

BOARDS AND COMMISSIONS
Board of Examiners of Psychology
(Amendment)

201 KAR 26:115. Definition of psychological testing.

RELATES TO: KRS 319.010

STATUTORY AUTHORITY: KRS 319.032(1)(b)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(b) requires the Board of Examiners of Psychology to promulgate administrative regulations to establish and define the scope of practice within the field of psychology. This administrative regulation establishes parameters of psychological testing.

Section 1. Definition. "Psychological testing" ~~[means]~~ is defined as the use of one (1) or more standardized measurement instruments, devices, or procedures including the use of computerized psychological tests, to observe or record human behavior, and which require the application of appropriate normative data for interpretation or classification and includes the use of standardized instruments for the purpose of the diagnosis and treatment of mental and emotional disorders and dis-abilities, the evaluation or assessment of cognitive and intellectual abilities, personality and emotional states and traits, and neuropsychological functioning.

Section 2. Psychological Tests. Psychological tests may include a version or reformulation of one (1) of the following:

(1) Individual tests for the evaluation of cognitive and intellectual abilities, examples of which are:

- (a) The Wechsler ~~[series]~~ intelligence scales;
- (b) The Stanford-Binet intelligence scales; ~~[and]~~
- (c) The Kaufman Assessment Battery for Children;

(2) Individual, objective, and projective tests of personality and emotional states and traits, examples of which are:

- (a) The Minnesota Multiphasic Personality Inventory; ~~[and]~~
- (b) The Millon Clinical Multiaxial Inventory;
- (c) The Millon Adolescent Clinical Inventory; ~~[and]~~
- (d) Projective techniques including:

- 1. The Rorschach Ink Blots;
- 2. Thematic Apperception Test; ~~[and]~~
- 3. The Holtzman Ink Blots; and

(3) Individual tests of neuropsychological functioning, examples of which are:

- (a) The Halstead-Reitan Battery;
- (b) The Luria-Nebraska Battery;
- (c) The "Lezak or Kaplan Battery"; and
- (d) The NEPSY (A Developmental Neuropsychological Assessment).

Section 3. Services that are described as "psychological testing" shall only be administered and interpreted by persons credentialed by this board or who meet the formal academic training and experience qualifications established in KRS Chapter 319 and these regulations ~~[described above]~~ and who are otherwise exempt by statute.

(1) Persons credentialed by this board, as well as other licensed or certified professionals, may also use tests of language, education, and achievement, as well as tests of abilities, inter-

ests, and aptitudes. With the exception of the test categories and psychological tests listed in Section 2 of this administrative regulation, the use of these other tests is not exclusively within the scope of this administrative regulation.

(2) ~~[Members of other professions]~~ Persons not credentialed by this Board shall not train or supervise any person in performing psycho-logical testing.

(3) The practice of psychology shall be construed within the meaning of the definition contained in KRS 319.010(7) without regard to [if] whether payment is received for services rendered.

(4) Services that are described as "psychological testing~~[and treatment]~~" shall be administered to minor children only upon the notification of and the granting of written permission by the parent or legal guardian, unless otherwise required by the courts subject to specific state or federal law.

JEAN A. DETERS, PSY. D., Board Chair

APPROVED BY AGENCY: March 1, 2021

FILED WITH LRC: March 4, 2021 at 2:15 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 28, 2021, at 10:00 a.m. in Room 127, The Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601. In the event the building is not open to the public on May 28, 2021, including if the declared State of Emergency in Executive Order 2020-215 and the State of Emergency Relating to Social Distancing in Executive Order 2020-243 are not rescinded by May 28, 2021, this hearing will be done by video teleconference. A link to the teleconference will be posted on the Board website. Individuals interested in attending this hearing shall notify this agency in writing by May 21, 2021, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until May 31, 2021. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: David C. Trimble, Board Attorney, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-8823, fax (502) 564-3969, email DavidC.Trimble@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: David C. Trimble

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 319.032 authorizes the Kentucky Board of Examiners of Psychology to promulgate administrative regulations consistent with KRS Chapter 319, regulating the practice of psychology. This regulation sets forth a definition for psychological testing, provides certain psychological tests included in the definition of psychological testing, and requires that services described as psychological testing shall only be administered and interpreted by persons credentialed by this Board or who meet the formal academic training and experience qualifications established in KRS Chapter 319 and these regulations and are otherwise exempt by statute. Further, this administrative regulation provides that

certain tests of language, education, achievement, abilities, interests, and aptitudes may be used by persons credentialed by this Board as well as other licensed or certified professionals, that persons not credentialed by this Board shall not train or supervise any person in performing psychological testing, that the definition of the practice of psychology in KRS 319.010(7) shall be construed without regard to whether payment is received for services rendered, and that notification to and written permission of a parent or legal guardian is required before administering psychological testing to minor children unless otherwise required by the courts subject to specific state or federal law.

(b) The necessity of this administrative regulation: This administrative regulation is required by KRS 319.032.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 319.032 authorizes the Kentucky Board of Examiners of Psychology to promulgate administrative regulations consistent with KRS Chapter 319, regulating the practice of psychology. This administrative regulation establishes definitions relating to the regulation chapter.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists in the effective administration of KRS Chapter 319 by carrying out the legislative mandate for the board to establish regulations for the practice of psychology.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The Amendment adds or amends definitions for terms in the regulation chapter.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to update definitions of terms.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 319.032 authorizes the Kentucky Board of Examiners of Psychology to promulgate administrative regulations consistent with KRS Chapter 319, regulating the practice of psychology. This administrative regulation establishes definitions of terms for those regulations.

(d) How the amendment will assist in the effective administration of the statutes: This regulation assists in the effective administration of KRS Chapter 319 by carrying out the legislative mandate for the board to establish requirements for the practice of psychology.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect licensed psychologists practicing in the Commonwealth of Kentucky, as well as an unknown number of their patients who depend on their psychologist remaining current with their training.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: This regulation will provide updated definitions of terms.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: This regulation should add no additional cost to the licensed psychologist.

(c) As a result of compliance, what benefits will accrue to the entities: This regulation will allow psychologists to have an updated understanding of terms.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: This administrative regulation does not create a cost for the administrative body.

(b) On a continuing basis: This administrative regulation does not create a cost for the administrative body

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Kentucky Board of Examiners of Psychology is self-funded through the fees paid by licensees. No additional funding is necessary for the implementation and enforcement of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increases in fees or funding is necessary to implement the amendment to this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No increases in fees or funding is necessary to implement this administrative regulation.

(9) TIERING: Is tiering applied? Tiering is not applied because similarly situated licensees are treated similarly under this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation impacts the Kentucky Board of Examiners of Psychology.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 319.032(1).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation does not generate revenue for the Board.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation does not generate revenue for the Board.

(c) How much will it cost to administer this program for the first year? This administrative regulation does not create a cost for the Board.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation does not create a cost for the Board.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: