

Andy Beshear
Governor



Jamie Link
Secretary, Education and
Labor Cabinet

Dr. Robbie Fletcher
Commissioner of Education

KENTUCKY DEPARTMENT OF EDUCATION

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

February 24, 2026



Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Regulations Compiler
Administrative Regulation Review Subcommittee
Capitol Annex 083
Frankfort, KY 40601

Re: 704 KAR 3:410. Preschool education program for four (4) year old children

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 704 KAR 3:410, the Kentucky Board of Education proposes the attached amendment to 704 KAR 3:410.

Sincerely,

A handwritten signature in blue ink that reads "T. Allen".

Todd G. Allen
Deputy Commissioner and General Counsel

attachment

Subcommittee Substitute

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

704 KAR 3:410. Preschool education program for four (4) year old children.

RELATES TO: KRS 65.250, 156.160, 157.3175, 158.032(3), 158.120, 214.034, 34 C.F.R. Part 99

STATUTORY AUTHORITY: KRS 156.070, 156.160, 157.3175

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160 ***requires [authorizes]*** the Kentucky Board of Education to promulgate administrative regulations establishing standards which school districts shall meet in student, program, service and operational performance. KRS 157.3175 ***requires [authorizes]*** preschool education programs for ~~["at-risk"]~~ four (4) year old children who are at risk of educational failure and ***requires [authorizes]*** that administrative regulations be promulgated to establish eligibility criteria, program guidelines, and standards for personnel. This administrative regulation establishes the criteria for the preschool education program for ~~["at-risk"]~~ four (4) year old children who are at risk of educational failure, including procedures for a grant allocation system, eligibility criteria for children to be served, guidelines for program operation, and standards for personnel.

Section 1. Definitions.

(1) "Child[Day] care" ***is defined by [means the same as in]*** 922 KAR 2:090(4) ~~[a program which is designed to supplement but not substitute for the parent's responsibility for the child's protection, development and supervision, when it is necessary or desirable for the parent or child to be out of the home for all or part of the day or night].~~

(2) "Developmentally appropriate preschool program" ***is [means a program as]*** defined by KRS 157.3175(2).

(3) "Double session" means a variation of the program that operates with one (1) teacher who works with a group of children in a morning session and a different group of children in the afternoon session.

(4) "Evidence-based" ***is defined by [has the same meaning as in]*** 20 U.S.C. sec. 7801(21).

(5) "Paraprofessional" ***is defined by [has the same meaning as in]*** 704 KAR 3:550(2).

~~(6)~~(4) "Screening" means a systematic process for determining which children from the general population may need enhancement, support, or further evaluation in a particular area and is not an initial evaluation to determine if the child is a child with a disability.

Section 2. Eligibility.

(1) Except as provided in subsection (2) of this section, a child shall be eligible for enrollment in the preschool program if the child is:

(a) A resident of the district or an approved non-resident pursuant to KRS 158.120;

(b) Four (4) years old by August~~[October]~~ 1 of the school year; and

(c) Approved for free lunch based on federal free lunch criteria in effect as of the child's initial day of attendance in preschool; or

(d) Eligible to the extent required by the Elementary and Secondary Education Act of 1965 or its successor.

(2) Preschool eligibility may be determined up to six (6)~~four (4)~~ months prior to the start of school. Once free lunch eligibility has been approved, the child shall remain eligible for enrollment in the preschool program for the remainder of the school year.

(3)~~(2)~~ A resident child or approved non-resident child who is four (4) years old by August~~October~~ 1 but who is not otherwise eligible ~~[for the free lunch program]~~ may be served if space is available.

Section 3. Grant Allocation System.

(1) A local school district shall submit a proposal to the Kentucky Department of Education to operate or oversee the operation of a developmentally appropriate preschool education program for eligible children. Each proposal shall include the requirements set forth in KRS 157.3175(5) and (6).

(2) Funding for districts shall be based on the preschool grant allocation system established in 702 KAR 3:250.

Section 4. Interagency Agreements.

(1) A preschool facility or service provided by a local school district, either directly or by contract or cooperative agreement with another provider, shall meet the requirements of this administrative regulation and all other applicable school laws and administrative regulations.

(2) A contract or cooperative agreement for operating the preschool program may be negotiated with another school district, another public agency, private school, or preschool program. A nonpublic school program providing preschool services shall be approved for that purpose by the Kentucky Board of Education.

(3) A contract or cooperative agreement shall be in writing and shall include at a minimum the contents set forth in KRS 65.250.

(4) State preschool funds may be used in a private program if a signed contract or cooperative agreement is on file in the district which documents that:

(a) ~~[The program is separately incorporated from a religious institution;]~~

~~[(b)] [The program maintains a nonsectarian board of directors;]~~

~~[(c)] All proceeds and debts are the property of that corporation;~~

~~(b)~~(d)~~ The program pays reasonable rent; and~~

(c) No portion of state funds are appropriated to, or used by, any church, sectarian, or denominational school in compliance with Section 189 of the Kentucky Constitution.

~~[(e)] [The program's curriculum is not religious in nature.]~~

Section 5. Enrollment.

(1) Enrollment of a child in the preschool program shall be at the discretion of the parent or legal guardian. Each local school district shall establish and maintain a continuous~~an active~~ recruitment process which systematically assures enrollment of eligible children. Eligible children

shall not be placed on a wait list. This process shall be outlined in a written plan which includes procedures for:

- (a) Notification of the right to participate, presented in the parent's primary language or natural mode of communication;
 - (b) Identification of all eligible children regardless of race, sex, creed, color, national origin, or disability~~[handicapping condition]~~;
 - (c) Written documentation to demonstrate that emphasis has been given to recruiting those eligible children not currently served by a preschool program; and
 - (d) Contact to agencies and programs serving local preschool children or their families to encourage participation in the recruitment process, taking into account the demographic makeup of the community and the needs of the children and their families.
- (2) Upon enrollment~~[Prior to attendance]~~, each child shall have on file:
- (a) A certified copy of the student's~~[a legal]~~ birth certificate; or
 - (b) Other reliable proof of the student's identity and age, and an affidavit of the inability to produce a copy of the birth certificate as required by KRS 158.032(3);
 - (c)~~[(b)]~~ A current immunization certificate~~[Kentucky Certificate of Immunization]~~ as required by KRS 214.034, **or exception as permitted by KRS 214.036;**
 - (d)~~[(c)]~~ Preventative student health care examinations~~[A medical examination]~~ meeting requirements of 702 KAR 1:160~~[704 KAR 4:020]~~ conducted within one (1) year~~[six (6) months]~~ prior to entry into the school program; and
 - (e)~~[(d)]~~ Information as to eligibility ~~[for the National School Lunch Program]~~.
- (3) An educational record shall be kept confidential according to the requirements of the Family Education Rights and Privacy Act regulations, 34 C.F.R.~~[CFR]~~ Part 99.
- (4) Daily attendance records shall be maintained and submitted through the statewide student information system~~[district's standard attendance reports or an approved, verifiable alternative method]~~. A parent or legal guardian shall be contacted with respect to an enrolled child whose participation in the program is irregular or who has been absent for four (4) consecutive program days.
- (5) Students who are eligible only as at risk of educational failure who miss sixteen (16) consecutive school days without a documented excuse may be unenrolled and remain eligible in accordance with Section 2(1) of this administrative regulation when:
- (a) The parent or guardian gives written consent; or
 - (b) At least four (4) documented attempts to reengage the parent or guardian are unsuccessful.

Section 6. Program Operation.

- (1) The local school district shall select one (1) of the following program options:
 - (a) Standard half-day, five (5) day a week program (single session);
 - (b) Half-day, four (4) day a week program in single or double session, with the fifth day for services to children and their families, such as family~~[home]~~ visits, special experiences for children, parent training, special education and case manager tasks, or coordination of medical or social services;~~[or]~~
 - (c) Full day, four (4) days a week program with the fifth day for services to children and their families, such as family visits, special experiences for children, parent training, special education and case manager tasks, or coordination of medical or social services; or

(d) A locally-designed program approved by the Commissioner of Education before initial implementation and before the locally-designed program is amended~~[chief state school officer]~~.

(2) If a double session program is utilized, adequate time~~[the following provisions shall be made:]~~
[(a)] ~~[Time]~~ shall be allotted between sessions~~[prior to each session]~~ to allow staff to prepare for the session as well as give individual attention to children entering and leaving the program.~~[;]~~

(3) In all programs:

(a)~~[(b)]~~ Classified staff shall be provided lunch and rest times pursuant to KRS Chapter 337~~[Adequate break time shall be provided for staff during the course of the day];~~

(b) Certified staff shall be provided a duty free lunch period each day pursuant to KRS 158.060;

(c) Staff assignments shall provide time for parent involvement activities and coordination of services described in subsections (7) through (10)~~[(5) through (8)]~~ of this section; and

(d) Maximum number of children assigned to one (1) lead teacher shall be limited to the ratio established in Section 8~~[Section 7(4)]~~ of this administrative regulation.

(4)~~[(3)]~~ The hours of operation ~~[of the half-day program]~~ may vary but shall provide a minimum of two and one-half (2 1/2) hours of instructional~~[classroom]~~ time per day, which shall not include the time required to provide breakfast or lunch. The program shall provide direct services for children or parents for the minimum number of teaching days set by the local school district for the school year.

(5)~~[(4)]~~ Maximum group size for eligible children shall be twenty (20) children. The staff ratio in the classroom shall consist of one (1) adult for a maximum of ten (10) children pursuant to staff qualifications established in Section 8~~[7]~~ of this administrative regulation. ~~[Consideration shall be given to increasing the number of staff or decreasing the group size depending upon the needs of the children, including the needs of children with disabilities. An]~~ At no time shall one (1) adult~~[shall not]~~ be left alone with more than ten (10) preschool children.~~[The local school district shall have a written policy for assistance from another adult if one (1) adult is responsible for a group of children.]~~

(6) The local school district shall have a written policy describing:

(a) How consideration is given to increasing the number of staff or decreasing the group size depending upon the needs of the children, including the needs of children with disabilities;
and

(b) How assistance from another adult is available if one (1) adult is responsible for a group of children.

(7)~~[(5)]~~ The program shall allow for active family~~[parental]~~ involvement. Consideration of the different types of family structures, such as the single parent, foster parent, and extended family, shall be made when planning activities. At least the following opportunities shall be made available to parents or guardians:

(a) Participation in classroom and other preschool activities as volunteers or observers;

(b) Parent training, education, or other activities which the parent has helped to develop;

(c) Working with the child in cooperation with preschool staff;

(d) Meeting with preschool and other appropriate staff regarding the child's individual needs and progress or other two (2) way communication systems developed with the parent or guardian; and

(e) Periodic family~~[home]~~ visits by preschool staff, with a minimum of two (2) visits per child per year and with the first visit conducted within sixty (60) school days after enrollment. Family visits shall be conducted in the home or at a secondary location and shall be in person unless the parent or guardian requests a virtual family visit.

~~(8)[(6)]~~ To meet the comprehensive needs of children, the program shall collaborate with medical, health, mental health, and social service agencies. Information about community services, resources and facilities shall be made available to parents. Program staff shall assist ~~with~~~~[parents in]~~ coordinating interagency services for children and families.

~~(9)[(7)]~~ A local school district shall administer a valid and reliable child development screener within thirty (30) days of enrollment. ~~The child development screener shall:~~~~[assure through coordination with existing medical and social services that all children participating in the program receive child development and health screening.]~~

~~[(a)]~~ ~~[Health screening shall include growth assessment, vision and hearing screening, assessment of current immunization status, and general health status.]~~

~~(a)[(b)]~~ ~~[Child development screening shall include]~~ Include screening of gross and fine motor skills, cognitive functioning, communication skills, self-help skills, and social-emotional skills;~~;~~~~[-]~~

~~[(c)]~~ ~~[Child development screening may be accomplished through various means, including systematic observation in the classroom or other natural setting. Screening results shall not be used for determining placement or planning the curriculum.]~~

(b) Be administered by personnel trained to administer the screener;

~~[(d)]~~ ~~[Child development and health screening shall be completed within thirty (30) school days of enrollment by personnel trained in the procedures utilized.]~~

(c) Be tracked and documented for all four (4) year old children enrolled in the program; and

(d) **Ensure that** child development screening results and recommended follow-up **[shall]** be shared with the parent or guardian.

~~[(e)]~~ ~~[Contact shall be made with the parent or legal guardian if screening results indicate a need for further assessment by a specialist, follow-up, or referral for special education and related services or other appropriate resources.]~~

~~(10)[(8)]~~ A local school shall assist the parent or legal guardian as needed through cooperation with existing medical and social services to obtain the physical examination required of all children prior to school enrollment.

~~(9)~~ ~~[The preschool program shall include developmentally appropriate experiences in cognitive, communication, social, physical, and emotional development as well as creative expression. The preschool program shall assist young children with their intrapersonal and interpersonal skills and in maximizing self-management and independence. The program shall include appropriate learning activities and teaching techniques in accordance with each child's level of comprehension and maturation.]~~

Section 7. Learning Environment.

~~(1)[(10)]~~ The program shall provide a supportive social and emotional climate which:

(a) Enhances children's understanding of themselves as individuals, and in relation to others, by providing for individual, small group, and large group activities;

(b) Gives children many opportunities for success through developmentally appropriate program activities;~~[and]~~

(c) Provides an environment of acceptance which helps each child develop a positive self-concept, enhance his or her individual strengths, celebrate his or her individuality~~[build ethnic pride]~~, and facilitate social relationships; and~~[-]~~

(d) Integrates an evidence-based social and emotional supplemental curriculum that promotes social and emotional development and addresses challenging behaviors.

~~(2)~~~~(11)~~ The program shall promote the development of cognitive~~[intellectual]~~ skills by:

(a) Encouraging children to solve problems, initiate activities, explore, experiment, question, and gain mastery through learning by doing (concrete experiential learning);

(b) Promoting language understanding and use in an atmosphere that encourages~~[each]~~ communication among children and between children and adults;

(c) Utilizing an evidence-based curriculum aligned with the domains of Kentucky's Early Childhood Standards, revised in 2021~~[in which a variety of skills are integrated into activities targeted toward the interests of children];~~

(d) Encouraging children to organize their experiences and understand concepts;

(e) Providing developmentally appropriate instruction to support growth in the foundational skills of literacy and numeracy;

~~(f)~~~~(e)~~ Utilizing a language experience approach to introduce printed materials according to the individual developmental level of the child; ~~[and]~~

(g) Presenting daily opportunities for interactive literacy and numeracy routines; **and**

~~(h)~~~~(f)~~ Providing a daily balance of activities to include~~[in the following dimensions]:~~

1. Indoor and outdoor time;

2. Quiet and active time;

3. Individual and group time;

4. Large and small groups;

5. Child and staff initiated interactions~~;~~~~[and]~~

6. Structured and play-based activities~~;~~~~[spontaneous.]~~

7. Free choice center work; and

8. Routines to establish child familiarity with the daily schedule.

~~(3)~~~~(12)~~ The program shall promote physical growth by:

(a) Providing adequate indoor and outdoor space pursuant to Section 9~~[8]~~ of this administrative regulation;

(b) Providing developmentally appropriate materials and equipment, in sufficient quantity to allow choice, and providing supervised time for children to use large and small muscles to increase their physical skills;

(c) Providing appropriate guidance while children use equipment and materials which promote children's physical growth;

(d) Providing breakfast or lunch to each eligible child, pursuant to the requirements of the National School Breakfast Program or National School Lunch Program;

(e) Providing developmentally appropriate information regarding nutrition, involving children as feasible in the planning and preparation of snacks and meals, and providing appropriate supervision during meals to develop language, understanding and problem-solving skills; and

(f) Providing developmentally appropriate information about health as an integral part of program activities.

~~(4)~~~~(13)~~ The program shall promote social skills and social interactions by:

- (a) Providing positive guidance with consistent, clear rules presented in developmentally appropriate ways; and
- (b) Providing positive adult and peer role models, focusing on the level of the child.

~~[(14)] [The program shall be individualized to meet the special needs of children by:]~~

~~[(a)] [Having a curriculum which is relevant and reflective of the needs of the population served (such as, bilingual or bicultural, multicultural, rural, urban, or migrant);]~~

~~[(b)] [Having staff and program resources reflective of the racial and ethnic population of the children in the program; and]~~

~~[(c)] [Providing adaptations for children with special needs.]~~

~~(5)~~(15) The program shall utilize developmentally appropriate materials and equipment as follows:

(a) Furniture, equipment, and materials shall be of sufficient quantity, quality, and variety to meet the needs of the children and shall be arranged in a way as to facilitate learning, assure a balanced program of play-based~~[spontaneous]~~ and structured activities, and encourage self-reliance in the children. Test sheets, worksheets, coloring sheets, and workbooks~~[and ditto sheets]~~ shall not be used as they are not developmentally appropriate for preschool children.

(b) The equipment and materials shall be:

1. Consistent with the specific educational objectives of the local program;
2. Representative of the children in the program~~[Consistent with the cultural and ethnic background of the children];~~
3. Geared to the age, ability, and developmental needs of the children;
4. Safe, durable, and kept in good condition;
5. Stored in a safe and orderly fashion when not in use;
6. Accessible, attractive, and inviting to the children; and
7. Designed to provide a variety of learning experiences and to encourage experimentation and exploration.

~~(6)~~(16) Space shall be arranged so that children may work individually, together in small groups, and in a large group. Space shall be arranged to provide clear pathways for children to move from one area to another.

~~(7)~~(17) Centers or areas in the classroom shall include space for activities including art, blocks~~[blockbuilding, cooking, gross motor, housekeeping or]~~ dramatic play, ~~[language arts or]~~ library, manipulative materials, mathematics, technology~~[math or problem solving, multimedia,]~~ music, science, and writing~~[or social studies, and wood working].~~

~~(8)~~ Technology centers and screen time shall:

(a) Provide developmentally appropriate content designed as an educational supplement to help children explore, create, problem solve, interact, and learn with and from one another; and

(b) Not substitute for active play, engagement, and interaction with other children and adults.

~~(9)~~(18) Assessment of children within the preschool program shall be for the purpose of planning activities and evaluating progress, and shall not be used to restrict entry into or exit from the preschool program. The program shall include developmentally appropriate valid and reliable assessment of preschool children which:

- (a) Provides for ongoing observation, recording, and evaluation of each child's growth and development for the purpose of planning activities to suit individual needs;

~~[(b)] [Is accomplished by observation or activity with the child in familiar structured and informal situations;]~~

~~[(c)] [Includes information from parents;]~~

~~(b)[(d)] Is used to inform parents on a regular basis regarding the child's progress in motor, cognitive, communication, social and emotional, and adaptive skills and development;~~

~~**[and]**[physical, intellectual, communication, social, emotional, intrapersonal, and interpersonal skills and development;] and~~

~~(c)[(e)] Considers the [cultural] background of the child.~~

~~(10)[(19)] Children shall not be retained in the preschool program.~~

~~(11)[(20)] The preschool program shall provide developmentally appropriate instruction to children regarding safety procedures, such as riding the bus and emergency procedures.~~

~~(12)[(21)] The preschool program shall utilize the local school district's current safety policies regarding accident records, medical emergency plans, fire and disaster plans, first aid, dispensing of medications, and reporting of child abuse and neglect, with modification as needed to accommodate young children.~~

Section 8.~~[Section 7.]~~ Personnel.

(1) Instructional staff in the preschool shall include ***[the following types of personnel:]***

~~[(a)] a lead teacher who meets the following qualifications:~~

~~(a)[1.] Beginning with the 2002-2003 school year, a person who holds a certificate in accordance with KAR Chapter 16~~[or statement of eligibility for a certificate in interdisciplinary early childhood education,]~~ or has been exempted by the Kentucky Education Professional Standards Board from additional certification in order to continue teaching in an early childhood position; or[-]~~

~~(b) A school district may request approval from the Department of Education to use as the instructional lead a person who meets the preschool associate teacher qualifications and who has been continuously employed in the same district prior to school year 2004-2005 to perform paraprofessional instructional duties pursuant to 704 KAR 3:420.~~[-or]~~~~

~~[2.] [Prior to the 2002-2003 school year, if a person meeting qualifications listed in subparagraph 1 of this paragraph is not available, interim approval shall be issued in accordance with the following criteria:]~~

~~[a.] [Personnel with a baccalaureate or higher degree in child development, early childhood education, or early childhood special education;]~~

~~[b.] [Personnel with kindergarten certification;]~~

~~[c.] [Personnel with special education certification valid for primary grades;]~~

~~[d.] [Personnel with a master's degree, bachelor's degree or licensure in communication disorders, speech and language, or speech pathology][;][;]~~

~~[3.] [If a person who meets the qualifications established in subparagraph 1 or 2 of this paragraph is not available, a local board may develop a training plan in early childhood education and request approval for an individual with a minimum of one (1) year of early childhood training or experience and a degree in family studies, social work, psychology, nursing, or other related area, including education if not specified under subparagraph 1 or 2 of this paragraph.]~~

~~(4.) [A local board may request approval for a person who meets the preschool associate teacher qualifications to perform paraprofessional instructional duties pursuant to 704 KAR 3:420; and]~~

~~[(b)] [A teaching assistant who is an instructional aide.]~~

(2) Lead teachers employed pursuant to subsection (1)(b)(a)2 of this section shall not serve as a lead teacher in any district after initial employment is terminated.

~~(3)(2)~~ A preschool classroom shall have at least one (1) lead teacher. A ~~paraprofessional[teaching assistant]~~ or other professional personnel shall be used in addition to the lead teacher to provide an appropriate adult-child ratio in each classroom, pursuant to Section ~~6(5)[6(4)]~~ of this administrative regulation. A lead teacher shall provide instructional services to a maximum of twenty (20) children, within the parameters of subsection ~~(5)[(4)]~~ of this section.

~~(4)(3)~~ A lead teacher shall be responsible for organizing the classroom, ~~implementing[providing]~~ a developmentally appropriate curriculum and assessments, and supervising and assigning the activities of ~~paraprofessionals[teaching assistants]~~, student helpers, and other noncertified staff in the preschool ~~program[class]~~. A lead teacher shall be responsible for at least the following parental activities, described in Section ~~6(7)[6(5)]~~ of this administrative regulation:

(a) Parent participation in the classroom;

(b) Parent-teacher conferences; and

(c) A minimum of two (2) ~~family[home]~~ visits per child per year.

~~(5)(4)~~ A local school district shall assign professional staff, including **[but not limited to]** the lead teacher, to coordinate program operations~~[conduct parental involvement activities and coordination with health and social services;]~~ pursuant to Section ~~6 (7) through (10)[(5) through (8)]~~ of this administrative regulation. A lead teacher who has been assigned preschool coordination responsibilities pursuant to Section 6 (7) through (10) of this administrative regulation~~[related to parent involvement activities and health and social services]~~ and who operates double sessions shall be considered to be going beyond responsibilities set out in subsection ~~4[(3)]~~ of this section and shall provide services to a maximum of thirty-four (34) children total, within the adult-child ratio per classroom established in Section ~~6(5)[6(4)]~~ of this administrative regulation.

~~(6)(5)~~ A lead teacher shall participate in the required number of professional development days applicable to certified personnel in the local school district. A ~~paraprofessional[teaching assistant]~~ shall participate annually in a minimum of eighteen (18) hours of professional development. Professional development activities shall be related to the nature and needs of young children and their families, including those with special needs. Records shall be kept for all personnel documenting participation in professional development training.

~~(7)(6)~~ At all times, a program shall have a staff person on the premises who is trained in emergency first aid and cardiopulmonary resuscitation (CPR).

Section 9.[Section 8.] Facilities, Safety, Health, and Transportation.

(1) A preschool program shall operate in compliance with administrative regulations promulgated by the Kentucky Board of Education in areas including facilities, safety, health, and transportation.

(2) If a program is extended to provide child care before or after the standard operating hours of the preschool program, that portion of the program ~~[shall be considered day care and]~~ shall meet the standards for child[day] care facilities promulgated by the Cabinet for Families and Children and established in ~~[905 KAR Chapter 2 and]~~ 922 KAR Chapter 2.

(3) A local school district may provide transportation to preschool children. If a local school district transports preschool children, services shall be operated in conformance with administrative regulations pertaining to the transportation of school children, as established in 702 KAR Chapter 5.

(4) Regardless of whether transportation is provided, a local school district shall make provisions for safe arrival and departure of all children, with a written policy[procedure] for ensuring that preschool children are:~~[released to the parent or a person authorized by the parent.]~~

(a) Supervised by a school employee during arrival and departure; and

(b) Released to the parent, guardian, or a person authorized by the parent or guardian. Release shall be hand-to-hand when a local district transports preschool children.

Section 10.[Section 9.] Program Evaluation.

(1) At least annually, parents, staff, and other professionals shall be involved in evaluating the local preschool program's effectiveness in meeting the needs of participating children.

(2) The program evaluation shall address:

(a) Rate of participation by eligible children;

(b) Parental satisfaction with services provided;

(c) Growth[Success] of participating children as they complete the preschool program and enter[progress through] the primary school program; and

(d) Adherence to state administrative regulations on the subject area.

(3) A local school district preschool program shall be subject to evaluation by the Department of Education to determine the effectiveness of the statewide preschool program and local school district adherence to this administrative regulation.

Section 11. Incorporation by Reference.

(1) Kentucky's Early Childhood Standards, Revised 2021, is hereby incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky Department of Education, Office of Special Education and Early Learning, 300 Sower Blvd. 4th floor, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m. eastern time. This material may also be accessed on the Kentucky Department of Education website at: <https://www.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).



Andy Beshear
GOVERNOR

CABINET FOR HEALTH AND FAMILY SERVICES

275 East Main Street, 5W-A
Frankfort, Kentucky 40621
Phone: (502) 564-7042
Fax: (502) 564-7091

March 4, 2026

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

922 KAR 1:565

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 922 KAR 1:565, the Cabinet for Health and Family Services proposes the attached suggested substitutes to 922 KAR 1:565.

If you have any questions, please feel free to contact Sarah Bryant, Staff Assistant with the Department for Community Based Services at 502-564-3703.

Sincerely,

Stacy Carey
Executive Staff Advisor
Office of Legislative and Regulatory Affairs

Attachments

Subcommittee Substitute

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency
(Amended After Comments)**

922 KAR 1:565. Service array for a relative or fictive kin caregiver.

RELATES TO: KRS 2.015, 45.237-45.241, 156.496, 194A.005(1), 199.011, 199.462, 199.470-199.590, 205.211, Chapter 387, 403.270-403.355, 405.024, 527.100, 527.110, 600.020, 605.120, 610.110, 620.020(1), 620.090, 620.140, 620.142, 620.170, 42 U.S.C. 601-619, 671, 673, 675, D.O. v. Glisson, 847 F.3d 374 (6th Cir. 2017), cert. denied, 17-17, 2017 WL 2869916 (U.S. Oct. 10, 2017)

STATUTORY AUTHORITY: KRS 194A.050(1), 605.130(7), 605.150(1), 620.142(7)(5)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate, administer, and enforce administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 605.150(1) authorizes the cabinet to promulgate administrative regulations to implement provisions of the chapter, including KRS 605.130(7), which authorizes the cabinet to perform such other services as may be deemed necessary for the protection of children. KRS 620.142(7)(5) requires the cabinet to promulgate administrative regulations developing custodial, permanency, and service options that shall be available to a relative or fictive kin caregiver. This administrative regulation establishes the service array available to a relative or fictive kin caregiver pursuant to KRS 620.142(1). To the extent the General Assembly appropriates State General Funds necessary for the cabinet to implement the services under KRS 620.142(3), the cabinet shall carry out those services in accordance with Section 5(4) of this administrative regulation.

Section 1. Definitions.

- (1) "Absent parent search" means cabinet-initiated efforts to locate a biological or legal parent, or a relative.
- (2) "Cabinet" is defined by KRS 194A.005(1), 199.011(3), and 600.020(7).
- (3) "Case permanency plan" is defined by KRS 620.020(1).
- (4) "Child" means a:
 - (a) Child defined by KRS 199.011(4) and 600.020(9);
 - (b) Person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with KRS 610.110(6) or 620.140(1)(e); or
 - (c) **[A]** Person under age twenty-one (21) who meets the exceptions to the age of majority in accordance with KRS 2.015.
- (5) "Child Care Assistance Program" or "CCAP" means Kentucky's child care subsidy program providing families who meet the eligibility requirements with the financial resources to find and afford quality child care, as established in 922 KAR 2:160.

- (6) "Child who is a candidate for foster care" is defined by 42 U.S.C. 675(13).
- (7) "Fictive kin" is defined by KRS 199.011(10)~~(9)~~ and 600.020(28).
- (8) "Kentucky Transitional Assistance Program" or "KTAP" means the program established in 921 KAR 2:006.
- (9) "Parent" is defined by 42 U.S.C. 675(2).
- (10) "Qualifying event" means a significant and verifiable change in a caregiver's circumstances that substantially affects their ability to care for a child. A qualifying event includes:
- (a) Death or incapacitation of a caregiver;
 - (b) Loss of income due to disability;
 - (c) Early or unplanned retirement due to a documented hardship, such as medical necessity or employer-mandated separation, that results in a substantial loss of income;
 - (d) Loss of home or employment due to natural disaster or fire;
 - (e) Change in household structure due to divorce **or legal separation**; or
 - (f) A significant change in the child's medical or behavioral health requiring substantial caregiver involvement.
- (11) "Relative" means an individual related to a child by blood, marriage, or adoption.
- ~~(12)~~~~(11)~~ "Relative or fictive kin foster home" means a foster home:
- (a) In which the individual approved as a foster parent is a:
 - 1. Relative; or
 - 2. Fictive kin; and
 - (b) Approved by the cabinet in accordance with 922 KAR 1:350.

Section 2. Identification of a Relative or Fictive Kin.

- (1) If a relative or fictive kin placement is in the best interest of a child upon removal from the child's home of origin, the cabinet shall:
- (a) Use an absent parent search in accordance with 922 KAR 1:140, Section 3, to locate a relative;
 - (b) Discuss a prospective relative or fictive kin placement with the:
 - 1. Child's parent; and
 - 2. Child, based upon the age and development of the child; or
 - (c) Require the parent or other person exercising custodial control or supervision to provide a list of possible persons to be considered pursuant to KRS 620.140(1)(c).
- (2) Cabinet staff shall make reasonable attempts to:
- (a) Contact the relative or fictive kin; and
 - (b) Assess the relative's or fictive kin's fitness to serve as a placement resource for the child in accordance with Section 3 of this administrative regulation.
- (3) The cabinet shall:
- (a) Disclose legal and service options available to a prospective relative or fictive kin:
 - 1. Who is being assessed as a placement resource; and
 - 2. Prior to the time a child is placed in the relative's or fictive kin's home; and
 - (b) Obtain written acknowledgement of the disclosure of legal and service options from the relative or fictive kin.

Section 3. Fitness of the Relative or Fictive Kin.

- (1) To support a child's health, safety, and wellbeing in placement with a relative or fictive kin caregiver, based upon the legal option selected by the relative or fictive kin, the cabinet shall:
 - (a) Complete a safety check and review with consideration given to the relative's or fictive kin's:
 1. Willingness and ability to:
 - a. Protect the child from abuse or neglect;
 - b. Participate in the child's case permanency plan;
 - c. Access:
 - (i) Transportation;
 - (ii) Telephone;
 - (iii) Medical and dental services;
 - (iv) First aid supplies; and
 - (v) School;
 - d. Provide full-time care;
 - e. Provide for the child's sleeping and eating;
 - f. Maintain adequate heat and ventilation in the home;
 - g. Use active smoke detectors in the home; and
 - h. Assure the child's inaccessibility to:
 - (i) Medication unless an exception consistent with 922 KAR 1:350, Section 5[3](12), applies;
 - (ii) Alcoholic beverages;
 - (iii) Poisonous materials;
 - (iv) Firearms or ammunition in accordance with KRS 527.100 and 527.110;
 - (v) Unsupervised contact with the birth parent, if prohibited; and
 - (vi) Cleaning materials unless the materials are age or developmentally appropriate for the child or the child is supervised; and
 2. Understanding of the impact that familial abuse, neglect, or substance abuse may have on a child and the child's extended family; and
 3. Fitness in accordance with 922 KAR 1:490; or
 - (b) Conduct a home study and background checks in accordance with 922 KAR 1:350 and 922 KAR 1:490 in consideration of the relative or fictive kin as a prospective foster or adoptive home.
- (2) A relative or fictive kin caregiver who seeks approval as a relative or fictive kin foster home or adoptive home shall meet the training requirements established in 922 KAR 1:495.
- (3) The cabinet shall:
 - (a) Document in the case file that the fictive kin has completed training on the prevention and recognition of pediatric abusive head trauma in accordance with KRS 199.462; and
 - (b) Provide information to the relative or fictive kin on how to recognize and report child abuse and neglect.
- (4) To the extent funds are available, the cabinet shall make available to a relative or fictive kin caregiver training:
 - (a) For foster parents, adoptive parents, and respite care providers in accordance with 922 KAR 1:495; and
 - (b) Developed to address the needs of relative and fictive kin caregivers, including management of the relationship with the child's parent.

(5) A relative's or fictive kin's decision to pursue approval as a foster parent shall not guarantee the cabinet's approval.

Section 4. Relative or Fictive Kin Placement Support Benefit.

(1) To the extent that funds are available, the cabinet shall provide, if requested, a one (1) time per placement relative or fictive kin placement support benefit:

- (a) To facilitate the child's placement with a nonparental relative or fictive kin;
- (b) If a court of competent jurisdiction has granted temporary custody of the child to the relative, fictive kin, or the cabinet due to:
 - 1. Alleged child abuse or neglect; or
 - 2. The death of both parents;
- (c) That will provide for a child's immediate needs, such as:
 - 1. Clothing;
 - 2. School supplies;
 - 3. Additional furniture; or
 - 4. A deposit for a larger apartment; and
- (d) That is equal to or does not exceed the amount for the appropriate number of eligible children as follows:

Number of Eligible Children	Payment Amount
1	\$350
2	\$700
3	\$1,050
4	\$1,400
5	\$1,750
6 or more	\$2,100

- (2)
- (a) The relative or fictive kin placement support benefit shall be issued by check or electronic fund transfer directly to:
 - 1. The relative or fictive kin caregiver with whom the child is placed; or
 - 2. A vendor providing the needed service or item listed in subsection (1)(c) of this section.
 - (b) Prior to the provision of the relative or fictive kin placement support benefit, the relative, fictive kin, or vendor shall provide tax status and contact information for accounting of the benefit's disbursement.

- (3)
- (a) In accordance with Kentucky's Title IV-A Temporary Assistance for Needy Families Block Grant state plan, the cabinet shall prioritize a child for the relative placement support benefit if the child is:
 - 1. Placed with a relative whose household income is at or below 200 percent of the federal poverty level as determined annually by the U.S. Department of Health and Human Services; or
 - 2. Determined eligible for KTAP pursuant to 921 KAR 2:006 and 921 KAR 2:016.
 - (b) Pursuant to 42 U.S.C. 601, Temporary Assistance for Needy Families Block Grant funds shall not be provided to a fictive kin caregiver.

(4) A relative or fictive kin caregiver shall not be eligible for an initial clothing allowance as a foster parent if the relative or fictive kin receives the relative or fictive kin placement support benefit.

Section 5. Legal Options.

(1) The following legal options shall be available to a prospective relative or fictive kin caregiver:

(a) Family-arranged care through:

1. A written plan in accordance with 922 KAR 1:330;
2. An affidavit to make health care treatment and school-related decisions for the child in accordance with KRS 405.024; or
3. A power of attorney for temporary delegation of parental rights and responsibilities in accordance with KRS 403.352 and 403.353;

(b) Court-ordered custody to the relative or fictive kin caregiver in accordance with KRS 403.270-403.355, 620.090, or 620.140(1)(c);

(c) Court-ordered custody to the cabinet in accordance with KRS 620.090, 620.140(1)(c), or 620.170;

(d) Adoption in accordance with KRS 199.470-199.590 or 922 KAR 1:100;

(e) Guardianship in accordance with KRS Chapter 387; or

(f) Subsidized permanent custody in accordance with 42 U.S.C. 673 and 922 KAR 1:145.

(2) Considerations in assessing the legal options for a relative or fictive kin caregiver shall include:

(a) The likelihood of the child's reunification with the child's home of origin, including the child's permanency goal in accordance with 922 KAR 1:140;

(b) The relationship that the relative or fictive kin caregiver has with the child's home of origin or parent;

(c) The ability of the relative or fictive kin caregiver to:

1. Manage parental visitation; and
2. Ensure the child's safety;

(d) The relative or fictive kin caregiver's financial situation and need for additional resources to support the safety, permanency, and wellbeing of the child;

(e) The level of involvement and types of services that will be needed from the cabinet for the caregiver and the child to ensure the safety, permanency, and wellbeing of the child; and

(f) The level of support and types of services that will be needed if:

1. The caregiver assumes legal responsibility for the child; or
2. Reunification with the child's home of origin is not possible for the child.

(3) Permanency services for a child in the custody of the cabinet shall be in accordance with 922 KAR 1:140.

(4) To the extent the General Assembly appropriates State General Funds necessary for the cabinet to implement the services under KRS 620.142(3):

(a) Within **120 [one hundred twenty (120)]** days of receiving temporary custody or upon a verifiable qualifying event, a relative or fictive kin caregiver may submit a request to the cabinet for the purpose of pursuing a change in custody of a child in his or her care.

(b) Upon preliminary approval of a relative or fictive kin caregiver's request, the cabinet may request the court place the child in the cabinet's custody for the purpose of becoming a relative or fictive kin foster parent to the child.

(c) Upon placement of the child in the custody of the cabinet, the relative or fictive kin caregiver shall pursue foster parent approval.

Section 6. Service Options.

(1) The array of monetary supports on behalf of a child placed with a relative or fictive kin caregiver shall include:

(a) The Relative or Fictive Kin Placement Support Benefit in accordance with Section 4 of this administrative regulation;

(b) CCAP in accordance with 922 KAR 2:160;

(c) Child support if application is made or intergovernmental process applies in accordance with 921 KAR 1:380;

(d) KTAP if an application is made in accordance with 921 KAR 2:006 and 921 KAR 2:016;

(e) The Kinship Care Program in accordance with 922 KAR 1:130;

(f) Health benefits for the child:

1. In accordance with 907 KAR 20:005; or

2. If application is made in accordance with 907 KAR 20:015, 907 KAR 4:020, or 907 KAR 4:030;

(g) Foster care per diem in accordance with:

1.

a. 922 KAR 1:350; or

b. D.O. v. Glisson, 847 F.3d 374 (6th Cir. 2017), cert. denied, 17-17, 2017 WL 2869916 (U.S. Oct. 10, 2017); and

2. The terms and conditions specified in the individual agreement between the cabinet and the foster parent;

(h) Adoption assistance in accordance with 922 KAR 1:050 or 922 KAR 1:060;

(i) To the extent funds are available, post-permanency services, including:

1. Subsidized permanent custody in accordance with 42 U.S.C. 673 and 922 KAR 1:145; or

2. Post-adoption placement stabilization services in accordance with 922 KAR 1:530; or

(j) The Supplemental Nutrition Assistance Program if application is made and approved in accordance with 921 KAR 3:030.

(2) To the extent funds are available, the cabinet shall provide prevention and family services and programs in accordance with 42 U.S.C. 671(e) to a child who is a candidate for foster care, including:

(a) Mental health and substance abuse prevention and treatment services; or

(b) In-home parent skill-based programs.

(3) To the extent funds are available, the cabinet or its designee shall provide the following services for a relative or fictive kin caregiver:

(a) A hotline;

(b) Online portal;

(c) Crisis intervention;

(d) Support group;

(e) Advocacy;

(f) Caregiver training;

(g) Community education; and

(h) Referral to community resource or provider, such as:

1. Family Resource and Youth Service Centers established in accordance with KRS 156.496;
2. The Health Access Nurturing Development Services (HANDS) Program in accordance with 902 KAR 4:120;
3. The Special Supplemental Nutrition Program for Women, Infants, and Children or "WIC program" in accordance with 902 KAR Chapter 18;
4. Kentucky's Early Intervention Program, First Steps, in accordance with 902 KAR Chapter 30;
5. Mental health programming; or
6. Caregiver programming made available through the Department for Aging and Independent Living or its designee.

(4) To the extent the General Assembly appropriates State General Funds necessary for the cabinet to implement the services under KRS 620.142(3), the cabinet shall carry out those services in accordance with Section 5(4) of this administrative regulation.

(5)[(4)] The cabinet shall recover the amount of an improper payment pursuant to KRS 45.237-45.241 and 205.211, including assistance paid pending the outcome of a hearing, from the claimant-payee.

Section 7. Complaint and Service Appeals.

- (1) A relative or fictive kin caregiver may submit a service complaint or an appeal concerning a protection and permanency service in accordance with 922 KAR 1:320.
- (2) An appeal concerning CCAP shall be made in accordance with 921 KAR 2:055, 922 KAR 2:020, or 922 KAR 2:260.
- (3) An appeal regarding KTAP shall be made in accordance with 921 KAR 2:055.
- (4) An appeal concerning the Supplemental Nutrition Assistance Program shall be made in accordance with 921 KAR 3:060 or 921 KAR 3:070.