Technical Amendment
December 14, 2022
JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice
(Technical Amendment)

505 KAR 1:080. Kentucky Educational Collaborative for State Agency Children.

RELATES TO: KRS 158.135, 158.137, 605.110
STATUTORY AUTHORITY: KRS 158.135, 605.110
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 605.110(3) requires that children maintained in a facility or program operated or contracted by the Department of Juvenile Justice or the Cabinet for Health and Family Services shall, so far as possible, receive a common school education. KRS 605.110(3)(d) requires the department to promulgate administrative regulations governing the education of state agency children. This administrative regulation establishes requirements governing the Kentucky Educational Collaborative for State Agency Children.

Section 1. Definitions.
(1) "Average daily membership" means the average number of state agency children on the KECSAC designated child count days.
(2) "Department" means the Department of Juvenile Justice.
(3) "Educational administrative staff" means a principal, assistant principal, supervisor, coordinator, director, pupil personnel worker, or guidance counselor employed or contracted by the Kentucky Educational Collaborative for State Agency Children to provide education services.
(4) "Extended school calendar" means 230 school days, of which at least 210 shall be instructional days and the remainder shall be determined by the local school district, as required in KRS 158.070. It is recommended that three (3) of the noninstructional days be used for professional development designed for state agency children teachers.
(5) "Individual education program" or "IEP" means the written statement that meets the requirements of 707 KAR 1:320 for state agency children identified as a child with an educational disability as governed by 707 KAR 1:002.
(6) "Individual plan of instruction" or "IPI" means the instructional plan required for state agency children not identified as having educational disabilities established in 707 KAR 1:002.
(7) "Individual treatment plan" or "ITP" means a social and behavioral intervention plan, including the plan for educational instruction, that is developed for each state agency child being served by a Program.
(8) "KDE" means the Kentucky Department of Education.
(9) "KECSAC" means Kentucky Educational Collaborative for State Agency Children.
(10) "Local school district" means the school district where a state agency child is provided educational services.
(11) "On-site state agency school program" means a school program operated on the campus of a residential facility or day treatment program.
(12) "Program" means a state operated or contracted institution or facility, including day treatment facility, that is responsible for safety, security, and meeting the educational needs of a state agency child.
(13) "Program director" means the administrator at a Program that is responsible for the safety and security of youth and staff and the operation of the Program.

(14) "Rated capacity" means the capacity of the program as determined by the Cabinet for Health and Family Services or the Department of Juvenile Justice in the Justice and Public Safety Cabinet.
(15) "School" means the site where the educational program for state agency children is provided.
(16) "School administrator" means the lead teacher, principal, or lead educator designated by the local district or by KECSAC to be responsible for the operation of the daily education program, and may be the program director of a facility, if the program director has appropriate educational certification.
(17) "State agencies" means the Department of Juvenile Justice (DJJ), the Justice and Public Safety Cabinet, and the Cabinet for Health and Family Services (CHFS).
(18) "State agency children" or "SAC" is defined by KRS 158.135(1)(a).
(19) "State agency children's fund" means appropriations to support KRS 158.135 previously known as out-of-district funds.
(20) "Teacher preparation" means those courses provided by a public or private college or university that lead to teacher certification.
(21) "Therapeutic foster care state agency child" means a youth in therapeutic foster care as defined by KRS 158.135(1)(c).
(22) "Treatment" means the total array of services utilized to produce a positive change in a child served by a Program.

Section 2. Governance.
(1) An interagency advisory group for KECSAC, composed of representatives of the state agencies, KDE, the State Agency Children School Administrators' Association and a superintendent from a school district that provides education to SAC, shall provide recommendations for policy and procedure development. The interagency advisory group shall meet, at a minimum, biannually.
(2) Contracting procedures.
(a) The department shall contract with a university training resource center for the establishment of KECSAC. KECSAC shall be responsible for the oversight or administration of state and federal education funding and the provision of educational services to state agency children. KECSAC shall be financed by the state agency children's fund. KECSAC shall have knowledge and experience in the following:
1. Appropriate statutes and administrative regulations related to Kentucky's system of schools;
2. State and federal statutes pertaining to youth with educational disabilities, e.g. Individuals with Disabilities Education Act, 20 U.S.C. 1400 through 1450, as amended,, and Section 504 of the Rehabilitation Act, 29 U.S.C. 794;
3. Kentucky Unified Juvenile Code, enacted as KRS Chapters 600 through 645, and the operation of agency programs for juvenile offenders, status offenders and dependent children; and
4. Research regarding the education of at-risk, incarcerated and difficult to motivate youth.
(b) KECSAC shall plan programs and state agency children's fund budgets cooperatively with the state agencies, KDE and local school districts providing programs to state agency children. Local school districts shall be notified of projected funding levels by KECSAC by December 1, for the following school year.
(c) The KECSAC annual applications to the department shall constitute the biennial plan. The applications shall contain educational goals and objectives for the biennium for which funding is requested. The goals and objectives shall be consistent with appropriate statutes and administrative regulations related to the system of common schools and the mandates of the Individuals with Disabilities Education Act. The

educational goals and objectives shall be compatible with and complementary to the treatment goals for state agency children. The application shall also include strategies for enhancing teacher preparation and professional development for teachers in local districts serving SAC.

(d) KECSAC, with the cooperation of the state agencies and KDE, shall develop written procedures for the operation of the state-wide education system for state agency children.

(3) Staffing.

(a) Teachers and other educational staff shall be employed or contracted by a local school district.

1. If the local school district is not willing to participate in providing the educational personnel for the state agency children in a Program for the extended school calendar of this administrative regulation, KECSAC shall:

a. Be notified in writing by that local school district of the school district's intent not to provide an extended school calendar at least two (2) years prior to the date that the school district plans to stop providing an extended school calendar; and

b.

(i) Contract with another school district for educational staff; or

(ii) Contract or employ teachers or educational administrative staff.

2. When filling a teacher or an educational administrative staff vacancy in a state-operated or contracted facility, the local school district or KECSAC shall provide the state agency program director an opportunity to interview prospective new teachers or educational administrative staff for the on-site state agency school program. The state agency program director shall provide the local school district with interview results regarding the applicant's suitability for teaching in the on-site state agency school program.

(b) Educational administrative staff and teachers employed or contracted by KECSAC to provide educational services for the extended school calendar shall meet Kentucky education certification requirements and shall be evaluated. KECSAC shall evaluate all KECSAC staff employed by the contracted university.

(c) Educational staff employed by a school district shall be evaluated in accordance with local school district policy.

(d) Each on-site state agency school program shall designate a school administrator.

(e) Education staff employed or contracted by KECSAC to provide educational services for the extended school calendar shall be compensated at rates at least commensurate with public school employees with comparable qualifications, experience and assignments in the school district where the Program is located.

(f) On-site state agency school programs shall have sufficient teachers as specified in 707 KAR 1:350 with appropriate certification to serve youth identified with educational disabilities in accordance with 707 KAR 1:002 and 707 KAR 1:320.

(g) Other specific services identified in an IEP by the admission and release committee as needed for a youth with educational disabilities may be accessed by KECSAC contracting for appropriate extended school calendar services. KECSAC shall comply with the administrative regulations relating to youth with disabilities as provided in 707 KAR Chapter 1. The extended school calendar may be modified if the SAC in therapeutic foster care are included in the school district's extended school program as approved by KECSAC.

(4) Policy application. Interagency agreements, including program goals and objectives, shall be developed between each local school district and treatment provider regarding their mutual responsibility for education and care of state agency children. This agreement shall be reviewed annually. If a conflict arises between the local agencies

regarding the development or fulfillment of the interagency agreement by either party, it shall be resolved by KECSAC.

(5) Student eligibility. If a specific activity (e.g., football or debate) is not provided to youth in a state or private contracted agency program, the youth shall not lose eligibility to participate based on the requirements in 702 KAR 7:065. Eligibility shall be figured on a month-to-month basis (e.g., nine (9) months in a state agency facility without a formal football program shall leave nine (9) months of eligibility in a local school district). The eligibility period shall not exceed one (1) additional year. Other eligibility criteria shall be met by the youth.

Section 3. Finance.

(1) The amount of funds generated by state agency children under the Support Education Excellence in Kentucky (SEEK) Program as specified in KRS 157.360 for the guaranteed SEEK base and adjustments shall be sent to the school district providing education for state agency children to be used pursuant to Memoranda of Agreement (MOA) negotiated with KECSAC.

(2) Distribution of state agency children's funds shall be as follows:

(a) State agency children's funds shall be used to fund the Memorandum of Agreement with KECSAC.

(b) State agency children's funds may be used for educational services which benefit state agency programs in a collective manner.

(c) State agency children's funds may be used as matching funds if the match shall increase the amount of funds available to educate state agency children.

(d) After the items in paragraphs (a), (b), and (c) of this subsection have been funded, the remainder of the state agency children's fund appropriation shall be divided by the total number of state agency children to be educated. The resulting per pupil amount shall be allocated for each state agency child.

(3) KECSAC shall be considered the same as a school district for the generation, application, distribution and accountability of state and federal funds, other than SEEK, available to educate on-site state agency school children.

(4) An annual memorandum of agreement shall be negotiated between KECSAC and each school district providing education to state agency children. The MOA shall be signed and returned to KECSAC within ninety (90) days of issuance. KECSAC may decrease funding by quarterly increments for noncompliance with the submission deadline. Attachments shall include the state approved budget format. All funds expended for SAC shall be included in the annual school audit. An itemized budget shall be part of the MOA. State agency children's fund distribution shall be based upon SAC average daily membership (ADM) or rated capacity.

(a) Noncompliance with the MOA provisions may result in decreasing SACF allocation as determined by KECSAC. The withholding of funds shall be temporary provided that the school district becomes compliant by the end of the fiscal year.

(b) For a new or expanded program, the state agency children's fund shall be allocated based on the rated or licensed capacity if opened during the first three (3) quarters of the fiscal year. A program opened or expanded during the last quarter of the fiscal year shall receive funding based on the rated or licensed capacity for the initial fifteen (15) months of operation. A new or expanded program may be funded at a lower per-pupil amount based on availability of state agency children's funds.

(5)

(a) Each biennium, KECSAC, in consultation with the state agencies and KDE, shall submit a biennial budget plan benchmarked to the projected SEEK increase and projected set-aside to reimburse district's for excess cost.

(b) The state agency children's fund, as specified in KRS 158.135, shall be cost reimbursed to school districts biannually from KDE upon approval by KECSAC and the appropriate state agency.

(c) KECSAC shall develop a procedure by October 1, 1999, for school district's reimbursement of expenses exceeding twenty (20) percent of total amount received from state and federal sources to serve a state agency child.

(6) As part of the MOA with each local school district, KECSAC shall ensure the development of a plan for professional development of certified staff. A teacher or administrator new to a SAC on-site program shall attend Professional Development for New Educators. It is recommended that a SAC school program commit three (3) days of the extended school calendar for teacher participation in the KECSAC approved professional development events designed for SAC teachers. These three (3) days shall be in addition to the Professional Development for New Educators. The school district shall maintain an annual record of professional development for all school district employees in SAC on-site programs.

(7) A school district shall ensure that the SAC access all eligible federal and state funding (such as KETS Funding and Title I).

(8) An on-site SAC program shall have access to textbooks, instructional materials, technology, and equipment comparable to that available in the local school district.

(9) KECSAC shall obtain information from the Kentucky Department of Education and the Education and Labor Cabinet regarding all discretionary and entitlement state, federal and miscellaneous funding opportunities available to local school districts and file applications or reports necessary to procure and use funds for the education of state agency children.

(10) If a state agency plans to open or contract for a new program or to expand an existing SAC program during a biennium, the state agency shall notify KDE and KECSAC by April 1 of the first year of the biennium regarding the projected number of youth to be educated in the new or expanded program.

(11) If youth age sixteen (16) through twenty (20) years enter with or receive a GED while attending a state agency program, that youth shall continue in the state agency program for further academic and vocational training and continue to generate SEEK funds. State agency children funds may be used to:

(a) Support a GED preparation program; or

(b) Educate GED and high school graduates.

(12) The state agencies, the Kentucky Department of Education, the Education and Labor Cabinet, and other appropriate agencies shall develop and review annually an interagency agreement defining services and financial responsibilities of each state and local agency providing educational services for state agency children. The agreement shall include procedures for resolving interagency disputes.

(13) If a dispute arises between KECSAC and a local school district that cannot be resolved by the parties, the dispute shall be submitted, for resolution, to the interagency advisory group by written request of either party. The request shall identify in detail the issue in dispute. The interagency advisory group shall schedule a meeting with the parties, during which each party shall explain its position. The interagency advisory group shall render a written report and recommendation to the commissioner of the department responsible for the program in dispute within fifteen (15) days of the meeting. The commissioner shall render a written decision resolving the dispute within fifteen (15) days of receiving the recommendation from the interagency advisory group.

Section 4. Operations.

(1) School options for state agency children with an IEP shall be planned, if not restricted by treatment needs, using the least restrictive environment based on specific child needs.

Additional days beyond the school year shall take place either at the local public school or on the state agency program site. If the state agency child is not restricted to the treatment site for security purposes, the continuum from least restrictive to most restrictive alternatives shall be as follows:

(a) A program for state agency children may send all of its children to be educated in the local public school where children in the local public school district are assigned or where their IEP indicates placement.

(b) A program for state agency children may send some of its children to be educated in the local public school as in paragraph (a) of this subsection and have on-site state agency school option for other children.

(c) A program for state agency children may have an on-site state agency school for all children due to reasons necessary for the conditions of placement in the state agency program.

(2) Assessments.

(a) The local school district shall complete an informal academic assessment of the educational needs of all SAC, and vocational needs of SAC aged fourteen (14) and up or in eighth grade and above, within the first thirty (30) days after admission to on-site programs. Educational goals and objectives shall be consistent with goals specified in each youth's individual treatment plan.

(b) If the youth is suspected to have an educational disability as governed by 707 KAR 1:002, 707 KAR 1:300, and 707 KAR 1:320, assessments shall be administered, following required due process procedures.

(3) In a school district providing educational services, local school district staff shall coordinate the completion of the required individual education program pursuant to 707 KAR 1:002 and 707 KAR 1:320.

(4) Instructional services.

(a) The teacher pupil ratio for on-site state agency school programs serving state agency children shall average, based on annual average daily attendance, no more than ten (10) students to one (1) teacher without a classroom aide and fifteen (15) students to one (1) teacher with a classroom aide. A classroom that exclusively serves students with the educational disabilities shall comply with teacher pupil ratios as specified in 707 KAR 1:350, Section 2.

(b) By the 30th school day after admission to a school program, an individual plan of instruction shall be developed by the school district for state agency children not identified with a disability. The individual plan of instruction shall be developed in coordination with the ITP. If a youth is determined to have an educational disability, the IEP requirements as governed by 707 KAR Chapter 1 shall suffice. The IPI shall be in a standardized format, as determined by the KECSAC Interagency Advisory Group.

(c) An educational passport shall be prepared as required by KRS 158.137 and 605.110(3)(e).

(d) A state agency child reading at two (2) or more years below the appropriate grade level, as measured by an educational assessment tool, shall be provided developmental reading, listening and writing instruction.

(5) Accountability.

(a) The assessments and portfolios of state agency children shall be governed by 703 KAR 5:070.

(b) An accountability system shall be designed by KECSAC for state agency children school programs. The memorandum of agreement which shall include quality of educational services shall be monitored, at a minimum, in conjunction with KDE's IDEA monitoring cycle. Noncompliance with the MOA may result in reduction, elimination, or recoupment of the district's reimbursement from the state agency children's fund as determined by KECSAC.

(c) If required by the state agency, the SAC school programs shall be in compliance with accreditation standards of the respective professional accrediting association of that state agency.

(6) Transition.

(a) KECSAC shall ensure that transition procedures for SAC moving from the state agency education program to the next instructional or vocational setting are being implemented. Educational staff at an on-site program shall participate in the transition process.

(b) The transition planning to a postschool setting shall comply with the transition plan and service requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1400 through 1450, as amended, and 707 KAR Chapter 1 for students with educational disabilities.

(c) KECSAC shall design and implement a system of educational data collection and information dissemination in order to improve the quality of educational delivery for SAC.

(d) The last school or school district a state agency youth attends prior to placement in a state agency program shall be responsible for forwarding the educational records to the state agency program within five (5) school days of receipt of the request.

(e) The school administrator shall ensure that the educational records of state agency children are forwarded to the receiving school within five (5) school days following the release of the youth from the Program.

(25 Ky.R. 2985; 26 Ky.R. 604; eff. 10-11-1999; 45 Ky.R. 2460; 2895; eff. 5-3-2019; TAm eff. 12-14-2022; Crt eff. 5-1-2026.)

FILED WITH LRC: December 14, 2022