

**EDUCATION AND LABOR CABINET**  
**Office of Adult Education (KYAE)**  
**(Amendment)**

**13 KAR 3:050. GED® eligibility requirements.**

RELATES TO: KRS 158.135(1)(a), 158.143, 158.6455, 151B.403

STATUTORY AUTHORITY: KRS 151B.403

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.403(1) requires the Office of Adult Education (Kentucky Adult Education)~~{(Kentucky Skills U Program)}~~ within the Education and Labor Cabinet~~{Education and Workforce Development Cabinet}~~ to promulgate administrative regulations to establish programs that, upon successful completion, result in the award of a high school equivalency diploma. KRS 151B.403(2) requires that at least one (1) of these programs shall include a test aligned with the College and Career Readiness Standards for Adult Education, or any other standards adopted by the federal Office of Career, Technical, and Adult Education (OCTAE), which upon passing, shall entitle students to receive a high school equivalency diploma. This administrative regulation establishes the eligibility requirements for taking a High School Equivalency Diploma test as defined in this administrative regulation.

Section 1. Definitions.

- (1) "GED® Diploma" means the High School Equivalency Diploma required by this administrative regulation.
- (2) "Kentucky Adult Education" ~~{ "Kentucky Skills U" }~~ means the adult education program within the Office of Adult Education.
- (3) "State agency children" or "state agency child" is defined by KRS 158.135(1)(a).

Section 2. Eligibility Requirements. The GED® test shall be administered to an applicant with a Kentucky address who:

- (1) Has reached his or her 19th birthday;
- (2)
  - (a) Has reached his or her 18th birthday; and
  - (b)
    1. Except as established in Section 3 of this administrative regulation, has officially withdrawn from public or private school for at least ninety (90) days as certified by the local school district;
    2. Is committed or placed in an adult correctional facility;
    3. Is enrolled in the Jobs Corps Program of Instruction; or
    4. Is enrolled in a National Guard Youth "ChalleNGe" program; or
- (3)
  - (a) Has reached his or her 17th birthday;
    1. ~~{(b)}~~ Is considered a state agency child, as defined by KRS 158.135(1)(a); ~~or~~ ~~and~~
    2. Is enrolled in a district-operated alternative program, is not on track to graduate (as defined by the local board of education), and has passed at least one section of the GED Ready test, and
  - (b) ~~{(c)}~~ Is approved for the GED® test by the local school superintendent.

Section 3. Superintendent Waiver. The local school superintendent or designee in the district where the applicant currently resides may waive the ninety (90) day school withdrawal provision of Section 2(2)(b)1. of this administrative regulation if necessary due to a deadline for postsecondary enrollment, condition of employment, medical reason, family crisis, or other extenuating circumstances.

Section 4. Test Readiness. An applicant shall successfully complete and pass an official readiness test with the same passing scores required to pass the GED® test prior to taking the GED® test.

*JOHN C. GREGORY, Executive Director*

APPROVED BY AGENCY: August 12, 2022

FILED WITH LRC: September 7, 2022 at 2:45 p.m.

**PUBLIC HEARING AND COMMENT PERIOD:** A public hearing on this administrative regulation shall be held at 1:00 p.m. (EDT) on November 29, 2022, at 500 Mero Street, First Floor, Frankfort Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. This hearing will not be transcribed 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 the proposed administrative regulation. Written comments shall be accepted until 11:59 p.m. (EDT) November 30, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

**CONTACT PERSON:** Gloria Gardner, Coordinator, Office of Adult Education (Kentucky Adult Education), 500 Mero Street Mail Stop 5SC, Frankfort, Kentucky 40601; phone 502-892-3509; email [Gloria.Gardner@ky.gov](mailto:Gloria.Gardner@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

**Contact Person: Gloria Gardner, Coordinator**

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:**

KRS 164.0064(1) requires that the Kentucky Adult Education Program within the Education & Labor Cabinet promulgate administrative regulations to establish programs that, upon successful completion, result in the award of a high school equivalency diploma. KRS 164.0064(2) requires that at least one (1) of these programs shall include a test aligned with the College and Career Readiness Standards for Adult Education, or any other standards adopted by the federal Office of Career, Technical, and Adult Education (OCTAE), which upon passing, shall entitle students to receive a high school equivalency diploma. 13 KAR 3:010 identifies the GED® test as the valid means of measuring educational achievement in an adult who is a non-high school graduate and of comparing the adult's competency to that of high school graduates.

**(b) The necessity of this administrative regulation:**

This administrative regulation establishes the eligibility requirements for taking the GED® test.

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

The amendment conforms to content of revised authorizing statutes.

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

This regulation currently assists in the effective administration of the statutes.

**(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:**

This amendment adds a class of person eligible to take the GED exam: 17-year-olds enrolled in an alternative education program who are not on track to graduate. The amendment also updates the name of the agency to the current name of Kentucky Adult Education.

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

This amendment incorporates changes to KRS 158.143 as signed by Governor Beshear on April 1, 2022.

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

The regulation currently conforms to the content of HB194 which amended KRS 158.143.

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

This regulation currently assists in the effective administration of statutes. The amendment assists in the administration of the statute with respect to a newly eligible population.

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

School boards in all 120 counties; Office of Adult Education (Kentucky Adult Education); Adult Education programs in all 120 counties; any person seeking to take

the GED® exam (317,000 without high school diploma or GED® diploma).

**(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:**

The affected entities currently comply with the administrative regulation.

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

There are no costs associated with this amendment.

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

Affected entities will benefit from taking the GED® exam.

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

**(a) Initially:**

This administrative regulation is already being administered as part of basic funding.

**(b) On a continuing basis:**

This administrative regulation is already being administered as part of basic funding.

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

The Office of Adult Education receives Title II Workforce Innovation and Opportunity Act funding (through the Adult Education and Family Literacy Act) and funding through Senate Bill 1 (2000) from the Commonwealth of Kentucky.

**(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:**

There are no fees, new or previous, associated with this administrative regulation.

**(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:**

This administrative regulation does not directly or indirectly increase (or establish) any fees.

**(9) TIERING: Is tiering applied?**

No.

## FISCAL NOTE

**(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?**

School boards in all 120 Kentucky counties; Office of Adult Education (Kentucky Adult Education); Adult Education programs in 120 counties.

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

KRS 158.143; KRS 164.0064; Workforce Innovation and Opportunity Act (Adult Education and Family Literacy Act).

**(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 will not generate revenue.

**(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 will not generate revenue.

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

There is no additional cost to administering this regulation. Costs are covered in the basic funding received by Adult Education programs through OAE (KYAE).

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

There is no additional cost to administering this regulation. Costs are covered in the basic funding received by Adult Education programs through OAE (KYAE).

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

**Revenues (+/-):0**

**Expenditures (+/-):0**

**Other Explanation:**

N/A

**(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.**

**(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?**

This administrative regulation will not generate any cost savings.

**(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?**

This administrative regulation will not generate any cost savings.

**(c) How much will it cost the regulated entities for the first year?**

This administrative regulation will not generate additional cost.

**(d) How much will it cost the regulated entities for subsequent years?**

This administrative regulation will not generate additional cost.

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

**Cost Savings (+/-):0**

**Expenditures (+/-):0**

**Other Explanation:**

N/A

**(5) Explain whether this administrative regulation will have a major economic impact, as defined below.**

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]. This administrative regulation will not have a major economic impact, as that term is defined above.