the previous level, a juvenile", insert "shall".

Delete "must".



Andy Beshear
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JUSTICE AND PUBLIC SAFETY CABINET

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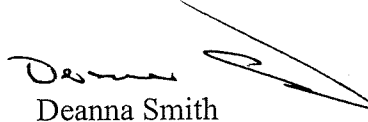
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Sincerely,


Deanna Smith
Paralegal Consultant

enclosures

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice**

505 KAR 1:400. Behavior management and progressive discipline.

RELATES TO: KRS 15A.065, 15A.0652, 15A.067, 200.080-200.120, Chapters 600-645

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, 605.150, 635.095, 635.100(7), 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, ~~15A.210,~~ 605.150, 635.095, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation establishes the procedures for the use of incentives and progressive discipline for juveniles in department facilities.

Section 1. General Provisions.

(1) A juvenile shall be made aware of the rules of the facility and the discipline imposed for violating these rules upon admission or as part of the orientation process. The rules and progressive discipline shall also be included in the handbook and conspicuously posted in the facility. Material shall either be written or interpreted to ensure understanding by the juvenile. Foreign language interpretation shall be provided for the juvenile if a language barrier exists.

(2) Discipline shall not:

- (a) Be used as a means to demonstrate a staff member's authority over a juvenile;
- (b) Be physically abusive, verbally abusive, or used to dehumanize or humiliate a juvenile;
- (c) Include the withholding of meals, snacks, educational access, or required recreation; or
- (d) Include the use of restraints.

Section 2. Incentives.

(1) A juvenile in the custody of the department who demonstrates compliance with the rules shall earn appropriate and available incentives. For incentives, staff shall set goals for juveniles to meet individually or as a group to qualify for an incentive. Eligible juveniles shall be informed of the goal required for the incentive by providing the information in writing, posting it, or being informed orally.

(2) Incentives may include:

- (a) Extra recreation time;
- (b) Special events participation;
- (c) Later bedtime;
- (d) Extra movie;
- (e) Additional television time;
- (f) Group recreation;
- (g) Additional telephone time;
- (h) Computer time;
- (i) Additional time on a favorite project; ~~;~~
- (j) Special visits with siblings and significant others;
- (k) Wearing personal clothing at a designated time, but not in detention centers;
- (l) Special snacks;
- (m) Ability to purchase items from the canteen; and
- (n) Other rewards that are suitable for the juvenile's level or facility.

(3) For youth development centers and group homes, incentives may include field trips or additional community contacts if appropriate. These incentives shall be consistent with the treatment level expectations in 505 KAR 1:370, and require recommendation from the treatment team and, approval from the facility manager, ~~superintendent~~ or designee, and the facilities regional administrator.

Section 3. Minor Rule Violations.

- (1) Consequences for a minor rule violation shall be an immediate response to a juvenile's behavior and not require a disciplinary review. Discipline shall be reasonably time-limited.
- (2) A minor rule violation shall include the following:
 - (a) Minor destruction of property (including tampering with property);
 - (b) Bullying;
 - (c) Disorderly conduct;
 - (d) Horseplaying;
 - (e) Racism, prejudice, or sexist comment of any kind;
 - (f) Showing, writing, or demonstrating gang signs or affiliations in any fashion;
 - (g) Unauthorized trading, lending, or borrowing between juveniles;
 - (h) Tattooing oneself or others;
 - (i) Inappropriate sexual behavior (**including gestures and comments**~~[to include gestures, comments, or sexually acting out]~~); and
 - (j) Other similarly minor violations of other rules posted at or provided to a juvenile at a facility.
- (3) Discipline for a minor rule violation may include:
 - (a) Removal of a privilege;
 - (b) Loss of an activity;
 - (c) Early bedtime;
 - (d) Removal from the group;
 - (e) Placement on a behavior contract;
 - (f) Written treatment assignments; and
 - (g) Use of staff directed time out.

Section 4. Major Rule Violations for Detention, Youth Development Centers, and Group Homes.

- (1) If a juvenile engages in behavior that is a major rule violation, the juvenile shall be issued a penalty slip [~~or disciplinary review notice~~] within twenty-four (24) hours of the violation or once staff becomes aware of the violation.
- (2) A major rule violation shall include the following:
 - (a) Escape;
 - (b) Attempted escape, plotting, or assisting in escape;
 - (c) Physical or sexual assault;
 - (d) Major property damage **including damage to:**
 - 1. Sprinkler;**
 - 2. TV;**
 - 3. Tray slot**
 - 4. Window; and**
 - 5. Other similarly serious types of damage;**
 - (e) Possession of contraband;
 - (f) Physical restraint;
 - (g) Riot or inciting a riot;
 - (h) Theft;
 - (i) Unauthorized use of drugs, alcohol, intoxicants, or unauthorized use of medication;
 - (j) Chronic program disruption; and
 - (k) Commission of any crime under Kentucky law.

Section 5. Loss of Privileges. A juvenile may lose privileges by failing to comply with department and facility rules. Privileges may include:

- (1) Television time;
- (2) Group recreation;
- (3) Telephone time;
- (4) Computer time;
- (5) Gaming system time;

- (6) Music listening time;
- (7) Room time;
- (8) Group movie night;
- (9) Games; and
- (10) Other privileges suitable for the juvenile's level or facility.

Section 6. Time-out. If a juvenile is placed in a staff directed time out:

- (1) The time out shall not exceed sixty (60) minutes;
- (2) The door shall not be shut;
- (3) The juvenile shall participate in determining the end of the timeout; and
- (4) Upon completion of the time out period, the juvenile shall discuss the situation with a staff member.

Section 7. Intensive Room Supervision.

- (1) Intensive room supervision shall only be used:
 - (a) For a juvenile who is showing or expressing a behavior that is a safety or security threat to the program;
 - (b) As a less restrictive attempt to avoid a locked isolation placement; or
 - (c) As a step-down from an isolation placement.
- (2) Intensive room supervision shall not last longer than four (4) hours without authorization of the **facility manager[superintendent]** or administrative duty officer, and shall not exceed twenty-four (24) hours.
- (3) Release criteria shall include whether the juvenile:
 - (a) Has regained control of **the juvenile's[their]** behavior; and
 - (b) Is no longer a threat to the security, safety, or orderly management of the facility.
- (4) Intensive room supervision shall not apply to a group home or day treatment program.

Section 8. Room Restriction.

- (1) Room restriction shall not exceed twelve (12) hours, without authorization of the **facility manager[superintendent]** or ADO, and shall not exceed twenty-four (24) hours.
- (2) Release criteria shall include whether the juvenile:
 - (a) Has regained control of **the juvenile's[their]** behavior;
 - (b) Is acting according to the terms of the plan for release; and
 - (c) Is no longer a threat to the security, safety, or orderly management of the facility.
- (3) If the juvenile is under reasonable control and demonstrating behavior according to the terms of the plan for release, the juvenile shall be released from room restriction.
- (4) In a juvenile detention center and Level 4 YDC, the door shall be shut, but not locked for room restriction. In a group home or other YDC, the door shall be open.
- (5) A superintendent, YSPS, or YWS, if on duty at the facility, shall visit each juvenile each day.**
- (6) If the juvenile's behavior has escalated beyond the staff's ability to control the juvenile by counseling or disciplinary measures, the regional psychologist or designee shall conduct interviews and assessment for disturbances in the juvenile's mental status including:**
 - (a) Depression;**
 - (b)[(a)] Suicidal ideation;**
 - (c)[(b)] Impaired thought processes, cognition, or memory;**
 - (d)[(c)] Agitation;**
 - (e)[(d)] Paranoia;**
 - (f)[(e)] Self-injurious behavior;**
 - (g)[(f)] Evidence of bruises; or**
 - (h)[(g)] Other signs of trauma.**
- (7) If a juvenile exhibits deterioration in mental status during room restriction, the regional psychologist shall be contacted to determine the most appropriate action based on the treatment needs of the youth.**

(8) The juvenile shall receive a visit from the facility nurse or health trained staff, unless medical attention is needed more frequently.

(9) The juvenile in room restriction shall be afforded living conditions and privileges approximating those available to the general population including modified access to recreation, educational, and treatment services taking into consideration the juvenile's and facility's safety and security needs.

(10) The juvenile shall be responsible for the daily cleaning of the juvenile's living area while in room restriction.

(11) Room restriction shall not be used for protective custody. If protective custody is required, the juvenile shall be moved to a safe location within the facility or DJJ.

Section 9. Room Confinement.

(1) Room confinement shall only be used in a Level 4 YDC or juvenile detention center for de-escalation and as a less restrictive placement for a juvenile who is showing or expressing a behavior that could warrant an isolation placement.

(2) It shall only be used during operational hours when a counselor is present.

(3) During room confinement, the door shall be shut and locked.

(4) Room confinement shall not last longer than four (4) hours and the juvenile shall not be placed on room confinement more than one (1) time in a twenty-four (24) hour period.

(5) At initial placement and within two (2) hours of placement on room confinement, a professional review shall be conducted by a juvenile counselor or the Treatment Director with the juvenile to counsel the juvenile and plan for release to the general population.

(6) When a juvenile is placed in room confinement, a plan for release of the juvenile from room confinement shall be made. The plan shall:

(a) State the behavioral expectations required for release from room confinement;

(b) Be explained to the juvenile by staff; and

(c) Be signed by the juvenile. If a juvenile refuses to sign, the plan shall be explained orally by a non-involved staff member and witnessed by a third party.

(7) Release criteria shall include whether the juvenile:

(a) Has regained control of ***the juvenile's[their]*** behavior;

(b) Is acting according to the terms of the plan for release; and

(c) Is no longer a threat to the security, safety, or orderly management of the facility.

(8) If the juvenile is under reasonable control and demonstrating behavior according to the terms of the plan for release, the juvenile shall be released from room confinement.

(9) Room confinement shall only apply to a Level 4 youth development center and a juvenile detention center.

Section 10. Unit Restriction.

(1) Unit restriction shall not exceed forty-eight (48) hours without a disciplinary review being conducted by the treatment team.

(2) The door shall not be locked.

(3) When a juvenile is placed in unit restriction, a plan for release of the juvenile from unit restriction shall be made. The plan shall:

(a) State the behavioral expectations required for release from unit restriction;

(b) Be explained to the juvenile by staff; and

(c) Be signed by the juvenile. If a juvenile refuses to sign, the plan shall be explained orally by a non-involved staff member and witnessed by a third party.

(4) Release criteria shall include whether the juvenile:

(a) Has regained control of ***the juvenile's[their]*** behavior;

(b) Is acting according to the terms of the plan for release; and

(c) Is no longer a threat to the security, safety, or orderly management of the facility.

(5) If the juvenile is under reasonable control and demonstrating behavior according to the terms of the plan for release, the juvenile shall be released from unit restriction.

Section 11. Unit Confinement.

- (1) Unit confinement shall not exceed five (5) days without a disciplinary review being conducted by the treatment team.
- (2) The unit door shall be locked.
- (3) If a juvenile is placed in unit confinement, a plan for release of the juvenile from unit confinement shall be made. The plan shall:
 - (a) State the behavioral expectations required for release from unit confinement;
 - (b) Be explained to the juvenile by staff; and
 - (c) Be signed by the juvenile. If a juvenile refuses to sign, the plan shall be explained orally by a non-involved staff member and witnessed by a third party.
- (4) Release criteria shall include whether the juvenile:
 - (a) Has regained control of **the juvenile's[their]** behavior;
 - (b) Is acting according to the terms of the plan for release; and
 - (c) Is no longer a threat to the security, safety, or orderly management of the facility.
- (5) If the juvenile is under reasonable control and demonstrating behavior according to the terms of the plan for release, the juvenile shall be released from unit confinement.

Section 12. Facility Restriction.

- (1) Facility restriction shall not exceed forty-eight (48) hours without a disciplinary review being conducted by the treatment team.
- (2) If a juvenile is placed in facility restriction, a plan for release of the juvenile from facility restriction shall be made. The plan shall:
 - (a) State the behavioral expectations required for release from facility restriction;
 - (b) Be explained to the juvenile by staff; and
 - (c) Be signed by the juvenile. If a juvenile refuses to sign, the plan shall be explained orally by a non-involved staff member and witnessed by a third party.
- (3) Release criteria shall include whether the juvenile:
 - (a) Has regained control of **the juvenile's[their]** behavior;
 - (b) Is acting according to the terms of the plan for release; and
 - (c) Is no longer a threat to the security, safety, or orderly management of the facility.
- (4) If the juvenile is under reasonable control and demonstrating behavior according to the terms of the plan for release, the juvenile shall be released from facility restriction.

Section 13. **Isolation.** Isolation may only be used in juvenile detention centers and YDCs and shall require approval from the **facility manager[superintendent]**, shift supervisor, or other designee prior to use. If prior authorization cannot be obtained without jeopardizing safety and security, authorization shall be obtained immediately following the safe securing of the juvenile. Facilities shall follow proper time limits if using isolation as discipline as established in 505 KAR 1:410.

Section 14. Safety and Security Responses. Approved safety and security responses shall not be used as punishment and shall only be imposed if there is a threat to the overall safety and orderly operation of the facility. Approved safety and security responses may include room, unit or facility lockdown. The lockdown shall last until the security threat has passed. Unit lockdown and facility lockdown shall only apply to juvenile detention centers and level 4 YDCs.

Section 15. Dangerous or Chronic Behavior.

- (1) For YDCs and group homes, the treatment team shall develop an individual program plan for a juvenile with assaultive behavior, chronic program disruption, or who presents a danger to themselves or others.
- (2) The **facility manager[superintendent]** or shift supervisor may order immediate separation of a juvenile from the general population to allow for individualized attention for the behaviors in subsection (1) of this section. The treatment director shall be consulted immediately.

- (3) Separation from the general population beyond twenty-four (24) hours shall require approval by the **facility manager**~~[superintendent]~~ and the treatment director. The chief of mental health services and regional psychologist shall be consulted.
- (4) This action shall be reviewed by the treatment team within seventy-two (72) hours.
- (5) A juvenile shall be returned to **the juvenile's**~~[their]~~ original status once the expectations stated in the IPP are met.

Section 16. Investigation.

- (1) An investigation shall be conducted for all alleged major rule violations that occur at a juvenile detention center, youth development center, or group home.
- (2) A juvenile who violates a major rule at a detention center, **YDC, or group home** shall be given ~~[a copy of the disciplinary review notice and incident report. A juvenile who violates a major rule at a YDC or group home shall receive]~~ a penalty slip with **a disciplinary review notice**, the alleged violation, and any immediate actions taken by staff to control and de-escalate the situation.

Section 17. Disciplinary Review.

- (1) A disciplinary review for a major rule violation shall be conducted in a~~;~~
 - ~~[(a)] YDC, [and] GH, or detention center~~~~[centers]~~ by the **disciplinary review committee**~~[treatment team]~~ within **five (5)**~~[seven (7)]~~ business days after the penalty slip is issued~~;~~ **and**
 - ~~[(b)] [Detention center, by the Disciplinary Review Committee within twenty-four (24) to seventy-two (72) hours from the infraction].~~
- (2) Postponement of the review may occur if there is justifiable cause.
- (3) The juvenile shall be given written notice of the disciplinary review **at least** twenty-four (24) hours prior to the disciplinary review, unless the juvenile:
 - (a) Signs a waiver to allow the review to take place sooner; or
 - (b) Has waived the right to a review.
- (4) The juvenile shall be present during the disciplinary review unless the juvenile's behavior justifies exclusion or the juvenile waived the right to be present. The juvenile may be excluded during testimony of any juvenile whose statement is given in confidence.
- (5) A staff member may represent the juvenile at the disciplinary review if the juvenile requests the representation or if the juvenile is incapable of self-representation.
- (6) The juvenile may make a statement, present evidence, or request witnesses on the juvenile's behalf.
- (7) The disciplinary review determination shall be based solely on all of the information obtained during the disciplinary review process including staff reports; the statements of the juvenile charged with the violation; evidence derived from witnesses, records, or other sources; and any impact that a disability may have on the juvenile's behavior.
- (8) At the disciplinary review, the violation **shall**~~[may]~~ be removed from the juvenile's file if it is determined that the violation did not occur. Discipline may be imposed against the juvenile in compliance with this administrative regulation, if it is determined that the violation occurred.

Section 18. Violation Decision.

- (1) The discipline to be imposed shall be determined during the disciplinary review.
- (2) The treatment team or disciplinary review committee shall determine the appropriate progressive discipline to be imposed based on the frequency, length, and gravity of the violation, the juvenile's acceptance of responsibility and attempts to correct the behavior, current or previous behavioral health concerns, and other recent violations. Gravity shall be considered the most significant category as it relates to the protection of the juvenile, staff, and facility. Priority shall be given to facility and juvenile safety. All discipline shall be logical, proportional, timely, and consistent with the juvenile's individual treatment plan.
- (3) Except for detention centers, a juvenile who does not complete required discipline shall advance through the level system in 505 KAR 1:370, but shall not be eligible for development or demonstration level privileges until discipline is complete.

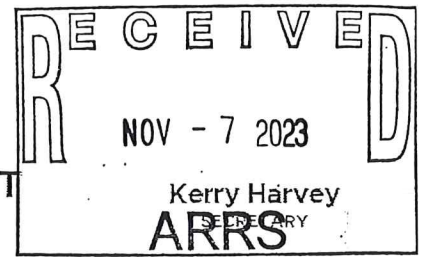
(4) The treatment team or disciplinary review committee shall be responsible for making all treatment decisions regarding a juvenile in response to the major rule violation, changes in the ITP, or recommendation for transfer.

Section 19. Disciplinary Review Appeal.

(1) A juvenile may appeal a disciplinary review decision within fourteen (14) days of receipt of the treatment team's or disciplinary review committee's decision. The appeal shall be in writing to the **facility manager**[**superintendent**]. The **facility manager**[**superintendent**] shall make a decision on the appeal within thirty (30) days of receipt.

(2) If the **facility manager**[**superintendent**] reverses the treatment team's or disciplinary review committee's decision and finds that the juvenile is not responsible for any or all of the alleged rule infractions, the assigned consequences shall be ordered lifted or adjusted accordingly. The incident or disciplinary report shall be removed from the juvenile's individual client record.

CONTACT PERSON: Amy 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.



Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

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November 7, 2023

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

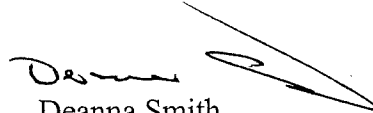
Re: 505 KAR 1:010. Definitions.
505 KAR 1:100. Admissions.
505 KAR 1:110. Intake and Orientation.
505 KAR 1:180. Day treatment admissions.
505 KAR 1:185. Day Treatment Programs
505 KAR 1:210. Restraints
505 KAR 1:220. Transportation of Juveniles
505 KAR 1:240. Dietary Services.
505 KAR 1:260. Education.
505 KAR 1:270. Grievances.
505 KAR 1:280. Hair and Grooming.
505 KAR 1:290. Juvenile allowance and work detail.
505 KAR 1:300. Juvenile records and information.
505 KAR 1:310 Leave, Releases and Furloughs.
505 KAR 1:360. Searches.
505 KAR 1:370. Treatment.
505 KAR 1:400. Behavior Management and Progressive Discipline.
505 KAR 1:410. Isolation and Protective Custody.
505 KAR 1:420. Youthful Offenders.

Dear Ms. Caudill:

After discussions with Legislative Research Commission staff of the issues raised by 505 KAR 1:010, 505 KAR 1:100, 505 KAR 1:110, 505 KAR 1:180, 505 KAR 1:185, 505 KAR 1:210, 505 KAR 1:220, 505 KAR 1:240, 505 KAR 1:260, 505 KAR 1:270, 505 KAR 1:280, 505

KAR 1:290, 505 KAR 1:300, 505 KAR 1:310, 505 KAR 1:360, 505 KAR 1:370, 505 KAR 1:400, 505 KAR 1:410 and 505 KAR 1:420, the Justice and Public Safety Cabinet, Department of Juvenile Justice proposes the attached suggested amendment to 505 KAR 1:010, 505 KAR 1:100, 505 KAR 1:110, 505 KAR 1:180, 505 KAR 1:185, 505 KAR 1:210, 505 KAR 1:220, 505 KAR 1:240, 505 KAR 1:260, 505 KAR 1:270, 505 KAR 1:280, 505 KAR 1:290, 505 KAR 1:300, 505 KAR 1:310, 505 KAR 1:360, 505 KAR 1:370, 505 KAR 1:400, 505 KAR 1:410 and 505 KAR 1:420.

Sincerely,


Deanna Smith
Paralegal Consultant

enclosures

SUGGESTED SUBSTITUTE

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice**

505 KAR 1:410. Isolation and protective custody.

RELATES TO: KRS 15A.065, 15A.0652, 200.080-200.120, Chapters 600-645

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.0652, 15A.160, 605.150, 635.095, 635.100(7), 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.0652, 15A.160, [~~15A.210,~~ 605.150, 635.095, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation establishes procedures for isolation and protective custody in juvenile detention centers and youth development centers.

Section 1. Isolation.

- (1) Isolation shall only apply to juveniles in juvenile detention centers and youth development centers.
- (2) A juvenile may be placed in isolation if the juvenile constitutes a threat to the safety or security of the facility, staff, or a juvenile.
- (3) The following situations may constitute a threat to the safety or security of the facility, staff, or a juvenile and may result in an isolation placement:
 - (a) Assault or attempted assault;
 - (b) Sexual assault or attempted sexual assault;
 - (c) Attempted escape or attempted absent without leave;
 - (d) Escape;
 - (e) Participating in a riot;
 - (f) Planning a riot;
 - (g) Possessing dangerous contraband; or
 - (h) Causing extensive property damage.
- (4) Authorization shall be obtained from the **facility manager**[~~superintendent~~], youth services program supervisor, administrative duty officer, or shift supervisor prior to placing a juvenile into isolation. If prior authorization cannot be obtained without jeopardizing the safety and security of the facility, staff, or other juveniles, authorization shall be obtained immediately following the safe securing of the juvenile. An isolation placement shall not exceed four (4) hours without further action as stated in subsections (5) through (7) of this section.
- (5) Isolation in a detention center.
 - (a) The **facility manager**[~~superintendent~~] may authorize a juvenile to remain in isolation beyond an initial four (4) hour period, not to exceed twenty-four (24) hours.
 - (b) An extension of an isolation placement beyond twenty-four (24) hours and up to thirty-six (36) hours shall require the approval of the division director. The division director shall consider whether the juvenile:
 1. Has regained control of their behavior; and
 2. Is no longer a threat to the security, safety, or orderly management of the facility.
 - (c) An extension of an isolation placement beyond thirty-six (36) hours and up to a maximum of forty-eight (48) hours shall require the approval of the division director and the chief of mental health services. For the extension decision, they shall consider:
 1. Whether the juvenile has regained control of their behavior; and
 2. Whether the juvenile is no longer a threat to the security, safety, or orderly management of the facility; and
 3. The mental health issues of the juvenile.

(d) If a highly assaultive juvenile requires isolation for more than forty-eight (48) hours, an extension of an isolation placement beyond forty-eight (48) hours shall require the approval of the respective division director and the chief of mental health services. Any extension made shall be reviewed every twenty-four (24) hours and shall not exceed five (5) days. For the extension decision, they shall consider:

1. Whether the juvenile has regained control of their behavior;~~[-and]~~
2. Whether the juvenile is no longer a threat to the security, safety, or orderly management of the facility; and
3. The mental health issues of the juvenile.

(6) Isolation in youth development centers and group homes.

(a) The **facility manager**~~superintendent~~ may authorize a juvenile to remain in isolation beyond an initial four (4) hour period, not to exceed twenty-four (24) hours.

(b) An extension of an isolation placement beyond twenty-four (24) hours and up to thirty-six (36) hours shall require the approval of the facilities regional administrator. For the extension decision, the FRA shall consider whether the juvenile:

1. Has regained control of their behavior; and
2. Is no longer a threat to the security, safety, or orderly management of the facility.

~~(c)~~~~3.~~ An extension of an isolation placement beyond thirty-six (36) hours and up to a maximum of forty-eight (48) hours shall require the approval of the respective division director and the regional psychologist. For the extension decision, they shall consider:

~~1.~~~~a.~~ Whether the juvenile has regained control of their behavior;~~[-and]~~

~~2.~~~~b.~~ Whether the juvenile is no longer a threat to the security, safety, or orderly management of the facility; and

~~3.~~~~c.~~ The mental health issues of the juvenile.

~~(d)~~~~(e)~~ If a highly assaultive juvenile requires isolation for more than forty-eight (48) hours, an extension of an isolation placement beyond forty-eight (48) hours shall require the approval of the respective division director, the regional psychologist, and the chief of mental health services. Any extension made shall be reviewed every twenty-four (24) hours and shall not exceed five (5) days. For the extension decision, they shall consider:

1. Whether the juvenile has regained control of their behavior; and
2. Whether the juvenile is no longer a threat to the security, safety, or orderly management of the facility; and
3. The mental health issues of the juvenile.

(7) The nurse shift program supervisor or on call nurse designee shall be notified as soon as feasible to determine if there are contra-indications for the juvenile being placed in isolation.

(a) The facility nurse or health **services protocol** trained staff shall assess a juvenile placed in isolation as soon as it is safe to do so, as dictated by the director of medical services.

(b) Injuries, bruises, scratches, and other observations shall be noted by a minimum of two (2) staff. The nurse or designee shall document the date, time, and results of the assessment.

(8) Isolation may be used if requested by a juvenile and staff concur that the placement is in the best interest of the juvenile.

(9) An assessment of a juvenile in isolation shall not be required to occur within the deadlines established in subsections (5) ~~through~~~~[-]~~ (7) of this section, if the deadline falls within the normal sleep time for the facility. A delayed assessment shall occur within two hours of the normal awake time for the facility.

(10) A juvenile in isolation shall be visited at least once a day by the **facility manager**~~superintendent~~ or designee, medical or medically trained staff, and clinical or social work staff or designee. A juvenile may request a visit from clergy or other religious representative. All interactions with the juvenile during placement on isolation shall be documented.

(11) The regional psychologist or designee shall conduct interviews and assessments for disturbances in mental status, including, for example, depression; suicidal ideation; impaired thought processes, cognition or memory; agitation; paranoia; self-injurious behavior; evidence of bruises or other signs of

trauma; and whether the juvenile's behavior has escalated beyond the staff's ability to control the juvenile by counseling or disciplinary measures.

(12) If a juvenile exhibits deterioration in mental status while in isolation, the regional psychologist shall be contacted to determine the most appropriate action based on the treatment needs of the juvenile.

(13) If a juvenile's problem behavior lasts twenty-four (24) hours and there appears to be a need for continued intervention, qualified health personnel shall assess the juvenile daily.

(14) The juvenile in isolation shall be afforded living conditions and privileges approximating those available to the general population, including modified access to recreation and educational and treatment services taking into consideration the juvenile's **and the facility's/facility** safety **and security** needs.

(15) The juvenile shall be responsible for the daily cleaning of their living area in isolation.

(16) Release from isolation may occur based on the juvenile's behavior and state of mind.

Section 2. Isolation of suicidal juveniles.

(1) Isolation shall not be used as a suicide precaution.

(2) A juvenile who is suicidal may only be placed in isolation if the juvenile presents an immediate assault risk to staff or other juveniles as evidenced by physical actions and other less restrictive interventions have failed or are not appropriate. All other suicide protocols shall be followed.

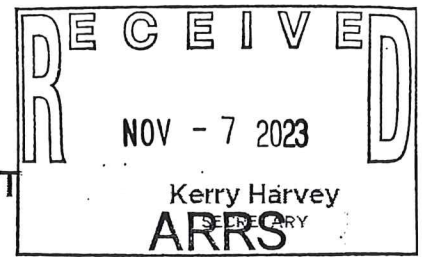
Section 3. Protective Custody.

(1) A juvenile requiring protection from others may be placed in protective custody until alternative permanent housing is found within the facility or the juvenile is transferred to another facility.

(2) The **facility manager[superintendent]** or designee may order immediate placement in protective custody or isolation if it is necessary to protect the juvenile from harm. This action shall be reviewed every twenty-four hours of placement by the **facility manager[superintendent]** or designee. Separation from the general population beyond twenty-four (24) hours shall require approval by the **facility manager[superintendent]** and Treatment Director and shall consider any mental health issues of the juvenile. The chief of mental health services and regional psychologist shall be consulted. The action shall be reviewed by the treatment team within seventy-two (72) hours.

(3) The youth development center treatment team may develop a special management plan to assure the safety of and continuous services and programming for the juvenile.

CONTACT PERSON: Amy 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.



Andy Beshear
GOVERNOR

JUSTICE AND PUBLIC SAFETY CABINET

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November 7, 2023

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

Re: 505 KAR 1:010. Definitions.
505 KAR 1:100. Admissions.
505 KAR 1:110. Intake and Orientation.
505 KAR 1:180. Day treatment admissions.
505 KAR 1:185. Day Treatment Programs
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505 KAR 1:290. Juvenile allowance and work detail.
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505 KAR 1:410. Isolation and Protective Custody.
505 KAR 1:420. Youthful Offenders.

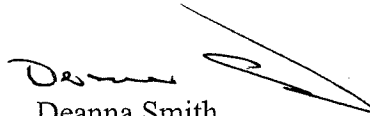
Dear Ms. Caudill:

After discussions with Legislative Research Commission staff of the issues raised by 505 KAR 1:010, 505 KAR 1:100, 505 KAR 1:110, 505 KAR 1:180, 505 KAR 1:185, 505 KAR 1:210, 505 KAR 1:220, 505 KAR 1:240, 505 KAR 1:260, 505 KAR 1:270, 505 KAR 1:280, 505

TEAM
KENTUCKY.

KAR 1:290, 505 KAR 1:300, 505 KAR 1:310, 505 KAR 1:360, 505 KAR 1:370, 505 KAR 1:400, 505 KAR 1:410 and 505 KAR 1:420, the Justice and Public Safety Cabinet, Department of Juvenile Justice proposes the attached suggested amendment to 505 KAR 1:010, 505 KAR 1:100, 505 KAR 1:110, 505 KAR 1:180, 505 KAR 1:185, 505 KAR 1:210, 505 KAR 1:220, 505 KAR 1:240, 505 KAR 1:260, 505 KAR 1:270, 505 KAR 1:280, 505 KAR 1:290, 505 KAR 1:300, 505 KAR 1:310, 505 KAR 1:360, 505 KAR 1:370, 505 KAR 1:400, 505 KAR 1:410 and 505 KAR 1:420.

Sincerely,


Deanna Smith
Paralegal Consultant

enclosures

SUGGESTED SUBSTITUTE

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice**

505 KAR 1:420. Youthful offenders.

RELATES TO: KRS 15A.065, 15A.0652, 15A.067, 196.280, 197.045, 200.080-200.120, 439.265, 439.267, Chapters 600-645

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, 605.150, 635.100(7), 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.0652, 15A.067, 15A.160, 605.150, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation establishes the requirements for youthful offenders in the custody of the department.

Section 1. Sentence, Admission, Transfer.

- (1) A youthful offender sentenced to confinement by a circuit court shall serve the sentence in a DJJ operated facility, or approved or contracted facility, until one (1) of the events listed in KRS 640.030 occurs.
- (2) A youthful offender convicted and awaiting classification placement shall:
 - (a) Be placed within sixty (60) days of sentencing;
 - (b) Have contact from a DJJ representative at least once per week while in a non-DJJ detention facility; and
 - (c) Be subject to DNA collection.
- (3) A youthful offender shall be advised verbally and in writing, and sign an acknowledgement regarding the requirements of KRS 640.070 upon admission. A program shall provide foreign language interpretation of the materials for the **youthful offender[juvenile]** if a language barrier exists.
- (4) Placement of a youthful offender shall be in accordance with the Classification and Placement Manual incorporated by reference in 505 KAR 1:100.
- (5) If a youthful offender is transferred to another facility, a new copy of the KRS 640.070 acknowledgement shall be signed by the youthful offender.
- (6) DJJ shall not extend jurisdiction for a youthful offender beyond the age of eighteen (18) years and five (5) months except in special circumstances as described by KRS 640.075(1).

Section 2. Educational Good Time.

- (1) Sentence credits for education shall be awarded in accordance with KRS 197.045(1)(a)**2. and 3. [(2)]** for a youthful offender. A youthful offender shall receive ninety (90) days sentence credit for:
 - (a) Successful completion of the following education:
 1. High school equivalency diploma;
 2. High school diploma;
 3. Two (2) or four (4) year degree from an accredited college or university;
 4. Career or technical education program approved by the department; or
 5. Two (2) or four (4) year degree from an accredited college or university online or by correspondence approved by the department; **or**
 - (b) Successfully completing a drug treatment or other evidenced based program approved by the department; **or**
 - (c) Successfully completing a civics education program that requires passing a final exam approved or offered by the department].**

- (2) A list of department approved courses shall be available on the department Web site and posted at each facility in an area accessible to juveniles.
- (3) Education sentence credit shall not be awarded for:
 - (a) An individual course;
 - (b) A certificate;
 - (c) Completion of a module or level within a larger trade or career or technical education program;
 - (d) Degree from an unapproved~~[a non-approved]~~ correspondence course provider;
 - (e) Degree from non-accredited entity; or
 - (f) Any program not approved by the department.

Section 3. Meritorious Good Time.

- (1) A youthful offender shall be considered for meritorious good time monthly to determine eligibility.
- (2) If a youthful offender was absent without leave or was adjudicated or convicted of an additional felony that occurred while in a DJJ residential program, the six (6) month period following the return to the program from AWOL status or conviction of another felony shall not be considered for an award of meritorious good time.
- (3) Once an award period has been reviewed, future awards shall not include any previously considered time period.
- (4) Youthful offenders may be awarded meritorious good time for each full calendar month served. Meritorious good time may be awarded on jail or detention time or parole violation time. Partial months shall not be considered for award amounts.
- (5) Facility time shall be calculated in full month increments only and shall not be added to jail or detention credit or parole violation time.

Section 4. Extraordinary Meritorious Good Time.

- (1) A youthful offender may be considered for extraordinary meritorious good time pursuant to KRS 197.045(1)(b)3.**
- (2) A youthful offender may be nominated for extraordinary meritorious good time by a staff person. The nomination shall be in writing and describe in detail the exceptional service performed by the youthful offender and the emergency. The written nomination shall be provided to the offender information administrator.**
- (3) The offender information administrator shall submit the completed nomination to the commissioner for a decision concerning extraordinary meritorious good time. The commissioner may request additional information before making a decision concerning the nomination.**
- (4) Offender information staff shall credit to the youthful offender's sentence any extraordinary meritorious good time awarded by the commissioner. The document approving the extraordinary meritorious good time shall be maintained in the offender management system or individual client record.**

Section 5. Victim Information and Notification Everyday (VINE).

- (1) A crime victim may register to be notified, if a youthful offender is absent without leave or has escaped, reaches sentence serve-out, or has a court-ordered release.
- (2) Registering by the victim or members of the public in VINE shall be voluntary and confidential.
- (3) A person shall be registered to receive electronic notification. The person may register:
 - (a) Electronically using the Web site~~[website]~~, www.vinelink.com; or
 - (b) By calling the toll-free VINE line at 800-511-1670.
- (4) A convicted youthful offender shall be added to the VINE database no later than the day of initial placement by the classification branch, and in the event of a change in custody status, the change shall be entered.

CONTACT PERSON: Amy 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.

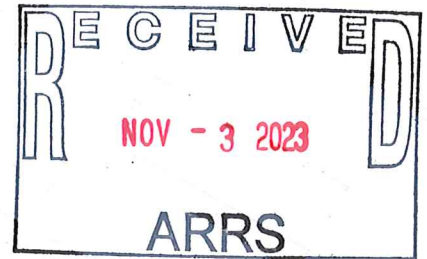
Andy Beshear
Governor



Jamie Link
Secretary, Education and
Labor Cabinet

Robin Fields Kinney
Interim Commissioner of Education

KENTUCKY DEPARTMENT OF EDUCATION
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November 2, 2023

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Capitol Annex 083
Frankfort KY 40601

Re: **701 KAR 5:110. Use** of local monies to reduce unmet technology need

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 701 KAR 5:110, the Kentucky Board of Education proposes the attached amendment to 701 KAR 5:110.

Sincerely,

Todd G. Allen

Todd G. Allen
General Counsel

Final, 11-2-2023

SUGGESTED SUBSTITUTE

**EDUCATION AND LABOR CABINET
Kentucky Board of Education
Department of Education**

701 KAR 5:110. Use of local monies to reduce unmet technology need.

RELATES TO: KRS 156.670, 157.650, 157.655, 157.660, 157.665, 160.160

STATUTORY AUTHORITY: KRS 156.070, 156.160

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160(1)(c) requires the Kentucky Board of Education to promulgate administrative regulations governing the acquisition and use of educational equipment for the schools. KRS 156.670(1) requires the development of the master plan for education technology to outline Commonwealth activities related to the purchase, development, and use of technology. The master plan requires a district to submit a plan and report which describes~~[describing]~~ its educational initiatives that have technology components and their unmet technology need. KRS 157.655 authorizes a local public school district to participate in the education technology funding program based on the unmet technology need described in the local district plan and approved by the Kentucky Board of Education. Based on review of the unmet technology need, it has been determined that full implementation of the Kentucky Education Technology System (KETS) cannot be funded based solely on offers of assistance from the Education Technology Trust Fund. This administrative regulation establishes the requirements governing the use of local monies to reduce unmet technology need to ensure that all school district technology procurements, in categories for which KETS standards for unmet need have been established, will reduce the unmet technology need regardless of source of funds.

Section 1. Definitions.

- (1) "Department" means the Kentucky Department of Education.
- (2) "District education technology plan" means the plan developed by the local school district to address the unmet technology need of the district.
- (3) "Kentucky Education Technology System" or "KETS" means the statewide system established in the technology master plan issued by the Kentucky Board of Education and approved by the Legislative Research Commission.
- (4) "Master plan" means the long-range plan for the implementation of the Kentucky Education Technology System approved by the Kentucky Board of Education and the Legislative Research Commission.
- (5) "Unmet technology need" means the total cost of technology, meeting or exceeding the criteria established in the master plan, needed to achieve the capabilities outlined in the approved district education technology plan of the local school district.

Section 2. Determination of Unmet Need. A local school district shall determine its unmet technology need as part of the education technology planning process. Unmet technology need shall be audited by the department and subject to the approval of the Kentucky Board of Education as part of the state review and assistance calculation process in accordance with the master plan.

Section 3. Reducing Unmet Need.

- (1) In categories of unmet technology need, as established in the ~~[-2024-2030]~~[2018-2024] KETS Master Plan for Education Technology 2024-2030, a district shall limit procurements to those that will reduce unmet technology need until the district's unmet technology need no longer exists.
- (2) The department shall assist districts in selecting equipment, software, and services which~~[that]~~ will reduce the unmet technology need.

Section 4. Alternative Technology. For technology components having no established KETS standards, a local school district may propose alternative technologies (waivers) in the local district education technology plan, particularly if the technology is proposed to achieve innovation. The department shall respond to the waiver within a three (3) week time period. If denied, the local school district may appeal to the Commissioner of Education.

Section 5. Incorporation by Reference.

(1) "~~The 2024-2030~~[2018-2024] KETS Master Plan ***for Education Technology 2024-2030***", ~~[dated] August 2023~~[February 2018], is ~~[hereby]~~ incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, from the Office of Education Technology, 5th floor, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. through 4:30 p.m. This material may be viewed at: <https://education.ky.gov/districts/legal/Pages/Kentucky-Revised-Statutes.aspx>. This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

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

Andy Beshear
Governor



Jamie Link
Secretary, Education and
Labor Cabinet

Robin Fields Kinney
Interim Commissioner of Education

KENTUCKY DEPARTMENT OF EDUCATION
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Phone: (502) 564-3141 • www.education.ky.gov



November 3, 2023

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Capitol Annex 083
Frankfort KY 40601

Re: **702 KAR 3:340**. Approval of school district lease agreements

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 702 KAR 3:340, the Kentucky Board of Education proposes the attached amendment to 702 KAR 3:340.

Sincerely,

Todd G. Allen

Todd G. Allen
General Counsel

Final, 11-3-2023

SUGGESTED AMENDMENT

**EDUCATION AND LABOR CABINET
Kentucky Board of Education
Department of Education**

702 KAR 3:340. Approval of school district lease agreements.

Page 1

RELATES TO

Line 6

After "KRS", delete "45.570,".

Page 1

NECESSITY, FUNCTION, AND CONFORMITY

Line 9

After "KRS", insert "156.070".

Delete "156.160".

After "and", immediately following, insert "156.160".

Delete "156.070".

Page 2

Section 3(1)

Line 14

After "Certification", insert "November".

Delete "August".

MATERIAL INCORPORATED BY REFERENCE

At the time that it files this staff suggested amendment the agency needs to file one (1) clean copy of the "Local Board Attorney Certification" form that:

- Includes an edition Date of November 2023
- Deletes the sentence referencing KRS 45.570

Local Board Attorney Certification

I, [Attorney’s Full Name], an attorney licensed to practice law in the Commonwealth of Kentucky, do hereby certify the following:

- I represent the [District Name] Board of Education (“Board of Education”) and as part of my legal representation have reviewed the attached contractual agreement (“Agreement”) between Board of Education and [Vendor Name] “Vendor” for the lease of personal or real property with a total lease price in excess of one hundred thousand dollars (\$100,000).
- The Agreement provides that the law of the Commonwealth of Kentucky shall govern the Agreement and the rights and obligations of the parties thereto.
- The Agreement provides that any legal dispute arising out of the Agreement will be brought in the courts of the Commonwealth of Kentucky.
- The Agreement either: (1) does not contain any provision whereby Board of Education agrees to indemnify Vendor or hold Vendor harmless; or (2) specifically conditions any agreement by Board of Education to indemnify Vendor or hold Vendor harmless as only to the extent permitted by Kentucky law, including but not limited to Section 177 of the Kentucky Constitution.
- The Agreement, if the term is for more than one year, contains either: (1) an annual cancellation clause; or (2) provides that the Board of Education may cancel the Agreement if funds are not appropriated or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination.
- The Agreement complies with KRS 160.160(4), if it is for real property.
- If the lease is for real property, the Agreement term, including renewals, does not exceed forty (40) years.
- The Agreement provides for an initial term of no greater than seven years if it is for education technology. In the event the Agreement contains options for Board of Education to renew the Agreement, no term of renewal is greater than seven years.
- If the lease is for personal property, other than education technology, the Agreement term, including renewals, does not exceed the useful life of the personal property financed, determined in accordance with generally accepted accounting principles.
- The Agreement either: (1) complies with KRS Chapter 45A, the Kentucky Model Procurement Code, provisions applicable to the Board of Education; or (2) complies with KRS 424.260 and 702 KAR 3:135.
- The undersigned attorney is: (1) currently covered by a policy of professional liability insurance with minimum limits of at least \$100,000.00 per claim and \$300,000.00 aggregate for all claims during the policy term; or (2) employed by the Board of Education as in-house counsel and not otherwise engaged in the private practice of law.

Signature of Attorney: _____

Print Name: _____

Firm Name: _____

Telephone Number: _____

Email address: _____

Kentucky Bar Association Number: _____

Dated: November 2023

Andy Beshear
Governor



Jamie Link
Secretary, Education and
Labor Cabinet

Robin Fields Kinney
Interim Commissioner of Education

KENTUCKY DEPARTMENT OF EDUCATION

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



November 2, 2023

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Capitol Annex 083
Frankfort KY 40601

Re: 702 KAR 7:125. Pupil attendance

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 702 KAR 7:125, the Kentucky Board of Education proposes the attached amendment to 702 KAR 7:125.

Sincerely,

Todd G. Allen

Todd G. Allen
General Counsel

Final, 11-1-2023

SUGGESTED AMENDMENT

**EDUCATION AND LABOR CABINET
Kentucky Board of Education
Department of Education**

702 KAR 7:125. Pupil attendance.

**Page 1
RELATES TO
Line 6**

After "157.350," insert "157.360."

After "158.030," insert "158.031, 158.033, 158.060."

**Page 7
Section 9(1)
Line 13**

After "SAAR", delete "may".

**Page 7
Section 9(1)(a)
Line 14**

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

Lowercase the first letter of "Substitute".

**Page 7
Section 10(1)
Line 20**

After "SAAR", delete "may".

**Page 7
Section 10(1)(a)
Line 21**

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

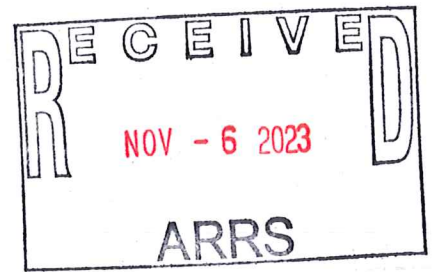
Lowercase the first letter of "Substitute".

**Page 10
Section 12(20)
Line 20**

After "in a district", insert a comma.

**Page 11
Section 12(34)
Lines 18-19**

After "in the district", insert a comma.



PUBLIC PROTECTION CABINET
Kentucky Horse Racing
Commission

Andy Beshear
GOVERNOR

Jacqueline Coleman
LIEUTENANT GOVERNOR

4063 Iron Works Parkway, Building B
Lexington, KY 40511
Phone: (859) 246-2040
Fax: (859) 246-2039

Ray A. Perry
SECRETARY

Jamie Eads
EXECUTIVE DIRECTOR

Jonathan Rabinowitz
CHAIRMAN

November 6, 2023

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission 083,
Capitol Annex
Frankfort, Kentucky 40601

Re: **810 KAR 4:001**. Definitions for 810 KAR Chapter 4.
810 KAR 4:010. Horses.
810 KAR 4:030. Entries, subscriptions, and declarations.
810 KAR 4:040. Running of the race.

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 810 KAR 4:001. Definitions for 810 KAR Chapter 4.; 810 KAR 4:010. Horses.; 810 KAR 4:030. Entries, subscriptions, and declarations.; 810 KAR 4:040. Running of the race and proposes the attached amendments to 810 KAR 4:001, 810 KAR 4:010, 810 KAR 4:030 and 810 KAR 4:040.

Sincerely,

Jennifer Wolsing
General Counsel

Final, 9-21-2023

STAFF-SUGGESTED AMENDMENT

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission**

810 KAR 4:001. Definitions for 810 KAR Chapter 4.

Page 1

RELATES TO

Line 5

After "KRS", insert "Chapter".

Page 1

NECESSITY, FUNCTION, AND CONFORMITY

Lines 7-8

After "KRS 230.215(2)", insert "(a) and (c) authorize".
Delete "authorizes".

Page 2

Section 1(7)

Line 11

After "KRS 230.210", insert "(6)".

Page 6

Section 1(44)

Line 9

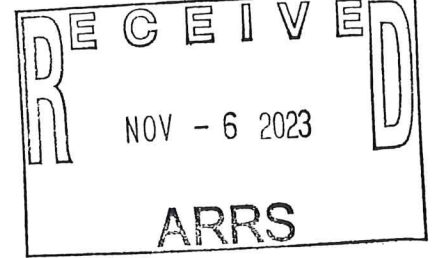
After "KRS 230.210", insert "(18)".

Page 8

Section 1(67)

Line 14

After "KRS 230.210", insert "(32)".



PUBLIC PROTECTION CABINET
Kentucky Horse Racing
Commission

Andy Beshear
GOVERNOR

Jacqueline Coleman
LIEUTENANT GOVERNOR

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CHAIRMAN

November 6, 2023

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission 083,
Capitol Annex
Frankfort, Kentucky 40601

Re: 810 KAR 4:001. Definitions for 810 KAR Chapter 4.
810 KAR 4:010. Horses.
810 KAR 4:030. Entries, subscriptions, and declarations.
810 KAR 4:040. Running of the race.

Dear Co-Chairs West and Lewis:

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Sincerely,

Jennifer Wolsing
General Counsel

Final, 9-21-2023

STAFF-SUGGESTED AMENDMENT

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission**

810 KAR 4:010. Horses.

Page 1

STATUTORY AUTHORITY

Line 6

After "KRS 230.215(2)", insert "(a), (c)".

Page 1

NECESSITY, FUNCTION, AND CONFORMITY

Line 7

After "KRS 230.215(2)", insert "(a) and (c)".

Line 8

After "Racing Commission", delete "(the "commission")".

Page 8

Section 11(10)(a)

Line 21

After "except as", insert "established".

Delete "set forth".

Page 10

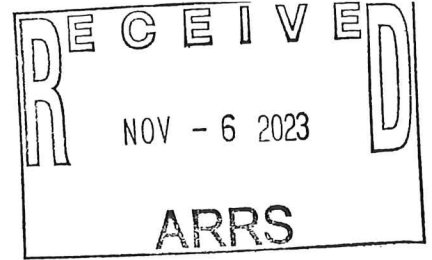
Section 15(2)

Line 21

After "(ISO)", insert "Web site".

Delete "website".

After "at", delete "the following URL:".



Andy Beshear
GOVERNOR

Jacqueline Coleman
LIEUTENANT GOVERNOR

PUBLIC PROTECTION CABINET
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November 6, 2023

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission 083,
Capitol Annex
Frankfort, Kentucky 40601

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810 KAR 4:010. Horses.
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Sincerely,

Jennifer Wolsing
General Counsel

Final, 10-26-2023

STAFF-SUGGESTED AMENDMENT

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission**

810 KAR 4:030. Entries, subscriptions, and declarations.

Page 1

STATUTORY AUTHORITY

Line 6

After "KRS 230.215(2)", insert "(a), (c)".

Page 1

NECESSITY, FUNCTION, AND CONFORMITY

Line 7

After "KRS 230.215(2)", insert "(a) and (c) authorize".
Delete "authorizes".

Line 8

After "Commission", delete "(the "commission")".

Line 10

After "KRS 230.260(8)", insert "authorizes".
Delete "grants".
After "the commission", delete "the authority".

Page 4

Section 3(8)(h)

Line 15

After "thirty (30)", insert "days".
Delete "day".

Page 5

Section 3(11)

Line 7

After "testing", insert "as established".
Delete "governed".

Page 9

Section 11(1)

Line 22

After "horses entered", insert a comma.
After "but not drawn", insert a comma.

Page 10

Section 11(6)

Line 17

After "(6)", insert "If".
Delete "When".

Line 19

After "horse.", insert "If".

Delete "When".

Page 11
Section 12(1)
Line 1

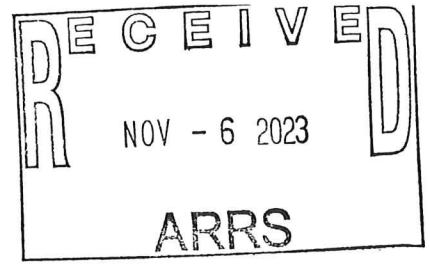
After "were entered", insert a comma.

Page 13
Section 17(1)
Line 12

After "subsection (4)", insert "of this section".

Page 13
Section 17(2)
Line 20

After "required by", delete "paragraph (a) of".
After "subsection (1)", insert "(a)".



Andy Beshear
GOVERNOR

Jacqueline Coleman
LIEUTENANT GOVERNOR

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Commission

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November 6, 2023

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission 083,
Capitol Annex
Frankfort, Kentucky 40601

Re: 810 KAR 4:001. Definitions for 810 KAR Chapter 4.
810 KAR 4:010. Horses.
810 KAR 4:030. Entries, subscriptions, and declarations.
810 KAR 4:040. Running of the race.

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Sincerely,

Jennifer Wolsing
General Counsel

Final, 9-25-2023

STAFF-SUGGESTED AMENDMENT

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission**

810 KAR 4:040. Running of the race.

Page 1

STATUTORY AUTHORITY

Line 6

After "KRS 230.215(2)", insert "(a), (c)".

Page 1

NECESSITY, FUNCTION, AND CONFORMITY

Line 7

After "KRS 230.215(2)", insert "(a) and (c)".

Lines 9-10

After "This administrative regulation", insert "establishes".
Delete "sets forth".

Page 5

Section 10(6)

Line 6

After "If the", lowercase the first letter of "Stewards".

Page 5

Section 10(6)(a)

Line 8

After "(a) The", lowercase the first letter of "Stewards".

Page 6

Section 12(6)

Lines 4-5

After "plus", insert "1/1000th of a".
Delete "one one-thousandth".