



# KENTUCKY PUBLIC PENSIONS AUTHORITY

Ryan Barrow, Executive Director

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Kentucky Public  
Pensions Authority

April 24, 2026

Senator Stephen West  
Representative Derek Lewis  
Legislative Research Commission  
083, Capitol Annex  
702 Capitol Avenue  
Frankfort, KY 40601



**RE 105 KAR 1:380**

Dear Co-Chairs,

After discussion with the Administrative Regulation Review Subcommittee staff of issues raised by 105 KAR 1:380, the Kentucky Public Pensions Authority accepts the attached proposed staff suggested amendment.

Sincerely,

Carole Catalfo, Public Policy Specialist  
Kentucky Public Pensions Authority  
1260 Louisville Rd.  
Frankfort, KY 40601

**FINANCE AND ADMINISTRATION CABINET**  
**Kentucky Public Pensions Authority**  
**(Amended After Comments)**

105 KAR 1:380. Minimum distribution.

RELATES TO: KRS ~~61.635(4)(16),~~ 61.645(9)(e), 26 C.F.R. 1.401(a)(9)-1-1.401(a)(9)-9, 26 U.S.C. 401(a)(9), ~~26 U.S.C. 414(d)~~

STATUTORY AUTHORITY: KRS ~~61.635(16)(b)4.~~ ~~61.635(4)(16)(b)(4).~~ 61.645(9)(e)

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with KRS ~~13A.105(2)~~ ~~13A.150(2)~~ because it does not have a major economic impact.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.645(9)(e) ~~(g)~~ requires the Kentucky Public Pensions Authority on behalf of the Kentucky Retirement Systems and the County Employees Retirement System ~~Board of Trustees of Kentucky Retirement Systems~~ to promulgate administrative regulations necessary to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852. KRS 61.645(9)(e) and this administrative regulation implement the statutory requirements of IRC Section 401(a)(9), which is codified as 26 U.S.C. 401(a)(9), ~~and are meant to be a reasonable good faith interpretation of those statutory requirements.~~ KRS 61.635(16)(b)4. ~~61.635(4)(16)(b)(4).~~ authorizes the KPPA to promulgate administrative regulations regarding beneficiaries of state-administered plans that are special needs trusts. This administrative regulation establishes minimum distribution requirements as applied to a governmental plan pursuant to 26 U.S.C. 414(d), ~~in compliance with 26 U.S.C.]~~ 401(a)(9), and the federal SECURE Act of 2022.

Section 1. Definitions.

(1) "Applicable age" means the age established in 26 U.S.C. 401(a)(9)(C)(v). ~~["Member" means a member of a retirement fund established in accordance with KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852, and administered by the Kentucky Retirement Systems.]~~

(2) "Designated beneficiary" means:

(a) An ~~an~~ individual designated as the beneficiary under applicable plan provisions or by a participant's affirmative election; **or**

(b) A special needs trust as defined by KRS 16.505, 61.510, or 78.510 that is also a trust described in 26 C.F.R. 1.401(a)(9)-(4)(f)(1)(i) designated as the beneficiary under applicable plan provisions or by a participant's affirmative election.

(3) ~~(2)~~ "Required beginning date" means April 1 of the calendar year following the later of the calendar year in which the member attains the applicable age or retires:]

~~(a) The calendar year in which the member attains age seventy and one-half (70 1/2); or~~

~~(b) The calendar year in which the member retires].~~

Section 2.

(1) This administrative regulation shall apply to members of a fund established in accordance with KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852.

(2) Kentucky Public Pensions Authority ~~Retirement Systems~~ shall pay all benefits in accordance with ~~a~~

~~good faith interpretation of the requirements of~~ 26 U.S.C. 401(a)(9) and the Code of Federal Regulations in effect under that section, as applicable to a governmental plan within the meaning of 26 U.S.C. 414(d). The requirements of 26 U.S.C. 401(a)(9) and Title 26 of the Code of Federal Regulations shall take precedence over any inconsistent provisions of this administrative regulation or KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852.

(3) The member's entire interest shall be distributed over the member's life or lives of the member and a designated beneficiary, or over a period not extending beyond the life expectancy of the member or of the member and a designated beneficiary.

### Section 3.

(1) Except as provided in subsection (2) of this section, the member's entire interest shall be distributed~~[,]~~ or begin to be distributed~~[, to the member]~~ no later than the member's required beginning date.

(2) If the member dies before distributions begin, the member's entire interest shall be distributed, or begin to be distributed, no later than as established in this subsection.~~[follows:]~~

(a) Except as provided in subsection (3) of this section,~~[if the member's surviving spouse is]~~~~[the member's sole designated beneficiary,]~~ distributions to a member's sole designated beneficiary~~[the surviving spouse]~~ shall begin by the later of:

1. December 31 of the calendar year immediately following the calendar year in which the member died; or

2. December 31 of the calendar year in which the member would have attained the applicable age.~~[seventy and one-half (70 1/2);]~~

(b) ~~[If the member's surviving spouse is not the member's sole designated beneficiary, distributions to each designated beneficiary shall begin by December 31 of the calendar year immediately following the calendar year in which the member died; or]~~

~~[(c)]~~ If there is no designated beneficiary as of September 30 of the year following the year of the member's death, or if the beneficiary on file is a trust **other than a trust that is a designated beneficiary**, the member's entire interest shall be distributed by December 31 of the calendar year containing the fifth anniversary of the member's death.

(c) If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distributions to the surviving spouse begin, this subsection, except for paragraph (a), shall apply as if the surviving spouse were the member as established in 26 C.F.R. 1.401(a)(9)-3(e).

(3) If a member dies after the required distribution of benefits has begun, the remaining portion of the member's interest shall be distributed at least as rapidly as under the method of distribution before the member's death.

(4)

(a) For purposes of Section 3(2) to (3) and Section 6 of this administrative regulation, distributions shall~~[be required to]~~ begin on the member's required beginning date.

(b) If annuity payments irrevocably commence to the member before the member's required beginning date, or to the member's surviving spouse before the date distributions are required to begin to the surviving spouse pursuant to subsection (2)(a) of this section, the date distributions are considered to begin shall be the date distributions actually commence.

### Section 4.

(1) If the member's interest is paid in the form of annuity distributions, payments pursuant to the annuity shall~~[satisfy the following requirements]:~~

- (a) ~~Be~~~~The annuity distributions shall be~~ paid in monthly periodic payments;
- (b) ~~Have a~~~~The~~ distribution period~~shall be~~ over a life or lives,~~(or lives)~~ or over a period certain not longer than the period established in Title 26 of the Code of Federal Regulations~~(described in this section or Section 5 or 6 of this administrative regulation)~~;
- (c) ~~Not change the period certain once~~~~Once~~ payments have begun over a period certain,~~the period certain shall not be changed~~ even if the period certain is shorter than the maximum permitted; and
- (d) Increase payments only~~Payments shall increase only as follows~~:
1. By the annual percentage increase provided for pursuant to KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852;
  2. To the extent of the reduction in the amount of the member's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in this section dies, or if the beneficiary is the member's spouse and they divorce, as provided in KRS 61.635(10);
  3. To provide cash refunds of employee contributions upon the member's death; or
  4. To pay any increased benefits that result from a plan amendment.

(2)

(a) The amount that shall be distributed on or before the member's required beginning date, or if the member dies before distributions begin, the date distributions are required to begin pursuant to Section ~~3~~~~(2)~~ of this administrative regulation, shall be the payment that is required for one (1) month.

(b) The second payment shall not be required to be made until the end of the next payment interval even if that payment interval ends in the next calendar year.

(c) All of the member's benefit accruals as of the last day of the first distribution calendar year shall be included in the calculation of the amount of the annuity payments for months ending on or after the member's required beginning date.

#### Section 5.

(1) The amount of annuity paid to a member's beneficiary shall not exceed the maximum determined under the incidental death benefit requirement established in~~(ef)~~ 26 U.S.C. 401(a)(9)(G), and the minimum distribution incidental benefit rule established in ~~26 C.F.R. 1.401(a)(9)-6(b)~~~~under 26 C.F.R. 1.401(a)(9)-6, Q&A-2~~.

(2) The death and disability benefits provided by Kentucky Retirement Systems and County Employees Retirement System~~systems~~ shall be limited by the incidental benefit rule established~~set forth~~ in 26 U.S.C. 401(a)(9)(g) and 1.401-1(b)(1)(i)~~or any successor law~~. As a result, the total death or disability benefits payable shall not exceed twenty-five (25) percent of the cost of all of the members' benefits received from Kentucky Retirement Systems and County Employees Retirement System.

(3)

(a) Unless the member's spouse who is more than ten (10) years younger than the member is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the member's lifetime shall not exceed the applicable distribution period for the member pursuant to the uniform lifetime table established in 26 C.F.R. 1.401(a)(9)-9 for the calendar year that contains the annuity starting date.

(b) If the member is younger than the applicable age on the member's birthday in the calendar year that includes the annuity starting date, the period certain may not exceed the limitation on the period certain for a person who has attained the applicable age, increased by the number of years the member is younger than the applicable age on that birthday~~annuity starting date precedes the year in which the member reaches age seventy (70), the applicable distribution period for the member shall be the~~

distribution period for age seventy (70) under the uniform lifetime table established in 26 C.F.R. 1.401(a)(9)-9 plus the excess of seventy (70) over the age of the member as of the member's birthday in the year that contains the annuity starting date].

(4) If the member's spouse is ten (10) years younger than the member and is the member's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain shall not exceed the longer of the member's applicable distribution period, as determined pursuant to this subsection, or the joint life and last survivor expectancy of the member and the member's spouse as determined pursuant to the joint and last survivor table established in 26 C.F.R. 1.401(a)(9)-9, using the member's and spouse's attained ages as of the member's and spouse's birthdays in the calendar year that contains the annuity starting date.

#### Section 6.

(1) If the member dies before the date distribution of the member's interest begins and there is a designated beneficiary, the entire interest payable to the member shall be distributed, beginning no later than the time established in Section 3(2)(a) or (b) of this administrative regulation, over the life of the designated beneficiary or over a period certain not exceeding:

(a) Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the member's death; or

(b) If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(2) If the member dies before the date distribution of ***his or her[their]*** [~~his or her~~] interest begins, the member's surviving spouse is the member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this section shall apply as if the surviving spouse were the member, except that the time by which distributions are required to begin shall be determined without regard to Section 3(2)(a) of this administrative regulation.



Andy Beshear  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
BOARD OF OPTOMETRIC  
EXAMINERS

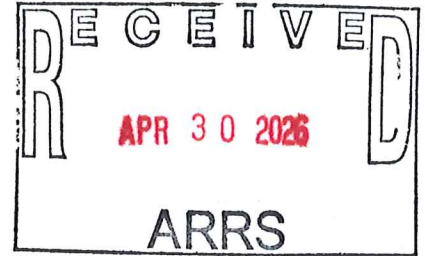
100 Consumer Lane  
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Mary Beth Morris, OD  
PRESIDENT

Christi LeMay  
EXECUTIVE DIRECTOR

April 27, 2026

Senator Stephen West  
Representative Derek Lewis  
Legislative Research Commission  
083, Capitol Annex  
702 Capitol Avenue  
Frankfort, KY 40601



Dear Co-Chairs:

After consideration of the issues raised by **201 KAR 5:021E**, the Kentucky Board of Optometric Examiners proposes the attached suggested substitute to this regulation.

Sincerely,

*Christi LeMay*

Christi LeMay  
Executive Director

**BOARDS AND COMMISSIONS**  
**BOARD OF OPTOMETRIC EXAMINERS**  
**(Emergency Amended After Comments)**

201 KAR 5:021E. Licensure Compliance Review.

RELATES TO: KRS 320.220, 320.250, 320.280~~[-]~~

STATUTORY AUTHORITY: KRS 320.240

NECESSITY, FUNCTION, AND CONFORMITY: KRS 320.240(4) requires the Board of Optometric Examiners to promulgate administrative regulations for the reasonable regulation of the profession of optometry and the practice thereof by licensed optometrists. This emergency administrative regulation is necessary to address the directive for the Board of Optometric Examiners to investigate and review certain licensures per the Opinion of the Attorney General, OAG 25-13<sub>2</sub>, in a way best to protect public health and welfare.

Section 1. For all initial licenses approved by the Board for individuals who graduated optometry school between 2020 ~~and [-]~~2023, the following examinations shall be taken and a passing score ~~shall~~**[must]** be submitted and in the possession of the Board prior to license renewal for 2027:

(1) National Board of Examiners in Optometry (NBEO) Part 1 results ~~[or Optometry Examining Board of Canada (OEBC) Part 1 results];~~

(2) NBEO Part 2 and TMOD results; and

(3) NBEO Part 3 results or results of the American Board of Optometry (ABO) board certification exam.

Section 2. **A licensee may submit a passing score of the Optometry Examining Board of Canada (OEBC) Part 1 to satisfy the requirements of Section 1(1) of this emergency administrative regulation if the OEBC Part 1 test was taken by the licensee or test results were submitted by the licensee to the Kentucky Board of Optometric Examiners between July 30, 2025, and April 15, 2026.**

**Section 3.** The ABO board certification exam shall be utilized for this limited purpose and for the specific review of licenses.

**Section 4.**~~Section 3.~~ Any licensee who has not met the requirements of Section 1 of this emergency administrative regulation shall not perform the following procedures until all required results are submitted, reviewed, and accepted by the Board:

(1) Argon Laser Trabeculoplasty (ALT);

(2) Selective Laser Trabeculoplasty (SLT);

(3) Laser Peripheral Iridotomy (LPI); or

(4) Yttrium Aluminum Garnet (YAG) capsulotomy.

**Section 5.**~~Section 4.~~ The Board shall provide written notice to the Office of the Attorney General when the ~~credentialing~~**[investigation and]** review is complete.



## TRANSPORTATION CABINET

**Andy Beshear**  
GOVERNOR

200 Mero Street  
Frankfort, Kentucky 40601

**Rebecca Goodman**  
SECRETARY

May 4, 2026



Senator Stephen West  
Representative Derek Lewis  
Legislative Research Commission  
083, Capitol Annex  
702 Capitol Avenue  
Frankfort, KY 40601

Dear Co-Chairs:

After consideration of the issues raised by **601 KAR 1:114**, the Transportation Cabinet proposes the attached suggested substitute to this ordinary regulation.

Sincerely,

*Jon Johnson*

Jon Johnson, Assistant General Counsel  
Office of Legal Services  
200 Mero Street  
Frankfort, KY 40601

**TRANSPORTATION CABINET**  
**Department of Vehicle Regulation**  
**Division of Motor Carriers**  
**(Amended After Comments)**

601 KAR 1:114. Peer-to-peer services.

RELATES TO: KRS 186.050, 189.290, 189A.010, 281.010, 281.600, 281.630, 281.6301, 281.631, 281.640, 281.655, 281.656, 281.990, 304.3-070, 304.10-070, 304.20-020, 304.39-020(2), 304.39-040, 304.39-320, **365.522, 365.524**

STATUTORY AUTHORITY: KRS 281.600(1), 281.630, 281.655

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 281.600(1) authorizes the Department of Vehicle Regulation to promulgate administrative regulations to regulate and establish requirements for the safe operation of motor carriers. KRS 281.630 authorizes the department to establish requirements for a transportation network company to apply for authority to operate in Kentucky. KRS 281.655 requires the department to establish standards for pre-trip acceptance policies and prearranged ride liability policies for transportation network companies. This administrative regulation establishes the standards and application requirements for a transportation network company to operate in Kentucky.

Section 1. Definitions.

- (1) **"Certificate" is defined by KRS 281.010(9).["Basic reparation benefits" is defined by KRS 304.39-020(2).]**
- (2) **"Motor carrier" is defined by KRS 281.010(34).["Certificate" is defined by KRS 281.010(9).]**
- (3) **"Operating authority" means the authority to operate under a peer-to-peer car sharing certificate.["Motor carrier" is defined by KRS 281.010(34).]**
- (4) **"Peer-to-peer car sharing" is defined by KRS 281.010(40).["Motor carrier vehicle" is defined by KRS 281.010(35).]**
- (5) **"Peer-to-peer car sharing certificate" is defined by KRS 281.010(41).["Operating authority" is defined by KRS 281.010(41).]**
- (6) **"Peer-to-peer car sharing company" is defined by KRS 281.010(42).["Passenger" is defined by KRS 281.010(39).]**
- (7) **"Peer-to-peer car sharing program" is defined by KRS 281.010(43).["Peer-to-peer car sharing" is defined by KRS 281.010(40).]**
- (8) **"Personal information" is defined by KRS 61.931(6).["Peer-to-peer car sharing certificate" is defined by KRS 281.010(41).]**
- (9) **"Shared vehicle" is defined by KRS 281.010(54).["Peer-to-peer car sharing company" is defined by KRS 281.010(42).]**
- (10) **"Shared vehicle driver" is defined by KRS 281.010(55).["Peer-to-peer car sharing program" is defined by KRS 281.010(43).]**
- (11) **"Shared vehicle owner" is defined by KRS 281.010(56).["Personal information" is defined by KRS 61.931(6).]**
- (12) **"Underinsured vehicle coverage" is defined by KRS 304.39-320(1).**

~~(13) "Uninsured vehicle coverage" is defined by KRS 304.20-020(2).]~~

Section 2. Application and Renewal.

(1) To apply for a certificate to operate, a peer-to-peer car sharing company shall:

(a) **Submit an application electronically using[Use]** the Kentucky Motor Carrier Portal at <https://drive.ky.gov/>;

(b) Pay an application fee of \$250 pursuant to KRS 281.630(3)(b); and

(c) Pay a vehicle qualification fee of **fifteen (15)[thirty (30)]** dollars per vehicle **or use the bulk vehicle qualification payment option in subsection (2)[prorated for the month the vehicle is qualified pursuant to KRS 281.631(3) and (8)].**

(2) A peer-to-peer car sharing company with fifty-one (51) or more vehicles may qualify vehicles to operate by[ **paying a calendar year bulk qualification fee pursuant to the following schedule:**

~~[(a) Adding each vehicle using the Kentucky Motor Carrier Portal at <https://drive.ky.gov/>;~~

~~(b) Paying an application fee of \$250 pursuant to KRS 281.630(3)(b); and~~

~~(c) Paying a calendar year bulk qualification fee pursuant to the following schedule:]~~

~~(a)[1-] \$1,500[\$3,000]~~ for fifty-one (51) to 100 vehicles;

~~(b)[2-] \$2,250[\$4,500]~~ for 101 to 150 vehicles;

~~(c)[3-] \$3,000[\$6,000]~~ for 151 to 200 vehicles;

~~(d)[4-] \$3,750[\$7,500]~~ for 201 to 250 vehicles;

~~(e)[5-] \$4,500[\$9,000]~~ for 251 to 300 vehicles;

~~(f)[6-] \$5,250[\$10,500]~~ for 301 to 350 vehicles;

~~(g)[7-] \$6,000[\$12,000]~~ for 351 to 400 vehicles;

~~(h)[8-] \$7,500[\$15,000]~~ for 401 to 500 vehicles; and

~~(i)[9-] \$11,250[\$22,500]~~ for 501 or more vehicles.

(3) A peer-to-peer car sharing company shall **[annually]** submit the following using the Kentucky Motor Carrier Portal at <https://drive.ky.gov/> to renew a certificate **no later than December 31 of each renewal year:**

(a) A certificate renewal fee of \$250 pursuant to KRS 281.630(4)(d); and

(b) A vehicle qualification fee of **fifteen (15)[thirty (30)]** dollars per vehicle, **or a renewal bulk fee pursuant to the schedule in subsection (2)[prorated for the month the vehicle is qualified pursuant to KRS 281.631(3) and (8)].**

(4) If a peer-to-peer car sharing company elects to use the bulk vehicle qualification[registration] payment option in the initial or renewal application, the peer-to-peer car sharing company shall not be required to submit additional vehicle qualification information and fees to the Division of Motor Carriers in connection with vehicles that are added during the duration of the period for which the bulk payment was made.

(5) A peer-to-peer car sharing company shall pay a renewal bulk fee by December **31[15]** of each calendar year.

(6) **If a peer-to-peer car sharing company does not elect to use the bulk vehicle qualification payment option in the initial or renewal application, a[A]** peer-to-peer vehicle shall be added to the peer-to-peer car sharing company's current list by submitting a vehicle qualification fee of **fifteen (15)[thirty (30)]** dollars per vehicle prorated for the month the vehicle is qualified pursuant to KRS 281.631(3) and (8) to the Division of Motor Carriers using the Kentucky Motor Carrier Portal at <https://drive.ky.gov/>.

(7) ~~[An application shall be submitted electronically using the Kentucky Motor Carrier Portal at <https://drive.ky.gov/>.~~

~~(8)~~ Operating authority obtained pursuant to this section shall not be transferable.

Section 3. Demonstration of Financial Responsibility and Insurance. **Before a certificate may be issued or renewed, a**~~[A]~~ peer-to-peer car sharing company shall **file or have on file with the department proof of insurance that demonstrates that the peer-to-peer car sharing company meets the motor vehicle insurance coverage requirements in KRS 365.522**~~[maintain primary automobile insurance that complies with the provisions set forth in KRS 281.655].~~

Section 4. **Recordkeeping**~~[Insurance Exclusions]~~. **Pursuant to KRS 365.524(2), a peer-to-peer car sharing company shall collect and verify records pertaining to the use of a shared vehicle and provide the information collected to facilitate a claim coverage investigation, settlement, negotiation, or litigation, as provided in that subsection.**

~~(1) An automobile insurer whose policy excludes coverage for a peer-to-peer car sharing company vehicle shall have no duty to defend or indemnify a claim for personal or property damages.~~

~~(2) In a claims coverage investigation, the peer-to-peer car sharing company and an insurer potentially providing coverage shall cooperate to facilitate the exchange of relevant information with directly involved parties.~~

~~(3) Information relevant to a claims coverage situation shall include:~~

~~(a) The name of the insurer or potential insurer of the vehicles of the peer-to-peer car sharing company; and~~

~~(b) A complete description of the insurance coverage including the exclusions and limits.~~

**Section 5. Vehicles.**

~~(1) A vehicle used for peer-to-peer car sharing shall be added by using the Kentucky Motor Carrier Portal at <https://drive.ky.gov/> and submitting the fees required in Section 2 of this administrative regulation.~~

~~(2) A peer-to-peer car sharing company shall collect and maintain the following information on the vehicles being used to provide peer-to-peer services:~~

~~(a) The VIN and license plate number; and~~

~~(b) An electronic copy of the current peer-to-peer certificate.]~~

**Section 5.**~~[Section 6. Passenger]~~ Service.

(1) A peer-to-peer car sharing company shall adopt a policy of non-discrimination based on the following:

~~[(a) Destination;]~~

~~(a)~~~~[(b)]~~ Race or color;

~~(b)~~~~[(c)]~~ National origin;

~~(c)~~~~[(d)]~~ Religious belief or affiliation;

~~(d)~~~~[(e)]~~ Sex; and

~~(e)~~~~[(f)]~~ Disability.;

~~(g) Age; and~~

~~(h) The presence of a service animal.]~~

(2) A peer-to-peer car sharing company shall **make the notifications and disclosures to shared vehicle drivers and shared vehicle owners provided in KRS 365.524.** ~~[provide the following information to the public on its Web site and mobile device application software:~~

~~(a) A schedule of its rates or the method used to calculate rates and peak pricing; and~~

~~(b) A passenger support telephone number or email address where a suspected violation may be~~

immediately reported.

~~(3) A peer-to-peer car sharing company shall provide the following information to a person requesting peer-to-peer car sharing:~~

~~(a) The expected cost of service; and~~

~~(b) A photograph or description, including license plate number, of the vehicle that will be used for the service.]~~

**Section 6.[Section 7.] Terms of Service. A peer-to-peer car sharing company shall not disclose to a third party the personal information of a shared vehicle driver or shared vehicle owner unless:**

~~[(1) The peer-to-peer car sharing company shall not require a hold harmless or indemnification clause in the terms of service for a customer that may be used to evade the insurance requirements of this administrative regulation and KRS Chapter 281.~~

~~(2) A peer-to-peer car sharing company shall not disclose to a third party the personally identifiable information of a user of the peer-to-peer car sharing program unless:]~~

~~(1)[(a)] The peer-to-peer car sharing company obtains the **shared vehicle driver's or shared vehicle owner's[user's]** consent to disclose **or provides notice in its privacy policy about the disclosure [personally identifiable information];**~~

~~(2)[(b)] The disclosure is required to comply with a legal obligation; or~~

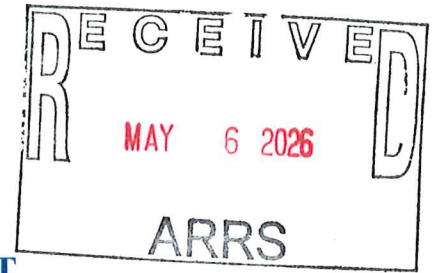
~~(3)[(c)] The disclosure is required to protect or defend the terms of use of the service or to investigate violations of the terms of use.~~

Section **7[8]. Penalties.**

(1) A peer-to-peer car sharing company that operates in violation of the requirements of this administrative regulation shall be fined pursuant to KRS 281.990(1).

(2) A peer-to-peer car sharing company that operates in violation of the terms of its certificate or permit or operates without a valid permit shall be fined **[per occurrence]** pursuant to KRS 281.990(2).

(3) A peer-to-peer car sharing company that fails to produce requested records and information pursuant to KRS 281.820 within **one week[forty-eight (48) hours]** of the request by the department shall be fined \$200.



**EDUCATION AND LABOR CABINET  
Office of Vocational Rehabilitation**

**Andy Beshear**  
Governor

**Jamie Link**  
Secretary

**Cora McNabb**  
**Executive Director**  
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May 6, 2026

Senator Stephen West, Co-Chair  
Representative Derek Lewis, Co-Chair  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
083, Capitol Annex  
702 Capitol Avenue  
Frankfort, Kentucky 40601

Dear Co-Chairs:

After consideration of the issues raised by **781 KAR 1:001**, 1:010, 1:020, 1:030, and 1:040, the Commonwealth of Kentucky, Education and Labor Cabinet, Office of Vocational Rehabilitation respectfully agrees to the attached suggested amendments to these administrative regulations.

The attached full-text versions reflect the suggested amendments to be considered by the Administrative Regulation Review Subcommittee.

Respectfully,

Cora McNabb  
Cora McNabb  
Executive Director  
Office of Vocational Rehabilitation  
Kentucky Education & Labor Cabinet  
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## Subcommittee Substitute

### EDUCATION AND LABOR CABINET Department of Workforce Development Office of Vocational Rehabilitation (Amended After Comments)

#### 781 KAR 1:001. Definitions.

RELATES TO: KRS 151B.185, 151B.190, 151B.195, 151B.200, 34 C.F.R. Part 361, 29 U.S.C. 721, 722, 723

STATUTORY AUTHORITY: KRS 151B.185, 151B.195(1), 151B.200

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.195(1) requires the Executive Director of the Office of Vocational Rehabilitation to promulgate regulations governing the services and administration of the State Vocational Rehabilitation Agency. KRS 151B.200 authorizes the office to comply with federal acts relating to vocational rehabilitation when these acts apply to joint state and federally funded vocational rehabilitation programs. KRS 151B.195(1) requires the Executive Director of the Office of Vocational Rehabilitation to promulgate administrative regulations governing services, personnel, and administration of the State Vocational Rehabilitation Agency. This administrative regulation establishes the definitions needed for the provision of rehabilitation services.

#### Section 1. Definitions.

- (1) "Acute" or "emergency medical conditions" ***means [are]*** accidents or illnesses with sudden onset and relatively short course.
- (2) "Administrative hearing" is defined by KRS 13B.010(2).
- (3) "Administrative review" means an informal process through which office personnel not involved in the initial office decision conduct a review of an office decision to ensure the decision complies with office policy.
- (4) "Assistive technology specialist" means an individual who analyzes the needs of individuals with disabilities, assists in the selection of the appropriate assistive technology, and trains the eligible individual on how to properly use the specific equipment.
- (5) "Attendant Factors" ***means [are]*** factors not directly resulting from a disability that affect the individual's ability to obtain, maintain, or progress in employment.
- (6) "Case record" means the official written or electronic record of the vocational rehabilitation case of an applicant, potentially eligible, or eligible individual.
- (7) "Certified driver rehabilitation specialist" means a driver rehabilitation specialist who has obtained certification to provide services from the Association for Driver Rehabilitation Specialists.
- (8) "Clear and convincing evidence" means a firm belief that a factual contention is highly probable.
- (9) "Client Assistance Program or" "(CAP)" is defined in 29 U.S.C. 732.**
- (10)[(9)]** "Comparable services and benefits" is defined in 34 C.F.R. 361.5(c)(8).

**(11)**~~(10)~~ "Comprehensive Transition and Postsecondary Program" (CTP) means a program designated by the United States Department of Education under 34 C.F.R. 668.231(a).

**(12)**~~(11)~~ "Competitive integrated employment" is defined by 34 C.F.R. 361.5(c)(9).

**(13)**~~(12)~~ "Content tutoring" means instruction to improve performance in a specific course or subject when the academic difficulty is not caused by a disability.

**(14)**~~(13)~~ "Disability-related tutoring" means tutoring, instruction, or programs specifically designed to address academic limitations that result from a disability and that are necessary for the individual to benefit from training or to achieve the employment outcome.

**(15)**~~(14)~~ "Driver evaluation" means a clinical and behind-the-wheel evaluation by a certified driver rehabilitation specialist to identify an eligible individual's driver rehabilitation needs to allow that person to drive independently.

**(16)**~~(15)~~ "Driver training" means behind-the-wheel instruction required to teach an individual with a disability to drive with or without vehicle modifications.

**(17)**~~(16)~~ "Educational assistance services" means reader services, note-taking assistance, page turning, typing, recording, securing reference materials, or similar support necessary for the individual to participate in training or education programs.

**(18)**~~(17)~~ "Educational aide" means an approved vendor who provides educational assistance services **[under this section]**.

**(19)**~~(18)~~ "Electronic communication" **means [includes, but is not limited to]** email, fax, and Short Message Service, and text messaging.

**(20)**~~(19)~~ "Eligible individual" is defined by 34 C.F.R. 361.5(c)(14).

**(21)**~~(20)~~ "Employment outcome" is defined by 34 C.F.R. 361.5(c)(15).

**(22)**~~(21)~~ "Executive director" means the Executive Director of the Office of Vocational Rehabilitation.

**(23)**~~(22)~~ "Extended driver evaluation" means additional evaluation necessary in those cases in which an individual's ability to drive cannot be determined after a driver evaluation.

**(24)**~~(23)~~ "Family member" is defined by 34 C.F.R. 361.5(c)(22).

**(25)**~~(24)~~ "Financial participation" means the amount the eligible individual **shall [must]** pay for cost sharing between the office and the eligible individual for an authorized good or service.

**(26)**~~(25)~~ "Functional capacity" means the capacity to perform tasks required in employment including:

- (a) Mobility;
- (b) Communication;
- (c) Self-care;
- (d) Self-direction;
- (e) Interpersonal skills;
- (f) Work tolerance; or
- (g) Work skills.

**(27)**~~(26)~~ "Hearing officer" is defined by KRS 13B.010(5).

**(28)**~~(27)~~ "Household size" is calculated using the individual's most recent federal income tax return, and means:

- (a) If the individual is not claimed as a tax dependent for purposes of filing federal taxes, the individual, the individual's spouse, if legally married, and the individual's tax dependents; or

(b) If the individual is claimed as a dependent for purposes of filing federal taxes, the individual, any persons claiming the individual as a dependent, and any other dependents the tax filer claims.

**(29)**~~[(28)]~~ "Individual" **means [is]** a disabled person who is applying, potentially eligible, or eligible for vocational rehabilitation services in Kentucky.

**(30)**~~[(29)]~~ "Individual with a disability" is defined by 34 C.F.R. 361.5(c)(27) and 34 C.F.R. 361.5(c)(28).

**(31)**~~[(30)]~~ "Individual with a most significant disability" is defined in 34 C.F.R. 361.5(c)(29).

**(32)**~~[(31)]~~ "Individual with a significant disability" is defined in 34 C.F.R. 361.5(c)(30).

**(33)**~~[(32)]~~ "Individualized plan for employment" means a written plan for a specific employment outcome as required by 34 C.F.R. 361.46.

**(34)**~~[(33)]~~ "Informed choice" means the applicant, potentially eligible individual, and eligible individual's right to receive information and support that allows them to make informed decisions about their case throughout the vocational rehabilitation process including **[but not limited to]** the choice of service provider as set forth in 34 C.F.R. 361.52.

**(35)**~~[(34)]~~ "In state service" means a vocational rehabilitation service that is provided in Kentucky.

**(36)**~~[(35)]~~ "Mediation" is defined by 34.C.F.R. 361.5(c)(35).

**[36)]** [~~**Non-significant disability" means a disability that does not limit a functional capacity.**~~]

(37) "Office" means the Office of Vocational Rehabilitation and its staff members who are authorized under state law to perform the functions of the state regarding the state plan and its supplement.

(38) "Personal assistance services" is defined by 34 C.F.R. 361.5(c)(38).

(39) "Physical or mental impairment" is defined by 34 C.F.R. 361.5(c)(40).

(40) "Pre-employment transition services (Pre-ETS)" means the set of early career exploration services identified in 34 C.F.R. 361.48(a)(2).

(41) "Post-employment services" is defined by 34 C.F.R. 361.5(c)(41).

(42) "Post-secondary education" means academic or vocational training provided by an accredited post-secondary institution, including universities, colleges, community and technical colleges, and proprietary schools which leads to an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the Commonwealth of Kentucky or federal government, or an associate or baccalaureate degree.

(43) "Post-Secondary Transition Program" (PSTP) means a two (2) or three (3) year work-readiness and employment-skills training program operated by a post-secondary institution that is a CTP.

(44) "Potentially eligible student" means a student with a disability between the ages of **fourteen (14) and twenty-one (21)**~~[(14 and 21)]~~ who has not applied for or been determined eligible for vocational rehabilitation services.

(45) "Remediation" means instruction intended to address basic educational deficiencies not caused by the individual's disability.

(46) "Secretary" means the Secretary of the Education and Labor Cabinet.

(47) "Serious limitation" means the individual frequently requires assistance from others, personal adaptations, assistive technology or [and/or] accommodations not typically needed for other workers to participate in employment.

(48) "Service fee" means the standard rate of pay established by the office for vocational rehabilitation services and goods.

(49) "Service Fee Memorandum" means the document used to communicate the service fees to vendors.

(50) "Structural addition" means any improvement to real property that would increase the square footage or footprint of the property.

(51) "Student with a disability" means an individual who is ***fourteen (14) to twenty-one (21)***~~*14-21*~~ years of age and is eligible for and receiving special education or related services under the Individuals with Disabilities Education Act or is an individual with a disability for purposes of Section 504 of the Rehabilitation Act.

(52) "Substantial impediment to employment" is defined by 34 C.F.R. 361.5(c)(52).

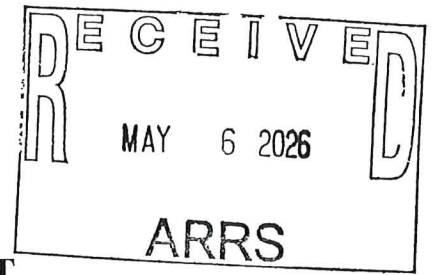
(53) "Tutorial services" means individualized instruction provided to improve academic performance or address disability-related barriers to participation in a training or educational program.

(54) "Vendor" means a person or entity:

(a) The office has determined meets the service provider standards established by the office and has executed a vendor agreement with the office;~~*i*~~ or

(b) From which the office has agreed to purchase goods or services.

(55) "Vocational rehabilitation services" is defined by 34 C.F.R. 361.5(c)(57).



**EDUCATION AND LABOR CABINET  
Office of Vocational Rehabilitation**

**Cora McNabb**

**Executive Director**

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**Jamie Link**  
Secretary

**Andy Beshear**  
Governor

May 6, 2026

Senator Stephen West, Co-Chair  
Representative Derek Lewis, Co-Chair  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
083, Capitol Annex  
702 Capitol Avenue  
Frankfort, Kentucky 40601

Dear Co-Chairs:

After consideration of the issues raised by 781 KAR 1:001, 1:010, 1:020, 1:030, and 1:040, the Commonwealth of Kentucky, Education and Labor Cabinet, Office of Vocational Rehabilitation respectfully agrees to the attached suggested amendments to these administrative regulations.

The attached full-text versions reflect the suggested amendments to be considered by the Administrative Regulation Review Subcommittee.

Respectfully,

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## Subcommittee Substitute

### EDUCATION AND LABOR CABINET Department of Workforce Development Office of Vocational Rehabilitation (Amended After Comments)

#### 781 KAR 1:010. Office of Vocational Rehabilitation appeal procedures.

RELATES TO: KRS 151B.190, 151B.200, 34 C.F.R. Part 361, 29 U.S.C. 722

STATUTORY AUTHORITY: KRS 13B.170, 151B.195(1), 29 U.S.C. 722(c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 13B.170 authorizes an agency to promulgate administrative regulations that are necessary to carry out the provisions of KRS Chapter 13B concerning administrative hearings. 29 U.S.C. 722(c) requires state procedures for the review of determinations made by rehabilitation personnel for basic rehabilitation services. Pursuant to KRS 151B.200, the Commonwealth of Kentucky[,] agreed to comply with all provisions relating to Federal Vocational Rehabilitation Acts. KRS 151B.195(1) **requires [authorizes]** the commissioner to promulgate administrative regulations for the department. This administrative regulation establishes hearing and appeal procedures for a person seeking vocational rehabilitation benefits.

#### Section 1. [Definitions.]

[(1)] ["Administrative hearing" is defined by KRS 13B.010(2).]

[(2)] ["Administrative review" means an informal process through which office personnel not involved in the initial decision conduct a review of an office decision to ensure the decision complies with office policy.]

[(3)] ["Appellant" means an applicant, potentially eligible, or eligible individual who requests an appeal of an office decision in accordance with this section.]

[(4)] ["Applicant" means an individual who submits an application for vocational rehabilitation services.]

[(5)] ["Branch manager" means the office staff who is responsible for the operations of an office branch.]

[(6)] ["Case record" means the official written or electronic record of the vocational rehabilitation case of an applicant, potentially eligible, or eligible individual.]

[(7)] ["Competitive integrated employment" is defined by 34 C.F.R. 361.5(c)(9).]

[(8)] ["Eligible individual" means an applicant for vocational rehabilitation services who the office determines is an individual with a disability who requires vocational rehabilitation services to prepare for, secure, retain, or regain employment.]

[(9)] ["Executive director" means the Executive Director of the Office of Vocational Rehabilitation.]

[(10)] ["Hearing officer" is an individual who meets the qualifications established in KRS 13B.010(7) and who has knowledge of the laws applicable to the office.]

[(11)] ["Office" means the Office of Vocational Rehabilitation.]

[(12)] ["Office Appeal Form" means the office form incorporated by referenced and used by an applicant, potentially eligible, or eligible individual to request an appeal of an office decision.]

~~[(13)] ["Potentially eligible individual" means an individual who might be eligible for vocational rehabilitation services, but whose eligibility has not yet been determined.]~~

~~[(14)] ["Secretary" means the Secretary of the Education and Labor Cabinet.]~~

[Section 2.] Right to Appeal.

(1) The office shall notify every ~~[applicant, potentially eligible individual, or eligible]~~ individual in writing:

(a) That they have~~[that the individual has]~~ the right to appeal any determination made by the office that affects the provision, denial, reduction, suspension, or cessation of that individual's vocational rehabilitation services;~~;~~

(b) That they have the right to pursue mediation, which shall be conducted by a qualified mediator selected in accordance with 34 C.F.R. 361.57(d);

(c) The names and addresses of individuals with whom requests for mediation or **appeals**~~[hearings]~~ may be filed;

(d) That an impartial hearing officer shall be selected in accordance with 34 C.F.R. 361.57(e); and

(e) The availability of the client assistance program.

(2) This notice shall be provided:

(a) At the time an individual applies for vocational rehabilitation services;

(b) At the time the individual is assigned to a priority category in order of selection;

(c) At the time the individualized plan of employment is developed or amended; and

(d) Whenever **vocation**~~[vocations]~~ rehabilitation services for an individual are **denied**, reduced, suspended, or terminated.~~[The office shall provide to every applicant, potentially eligible individual, or eligible individual:]~~

~~[(a)] [As established in the Kentucky Office of Vocational Rehabilitation Policies and Procedures Manual, the procedure for requesting an appeal, including the name and address of office staff to whom a request for appeal shall be submitted; and]~~

~~[(b)] [The Office Appeal Form.]~~

(3) A request for appeal shall be ~~[submitted using the Office Appeal Form and shall be]~~ submitted to the office within fourteen (14) days of receipt of written notice of an office decision~~[or receipt of verbal notice of an office decision, as determined by the date in the case record]~~. A timely request for appeal may be submitted **by [via]** US Mail, email, **or orally to the office, including by telephone or in person. A voicemail message shall not constitute a request for appeal**~~[telephonically]~~.

(4) As required by 34 C.F.R. 370.3, an individual~~[An appellant]~~ shall have the right to be represented by an advocate or attorney at all appellate proceedings, and the individual~~[appellant]~~ shall bear all cost for representation.

(5) Upon receipt of an appeal~~[a request for an administrative hearing]~~, the office shall:

(a) Conduct an informal administrative review of the decision on appeal;~~[prior to the administrative hearing; and]~~

(b) Offer the individual an opportunity to participate in mediation if the individual disagrees with the findings of the informal administrative review; and

(c)~~[(b)]~~ If the matter is not resolved through the administrative review or mediation, convene~~[Convene]~~ an administrative hearing within sixty (60) days **from the request for**

**appeal**, except that ~~an~~[a time] extension, not to exceed one (1) year, shall be granted upon **written** agreement by both parties.

(6) During an appeal, the office shall not suspend, reduce, or terminate services provided under the individualized plan for employment unless:

(a) It has evidence that the service was obtained through:

1. Misrepresentation;
2. Fraud;
3. Collusion; or
4. Criminal conduct; or

(b) The individual[appellant] requests the action **in writing, and the request is confirmed in writing by the office.**

#### Section 2.~~[Section 3.]~~ Informal Administrative Review.

(1) Upon receipt of ~~an appeal~~[a notice of appeal, the office shall conduct an informal administrative review of the decision.]

~~[(2)]~~ [The director or designee shall select] a branch manager not involved in the decision[action] in question [~~who~~] shall conduct the administrative review of the decision within ten (10) days.

~~(2)~~~~[(3)]~~ The administrative review shall be conducted either in person or by teleconference, and the individual[appellant] shall be invited to participate.

~~(3)~~~~[(4)]~~ A written determination shall be sent to the individual[The branch manager shall issue a written determination] within five (5) business days **of the informal administrative review**~~[and notify the appellant]~~ **by [via]** electronic mail or U.S. Mail.

#### Section 3.~~[Section 4.]~~ Mediation.

(1) The individual[appellant] shall have the right to participate in mediation before an administrative hearing is convened.

~~(2)~~ [The office shall maintain a list of qualified mediators.]

~~[(3)]~~ If mediation is requested, the office shall:

- (a) Schedule~~[Choose a mediator from the list and schedule]~~ the mediation for a date prior to an administrative hearing;
- (b) Convene the mediation in a location convenient to the office and the individual[appellant], or virtually, and provide reasonable accommodations if requested;
- (c) Bear the cost of mediation; and
- (d) Send a representative of the office to the mediation who is authorized to bind the office to an agreement.

~~(3)~~~~[(4)]~~ The individual[appellant] shall attend the mediation.

~~(4)~~~~[(5)]~~ Discussions or agreements arising from the mediation shall be confidential and shall not be used as evidence in any subsequent administrative hearing or civil proceeding.

~~(5)~~~~[(6)]~~ An agreement reached by the parties through mediation shall be documented in writing and[,] signed by both parties~~[prior to the conclusion of the mediation, and a copy shall be issued to both parties].~~

(6) Mediation is voluntary and shall not be used to delay the scheduling of an impartial hearing.

Section 4.~~[Section 5.]~~ Administrative Hearing. If the individual is not satisfied with the outcome of the informal administrative review process, did not choose to participate in mediation or if the mediation was unsuccessful, the~~[applicant, potentially eligible, or eligible,]~~[The] office shall conduct an administrative hearing in accordance with KRS Chapter 13B.~~[and Section 2 of this administrative regulation if the elects not to participate in mediation or if the mediation did not result in an agreement.]~~

~~[Section 6.]~~ ~~[Client Assistance Program. The office shall advise an applicant, potentially eligible individual, or eligible individual of:]~~

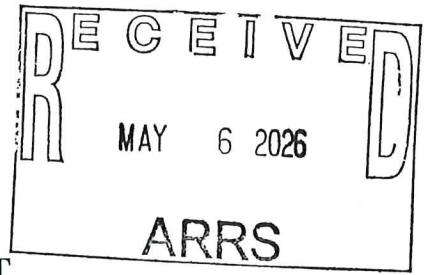
- ~~[(1)] [The existence of the Client Assistance Program;]~~
- ~~[(2)] [The services provided by the program; and]~~
- ~~[(3)] [How to contact a program representative.]~~

~~[Section 7.]~~ ~~[Findings and Decision.]~~

- ~~[(1)] [The hearing officer shall issue a recommended order in accordance with KRS 13B.110.]~~
- ~~[(2)] [Either party shall have the right to submit exceptions to the recommended order to the secretary as established in KRS 13B.110.]~~
- ~~[(3)] [The secretary or designee shall issue the final order in accordance with KRS 13B.120.]~~

~~[Section 8.]~~ ~~[Incorporation by Reference.]~~

- ~~[(1)] ["Kentucky Office of Vocational Rehabilitation Policies and Procedures Manual", June 2022, is incorporated by reference.]~~
- ~~[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Vocational Rehabilitation, 500 Mero Street 4th Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]~~
- ~~[(3)] [This material is also available at [kcc.ky.gov/vocational-rehabilitation](http://kcc.ky.gov/vocational-rehabilitation).]~~



**EDUCATION AND LABOR CABINET  
Office of Vocational Rehabilitation**

Andy Beshear  
Governor

Jamie Link  
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May 6, 2026

Senator Stephen West, Co-Chair  
Representative Derek Lewis, Co-Chair  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
083, Capitol Annex  
702 Capitol Avenue  
Frankfort, Kentucky 40601

Dear Co-Chairs:

After consideration of the issues raised by 781 KAR 1:001, 1:010, 1:020, 1:030, and 1:040, the Commonwealth of Kentucky, Education and Labor Cabinet, Office of Vocational Rehabilitation respectfully agrees to the attached suggested amendments to these administrative regulations.

The attached full-text versions reflect the suggested amendments to be considered by the Administrative Regulation Review Subcommittee.

Respectfully,

Cora McNabb  
Executive Director  
Office of Vocational Rehabilitation  
Kentucky Education & Labor Cabinet  
500 Mero Street, 4th Floor  
Frankfort, KY 40601  
Email: cora.mcnabb@ky.gov

## Subcommittee Substitute

### EDUCATION AND LABOR CABINET Department of Workforce Development Office of Vocational Rehabilitation (Amended After Comments)

#### **781 KAR 1:020. General provisions for operation of the Office of Vocational Rehabilitation.**

RELATES TO: KRS 138.170, 151B.185, 151B.190, 151B.195, 151B.200, 34 C.F.R. Part 361[~~361.42,361.49~~], 29 U.S.C. 721, 722, 723

STATUTORY AUTHORITY: KRS 151B.185, 151B.195(1), 151B.200

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.200 authorizes the office to comply with federal acts relating to vocational rehabilitation when these acts apply to joint state and federally funded vocational rehabilitation programs. KRS 151B.195(1) requires the Executive Director of the Office of Vocational Rehabilitation to promulgate administrative regulations governing services, personnel, and administration of the State Vocational Rehabilitation Agency. This administrative regulation establishes general criteria for the provision of rehabilitation services and is necessary[ ~~in order~~] to distribute limited funds available for that purpose.

#### Section 1. Application.

(1) An individual shall be considered an applicant for vocational services when the individual:

(a) Submits a request for vocational rehabilitation services, including completion of an OVR-2, Application for Services, or other expression of intent to apply;

(b) Provides the basic information necessary to initiate an eligibility determination, consistent with 34 C.F.R. 361.41(b)(2); and

(c) Is available to participate in the assessment process required under 34 C.F.R. 361.41.

(2) The office shall make a reasonable effort to contact individuals referred for services and offer them the opportunity to apply.

(3) An application shall be dated as of the date the request for services is received by the office.

(4) Prior to determination of eligibility, the office may require verification of identity and of employment authorization sufficient to establish that the individual is legally permitted to work in the United States.

(a) If the individual cannot establish legal authorization to work, the office shall find the individual ineligible for services in accordance with this administrative regulation; and

(b) The office shall provide information and referral services to individuals who are ineligible on this basis, as required by federal law.

(5) The office may accept applications from individuals who reside outside of Kentucky if the individual is available to participate fully in the rehabilitation process, including assessment for eligibility and rehabilitation needs.

(6) Applications may be accepted from individuals who are incarcerated if the individual is reasonably expected to become available to participate in an eligibility determination and vocational rehabilitation services upon release.

(7) Electronic Communication. The office may communicate electronically with individuals, including by email or text message, if the individual has provided informed consent for that method of communication. The individual may revoke consent at any time. The individual's communication preferences shall be documented in the case record. If an individual changes their preferred email, they shall notify the office.

(8) The office shall provide each individual with information regarding program rights and responsibilities, including appeal procedures, consistent with 34 C.F.R. 361.38(b).

(9) If an individual has a guardian or legal representative, the individual shall inform the office and provide appropriate documentation. Any reference to individual in these regulations includes a guardian or legal representative, if applicable. [Section 1][Definitions.]

~~[(1)] ["Applicant" means an individual who has signed a letter or document requesting vocational rehabilitation services and who is available to complete an assessment.]~~

~~[(2)] ["Eligible individual" means an individual with a disability who has been determined by the office to meet the basic conditions of eligibility for vocational rehabilitation services as defined in 34 C.F.R. 361.42.]~~

~~[(3)] ["Occupational equipment" means equipment essential to perform the job duties at the job site and required as a condition of employment.]~~

~~[(4)] ["Office" means the Office of Vocational Rehabilitation and its staff members who are authorized under state law to perform the functions of the state regarding the state plan and its supplement.]~~

~~[(5)] ["Relative" means an individual related to another individual by lineage, marriage, or adoption and includes a:]~~

~~[(a)] [Spouse;]~~

~~[(b)] [Parent;]~~

~~[(c)] [Grandparent;]~~

~~[(d)] [Brother;]~~

~~[(e)] [Sister;]~~

~~[(f)] [Son;]~~

~~[(g)] [Daughter;]~~

~~[(h)] [Grandchild;]~~

~~[(i)] [Aunt;]~~

~~[(j)] [Uncle;]~~

~~[(k)] [Niece;]~~

~~[(l)] [Nephew; and]~~

~~[(m)] [First cousin.]~~

## Section 2. Eligibility.

(1) In accordance with 34 C.F.R. 361.42, an individual shall be eligible for vocational rehabilitation services if the office determines that:

(a) The individual has a physical or mental impairment that constitutes or results in a substantial impediment to employment;

(b) The individual requires rehabilitation services to prepare for, secure, retain, advance in, or regain employment that is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice;

(c) The individual can benefit in terms of an employment outcome; and

(d) The individual intends to achieve an employment outcome.

(2) An individual who meets the criteria in subsection (1)(a)-(c) of this Section and who has been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act shall be presumed eligible for vocational rehabilitation services and considered an individual with a significant disability, so long as the individual intends to achieve an employment outcome. This presumption of eligibility may be overcome only if the individual participates in a period of trial work, as provided in Section 3 of this administrative regulation, and upon clear and convincing evidence that the individual cannot benefit from vocational rehabilitation services in terms of an employment outcome. Because eligibility can generally be determined based solely on verification of benefits, the office shall determine eligibility as soon as practicable upon receipt of verification of benefits.

(3) Eligibility requirements shall be applied by the office without regard to race, color, national origin, sex, age, religion, type of disability, genetic information, marital status, sexual orientation, gender identity, citizenship, pregnancy, or veteran status.

(4) The individual shall meet legal age requirements for employment at the time rehabilitation services are provided. There shall be no maximum age at which an individual is ineligible for services.

(5) There shall be no residency requirements for eligibility purposes. However, the individual shall be available to participate in rehabilitation services.

(6) Eligibility determinations shall be made within sixty (60) calendar days from the date of application, unless:

(a) There are unforeseen circumstances beyond the control of the office that prevent making the determination within the timeframe; or

(b) The individual and office agree to a one-time extension that reflects the minimum additional time needed to obtain the information necessary to determine eligibility and that specifies a date by which eligibility shall be determined. The sixty (60) day eligibility deadline shall not be extended if presumptive eligibility under subsection (2) of this section has been established.

(7) Any agreement to extend the eligibility determination period shall be documented in the case record.

(8) Services shall be provided only to address the employment needs of individuals with disabilities.

(9) Signing an application for services shall document the individual's intent to achieve an employment outcome.

(10) Limitations in functional capacity **shall [must]** be a direct result of the disability and not the result of attendant factors such as lack of training, labor market conditions, or transportation. Functional capacity includes self-care, work skills, interpersonal skills, communication, mobility, self-direction and work tolerance.

(11) A comprehensive assessment may be needed prior to developing an Individualized Plan for Employment and assigning a priority category.

(12) An individual requires vocational rehabilitation services to prepare for, secure, retain, advance in, or regain employment if the unique skills of a qualified vocational rehabilitation professional are required to assist the individual in achieving an employment outcome.

(13) Individuals are considered underemployed when a disability adversely affects the ability to obtain a position that could reasonably be expected:

- (a) Considering education, experience, and capabilities;
- (b) Prior to the onset or worsening of a disabling condition;
- (c) Considering current capabilities with or without accommodations.

(14) The eligibility determination shall result in one (1) of the following categories: Eligible and Accepted, Eligible and Out-of-Selection, Ineligible, or Eligibility Unknown.

(15) If the determination is ~~["]Eligible and Accepted, ["]~~ the case should progress toward development of an Individualized Plan for Employment in accordance with Section 6 of this administrative regulation.

(16) If the determination is ~~["]Eligible and Out-of-Selection, ["]~~ the individual shall be assigned to a priority category and served in accordance with Section 5 of this administrative regulation and 781 KAR 1:030, including placement on any applicable waitlist and provision of information and referral services as required by federal law.

(17) All individuals with disabilities who are assigned to a closed priority category shall be provided information and referral services consistent with 34 C.F.R. 361.36.

(18) If an individual is determined ineligible for services, the individual, and as appropriate, the individual's authorized representative, shall be notified and advised of the reasons for the ineligibility decision and information regarding appeal rights.

(19) If eligibility cannot be determined based on existing information, ~~[the eligibility determination shall be classified as "Eligibility Unknown," and ]~~the individual shall be afforded an opportunity for trial work in accordance with Section 3 of this administrative regulation.

[Section 2.] [Employees' Request for Services.]

~~[(1)] [An employee of the office who wishes to request rehabilitation services shall advise the Director of Field Services or a designee.]~~

~~[(2)] [The Director of Field Services or a designee and the employee shall select a counselor to take the request for services. If practicable, the counselor shall be located in an adjacent district to the district in which the employee resides.]~~

Section 3. Trial Work.

(1) Trial Work Experience shall be provided when an individual's ability to benefit from vocational rehabilitation services in terms of an employment outcome cannot be determined based on existing information, as required by 34 C.F.R. 361.42(e).

(2) Before the office may determine that an individual is unable to benefit from vocational rehabilitation services due to the severity of disability, the office shall:

- (a) Provide Trial Work Experience in realistic work settings, using appropriate supports; and
- (b) Base any determination of ineligibility on clear and convincing evidence, consistent with 34 C.F.R. 361.42(e)-(f).

(3) Trial Work Experience shall be provided only when:

- (a) The individual has applied for vocational rehabilitation services;
- (b) Eligibility cannot be determined without direct observation of the individual's abilities, capabilities, and capacity to perform work; and

(c) The experience is necessary to obtain information required to make an eligibility determination.

(4) Trial Work Experience shall:

(a) Occur in one **(1)** or more competitive, integrated, or community-based settings that reflect typical workplace demands;

(b) Include reasonable supports such as job coaching, assistive technology, or other services necessary for the individual to participate;

(c) Be individualized and adjusted as needed based on the individual's progress and functional needs; and

(d) Be conducted for a sufficient variety and duration to permit an informed eligibility decision.

(5) The office shall develop, in collaboration with the individual where possible, a written Trial Work Experience Plan that:

(a) Identifies the specific trial work activities, settings, and supports to be provided;

(b) Establishes the expected duration and review intervals; **and**

(c) Identifies providers responsible for delivering supports.

(6) The office shall periodically assess the individual's performance, functional abilities, and support needs during Trial Work Experience with documentation of the individual's progress.

(7) Upon completion of Trial Work Experience, the office shall determine:

(a) The individual is eligible for vocational rehabilitation services because the individual can benefit in terms of an employment outcome; or

(b) The individual is ineligible for vocational rehabilitation services based on clear and convincing evidence obtained from Trial Work Experience.

(8) Limitations.

(a) Trial Work Experience shall not substitute for assessments or services provided under an Individualized Plan for Employment.

(b) Trial Work Experience shall not exceed the time necessary to obtain the information required to make an eligibility determination.

(c) Extended evaluation periods shall not be used in **place [lieu]** of the requirements of this Section, consistent with 34 C.F.R. 361.42(f).

(9) Comparable services and benefits and financial participation requirements shall **[not-]** apply to Trial Work Experience services, consistent with 34 C.F.R. 361.53(b)(2)(i), because these services occur prior to eligibility determination.

[Section 3.] [Employees' Relatives' Request for Services.]

[~~(1) [An employee of the office shall not take a request for services or provide vocational rehabilitation services to a relative.]~~

[~~(2) [The relative shall be referred to the Director of Field Services or a designee.]~~

[~~(3) [The Director of Field Services or a designee and the individual shall identify a staff member who is not a relative to take the request for services and to provide services as deemed appropriate.]~~

Section 4. Ineligibility.

(1) If any of the eligibility criteria are not met, the individual shall be determined ineligible for vocational rehabilitation services. Before issuing an ineligibility determination, the office shall provide the individual an opportunity for consultation regarding the proposed decision.

(2) If the consultation does not resolve the issue, the individual shall be informed in writing and in an accessible format of the ineligibility decision. This document shall contain the reason for the determination and information regarding the individual's appeal rights.

(3) If the individual is determined ineligible due to a finding that the individual cannot benefit in terms of an employment outcome following a period of trial work, the office shall:

(a) Consult with the individual;

(b) Issue written notice stating the reason for the determination and advising of the right to appeal under 781 KAR 1:010;

(c) Review the ineligibility decision within twelve (12) months of the initial decision; and

(d) Conduct additional reviews thereafter upon the request of the individual. **A [Any] review shall [does]** not limit or replace the individual's right to appeal the ineligibility determination at any time.

(4) If the office determines that the individual is not eligible because the individual is unable to pursue competitive integrated employment or is otherwise unable to participate in such employment due to disability-related limitations, the office shall:

(a) Consult with the individual, consistent with 34 C.F.R. §§ 361.43 and 361.44;

(b) Issue written notice stating the reason for the determination and advising of the right to appeal under 781 KAR 1:010; and

(c) Provide information and referral services to assist the individual in obtaining services from other appropriate agencies.

(5) If an individual affirmatively states that they do not desire to continue pursuing competitive integrated employment at this time and chooses to withdraw from services, the office shall document the individual's voluntary decision and close the case. A voluntary withdrawal by the individual **shall [does]** not constitute an ineligibility determination and **shall [does]** not trigger appeal rights. In addition, the individual may reapply for services at any time.

[Section 4.] [Legal Fees. The office shall not be responsible for any fees incurred by an applicant or eligible individual for legal services.]

#### Section 5. Priority Categories.

(1) An individual determined eligible shall be assigned to one (1) of the following priority categories:

(a) Priority Category 1: Individual with a most significant disability is an individual with a disability who has been determined eligible for vocational rehabilitation services, requires multiple vocational rehabilitation services for a period of six (6) months or more, and experiences serious limitations in four (4) or more areas of functional capacity, in terms of an employment outcome.

(b) Priority Category 2: Individual with a significant disability is an individual with a disability who has been determined eligible for vocational rehabilitation services, requires multiple vocational rehabilitation services for a period of six (6) months or more and experiences serious limitations in three (3) areas of functional capacity, in terms of an employment outcome.

(c) Priority Category 3: Individual with a significant disability is an individual with a disability who has been determined eligible for vocational rehabilitation services, requires multiple vocational rehabilitation services for a period of six (6) months or more, and experiences serious limitations in one (1) to two (2) areas of functional capacity, in terms of employment outcome.

(d) Priority Category 4: Individual with a disability is an individual who has been determined eligible for vocational rehabilitation services and does not meet the criteria for priority categories 1, 2, or 3.

(2) If the assigned priority category is open, the individual shall be served.

(3) As set forth in 781 KAR 1:030, if the priority category is closed, the individual's case shall be held on a waitlist in their assigned priority category by date of application until funding is available to serve from the waitlist or the priority category assigned is opened or the order of selection is lifted.

(4) An individual who has been assigned to a priority category may be reassigned to a different category to correct an error; or if the office determines new information justifies the reclassification.

~~[Section 5.] [Payment Rates for Purchased Services.]~~

~~[(1)] [A service vendor shall not charge or accept from the applicant, eligible individual, or a relative payment for services unless the amount of the charge or payment is first presented to the office.]~~

~~[(2)] [Payment to out-of-state vendors shall be governed by the rates established by the vocational rehabilitation agency in the state where services shall be provided.]~~

#### Section 6. Individualized Plan for Employment.

(1) The Individualized Plan for Employment (IPE) shall be developed in accordance with the Rehabilitation Act of 1973, as amended, and the Workforce Innovation and Opportunity Act (WIOA), and 34 C.F.R. 361.45, and 361.46.

(2) The IPE, including any amendments, shall be jointly agreed upon by the office and the individual. The IPE shall be executed on office-approved forms.

(3) As required by 34 C.F.R. 361.45(c), a copy of the IPE, and any amendments, shall be provided to the individual in their native language or mode of communication that enables the full participation of the individual.

(4) The IPE implementation date shall be the date the office signs the IPE after all other required signatures have been obtained.

(5) The IPE shall be developed as soon as possible, but not later than ninety (90) days after the date of determination of eligibility, unless the office and individual agree in writing to a one-time extension that specifies a completion date.

(6) The individual may choose to develop all or part of the IPE independently, with the assistance of the office, or with the help of a representative or a disability advocacy organization, consistent with informed choice.

(7) The IPE shall specify:

(a) A specific employment outcome;

(b) The vocational rehabilitation services required to achieve the outcome;

(c) Providers of each service;

- (d) Timelines for the initiation of services;
- (e) Responsibilities of the individual and the office, including financial participation when applicable;
- (f) Comparable services and benefits; and
- (g) The need for post-employment services, if any.
- (8) A complete copy of the signed IPE and any amendments shall be provided to the individual promptly after execution.
- (9) Amendments to the IPE shall:
  - (a) Be made when any substantive changes in the employment outcome, services, or the provider are necessary; and
  - (b) Only be made when jointly agreed upon and signed by both the office and individual.
- (10) The office may authorize incidental expenditures not exceeding \$200 per authorization or **\$500 [five hundred dollars (\$500)]** per fiscal year without obtaining the individual's signature if the expenditure is for maintenance, clothing, uniforms, transportation, licenses or permits, assistive technology devices, and specialized aids or appliances for the blind.
- (11) The IPE shall be reviewed with the individual at least annually. The first annual review shall occur on or before the anniversary date of the IPE, and thereafter, on or before the most recent annual review. If a significant change to the rehabilitation program is required, an IPE amendment shall be written.
- (12) Prior to developing or amending an IPE, the office shall provide the individual with information necessary for informed choice regarding potential employment outcomes, services, service providers, and methods of procuring services. Alternative methods of service delivery shall be identified unless prohibited by law.
- (13) Prior to developing or amending an IPE, individuals shall be given a description of services and providers, allowing individuals to have input into the services and providers selected. Except where otherwise provided by state or federal law or regulation, alternative methods to provide services shall be identified for the individual.

~~[Section 6.] [Potentially Terminal Illness. Services shall not be provided to individuals with a potentially terminal illness unless:]~~

- ~~[(1)] [There is a favorable medical prognosis for recovery; or]~~
- ~~[(2)] [There is a prospect of survival for a reasonable period of time, allowing a return to work for at least twelve (12) months (work life expectancy).]~~
  - ~~[(a)] [If surgery, chemotherapy, nuclear medical treatment, or similar ancillary medical service is expected to cure the condition, it may be provided as with another medical problem.]~~
  - ~~[(b)] [If the attending physician feels the prognosis is guarded, the office shall request a letter indicating the individual's work life expectancy. For those individuals with a twelve (12) month work life expectancy services may be considered.]~~

~~[Section 7.] [Second Opinions.]~~

- ~~[(1)] [The office may seek a second opinion from a qualified practitioner before determining eligibility or before authorizing services if the office has reason to believe that a second opinion would provide more information necessary to determine eligibility.]~~

~~[(2)] [If the office determines that eligibility is not met or does not authorize services, an individual may utilize the appeals process established in 782 KAR 1:010.]~~

Section 7.~~[Section 8.]~~ Self-employment Enterprises. The requirements established in this section shall be met prior to planning for self-employment for an ~~[eligible-]~~individual.

(1) An eligible individual shall undergo an assessment to determine work skills interests, interpersonal skills, related functional capacities, and other pertinent characteristics. Self-employment shall be considered only if:

(a) The self-employment venture is expected to be the individual's primary source of employment; and

(b) The anticipated earnings are comparable to the earnings of individuals without disabilities who are self-employed in similar occupations with similar training, experience, and skills.

(2) Prior to approval of a self-employment goal, the office shall:

(a) Assess the individual's work skills interests, interpersonal skills, related functional capacities, and other pertinent characteristics to determine suitability for self-employment; and

(b) Require the individual to participate in prevocational and small business training prior to starting a new self-employment business, if necessary to support an informed choice for a self-employment outcome.

~~[(2)] [An eligible individual shall participate in prevocational and small business training as established in the Kentucky Office of Vocational Rehabilitation Policies and Procedures Manual, incorporated by reference in 781 KAR 1:010.]~~

(3) Prior to provision of services for a new self-employment venture, an~~[An eligible]~~ individual shall obtain any required license, permit, certificate, or lease, and be in conformity with all federal and state laws and local ordinances to commence an enterprise. Proof of compliance with this subsection shall be provided upon request.

(4) An ~~[eligible-]~~individual seeking to develop a self-employment enterprise requiring start up costs of more than \$1,000 shall:

(a) Complete a feasibility study of the proposed business; and

(b) Submit a written business plan and have it approved by the office~~[pursuant to the Kentucky Office of Vocational Rehabilitation Policies and Procedures Manual, incorporated by reference in 781 KAR 1:010, prior to provision of services]~~. The business plan shall address, at a minimum, the nature of the product or service, market and competition, marketing approach, management structure, projected costs, and projected revenues~~[consist of the following:]~~

~~[1.] [Executive summary;]~~

~~[2.] [Description of product or service;]~~

~~[3.] [Assessment of available consumers to be served;]~~

~~[4.] [Competitors currently in operation in the industry;]~~

~~[5.] [Marketing plan;]~~

~~[6.] [Costs of production;]~~

~~[7.] [Management details and structure; and]~~

~~[8.] [Detailed financial analysis].~~

(5) The office shall not be the sole source of capitalization for a self-employment enterprise with start up costs of \$5,000 or more. The individual shall document other financial resources or in-kind contributions that **shall [will]** be used to support the venture.

~~[(a)] [In addition to requirements under subsection (4) of this section, an eligible individual seeking financial assistance with start up costs of \$5000 to \$10,000 shall contribute fifty (50) percent of the cost in excess of \$5,000 either in capital or documented value of existing equipment used in the daily operation of the business and ninety (95) percent of the cost in excess of \$10,000.]~~

~~[(b)] [An eligible individual shall provide documentation that the assets necessary for the required financial participation are in place prior to provision of services by the office.]~~

(6) In addition to requirements under subsection (5) of this section, an individual seeking financial assistance with start up costs shall contribute:

(a) Fifty (50) percent of the portion of start up costs between **\$5,000 [five thousand dollars (\$5,000)]** and **\$10,000 [ten thousand dollars (\$10,000)]**; and

(b) Ninety-five (95) percent of that portion of start up costs that exceeds **\$10,000 [ten thousand dollars (\$10,000)]**. [The total office expenditures toward the start up costs for a self-employment enterprise shall not exceed \$10,000 unless:]

~~[(a)] [All provisions of subsections (1) through (5) of this section are met; and]~~

~~[(b)]~~

~~[1.] [The nature of the individual's vocational rehabilitation needs make it necessary that the service be provided;]~~

~~[2.] [The denial of the service will prohibit the individual from achieving the vocational goal; or]~~

~~[3.] [The provision of the service will result in a cost savings to the office.]~~

(7) The individual's contribution may be made in cash or documented value of existing equipment used in the daily operation of the business.

(8) An individual shall provide documentation that the assets necessary for the required financial participation under subsection (6) of this Section are in place prior to provision of services by the office.

(9) The total office expenditures toward the start up costs for a self employment enterprise shall not exceed **\$10,000 [ten thousand dollars (\$10,000)]**.

(10) For an existing business in which the individual has been self-employed for at least one (1) year, the office may provide only those disability-related services or accommodations that are necessary for the individual to maintain competitive integrated employment in that business. The office shall not fund expansion of an existing business beyond disability-related needs.

(11) The office shall not provide start-up funding for self-employment ventures that are speculative in nature, organized as nonprofit entities, or that involve purchase of real estate, franchise fees, or payment of existing business debt. Additional limitations on the scope of services for self-employment shall comply with federal vocational rehabilitation requirements, including 34 C.F.R. Part 361, and all applicable state laws.

## Section 8. Financial Participation.

(1) The Office may require financial participation from individuals for certain vocational rehabilitation services, consistent with 34 C.F.R. 361.53 and 361.54. Financial participation shall be determined through a financial participation assessment that evaluates the individual's adjusted income and applicable comparable services and benefits.

(2) Individuals who have been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act shall be exempt from financial participation; however, comparable services and benefits shall still be applied consistent with 34 C.F.R. 361.53.

(3) Financial participation shall apply only to services subject to an economic need determination under this administrative regulation and 781 KAR 1:040, and shall not apply to services that are exempt under 34 C.F.R. 361.54(b).

(4) A financial participation assessment shall be completed prior to implementation of an IPE and when the IPE is amended to add services subject to financial participation.

(5) The financial participation assessment shall consider:

(a) The individual's adjusted gross income and household size; **including the income of the individual and, if applicable, the person(s) claiming the individual as a dependent for federal tax purposes;[:]**

(b) The amount by which adjusted income exceeds 250 percent of the federal poverty guideline for the household size; and

(c) Disability-related expenses paid directly by the individual that are necessary for the individual to achieve an employment outcome.

(6) The Office shall determine the individual's required contribution toward the cost of services based on the individual's adjusted excess income and the percentage of participation applicable to that income level. The percentage of participation shall be established by the office and shall be made publicly available. The amount of financial participation shall be reflected in the IPE.

(7) The individual shall be responsible to pay the amount of financial participation agreed to in the IPE. The Office shall not be responsible for any outstanding or unpaid balance for an authorized good or service owed to a vendor resulting from the individual's share of financial participation.

(8) The Office may request updated financial information when there is a reasonable basis to believe that the individual's financial circumstances or household composition has changed in a manner that may alter the amount of financial participation.

(9) An individual who experiences a significant change in financial circumstances may request a review of the financial participation assessment. If a change results in a revised contribution amount, the individualized plan for employment shall be amended accordingly.

#### Section 9. Confidentiality.

(1) The Office shall maintain the confidentiality of all personal information obtained from an individual. Each individual, or their representative, shall be informed of:

(a) The authority under which information is collected;

(b) The principal purposes for which the information **shall [will]** be used;

(c) Whether providing the requested information is mandatory or voluntary and the effects of not providing the requested information;

(d) The circumstances under which information may be released without informed written consent; and

(e) Identification of the agencies to which information is routinely released.

(2) The office may only communicate with individuals **by text or SMS [via text/SMS]** only when the individual has provided consent for that mode of communication and the consent is

documented in the case record. If the individual revokes consent, the Office shall cease using that communication method.

(3) Except as provided in subsections (8) through (11) of this Section, personal information shall not be released without the individual's informed written consent, except to:

(a) The individual or their authorized representative; or

(b) A service provider or medical provider for purposes directly related to the individual's vocational rehabilitation services.

(4) Informed written consent is required to release information to any party not otherwise authorized in subsection (3) of this Section, including a parent of an individual who is **eighteen (18) [18]** years of age or older.

(5) Informed written consent shall specify:

(a) The purpose for which the information is released;

(b) The specific information to be released;

(c) The date of expiration of the informed written consent;

(d) An assurance that information **shall [will]** not be re-released to the individual or others; and

(e) The dated signature of the individual or their legal representative.

(6) If personal information has been obtained from another agency or organization, including the individual's medical providers, it may only be released by, or under the conditions established by, the other agency or organization.

(7) An individual who believes information in their case record is inaccurate or misleading may request that the office amend the information. If the information is not amended, because the office determines the information is accurate, the request for the amendment shall be documented in the case record.

(8) Personal information may be released to other programs or authorities only for its program purposes under the same conditions that govern the release of information to an individual or that individual's representative, but only with the written consent of the individual.

(9) In compliance with 34 C.F.R 361.38, personal information may be released to an organization, agency, or individual engaged in audit, evaluation, or research shall only use de-identified information and shall not contain personal identifiers without the individual's informed written consent and only for purposes directly connected with administration of the vocational rehabilitation program, or for purposes which would significantly improve the quality of life for persons with disabilities and only if the organization, agency, or individual assures that:

(a) Information **shall [will]** be used only for the purposes for which it is being provided;

(b) Information **shall [will]** be released only to persons officially connected with the audit, evaluation, or research;

(c) Information shall not be released to the involved individual;

(d) Information shall be managed in a manner to safeguard confidentiality; and

(e) Final products shall not reveal any personal identifying information without the informed written consent of the involved individual or the individual's representative.

(10) Informed written consent is not required for release of information when the request is:

(a) For purposes directly related to the administration of the vocational rehabilitation program; ~~and~~

(b) Required by Federal or State law;

(c) In response to a court order, warrant, subpoena, or other similar legal requirement; or  
(d) In response to investigations in connection with law enforcement, fraud, or abuse (except where expressly prohibited by Federal or State laws or regulations), and in response to an order issued by a judge, magistrate, or other authorized judicial officer.

(11) The Office may release personal information when necessary to protect the individual or others when the individual poses a direct threat to the individual's safety or the safety of others.

Section 10.~~[Section 9.]~~ Gender Reassignment. Office funds shall not be used to pay for gender reassignment surgery.

~~[Section 10.] [Tools and Equipment. The eligible individual shall return tools, equipment, and supplies to the office if no longer used for the employment outcome.]~~

#### Section 11. Case Closure.

(1) A case shall be closed when no further services from the Office are justified, required, or anticipated in the immediate future.

(2) A case shall be closed as a competitive integrated employment outcome when:

(a) The individual has been determined eligible; and has received an assessment for determining eligibility and vocational rehabilitation needs;

(b) Services have been provided in accordance with the IPE; and

(c) The individual has maintained competitive integrated employment for at least ninety (90) consecutive days or for supported employment cases, **ninety (90) [90]** days after transition to extended services.

(3) For closures based on achievement of a competitive integrated employment outcome, the Office shall provide written notice of case closure to the individual summarizing the employment outcome and services provided.~~**[When a case is closed due to ineligibility, the Office shall provide written notice of the ineligibility determination. Ineligibility may result from:]**~~

~~**[(a)] [A determination that the individual does not meet the eligibility criteria in Section 2 of this administrative regulation;]**~~

~~**[(b)] [A determination, based on trial work experiences, that the individual is unable to benefit from vocational rehabilitation services in terms of an employment outcome due to the severity of disability; or]**~~

~~**[(c)] [A decision by the individual not to pursue competitive integrated employment at this time.]**~~

(4) An individual who has been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act shall not be determined ineligible:

(a) Based on inability to benefit unless, after participating in trial work experiences, clear and convincing evidence establishes that the individual cannot benefit from vocational rehabilitation services in terms of an employment outcome; or

(b) Such an individual may be determined ineligible if they choose not to pursue competitive integrated employment.

(5) Before a determination of ineligibility, the Office shall consult with the individual or provide an opportunity for consultation. At the time of determination, referrals should be made to appropriate agencies and facilities.

(6) If an individual is determined ineligible based on a finding that the individual is incapable of benefiting in terms of an employment outcome, the Office shall review that determination within twelve (12) months and thereafter upon the request of the individual or representative. Consultation shall be provided unless the individual cannot be located, refuses services or review, is no longer present in the state, has a rapidly progressive or terminal condition, or is deceased.

(7) If an individual continues to seek competitive integrated employment but declines further services, or chooses not to pursue competitive integrated employment, the case may be closed as ineligible or unsuccessful, as appropriate.

(8) Cases may be closed as unsuccessful if an intervening reason, including **[but not limited to]** death, inability to locate the individual, individual institutionalized, transfer to another agency, failure to cooperate, refusal of services, transportation not feasible or available, referral to an independent living program, precludes a determination of eligibility or achievement of an employment outcome.

**(9) A case may be closed if the individual fails to maintain current contact information with the office or fails to participate in services necessary to achieve the employment outcome identified in the individualized plan for employment (IPE).**

**(10) Prior to closing a consumer case under this Section, the office shall:**

**(a) Make reasonable and documented attempts to contact the individual using the most recent contact information available in the case record; and**

**(b) Provide written notice to the individual of the proposed case closure, which explains that if the individual does not make contact with the office within thirty (30) days, the case shall [will] be closed.**

**(11) If a case is closed under this Section, the individual shall have a right to an appeal in accordance with 781 KAR 1:010.**

(12) For cases closed from Applicant status for a reason other than ineligibility, the Office shall document the rationale for closure in the case record.

~~(13)~~~~(10)~~ Prior to case closure, the Office shall provide information and referral services to the individual, as appropriate.

~~(14)~~~~(11)~~ For a student with a disability in potentially eligible status, the record shall be closed as soon as possible when the individual no longer meets the definition of a student with a disability, including when the individual reaches the maximum program age or is no longer enrolled in an education setting.

~~(15)~~~~(12)~~ For a student with a disability in application, accepted, or IPE status, the case may be closed when eligibility or an IPE cannot be completed within applicable federal deadlines and reasonable efforts to contact the individual have been unsuccessful. Specific contact and documentation procedures shall be consistent with federal and state vocational rehabilitation requirements.

~~(16)~~~~(13)~~ Cases shall be closed from post-employment when one **(1)** of the following criteria is met and documented in the case record:

(a) Employment appears secure following the provision of appropriate provision of post-employment services;

(b) A new or substantially revised program of rehabilitation services is required, in which situation, a new case may be opened; or

(c) Services have failed to maintain or return the individual to competitive integrated employment.

[Section 11.] [Training. Postsecondary training shall be provided for an eligible individual pursuant to this section.]

[(1)] [Except as provided in subsections (3) and (4) of this section, tuition and initial registration fees provided to the postsecondary training facility of the eligible individual's choice shall not exceed those of the highest rate charged by a state-supported training facility in Kentucky that offers similar vocational preparation. If there is no similar program in the state, the amount of support is determined by the current fee for service memo.]

[(2)] [The Director of Field Services or a designee shall make exceptions to the limitations provided by subsection (1) if it is clearly demonstrated that exceptions are necessary to achieve the employment outcome as defined in 34 C.F.R. 361.5(b)(16).]

[(3)] [The office shall provide tuition and initial registration fees for postsecondary programs for the deaf recognized by the U.S. Congress as national programs due to the provision of essential support services including:]

[(a)] [Interpreting services;]

[(b)] [Note-taking services; and]

[(c)] [Tutoring services.]

[(4)] [Other postsecondary programs for the deaf offering interpreting services, note-taking services, and tutoring services shall be used if the total cost of attendance does not exceed the total cost of tuition, fees and interpreting services, note-taking services, and tutoring services at the highest rate charged by a state-supported training facility in Kentucky that offers similar vocational preparation.]

[(5)] [Training shall be purchased only from training facilities that are accredited or licensed by accrediting or licensing bodies and that comply with all applicable state and federal requirements.]

[(6)] [An eligible individual planning to attend a postsecondary training facility shall apply for all financial assistance available through the training facility.]

[(7)] [An eligible post-secondary student shall:]

[(a)] [Maintain full-time status as defined by the institution;]

[(b)] [Maintain less than full-time status if full-time status is inconsistent with the consumer's unique strengths, abilities, and capabilities; or]

[(c)] [Maintain less than full-time status for one (1) semester if those hours are needed to graduate in the current year;]

[(d)] [All coursework shall facilitate the achievement of positive outcomes.]

[(e)] [By the end of the second term or semester and throughout each subsequent term or semester, the student shall achieve the higher of:]

[1.] [An overall "C" grade average; or]

[2.] [Standing required for admission, licensure, or certification.]

[(f)] [An exception to a requirement established in subsection (1) or (4) of this section shall:]

[1.] [Be granted if the student:]

[a.] [Has a need or circumstance that renders him unable to meet the requirement; and]

[b.] [Notifies the counselor of the need or circumstance prior to a change of standing at the institution.]

[2.] [Not be granted for the requirements established in subsection (9) of this section for a period beyond one (1) semester.]

[(8)] [The student shall provide the counselor with a copy of course grades as soon as possible after the end of each term or semester.]

[(9)] [If the student does not maintain the standards of this section, the counselor shall:]

[(a)] [Terminate services at the institution of higher education; and]

[(b)] [Simultaneously notify the student of the appeal procedure established in KRS 138.170.]

[(10)] [A service terminated under subsection (12) of this section shall be reinstated if the student:]

[(a)] [Successfully appeals the counselor's decision, in accordance with KRS 138.170; or]

[(b)] [Subsequently meets the standard under which the service was terminated.]

## Section 12. Other.

(1) **Gender Reassignment. Office funds shall not be used to pay for gender reassignment surgery.**

[(2)] Mandatory reporting. Office staff, upon request of a victim of any act of domestic violence and abuse or dating violence and abuse, shall personally report the alleged abuse to a law enforcement officer after discussing the report with the victim.

[(2)][(3)] Individuals shall be informed that the Client Assistance Program (CAP) at Kentucky Protection and Advocacy is available to assist them in their relationship with OVR.

[(3)][(4)] Electronic signatures are allowed.

[(4)][(5)] Legal Fees. The Office shall not be responsible for any fees incurred by an individual for legal services, except as required by federal law. Nothing in this section prohibits the office from providing benefits counseling, advocacy training, or other vocational rehabilitation services permitted under 34 C.F.R. § 361.48, so long as those services do not include the payment of private legal fees.

[Section 12.] [Computer Hardware and Software Purchases.]

[(1)] [Except as provided in subsection (2) of this section or in Section 13 of this administrative regulation, the office shall not purchase a computer, microcomputer, or other hardware or software for the personal use of an applicant or eligible individual.]

[(2)] [The office shall consider the provision or upgrade or replacement of computer hardware and software if the equipment is:]

[(a)]

[1.] [Essential to compensate for the limitations caused by the disability; or]

[2.] [Required for the eligible individual to achieve or maintain a vocational objective of competitive integrated employment; and]

[(b)] [One (1) of the following criteria are met:]

[1.] [The equipment is required for vocational preparation;]

[2.] [The equipment is required to perform the job and no provision is made by the employer to supply the equipment; or]

~~[3.] [The equipment enables an eligible individual to become competitive in an integrated setting with nondisabled employees performing the same duties.]~~

### Section 13. Service Fees.

- (1) The office shall establish service fees in compliance with applicable state and federal procurement laws.
- (2) The office may utilize multiple methods to establish service fees, including:
  - (a) Fixed predetermined rates;
  - (b) Fair market rates; and
  - (c) Value-based purchasing or a performance-based or milestone payment.
- (3) OVR may procure a third party to conduct a rate study.
- (4) The following factors shall be considered when establishing a service fee:
  - (a) Historical price of the good or service;
  - (b) The rate of inflation since last service fee change;
  - (c) Analysis of personnel costs to determine whether the service can be performed more economically by direct employment of office staff rather than utilizing a vendor;
  - (d) The professional qualifications required to render the service;
  - (e) Budgetary analysis to determine the impact on the federal award to ensure the office does not over obligate funds;
  - (f) A survey of multiple neighboring states;
  - (g) A survey of factors that may be unique to a geographic region such as availability of a service and transportation costs;
  - (h) A survey of other Kentucky agencies that provide the same service;
  - (i) A survey of community rehabilitation programs and other providers; and
  - (j) Cost analysis of the individual elements of the price.
- (5) The office shall permit exceptions to the published service fee as necessary to ensure the individual receives approved services. A rate differential may be applied when the office determines a high level of provider effort or higher intensity for the service is required to meet the unique needs of the individual.
- (6) The office shall maintain all documentation used to determine a service fee.
- (7) The office shall revise service fee procedures and standards prior to the start of the fiscal year in which the revision **shall [will]** become effective.
- (8) The executive director shall have final approval authority for all service fees and service fee memorandums.
- (9) The office shall review service fees, service fee memoranda, and related rate schedules at least every other year and shall issue revised service fees or fee memoranda as necessary. Updated service fee schedules and memoranda shall be made publicly available.

~~[Section 13.] [Medical Treatment. A medical treatment or procedure that is experimental or that does not have a consistent record of significant improvement in vocational functioning in better than fifty (50) percent of the subjects shall not be provided by the office.]~~

### Section 14. Exceptions.

(1) The Office may approve an exception to a requirement, condition, or limitation in ~~an~~**[this]** administrative regulation when permitted under federal law, including 34 C.F.R. 361.50(d), and **only** when **the office determines it is required to achieve an employment outcome listed on the IPE**~~[necessary to ensure that services are provided consistent with individualized assessments, informed choice, and the individual's vocational rehabilitation needs]~~.

(2) Any exception granted under this Section shall be consistent with state and federal vocational rehabilitation requirements, including 34 C.F.R. Part 361 and 2 C.F.R. Part 200, and shall support the achievement of the individual's employment outcome **listed on the IPE.**

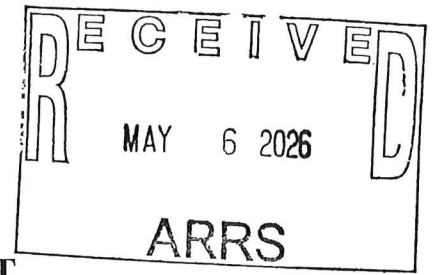
~~[Section 14.] [Vehicle Purchase. The office shall not purchase a vehicle unless the occupation of the eligible individual requires a vehicle as occupational equipment.]~~

#### Section 15. Incorporation by Reference.

(1) "OVR-2", November 20, 2025, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Vocational Rehabilitation, 500 Mero Street 4th Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material is also available at [kcc.ky.gov/vocational-rehabilitation](http://kcc.ky.gov/vocational-rehabilitation).



**EDUCATION AND LABOR CABINET  
Office of Vocational Rehabilitation**

**Andy Beshear**  
Governor

**Jamie Link**  
Secretary

**Cora McNabb**  
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May 6, 2026

Senator Stephen West, Co-Chair  
Representative Derek Lewis, Co-Chair  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
083, Capitol Annex  
702 Capitol Avenue  
Frankfort, Kentucky 40601

Dear Co-Chairs:

After consideration of the issues raised by 781 KAR 1:001, 1:010, 1:020, 1:030, and 1:040, the Commonwealth of Kentucky, Education and Labor Cabinet, Office of Vocational Rehabilitation respectfully agrees to the attached suggested amendments to these administrative regulations.

The attached full-text versions reflect the suggested amendments to be considered by the Administrative Regulation Review Subcommittee.

Respectfully,

Cora McNabb  
Executive Director  
Office of Vocational Rehabilitation  
Kentucky Education & Labor Cabinet  
500 Mero Street, 4th Floor  
Frankfort, KY 40601  
Email: cora.mcnabb@ky.gov

**Subcommittee Substitute**

**EDUCATION AND LABOR CABINET  
Department of Workforce Development  
Office of Vocational Rehabilitation  
(Amended After Comments)**

**781 KAR 1:030. Order of selection~~[and economic need test for vocational rehabilitation services]~~.**

RELATES TO: KRS 151B.190, 34 C.F.R. 361.36, 361.53, 361.54, 29 U.S.C. 721(a)(5), (15), (21)(A)

STATUTORY AUTHORITY: KRS 151B.185(2), (3), 151B.195(1), 29 U.S.C. 709(c), 34 C.F.R. 361.36, 361.54

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.195(1) requires the Executive Director of the Office of Vocational Rehabilitation to promulgate administrative regulations governing the services, personnel, and administration of the State Vocational Rehabilitation Agency. 34 C.F.R. 361.36(c) requires the office to determine, prior to the beginning of each fiscal year, whether to establish and implement an order of selection for state vocational rehabilitation services. 34 C.F.R. 361.36(d) requires federal guidelines for the imposition of an order of selection. ~~[34 C.F.R. 361.54(b) authorizes the office to consider an individual's financial need for vocational rehabilitation services.]~~ This administrative regulation establishes when an order of selection~~[and an economic need test]~~ shall be applied to the provision of vocational rehabilitation services in order to distribute limited funds more equitably over the entire population of otherwise eligible individuals.

Section 1. ~~[Definitions.]~~

~~[(1)] ["Eligible individual" means an individual who has been determined by the office to meet the basic conditions of eligibility for vocational rehabilitation services.]~~

~~[(2)] ["Executive director" means Executive Director of the Office of Vocational Rehabilitation.]~~

~~[(3)] ["Individual with a most significant disability" means an individual who has a disability that limits two (2) or more areas of functional capacity.]~~

~~[(4)] ["Functional capacity" means the capacity to perform tasks required in employment including:]~~

~~[(a)] [Mobility;]~~

~~[(b)] [Communication;]~~

~~[(c)] [Self-care;]~~

~~[(d)] [Self-direction;]~~

~~[(e)] [Interpersonal skills;]~~

~~[(f)] [Work tolerance; or]~~

~~[(g)] [Work skills.]~~

~~[(5)] ["Office" means the Office of Vocational Rehabilitation, and its appropriate staff members who are authorized under state law to perform the functions of the state regarding the state plan and its supplement.]~~

~~[(6)] ["Non-significant disability" means a disability that does not limit a functional capacity.]~~

[Section 3.] Order of Selection.

(1) If the executive director determines that the office's projected fiscal or personnel resources are insufficient~~[shall be unable]~~ to provide the full range of services as required by the Rehabilitation Act of 1973, as amended, to all eligible individuals~~[applicants]~~, the office shall inform the Statewide Council and implement the order of selection on a state-wide basis in compliance with 34 C.F.R. 361~~[6].~~**36.**

~~(2)~~**(4)** An eligible individual previously declared eligible for and receiving vocational rehabilitation services under an individualized plan for employment shall not be affected if the office implements an order of selection.

~~(2)~~ [The order of selection shall not regulate the provision of information or referral services].

(3) On implementation of the order of selection, the office shall continue to accept referrals of and applications from individuals with disabilities and continue determining eligibility for services.

(4) The order of selection shall not impact~~[regulate]~~ the provision of information, referral services, or authorization of assessment for determining eligibility.

(5) ~~[An applicant shall be declared eligible or ineligible as appropriate.]~~

~~[(6)]~~

~~[(a)] [An eligible individual entering accepted status after implementation of the order of selection shall be assigned to a priority category.]~~

~~[(b)] [If the priority category is open, the individual shall be served.]~~

~~[(c)] [If the priority category is closed, the individual's case shall be held on a waitlist in accepted status until the priority category assigned is opened or the order of selection is lifted.]~~

~~(7)~~ [The order of selection shall permit immediate reclassification into a higher priority category if circumstances justify the reclassification.]

~~(8)~~ If the office is unable to provide services to all eligible individuals~~[with significant disabilities]~~, the office shall first serve ~~[eligible]~~ individuals with the~~[a]~~ most significant disability in the highest open priority category. Within each priority category, individuals shall be served in order of application date~~[first and then serve eligible individuals with a significant disability on a first-applied, first-served basis, as established by the date of application within a category. If funds become available, the executive director and Statewide Council for Vocational Rehabilitation shall adjust the priority categories to be served as appropriate to provide services to as many consumers as funds allow].~~

~~(6)~~**(9)** The order of selection established in this section shall be followed with the categories to be served designated at the time of implementation.

**(7)** The executive director may serve individuals from the waitlist, open, or close one (1) or more priority categories as appropriate, to provide services to as many individuals as funds allow.

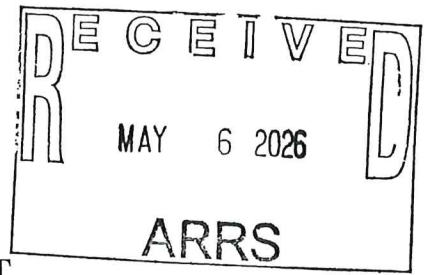
~~(10)~~ [The order of selection shall have priority categories as follows:]

~~[(a)] [Priority Category I - eligible individuals with a most significant disability that limits three (3) or more functional capacities;]~~

~~[(b)] [Priority Category II - eligible individuals with a most significant disability that limits two (2) functional capacities;]~~

~~[(c)] [Priority Category III - eligible individuals with a significant disability that limits (1) one functional capacity;]~~

~~[(d)] [Priority Category IV - Eligible individuals with a non-significant disability-.]~~



**EDUCATION AND LABOR CABINET  
Office of Vocational Rehabilitation**

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Respectfully,

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**Subcommittee Substitute**

**EDUCATION AND LABOR CABINET  
Department of Workforce Development  
Office of Vocational Rehabilitation  
(Amended After Comments)**

**781 KAR 1:040. Provision of Vocational Rehabilitation Services~~[Assistive technology services]~~.**

RELATES TO: KRS 151B.190, 29 U.S.C. 705(30), 723, 34 C.F.R. 361.5(c)(9), 361.42, 361.45, 361.46, 361.48, 361.50, 361.53, 361.54

STATUTORY AUTHORITY: KRS 151B.185, 151B.195

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.195 requires the Executive Director of the Office of Vocational Rehabilitation to promulgate administrative regulations governing the services, personnel, and administration of the State Vocational Rehabilitation Agency. This administrative regulation establishes the requirements for the provision of vocational rehabilitation services, including assistive technology and other goods and services necessary for individuals with disabilities to prepare for, secure, retain, advance in, or regain competitive integrated employment~~[in order to distribute limited funds more equitably over the entire population of otherwise eligible individuals]~~.

Section 1. General Provisions.~~[Definitions.]~~

(1) Services under this administrative regulation shall be provided to individuals for diagnostic and assessment services necessary to determine eligibility or priority for services, and to enable an individual to prepare for, secure, retain, advance in, or regain competitive integrated employment as permitted by 34 C.F.R. 361.42.

(2) Comparable services and benefits, including private insurance, Medicaid, Medicare, and other third-party payers, shall be used to the maximum extent allowable prior to the expenditure of office funds, unless the service is exempt under federal regulations or unless the use of the comparable service or benefit would result in unreasonable delay in the progress of the individual, consistent with 34 C.F.R. 361.53.

(3) Financial participation requirements shall apply in accordance with 781 KAR 1:020 when permitted under federal law.

(4) All services shall be provided consistent with the individual's informed choice and shall be aligned with the individual's strengths, resources, priorities, concerns, abilities, capabilities, and interests as required under 34 C.F.R. 361.46 and 361.52. Informed choice **shall [does]** not obligate the office to provide higher-cost or non-essential services, equipment, or options when a less costly alternative meets the disability-related vocational rehabilitation needs.

(5) All goods and services shall be purchased in accordance with the Kentucky Model Procurement Code and federal procurement standards.

(6) The office shall not purchase general household or personal items not directly related to disability-related vocational need unless the item is necessary for the individual to participate in a vocational rehabilitation service or to achieve an employment outcome.

(7) The office shall not impose fixed or arbitrary limits on the cost, type, or duration of services and shall allow for individualized exceptions consistent with 781 KAR 1:020.

(8) Service fees, rate schedules, and maximum allowable costs for services shall comply with 781 KAR 1:020.

(9) The office shall comply with applicable cost principles set forth in 2 C.F.R. Part 200 when making expenditures.

(10) Direct payments to individuals.

(a) The office may issue a direct payment to an individual when necessary for the individual to obtain, maintain, or advance in employment or to participate in a vocational rehabilitation service under an IPE, and when no qualified vendor is **reasonably[responsible]** available to provide or accept payment for the service.

(b) For purposes of **[this]** processing a direct payment under subsection (a), an individual may be required to register as a vendor solely to facilitate payment. Vendor registration under this subsection shall not classify the individual as a commercial vendor or service provider for any other purpose.

(c) Nothing in this subsection shall exempt the office from complying with state and federal procurement requirements.

~~[(1)] ["Assistive technology specialist" means an individual who analyzes the needs of individuals with disabilities, assists in the selection of the appropriate assistive technology, and trains the eligible individual on how to properly use the specific equipment.]~~

~~[(2)] ["Certified driver rehabilitation specialist" means a driver rehabilitation specialist who has obtained certification to provide services from the Association for Driver Rehabilitation Specialists.]~~

~~[(3)] ["Driver evaluation" means a clinical and behind-the-wheel evaluation by a certified driver rehabilitation specialist to identify an eligible individual's driver rehabilitation needs to allow that person to drive independently.]~~

~~[(4)] ["Driver rehabilitation specialist" means an individual who plans, develops, coordinates, and implements driver rehabilitation services for individuals with disabilities.]~~

~~[(5)] ["Driver training" means behind-the-wheel instruction required to teach an individual with a disability to drive with or without vehicle modifications.]~~

~~[(6)] ["Eligible individual" means an individual who has been determined by the office to meet the basic conditions of eligibility for vocational assistive services as defined in 34 C.F.R. 361.42.]~~

~~[(7)] ["Extended driver evaluation" means additional evaluation necessary in those cases in which an individual's ability to drive cannot be determined after a driver evaluation.]~~

~~[(8)] ["Family" means spouse, children, parents, grandparents, or siblings.]~~

~~[(9)] ["Individualized plan for employment" means a written plan for a specific employment outcome as required by 34 C.F.R. 361.46.]~~

~~[(10)] ["Office" means the Office of Vocational Rehabilitation and its staff members who are authorized under state law to perform the functions of the state regarding the state plan and its supplement.]~~

~~[(11)] ["Structural addition" means any improvement to real property that would increase the square footage or footprint of the property.]~~

## Section 2. Specialized Eligibility and Assessment Requirements.

(1) Terminal Illness Affecting Ability to Benefit.

(a) For individuals with medical conditions that may be terminal, eligibility and service decisions shall be based on documented functional limitations and the individual's ability to benefit from vocational rehabilitation services in terms of achieving an employment outcome, consistent with 34 C.F.R. 361.42.

(b) The office may provide services when the individual's prognosis supports a reasonable expectation of achieving or maintaining competitive integrated employment for a sufficient period to prepare for, obtain, maintain, or advance from services.

(c) When the attending physician identifies a guarded prognosis, the office may require documentation regarding anticipated work capacity or work life expectancy to support eligibility or service decisions.

(d) When documentation indicates that the individual is unlikely to benefit from services due to imminent medical decline, the counselor shall consult with the Branch Manager prior to an eligibility determination or denial of services.

(2) Visual Impairments.

(a) Verification of a visual impairment shall be based on medical documentation from an ophthalmologist or optometrist that identifies the nature and extent of the visual condition and any resulting functional limitations relevant to vocational rehabilitation.

(b) When medical information is outdated or insufficient for eligibility or service planning, the office may require a current visual examination.

(c) When visual impairment co-occurs with hearing loss or when dual sensory loss is suspected, referral for audiological evaluation may be required to determine functional limitations and service needs.

(d) Individuals determined eligible for Social Security benefits based on statutory blindness shall be presumed eligible for vocational rehabilitation services consistent with 34 C.F.R. 361.42(a)(3).

(3) Rapidly Progressive Visual Conditions.

(a) A rapidly progressive visual disorder may be determined to constitute a disability prior to the onset of functional limitations when supported by medical documentation indicating that the condition:

1. Is progressive in nature;
2. Requires timely intervention; and
3. Is expected, if untreated, to result in functional limitations affecting employment.

(b) Eligibility and service planning for individuals with progressive visual conditions shall be based on documented functional limitations, anticipated vocational impact, and the individual's informed choice.

Section 3. Assistive Technology Services.

(1) Assistive technology services may be provided at any stage of the rehabilitation process when necessary to address disability-related functional limitations and enable participation in vocational rehabilitation services or achievement of the employment outcome identified in the individualized plan for employment (IPE).

(2) Assessment and Recommendation.

- (a) Prior to authorization and purchase of any assistive technology device, an assessment shall be completed by the office.
- (b) Recommendations shall identify the most cost-effective device or service necessary to meet disability-related vocational needs and shall be documented in the case record.
- (3) Assistive technology may be purchased consistent with federal and state procurement requirements and any applicable fee schedules established under 781 KAR 1:020.
- (4) Ownership and Recovery.
  - (a) Assistive technology that is recoverable shall remain the property of the office until reassigned or disposed.
  - (b) Non-recoverable assistive technology shall become the property of the individual upon delivery and is not subject to recovery. Ownership status shall be communicated to the individual in writing at the time of delivery.

#### Section 4. Hearing Assistive Technology.

- (1) Hearing aids and assistive listening or alerting devices shall be considered assistive technology devices for purposes of this administrative regulation.
- (2) Prior to purchase authorization, an audiological evaluation and hearing assistive technology assessment shall be completed by a licensed audiologist or other qualified professional communication specialist consistent with current professional standards.
- (3) Recommendations for hearing aids or related technology shall identify the device type and features required to address vocationally relevant communication needs and shall be consistent with the most cost-effective device that meets those needs.
- (4) Cochlear implants (CI) and bone-anchored hearing systems (BAHS) shall be considered medical restoration services subject to the requirements of Section 7 of this administrative regulation.

#### Section 5. Services for Individuals Who Are Deaf, Hard of Hearing, or Deafblind.

- (1) For individuals who are deaf, hard of hearing, or late-deafened, the office shall obtain:
  - (a) A comprehensive audiological evaluation; and
  - (b) A communication assessment addressing functional communication needs relevant to home, training, community, and employment settings.
- (2) When an individual has a diagnosis or indication of dual sensory loss, the office shall obtain a visual examination by a licensed optometrist or a physician skilled in diseases of the eye.
- (3) When visual pathology or restricted visual fields are identified, referral to an ophthalmologist shall be made.
- (4) Hearing Assistive Technology and Medical Referral.
  - (a) Hearing aids and other assistive listening devices shall be authorized in accordance with Section 4 of this administrative regulation.
  - (b) A recommendation for hearing aids shall be made by a qualified audiologist or other licensed professional authorized under state law to perform hearing aid evaluations.
  - (c) Individuals presenting symptoms of ear pathology or conductive hearing loss shall be referred to a physician skilled in diseases of the ear.
- (5) Coordination of Services.

(a) Interpreter and communication access services shall be provided in accordance with Section 14 of this administrative regulation.

(b) Assistive technology, rehabilitation technology, or environmental communication supports shall be considered when required to enable the individual to participate in assessments, training, or employment.

(c) The office shall collaborate with educational programs, community agencies, and employers to identify appropriate communication supports needed for participation in vocational rehabilitation services or for successful performance of job functions.

#### Section 6. Wheelchairs and Mobility Devices.

(1) Wheelchairs, scooters, seating systems, and other wheeled mobility devices may be provided as assistive technology services when necessary for an individual to participate in vocational rehabilitation services or to prepare for, obtain, maintain, or advance in competitive integrated employment.

(2) Wheelchair services may be provided only to individuals who:

(a) Have been accepted for services by the office in accordance with 781 KAR 1:020;

(b) The need for wheeled mobility is identified on the IPE; and

(c) Wheeled mobility is necessary for the individual to access home, community, training, transportation, or work settings related to the employment outcome.

(3) An assistive technology specialist employed or contracted by the office shall participate in all wheelchair and mobility device assessments, recommendations, and purchasing decisions authorized under this Section.

(4) Wheelchair and mobility device services shall be based on an assessment conducted by an assistive technology specialist or other qualified provider that considers:

(a) The individual's functional limitations and seating and positioning needs;

(b) The tasks the individual must perform in home, training, community, and employment settings; and

(c) The environments in which the wheelchair will be used, including access to and within the home, workplace, and vehicle.

(5) When a wheelchair or mobility device will be used in conjunction with adapted transportation or a vehicle modification, the Driver Rehabilitation Technology Program shall be consulted prior to authorization. The office shall not authorize a device that is incompatible with the individual's current or planned transportation unless an alternative transportation plan is approved.

(6) The office may authorize wheelchair components, seating systems, accessories, or features not covered by comparable services and benefits when documented by the assistive technology specialist as necessary to meet disability-related vocational needs.

(7) The office shall not reimburse for any wheelchair, mobility device, or related component purchased or delivered prior to authorization unless approved through the exception process described in 781 KAR 1:020.

(8) Ownership and recovery of wheelchair equipment shall be governed by Section 3(4) of this administrative regulation.

(9) The office may consider typical life expectancies of wheelchair bases and components when determining eligibility for replacement, however, replacement decisions shall be based on vocational necessity, documentation of the equipment's condition, and the individual's

functional or medical status. Typical life expectancies shall not serve as hard caps; individual need governs.

(10) The individual shall be responsible for routine maintenance, upkeep, and replacement of consumable items, including **[but not limited to]** tires, batteries, cushions, and brakes, unless an exception is approved in accordance with 781 KAR 1:020.

(11) The office may authorize repairs when necessary for the individual to participate in vocational rehabilitation services or to maintain competitive integrated employment.

(12) The office shall not authorize repairs necessitated primarily by misuse, abuse, neglect, or lack of reasonable maintenance unless approved through the exception process in 781 KAR 1:020.

#### Section 7. Physical and Mental Restoration Services.

(1) Physical and mental restoration services may be provided when necessary to correct, substantially modify, or stabilize a physical or mental condition that constitutes a substantial impediment to employment, and when required for the individual to prepare for, obtain, maintain, or advance in competitive integrated employment.

(2) Allowable physical and mental restoration services may include diagnostic and treatment services, prosthetic and orthotic devices, medication management, mental health services, and other restoration services permitted under 34 C.F.R. 361.5, when vocationally necessary.

(3) Physical and mental restoration services shall be authorized only when:

(a) The condition is stable, slowly progressive, or expected to improve with treatment in a manner relevant to the employment outcome;

(b) Services are prescribed, provided, and supervised by licensed or otherwise qualified medical or mental health professionals; and

(c) The service is documented as vocationally necessary for the specific employment outcome identified in the IPE.

(4) Limitations. The office shall not authorize:

(a) Elective or cosmetic medical or surgical procedures, unless medical documentation demonstrates the procedure is necessary for the individual to achieve or maintain the employment outcome;

(b) Medical or surgical procedures, implants, transplants, or devices that are not approved by the United States Food and Drug Administration (FDA) for the intended use; or

(c) Procedures, equipment, or treatments that lack evidence of effectiveness in improving functional capacities related to the individual's vocational needs.

(5) Out-of-State Services.

(a) Out-of-state physical or mental restoration services may be authorized only when:

1. The provider is in a geographic area that is routinely used and reasonably accessible for the individual;

2. The out-of-state service is more economical to the office; or

3. The procedure, mode of treatment, or qualified provider is not reasonably available in the Commonwealth.

(b) The maximum amount authorized for out-of-state services shall be governed by the rates established by the vocational rehabilitation program in the state where the services are provided, unless approved under the exception process in 781 KAR 1:020.

## Section 8. Chiropractic Services.

(1) Chiropractic services may be provided when necessary to address a neuromusculoskeletal condition that constitutes a substantial impediment to employment and when treatment is expected to improve functional limitations that are vocationally relevant.

(a) Chiropractic services shall be time-limited and oriented toward achieving specific, vocationally relevant functional goals.

(b) Long-term maintenance, wellness, or preventive care that is not directly necessary for the employment outcome shall not be funded.

(2) Chiropractic services may be authorized only when:

(a) The need is identified in medical or chiropractic documentation and linked to the IPE; and

(b) The provider is licensed in the jurisdiction where services are delivered.

## Section 9. Convalescent Care.

(1) Convalescent care may be provided as a physical restoration service when medically necessary to support short-term recovery following surgery, illness, or treatment, and when required for the individual to prepare for, obtain, maintain, or advance in competitive integrated employment.

(2) Conditions for Provision. Convalescent care may be authorized only when:

(a) Recommended by the attending physician;

(b) Provided in a facility appropriately licensed in the jurisdiction; and

(c) The service is time-limited and necessary for recuperation directly related to achieving the employment outcome identified in the IPE.

(3) Convalescent care may be approved when one (1) or more of the following conditions are documented:

(a) The individual's home environment is not conducive to safe or adequate recuperation; or

(b) Use of a convalescent facility will reduce the cost of hospitalization, private duty care, or alternative forms of recovery support.

(4) Limitations.

(a) Convalescent care shall be short-term and shall not be authorized as long-term custodial care or maintenance care.

(b) Convalescent care shall not be authorized for conditions unrelated to the individual's disability-related vocational rehabilitation needs.

(c) The level of care shall not exceed that which is medically necessary for recuperation and return to vocational rehabilitation services or employment.

## Section 10. Mental Restoration.

(1) Mental restoration services may be provided when necessary to correct, improve, or stabilize a mental or behavioral health condition that constitutes a substantial impediment to employment and when required for the individual to prepare for, obtain, maintain, or advance in competitive integrated employment or to participate in vocational rehabilitation services.

(2) Mental restoration services may be authorized only when:

(a) The services are directly related to the disability and vocational rehabilitation needs identified in the IPE or trial work plan;

(b) Services are prescribed, recommended, or supported by a qualified mental health professional; and

(c) The service provider meets the credentialing requirements established in subsection (5) of this Section.

(3) Mental restoration services shall be time-limited and oriented toward enabling the individual to participate in vocational rehabilitation services or to achieve or maintain the employment outcome.

(4) Long-term maintenance therapy, including ongoing counseling or medication management not directly tied to the vocational rehabilitation plan, shall not be authorized except when an exception pursuant to 781 KAR 1:020 is approved.

(5) Provider Qualifications: Mental restoration services shall be provided only by licensed psychiatrists and psychologists; licensed clinical social workers; certified psychologists with autonomous functioning; licensed psychological practitioner; licensed marriage and family therapists; licensed professional clinical counselors; or advanced practice registered nurses certified in psychiatric or mental health nursing. Mental restoration services may also be provided by associate-level licensed mental health professionals practicing under required state supervision.

(6) Psychosocial rehabilitation programs, including partial hospitalization, shall not be funded unless necessary for short-term stabilization essential to participating in vocational rehabilitation services and shall require prior approval by the office.

#### Section 11. Conditions Requiring Specialized Assessment.

(1) For individuals whose primary or secondary disabilities include learning disorders, morbid obesity, or addiction, the office may authorize assessment or restoration services only when necessary for participation in vocational rehabilitation services or to achieve the employment outcome identified in the IPE.

##### (2) Learning Disorders.

(a) Assessment or documentation of a learning disorder may be used to determine functional limitations relevant to the vocational goal.

(b) Existing educational documentation, including psychoeducational evaluations, individualized education programs, or other school-based assessments, may be accepted when sufficient to identify disability-related functional limitations.

(c) Additional diagnostic evaluations shall be authorized only when necessary to determine vocational rehabilitation needs.

(d) Services for individuals with learning disorders shall be limited to vocationally necessary interventions, including assistive technology, disability-related tutoring, or other restoration services permitted under Section 7.

##### (3) Morbid Obesity.

(a) Morbid obesity may be considered a disabling condition when it results in functional limitations that constitute a substantial impediment to employment.

(b) Eligibility and service decisions shall be based on current, documented functional limitations and not solely on weight, body-mass index, or medical diagnosis.

(c) Physical restoration services may be provided only when necessary to address disability-related functional limitations affecting participation in vocational rehabilitation services or achievement of the employment outcome.

(d) Services shall not include elective weight-loss procedures unless medically necessary to achieve or maintain the employment outcome **[and]** consistent with Section 7 of this administrative regulation.

(4) Addiction.

(a) Addiction may constitute a substantial impediment to employment when associated functional limitations affect the individual's ability to prepare for, obtain, maintain, or advance in competitive integrated employment.

(b) Mental health or addiction treatment services may be authorized as mental restoration services only when necessary for the employment outcome and when provided by licensed professionals meeting **the requirements of Section 7 of this administrative regulation [requirements]**.

(c) The office may require documentation from a treatment or recovery provider sufficient to demonstrate that the individual can participate safely and effectively in training, job placement, or employment support.

(d) Participation in treatment or recovery programs may be required when necessary for the individual to benefit from vocational rehabilitation services, and **the[any-such]** requirement shall be documented in the case record.

(e) The office may suspend or amend services when the individual is unable to participate in vocational rehabilitation services due to relapse or instability, consistent with informed choice and case documentation requirements.

Section 12. Nursing Services.

(1) Nursing services, including private duty nursing home health aide services, or similar supports, may be provided as a physical restoration service when medically necessary to enable the individual to participate in vocational rehabilitation services or to prepare for, obtain, maintain, or advance in competitive integrated employment.

(2) Nursing services shall be authorized only when:

(a) A written recommendation is provided by the attending physician or other licensed medical provider;

(b) Services are time-limited and necessary to support recovery or stabilization related to the employment outcome identified in the IPE; and

(c) Services are delivered by nursing personnel or aides who are appropriately licensed or credentialed in the jurisdiction where services are provided.

(3) Limitations.

(a) Nursing services shall be short-term in nature and shall not be authorized as long-term custodial maintenance, or attendant care.

(b) When nursing or attendant care is expected to extend beyond a short-term recuperative period, the service shall be considered under convalescent care in Section 9 of this administrative regulation or referral to appropriate community or public programs.

(c) Nursing services shall not be provided for conditions that are unrelated to the individual's disability-related vocational rehabilitation needs.

(4) Nursing services may be authorized in combination with other physical or mental restoration services, maintenance, or transportation when necessary to support participation in vocational rehabilitation services.

### Section 13. Acute or Emergency Medical Conditions.

(1) Acute or emergency medical condition services may be provided when necessary to prevent an immediate or direct risk to the achievement of the employment outcome identified in the IPE, and only when the individual is already receiving vocational rehabilitation services at the time of onset of the condition.

~~(2) [For purposes of this administrative regulation, an acute or emergency medical condition means an accident, illness, or health event with sudden onset and relatively short duration that requires urgent attention and that, if left untreated, would pose a serious hazard to the individual's ability to prepare for, obtain, maintain, or advance in competitive integrated employment.~~

~~(3)~~ Acute or emergency medical treatment may be authorized only when all the following conditions are met:

(a) The individual was determined eligible for vocational rehabilitation services and had an approved IPE prior to the onset of the acute condition;

(b) The untreated condition would constitute a direct hazard to the individual's ability to achieve, maintain, or regain the employment outcome identified in the IPE; and

(c) The service is prescribed, provided, or supervised by a licensed medical professional appropriate to the condition.

~~(3)~~~~(4)~~ Acute or emergency medical services authorized under this Section are intended to be short-term and shall not exceed sixty (60) consecutive days for any single accident, illness, or episode, including necessary follow-up examinations or treatment, postoperative care, and any medically required intensive care during the acute period consistent with 781 KAR 1:020.

~~(4)~~~~(5)~~ Services under this Section shall not be provided when:

(a) The condition is chronic, stable, or requires ongoing medical management unrelated to the vocational objective;

(b) The service constitutes general health care or long-term maintenance; or

(c) The condition does not present a demonstrable risk to the employment outcome.

### Section 14. Interpreter and Communication Access Services.

(1) Interpreter and communication access services may be provided to an eligible individual when necessary to ensure effective communication between the office and an individual, or to enable participation in vocational rehabilitation services or activities required to prepare for, obtain, maintain, or advance in competitive integrated employment.

(2) Interpreter and communication access services shall be delivered by providers who possess the certification, licensure, or credentialing appropriate to the assignment and the individual's communication needs.

(3) The office shall provide the individual with information necessary to make an informed choice regarding interpreter qualifications, style, skill level, and certification appropriate to the assignment and communication preference of the individual.

(4) Interpreters and communication access providers shall comply with applicable professional codes of ethics, including requirements related to confidentiality and impartiality.

Section 15. Transportation Services.

(1) Transportation services may be provided to an individual when necessary for the individual to participate in a vocational rehabilitation service and shall not be provided as the sole service on the IPE.

(2) Transportation shall be the most reasonable and cost-effective option available that meets the individual's disability-related vocational needs.

(3) Transportation shall be time-limited and restricted to the period in which the individual is actively participating in the related vocational rehabilitation service, training, or activity.

(4) The office **shall [does]** not reimburse for travel when the individual uses a personal vehicle owned by someone else unless required for vocational reasons.

Section 16. ~~[Section 2.]~~ Driver Rehabilitation Technology Services.

(1) Driver rehabilitation technology services may be provided if[:]

[~~(a)~~] ~~[P]~~personal transportation is required to meet the job goals specified on the IPE or is necessary to participate in other services required to achieve the employment objective identified on the IPE~~[individualized plan for employment;]~~

[~~(b)~~] ~~[The individual meets the economic need qualifications established in 781 KAR 1:030; and]~~

[~~(c)~~] ~~[The individual is within a category that is presently being served in the Order of Selection as established in 781 KAR 1:030].~~

(2) Driver training and extended driver evaluation may be provided if:

(a) The services are recommended by a ~~qualified~~**qualified medical or rehabilitation professional, which may include a** physician~~[, an occupational therapist with driver rehabilitation training, a certified driver rehabilitation specialist, or another provider who meets applicable state licensure or certification requirements for driver rehabilitation services];~~

(b)~~[If]~~ Vehicle modification is required, the ~~[applicant or eligible]~~individual meets the criteria for vehicle modification, as established in Section 18~~[3]~~ of this administrative regulation;

(c) The ~~[applicant or eligible]~~individual agrees to obtain additional practice as recommended by a certified driver rehabilitation specialist; ~~[and]~~

(d) The ~~[applicant or eligible]~~individual owns or has access to an appropriate vehicle both during and upon completion of driver's training;~~[:]~~

(e) The individual possesses, at a minimum, a valid driver's permit before any referral for driver evaluation is provided; and

(f) A ~~[qualified medical or rehabilitation professional, which may include a physician, an occupational therapist with driver rehabilitation training, a]~~certified driver rehabilitation specialist~~[, or another provider who meets applicable state licensure or certification requirements for driver rehabilitation services],~~ has completed a driver evaluation and identified the type and amount of driver training and any needed adaptive driving equipment or vehicle modification.

(3) Driver rehabilitation technology services may be provided to an ~~[applicant or eligible]~~individual who does not meet the requirements of subsection (2) of this section if the office~~[the Director of Field Services or designee]~~ determines:

(a) That documentation exists that failure to provide the services will preclude the successful completion of the individualized plan for employment; or

(b) The provision of the service would result in a substantial cost savings to the office.

(4) Driver rehabilitation technology services shall not include general driver education or permit-preparation courses that are not directly related to the individual's disability and vocational rehabilitation needs.

(5) Transport evaluations may be provided when an individual will not drive but requires evaluation of safe entry to, exit from, or transport in a private vehicle to participate in vocational rehabilitation services or to obtain or maintain competitive integrated employment.

(6) Services requiring access to a vehicle for evaluation or training may be authorized only when the office determines that the vehicle to be used is safe and appropriate for the recommended evaluation, training, or adaptive equipment.

(7) The office shall not purchase, lease, or otherwise provide a motor vehicle for any individual. Vehicle purchase is not an allowable rehabilitation service and shall not be authorized as assistive technology, transportation, or as any other good or service under this administrative regulation. For purposes of this section, the term vehicle **shall [does]** not include wheelchairs, scooters, or any other mobility devices used as personal medical equipment under Section 6 **of this administrative regulation.**

#### Section 17. Bioptic Driving Services.

(1) Bioptic driving services may be provided when independent transportation is vocationally necessary, the individual meets the visual and statutory requirements of KRS 186.576 to 186.579, and bioptic driving is identified as part of the employment strategy in the IPE.

(2) Bioptic driver rehabilitation services may include, as appropriate:

(a) Instruction in the use of the bioptic telescopic device;

(b) Preparatory or pre-driver training consistent with statutory and regulatory requirements;

(c) Behind-the-wheel driver rehabilitation training provided by a certified driver rehabilitation specialist or a qualified employee of the office; and

(d) On-road evaluation to determine readiness for driving skills testing and licensing.

(3) The office shall review annual comprehensive visual examination reports for licensed bioptic drivers as required by KRS 186.579(3)(b). If the report indicates instability or deterioration of visual function, the office may:

(a) Require additional visual assessment; and

(b) Notify the Kentucky Transportation Cabinet Medical Review Board if the individual no longer meets statutory visual requirements.

(4) When a qualified vision specialist recommends removal of a daytime-only driving restriction, the office shall:

(a) Arrange the nighttime driving evaluation required by KRS 186.579(3)(b);

(b) Coordinate scheduling of any required nighttime road test with the Kentucky State Police; and

(c) Transmit evaluation results to the Kentucky Transportation Cabinet for licensing determination.

(5) The office may authorize bioptic driving services through programs that meet applicable state licensure or certification requirements. Individuals may also obtain bioptic services at their own expense, provided all statutory licensing requirements are met.

Section 18.~~[Section 3.]~~ Vehicle Modification Services.

- (1) Modification of a private vehicle shall be authorized if the ~~[eligible]~~ individual:
  - (a) Completes a driver evaluation and vehicle modification assessment by **an assistive**~~[a rehabilitation]~~ technology specialist; and
  - (b) Obtains a vehicle modification prescription from a certified driver rehabilitation specialist.
- (2) Modification of a private vehicle shall be provided on the most cost-effective vehicle necessary for the individual's personal transportation for employment, using the most cost-effective means of modification as documented in the rehabilitation technology assessment.
- (3) Recoverable, nonpermanent modifications shall be provided for private vehicles if available and cost-effective. Permanent modifications shall be considered only when recoverable options cannot meet the individual's disability-related vocational needs.
- (4) A vehicle modification shall not be performed on a vehicle other than that recommended by the office or qualified vendor~~[a certified driver rehabilitation specialist]~~, unless:
  - (a) The vehicle can be modified to meet the individual's needs; and
  - (b) The individual assumes all costs associated with the modification of the vehicle in excess of the cost of modification of the recommended vehicle.
- (5) Before a non-recoverable, permanent vehicle modification will be approved, an ~~[eligible]~~ individual shall obtain a valid Kentucky operator's license or, for nondriver passenger modification, documentation demonstrating vocational necessity for safe transportation.
- (6) A non-recoverable, permanent vehicle modification costing in excess of \$5,000 shall not be delivered to the ~~[eligible]~~ individual unless the ~~[eligible]~~ individual provides proof of insurance for the replacement cost of the vehicle and vehicle modifications.
- (7) A vehicle modification costing in excess of \$10,000 shall not be provided unless the ~~[eligible]~~ individual:
  - (a) Has a vocational objective of competitive integrated employment;
  - (b) Is employed, actively seeking work, or has a reasonable expectation of beginning work within six (6) months; and
  - (c) The office~~[Director of Field Services or designee]~~ determines that the modification has a direct relationship to the employment objective and that failure to provide the modification would prevent the successful achievement of the employment objective or would result in a significant cost savings to the office.
- (8) Vehicle modifications in excess of \$10,000 shall not be provided on a used vehicle unless:
  - (a) The vehicle is no more than two (2) years old;
  - (b) The odometer on the vehicle reads no more than 50,000 miles; and
  - (c) An assistive technology specialist inspects the vehicle and determines that it is appropriate for the required modification.
- (9) Vehicle modifications shall not be performed on a leased vehicle unless:
  - (a) An assistive technology specialist inspects the vehicle and determines that it is appropriate for the required modification;
  - (b) Written permission for the specific modification is obtained from the leasing company; and

(c) Recoverable, nonpermanent equipment is used.

(10) The [eligible] individual shall be solely responsible for providing maintenance, repair, and upkeep to the modifications as established in any relevant warranties.

(11) The [eligible] individual shall pay for any maintenance, service, and repairs for modifications not under warranty except as provided in Sections 19 and 20[4(2)] of this administrative regulation.

**(12) Vehicle modification services may be provided when appropriate to support the individual's transportation needs related to employment, including when the vehicle is only used to transport the individual or the individual's disability related equipment.**

Section 19.~~[Section 4.]~~ Upgrade and Repair of Vehicle Modifications.

(1) An upgrade to a vehicle modification shall not be provided unless:

(a) The upgrade is required due to a medically documented change in status or function that necessitates a change in driving equipment or vehicle chassis;

(b) The [eligible] individual is employed in a competitive integrated employment setting; and

(c) The [eligible] individual completes a driver evaluation or non-recoverable, permanent vehicle modification assessment~~[as established in the Kentucky Office of Vocational Rehabilitation Policies and Procedures Manual, incorporated by reference in 781 KAR 1:010].~~

(2) If the vehicle upgrade involves the purchase of a driving system, the vehicle shall be inspected by the office~~[an assistive technology specialist]~~ and found:

(a) To be appropriate for the proposed modification; and

(b) To meet all manufacturer requirements for the proposed driving system.

(3) A repair to a vehicle modification shall be provided if:

(a) The [eligible] individual is currently competitively employed in an integrated setting, as defined in 34 C.F.R. 361.5(c)(9);

(b) The repair is not required as a result of the [eligible] individual's negligence, misuse, abuse of the equipment, or failure to provide proper maintenance of the equipment;

(c) The [eligible] individual provides the office with maintenance records for the vehicle and vehicle modifications;

(d) The office~~[An assistive technology specialist]:~~

1. Inspects the maintenance records of the vehicle and vehicle modifications;

2. Determines that the maintenance has met manufacturer requirements;

3. Inspects the vehicle and modifications; ~~[and]~~

4. Determines that is reasonable to repair the modification; and

5. Determines that the vehicle will be safe to operate once repaired; and

(e) The [eligible] individual completes a driver evaluation by a certified driver rehabilitation specialist and obtains a non-recoverable, permanent vehicle modification prescription from the specialist, if requested by the office~~[as established in the Kentucky Office of Vocational Rehabilitation Policies and Procedures Manual, incorporated by reference in 781 KAR 1:010].~~

(4) An upgrade or repair to a vehicle modification costing in excess of \$10,000 shall not be provided unless the office~~[Director of Field Services or designee]~~ determines that failure to provide the update or repair would prevent the successful maintenance of competitive integrated employment or would result in a significant cost savings to the office.

(5) An upgrade or repair may be provided to an ~~[eligible]~~ individual who does not meet the requirements of this section if the ~~office~~~~[Director of Field Services or designee]~~ determines:

- (a) That documentation exists that failure to provide the services will preclude the successful achievement or maintenance of competitive integrated employment under~~[completion of]~~ the individualized plan for employment; or
- (b) The provision of the service would result in a substantial cost savings to the office.

#### Section 20.~~[Section 5.] Repeat Vehicle Modifications.~~

(1) Except as provided in this section, or as approved under the exception process in 781 KAR 1:020, the office shall not provide more than one (1) vehicle modification per ~~[eligible]~~ individual.

(2) The office shall provide a repeat vehicle modification if:

- (a) The ~~[eligible]~~ individual is currently working in a competitive integrated employment setting, as defined in 34 C.F.R. 361.5(c)(9);
- (b) The ~~[eligible]~~ individual has a five (5) year work history since the last modification and has been working consistently for a minimum of two (2) years;
- (c) The previously modified vehicle has at least 105,000 additional miles on it since the last modification;
- (d) An assistive technology specialist inspects the vehicle and modifications and recommends replacement of the vehicle or modifications;
- (e) The ~~[eligible]~~ individual provides the office with a maintenance record for the vehicle and modifications that demonstrates that the maintenance has been provided according to manufacturer requirements;
- (f) The ~~[eligible]~~ individual completes a driver evaluation by a certified technology specialist and obtains a vehicle modification prescription from the specialist; and
- (g) The ~~office~~~~[Director of Field Services or designee]~~ determines that failure to provide the repeat modification will prevent successful maintenance of competitive integrated employment or would result in a significant cost savings for the office.

#### Section 21.~~[Section 6.] Property Modification.~~

(1) Permanent, nonrecoverable modification to a private home, business, or property may be provided if:

- (a) ~~The office~~~~[A qualified rehabilitation counselor]~~ determines the property modification~~[it is]~~ essential to achieve the employment objective of the ~~[eligible]~~ individual;
- (b) ~~[The eligible individual meets economic needs qualifications established in 781 KAR 1:030;]~~
- ~~(c)~~ ~~The office~~~~[A qualified rehabilitation counselor]~~ determines that failure to provide the modification will preclude the successful achievement of the employment goal;
- ~~(c)~~~~(d)~~ A property modification assessment identifying the most effective and lowest-cost modification that will meet the individual's disability-related needs is completed by the ~~office~~~~[an assistive technology specialist];~~
- ~~(d)~~~~(e)~~ The ~~[eligible]~~ individual or family member owns the property to be modified and is current on any mortgage payments, and has owned the property for at least two (2) years unless an exception is approved under subsection (4) of this section; and
- ~~(e)~~~~(f)~~ The ~~[eligible]~~ individual has not received permanent, nonrecoverable modifications to a home from the office in the past. ~~[; and]~~

~~[(g)] [The eligible individual is within a category that is presently being served in the order of selection as established in 781 KAR 1:030].]~~

(2) Property modifications in excess of \$30,000 or twenty (20) percent of the Property Value Administrator (PVA) assessment value of the home or property, whichever is less, shall not be provided.

(3) Property modifications shall be limited to the most cost effective means of safely addressing the disability needs of the ~~[eligible]~~ individual as required for employment and shall:

(a) Be recoverable, nonpermanent modifications~~[-if possible];~~

(b) Be cost effective;

(c) Provide access to one (1) entrance to and exit from the home, business, or property;

(d) Provide access to entrance to and exit from one (1) bathroom area and use of the facilities in that bathroom;

(e) Provide access to entrance to and exit from one (1) bedroom area; and

(f) Allow access to corridors necessary to access the bathroom and entrance and exit area of the property.

(4) A property modification shall not be provided when a qualified contractor determines that the existing structure cannot safely support the modification without structural reinforcement, reconstruction, or other improvements prohibited under subsection (5) **of this section** or requiring upgrades to underlying systems or structures as described in subsection (6) **of this section**.

~~(5)~~(4) Property modifications shall not be provided to homes or properties purchased within the last two (2) years unless there is medical documentation to support a finding that there has been a significant change in status or function of the ~~[eligible]~~ individual that has occurred since the initial purchase of the property, and that finding could not have been anticipated when the home or property was purchased.

~~(6)~~(5) Property modifications shall not include structural additions to existing properties or the purchase of new property. Structural additions include any improvement that increases the footprint or square footage of the structure.

~~(7)~~(6) The office shall not restore modified property to its original condition or upgrade areas of the property not affected by the modification into compliance with current local building codes.

(8) All work funded by the office shall comply with applicable building codes, but the property owner shall be responsible for upgrades required to bring underlying structures or systems into compliance before a modification is undertaken.

~~(9)~~(7)

(a) A request from the individual to make changes or additions to the recommendation of the ~~office [assistive technology specialist]~~ shall be approved in writing by the ~~office [specialist]~~ prior to being implemented in order to ensure that the modification does not affect the accessibility of the project; and

(b) The cost of all changes or additions shall be assumed by the ~~[eligible]~~ individual.

~~(10)~~(8) The ~~[eligible]~~ individual shall provide maintenance, repair, and upkeep to the modifications as required for relevant warranties.

~~(11)~~(9) The ~~[eligible]~~ individual shall be solely responsible for maintenance, service, and repairs for modifications not under warranty.

(12)~~(10)~~ Property modifications ~~may~~shall be provided to an ~~eligible~~ individual that does not meet all the requirements of this section if the ~~office~~Director of Field Services or designee determines that failure to provide the modification would prevent the successful achievement of the vocational objective or would result in a significant cost savings to the office. Exceptions shall ~~not~~ be granted **consistent with 781 KAR 1:020**~~for modifications requiring structural reinforcement, additions, or upgrades to underlying structures or systems prohibited under subsections (5) or (6)~~.

Section 22. Community Rehabilitation Program ("CRP") and Supported Employment Services.

(1) The office may purchase community rehabilitation services from a community rehabilitation program when **the [such]** services are necessary for an individual to prepare for, obtain, maintain, or advance in competitive integrated employment.

(2) CRP services shall be consistent with the IPE and shall be provided only when they address disability-related vocational needs.

(3) CRP services may include, as appropriate:

(a) Comprehensive vocational evaluation;

(b) Limited assessment services;

(c) Adjustment services;

(d) Employment and retention services; and

(e) Supported employment services for individuals with the most significant disabilities.

(4) Adjustment services shall be time-limited and shall not be used as long-term or permanent employment. The expected duration generally shall not exceed six (6) months from the authorization date unless an exception is approved in accordance with 781 KAR 1:020.

(5) Employment and retention services may include job development, job placement, initial job coaching, and time-limited follow-up supports when necessary to achieve or maintain a competitive integrated employment outcome.

(6) Supported employment services may be provided to individuals with the most significant disabilities through community rehabilitation programs or other qualified providers, consistent with 34 C.F.R. 361.5(c), 361.48(b), 361.55, and 34 C.F.R. Part 363.

(7) Supported employment services shall be:

(a) Provided in competitive integrated employment and shall be designed to achieve and maintain a competitive integrated employment outcome;

(b) Time-limited; and

(c) Provided in conjunction with ongoing support services and extended services to be provided by another public or private entity after vocational rehabilitation services are concluded.

(8) Community Rehabilitation Program Eligibility and Payment. To receive payment as a community rehabilitation program under this section, an entity shall:

(a) Meet the federal definition of a community rehabilitation program in 34 C.F.R. 361.5(c);

(b) Be approved by the office as a vendor in accordance with state procurement requirements; and

(c) Receive authorization for the services provided.

(9) CRPs shall provide written reports and documentation sufficient to support case decisions and payment.

Section 23. Post-Secondary Training and Transition Services.

(1) Post-secondary education and post-secondary transition program services may be provided when required to achieve the employment outcome identified in the IPE and when consistent with the individual's strengths, interests, abilities, and informed choice.

(2) Post-secondary transition program services may be provided if:

(a) The individual meets age and eligibility criteria; and

(b) Participation in the program is necessary to achieve the employment outcome identified in the IPE.

(3) Allowable services may include, as appropriate:

(a) Tuition, required fees, books, and supplies;

(b) Training-related transportation and maintenance consistent with Sections 15 and 31(2) of this administrative regulation;

(c) Classroom accommodations and auxiliary aids, including interpreters, note-takers, adaptive materials, and assistive technology;

(d) Tutorial services and educational assistance consistent with Section 29 of this administrative regulation; and

(e) Disability-related supports necessary for participation and progress.

(4) **Personal computing devices.**

**(a) Personal computing devices, including computers and laptops, shall not automatically be considered assistive technology or vocational rehabilitation services, and shall only be approved when the Office determines the device is necessary as assistive technology.**

**(b) Requests for personal computing devices, including computers and laptops, shall be referred to the Assistive Technology Branch which shall determine if the requested device is assistive technology necessary to address an identified functional limitation to support participation in vocational rehabilitation services or achievement of the employment outcome identified in the individualized plan for employment (IPE).**

(5) The office shall coordinate post-secondary education funding with federal student aid and other available funding sources before authorizing payment for post-secondary education.

~~(6)~~(5) Support for post-secondary training shall be limited to the most cost-effective program that meets the individual's vocational needs and shall not be authorized when training is not clearly linked to an employment outcome.

~~(7)~~(6) The individual shall maintain satisfactory academic or training progress consistent with institutional standards and expectations documented in the IPE. The office may authorize continued support for one (1) additional term when justified and documented.

~~(8)~~(7) Recognized secondary or post-secondary credentials and measurable skill gains for individuals receiving training services shall be documented, in accordance with 34 C.F.R. 361.155.

Section 24. Job Placement Services.

(1) Job placement services may be provided when necessary to achieve the employment outcome in the IPE.

(2) Job placement services may be delivered by office staff, community rehabilitation programs, supported employment providers, on-the-job training providers, or other qualified vendors, consistent with informed choice.

(3) Job placement services may include, as appropriate:

- (a) Job development and job leads;
- (b) Assistance with job applications and interviews;
- (c) Identification of reasonable accommodations;
- (d) Coordination of supports needed to begin employment; and
- (e) Other services necessary to obtain competitive integrated employment.

(4) Employment obtained through job placement services shall occur in the most integrated setting appropriate and shall meet the definition of competitive integrated employment in 34 C.F.R. 361.5.

(5) Self-employment may be considered a suitable employment outcome if it meets the definition of competitive integrated employment in 34 C.F.R. 361.5 and is developed and approved in accordance with 781 KAR 1:020.

(6) Home-based employment, including telework or remote work, may be considered suitable if it meets competitive integrated employment requirements. Home-based work shall not be considered self-employment unless the individual owns and operates the business.

#### Section 25. Post-Employment Services.

(1) Eligibility and status.

(a) Post-employment services may be provided only to individuals who:

- 1. Have been determined eligible for vocational rehabilitation services;
- 2. Have achieved an employment outcome; and
- 3. Require limited vocational rehabilitation services to maintain, regain, or advance in competitive integrated employment.

(b) A re-determination of eligibility is not required for post-employment services.

(c) Post-employment services shall be provided under an amended IPE, developed and implemented in accordance with 34 C.F.R. 361.45 and 361.46.

(2) Post-employment services shall:

(a) Consist of one (1) or more vocational rehabilitation services permitted under 34 C.F.R. 361.48(b);

(b) Be limited in scope and duration; and

(c) Address rehabilitation needs that do not require a complex or comprehensive provision of services.

(3) Post-employment services may include, as appropriate, maintenance of assistive technology, short-term training or support to address changes in job duties, or other time-limited services necessary to maintain, regain, or advance in competitive integrated employment.

(4) Post-employment services shall not be used to provide a comprehensive new sequence of services equivalent to initial vocational rehabilitation services. If comprehensive services are required, the office shall:

(a) Conclude post-employment services;

(b) Close the existing case in accordance with federal requirements; and

(c) Assist the individual to apply for a new case, including assessment to determine eligibility and development of a new IPE, if appropriate.

(5) Post-employment services shall be provided only under an IPE amendment that:

(a) Identifies the employment outcome being maintained, regained, or advanced;

(b) Specifies the post-employment services to be provided; and

(c) Describes how the services are necessary to maintain, regain, or advance in competitive integrated employment.

(6) Post-employment services should be initiated and completed, when feasible, prior to case closure and reporting of the employment outcome to the Rehabilitation Services Administration.

(a) A case that has been closed in competitive integrated employment and reported to the Rehabilitation Services Administration shall not be re-opened solely for the purpose of providing post-employment services.

(b) If an individual whose case has been closed in competitive integrated employment later requires vocational rehabilitation services to maintain, regain, or advance in employment, the individual shall apply for services and be evaluated for eligibility in accordance with 781 KAR 1:020 and federal requirements.

#### Section 26. On-The-Job Training Services.

(1) On-the-job training (OJT) services may be provided when:

(a) The individual has been determined eligible for vocational rehabilitation services;

(b) The training is necessary to achieve the employment outcome identified in the IPE; and

(c) The employer agrees to hire the individual as an employee for the duration of the training.

(2) An OJT agreement shall be executed between the office, the employer, and the individual and shall describe the duties, duration, supervision, and reimbursement terms.

(3) The office may:

(a) Reimburse the employer for a portion of wages paid during training, consistent with allowable reimbursement rates and conditions;

(b) Authorize training for the period reasonably required to learn the essential job duties; and

(c) Provide related vocational rehabilitation services needed to support successful completion of the training.

(4) The employer shall.

(a) Comply with all applicable wage, hour, and nondiscrimination laws;

(b) Provide wage and benefit parity with similarly situated employees; and

(c) Provide regular progress evaluations as required by the office.

(5) OJT shall lead to competitive integrated employment and shall not be authorized when that outcome is not expected.

#### Section 27. Work Experience Program Services.

(1) Work Experience Program (WEP) services may be provided when necessary to:

(a) Determine vocational potential;

(b) Develop work behaviors, skills, or tolerances; or

(c) Support the employment outcome identified in the IPE.

(2) WEP Services may include, as appropriate:

(a) Orientation in work readiness or work behaviors;

(b) Slot placement in a community worksite for supervised work experience; and

(c) Job placement assistance needed to secure competitive integrated employment.

(3) WEP positions shall be temporary, shall not displace existing employees, and shall comply with applicable wage and labor requirements.

(4) WEP stipends are paid to participants and shall not constitute wages or create an employer–employee relationship with the office.

(5) WEP services shall be limited to the level and duration necessary to accomplish the objectives identified in the IPE and may be extended only as approved in accordance with 781 KAR 1:020.

#### Section 28. Pre-Employment Transition Services.

(1) Pre-employment transition services (Pre-ETS) shall be provided to students with disabilities in accordance with 29 U.S.C. § 733; 34 C.F.R. 361.48; and in coordination with state and local educational agencies responsible for the provision of special education or related services under the Individuals with Disabilities Education Act **and Section 504 of the Rehabilitation Act.**

(2) The office shall provide or arrange for the provision of Pre-ETS to students with disabilities who are eligible or potentially eligible for vocational rehabilitation services. Pre-ETS may be provided individually or in groups.

(3) Pre-ETS shall include the following required activities:

(a) Job exploration counseling;

(b) Counseling on opportunities for enrollment in comprehensive transition and post-secondary programs;

(c) Workplace readiness training to develop social skills and independent living skills;

(d) Instruction in self-advocacy, including peer mentoring; and

(e) Work-based learning experiences in competitive, integrated settings to the maximum extent possible.

(4) Potentially eligible students may receive only the required Pre-ETS described in subsection (3) of this Section and auxiliary aids or services necessary to enable participation in those activities.

(5) Additional vocational rehabilitation services, including maintenance, transportation, job coaching, or rehabilitation technology, may be provided only after the student applies for and is determined eligible for vocational rehabilitation services and has an approved IPE.

(6) Work-based learning experiences shall occur in competitive integrated settings to the maximum extent possible and shall comply with applicable child labor, wage, and safety requirements.

(7) Pre-ETS funds may be used to provide stipends directly to students when the payment is part of a structured work-based learning experience or program delivery by the office, and when the payment does not replace wages otherwise due from an employer or create an employer–employee relationship with the office.

(8) A potentially eligible student who has not applied for vocational rehabilitation services shall not be subject to the order of selection. A student who applies for services shall be subject to the order of selection consistent with federal requirements.

**(9) The office may attend, when invited, person-centered meetings for individuals receiving services under Title XIX of the Social Security Act.**

#### Section 29. Tutorial Services and Educational Assistance.

(1) Tutorial services and educational assistance may be provided when necessary for an individual to participate in or benefit from training or education required for the employment outcome identified in the IPE.

(2) Disability-related tutoring may be authorized when:

(a) The individual has a documented disability that results in functional limitations affecting learning or academic performance; and

(b) The tutoring is designed to address those limitations or to teach compensatory strategies needed to succeed in the training program.

(3) Remedial instruction and content tutoring may be authorized when:

(a) The individual requires basic skill development or assistance in a specific course to complete training necessary for the employment outcome; and

(b) Comparable services and benefits, such as adult education or institutional tutoring services, are unavailable, inadequate, or would result in unreasonable delay.

(4) Educational assistance services may be provided when non-instructional support is required for the individual to access or participate in training, post-secondary education, or other vocational services included on the IPE. Educational assistance may include, as appropriate:

(a) Reading or recording of course materials;

(b) Typing or transcription of assignments;

(c) Note-taking or page-turning;

(d) Locating or organizing reference materials; or

(e) Similar supports required for full participation.

(5) Tutorial and educational assistance services shall be coordinated, to the maximum extent appropriate, with accommodations and auxiliary aids provided by the training institution or other comparable services and benefits.

#### Section 30. Independent Living Services and Older Individuals Who Are Blind Services.

(1) Independent Living (IL) and Older Individuals Who Are Blind (OIB) services may be provided to assist individuals who are blind or visually impaired to improve or maintain their ability to function independently. An employment outcome shall not be required for eligibility for IL or OIB services.

(2) Eligibility, service categories, and allowable expenditures for IL and OIB shall be consistent with applicable federal grant requirements. IL and OIB services **shall [must]** be non-duplicative and coordinated with vocational rehabilitation services.

(3) For individuals who receive both vocational rehabilitation and IL or OIB services, the Rehabilitation Counselor for the Blind and the IL or OIB counselor shall coordinate assessment, planning, and service delivery.

(4) Bioptic-related services provided solely for independent living purposes shall comply with KRS 186.576 to 186.579 and applicable federal program requirements. Payment for bioptic devices, private driver training, licensing fees, or other driving-related costs under the IL or OIB programs shall be at the discretion of the office, consistent with available program funds and allowable cost categories under 34 C.F.R. Part 367.

(5) Services and adaptive devices under IL and OIB programs shall be subject to the availability of funds and any federal grant conditions governing those programs.

#### Section 31. Other Allowable Services.

(1) Personal Assistance Services.

(a) Personal assistance services may be provided when necessary for participation in vocational rehabilitation services or to maintain competitive integrated employment.

(b) Personal assistance services shall be provided only while the individual is receiving other vocational rehabilitation services or is engaged in employment consistent with the IPE.

(c) Long-term ongoing personal assistance needs shall be referred to appropriate community or Medicaid-funded programs.

(d) Personal assistance services shall be excluded from financial participation but remain subject to comparable services and benefits.

(2) Maintenance.

(a) Maintenance may not be used to fund an individual's normal living expenses.

(b) Maintenance may include short-term room and board, or other subsistence costs required to participate in vocational rehabilitation services.

(c) Payments in **these [such]** circumstances may not exceed three **(3)** months.

(3) Medication.

(a) Medication, as used in this Section, means prescribed pharmaceutical agents and related medical supplies provided for a limited duration to support the individual's participation in other vocational rehabilitation services.

(b) Medication may be provided when necessary for the individual to participate in or benefit from a substantial vocational rehabilitation service, and when comparable services and benefits are unavailable or would result in unreasonable delay.

(c) Medication shall not be provided as a stand-alone service or for long-term maintenance treatment of chronic conditions.

(4) Occupational Licenses, Examinations, Tools, Equipment, and Supplies.

(a) The office may purchase occupational licenses, certification or board examinations, required permits, and related documentation necessary for an individual to enter or maintain employment consistent with the IPE.

(b) The office may purchase tools, equipment, supplies, or initial stock when essential for participation in training or for initial employment, and when such items are not routinely provided by the employer or training program. **["Initial stock"]** means the minimum consumable materials required to begin the job or training activity and **shall[does]** not include ongoing inventory or replenishment.

(c) The office shall pay only initial fees for licensure, certification, or union membership unless additional payments are necessary to complete the vocational rehabilitation plan.

(d) The office shall not purchase voluntary or optional memberships unless they are required for the specific employment outcome.

(5) Ownership and Recovery of Tools and Equipment.

(a) Items purchased by the office under subsection (4) **of this section** shall remain the property of the office until the individual successfully completes training or retains employment and closed as successfully employed.

(b) If items are no longer needed or the individual does not complete the training or employment objective, the office may recover items in reusable condition and reassign them to other individuals.

(c) The office shall not purchase deluxe, optional, or premium versions of tools or equipment when a standard model is adequate.

(d) The office shall not replace lost, stolen, or damaged items except where loss occurred through no fault of the individual and with supporting documentation.

(6) Services to Family Members.

(a) Services to family members may be provided when necessary for the individual to participate in assessments, vocational rehabilitation services, or to carry out the IPE.

(b) **[Such]** Services shall be provided only when failure to provide them would reasonably be expected to delay, interrupt, or prevent achievement of the employment outcome of the individual, and when they are not otherwise readily available through existing community resources.

(7) Other Goods and Services.

(a) The office may authorize goods and services not specifically listed in this administrative regulation when necessary for an individual to participate in vocational rehabilitation services or to achieve the employment outcome identified in the IPE, consistent with 34 C.F.R. 361.48(b).

(b) Goods or services that are personal in nature, unrelated to vocational rehabilitation, or primarily for general health, wellness, or household support shall not be authorized.

(c) The office shall not provide goods or services that constitute long-term maintenance or supports more appropriately provided through other public programs or community resources.

(d) Goods and services authorized under this subsection shall be documented in the case record and **shall [must]** be directly related to the individual's vocational rehabilitation needs.