

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 7:040. Personnel.

RELATES TO: KRS 441.045, 441.055

STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 441.055(1) requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that house state prisoners. This administrative regulation establishes personnel procedures to be followed in restricted custody centers.

Section 1. Staffing.

(1) Each jail shall provide twenty-four (24) hour awake supervision for all prisoners by providing a minimum of one (1) jail personnel excluding jail personnel designated for communication. If requested by the jailer or governing authority, the department may conduct a staffing analysis.

(2) If a female prisoner is housed in the center, the center shall provide a female deputy to perform twenty-four (24) hour awake supervision.

Section 2. Qualifications. Sworn jail personnel shall be at least twenty-one (21) years of age.

Section 3. Compensation. Each employee shall receive a wage that is at least equal to the State Minimum Wage Law except if Federal Minimum Wage Law applies.

Section 4. Policy and Procedure. Written policy shall specify that equal employment opportunities exist for every position.

Section 5. ~~[Section 4.]~~ Physical Fitness. The jailer shall ensure that a level of physical fitness is maintained that will allow each employee to satisfactorily perform the employee's~~his~~ duties.

Section 6. ~~[Section 5.]~~ Code of Ethics.

(1) The jailer shall make a written code of ethics available to each employee.

(2) The written code of ethics shall be incorporated in the center's policy and procedures manual and shall include the following:

(a) An employee shall not:

1. Exchange a personal gift or a favor with a prisoner, prisoner's family, or prisoner's friend;
2. Accept any form of bribe or unlawful inducement;
3. Perform duties under the influence of an intoxicant or consume an intoxicant while on duty;
4. Violate or disobey an established rule, administrative regulation, or lawful order from a superior;
5. Discriminate against any prisoner on the basis of race, religion, creed, gender, national origin, or other individual characteristic;
6. Employ corporal punishment or unnecessary physical force;
7. Subject a prisoner to physical or mental abuse;
8. Intentionally demean or~~demeanor~~ humiliate a prisoner;
9. Bring a weapon or an item declared as contraband into the center without proper authorization;

10. Engage in critical discussion of jail employees or any prisoner in the presence of a prisoner;
11. Divulge confidential information without proper authorization;
12. Withhold information which, in so doing, threatens the security of the center, jail employees, visitors, or the community;
13. Through negligence, endanger the well-being of self or others;
14. Engage in any form of business or profitable enterprise with a prisoner;
15. Inquire about, disclose, or discuss details of a prisoner's crime other than as may be absolutely necessary in performing official duties;
16. Enter into an intimate, personal relationship with a prisoner while the prisoner is incarcerated at the same jail by which~~[that]~~ the employee is employed ~~[by]~~; or
17. Enter into an intimate, personal relationship with a former prisoner of the jail within six (6) months~~[month]~~ of that prisoner's release.

(b) An employee shall:

1. Comply with established rules, administrative regulations, and lawful orders from superiors;
2. Treat prisoners in a fair, impartial manner; and
3. Report a violation of the code of ethics to the jailer.

(3) A violation of the code of ethics shall be made a part of the employee's personnel file. (13 Ky.R. 817; eff. 11-11-1986; Am. 19 Ky.R. 1876; 2633; eff. 6-7-1993; 26 Ky.R. 176; 27 Ky.R. 88; eff. 7-17-2000; 31 Ky.R. 1569; 1803; eff. 5-26-2005; 34 Ky.R. 1192; 1971; eff. 3-7-2008; 37 Ky.R. 2973; 38 Ky.R. 585; eff. 10-7-2011; 48 Ky.R. 951; eff. 3-1-2022.)

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: July 23, 2021

FILED WITH LRC: August 3, 2021 at 12:15 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation will be held on October 21, 2021, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Any person who wishes to be heard at this hearing shall notify the agency in writing by five workdays prior to the hearing of their intent to attend. If a notice of intent to attend the hearing is not received by that date, the hearing may be cancelled. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through October 31, 2021. Send written notice of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8207, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes minimum standards for personnel procedures in restricted custody centers.

(b) The necessity of this administrative regulation:

This administrative regulation complies with the requirement to adopt jail standards in KRS 441.055(1)(a), (b).

(c) How this administrative regulation conforms to the content of the authorizing statutes:

This administrative regulation complies with the requirement to adopt jail standards in KRS 441.055(1)(a), (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

It establishes minimum standards to be followed for personnel in restricted custody centers.

(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 a statute citation for authority and enlarges the authorization language. It corrects various typographical errors, adds “sworn” to the description of jail personnel that must be 21 years old, and makes gender neutral language changes.

(b) The necessity of the amendment to this administrative regulation:

The amendment revises the standards as part of the review process in KRS 441.055(1)(b).

(c) How the amendment conforms to the content of the authorizing statutes:

The amendment revises the standards as part of the review process in KRS 441.055(1)(b).

(d) How the amendment will assist in the effective administration of the statutes:

It provides clarity to the regulation language.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

This affects approximately 44 county and regional restricted custody centers that house reduced custody prisoners and their staff, approximately 50 Department of Corrections employees, including 15 Local Facilities staff, and approximately 1,500 prisoners in the restricted custody centers, including 853 reduced custody Class C and D felons.

(4) Provide an analysis of how the entities identified in question (3) 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 that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

No additional action is anticipated.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

No additional cost is anticipated.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

The regulation is clearer.

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

(a) Initially:

No additional cost is anticipated.

(b) On a continuing basis:

No additional cost is anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

State budgeted funds for the Department of Corrections and county budgeted funds for jail operating expenses.

(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 increase in fees or funding is anticipated.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:

No fees are established or increased.

(9) TIERING: Is tiering applied?

No. The standards apply equally to all restricted custody centers.

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?

The Department of Corrections and restricted custody centers.

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

KRS 196.035, 441.055.

(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?

No revenue is generated by this administrative regulation.

(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?

No revenue is generated by this administrative regulation.

(c) How much will it cost to administer this program for the first year?

For fiscal year 2021, the department paid the local jails approximately \$105.9 million for the housing, transportation, and medical care of state inmates. Full service jails receive the largest portion of this funding. Plus, the department incurred approximately \$1,451,110 in staff salaries and administrative costs. The jails will have some staff and administrative costs, but this program is a source of revenue for them.

(d) How much will it cost to administer this program for subsequent years?

Approximately the same as in (c).

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: