

EDUCATION AND LABOR CABINET
Education Professional Standards Board
(Amendment)

16 KAR 9:100. Alternative Route to Certification Institute.

RELATES TO: KRS 161.028, 161.030, 161.048, 34 C.F.R. § 300.156(c)(2)

STATUTORY AUTHORITY: KRS 161.028, 161.030, 161.048(1)(e)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.048(1)(e) requires the Education Professional Standards Board (EPSB) to promulgate administrative regulations establishing standards and procedures for the Alternative Route to Certification Institute and the approval criteria for these programs. This administrative regulation establishes the required elements of the alternative route to certification and the application review process.

Section 1. Institute Providers.

- (1) A provider not currently accredited by the EPSB in accordance with 16 KAR 5:010, may demonstrate a partnership with an institution of higher education accredited by the EPSB and a school district or cooperative recognized by the Kentucky Department of Education.
- (2) A provider shall submit an application to the EPSB in accordance with the Guidelines for Submitting an Application to Provide an Alternative Route to Certification Institute (Option 7).

Section 2. Application Review.

- (1) An application to provide an alternative route to certification institute shall be submitted to EPSB staff.
- (2) EPSB staff shall complete an initial review to ensure that the application addresses the requirements of KRS 161.048(8) and the Guidelines for Submitting an Application to Provide an Alternative Route to Certification Institute (Option 7).
 - (a) If EPSB staff determines that the application addresses the requirements of this subsection, the application shall be forwarded to an external review team.
 - (b) If EPSB staff determines that the application does not address all the requirements of this subsection, staff shall notify the provider of the deficiencies.
- (3) An external review team of trained reviewers appointed by EPSB pursuant to subsection (4) of this section, staff shall review the application in accordance with KRS 161.048(8) and the Guidelines for Submitting an Application to Provide an Alternative Route to Certification Institute (Option 7).
- (4) The external review team shall be comprised of:
 - (a) One (1) representative from an EPSB accredited postsecondary institution;
 - (b) One (1) representative from a Kentucky education cooperative; and
 - (c) One (1) representative from a Kentucky public school district.
- (5) The external review team shall review the application to provide an alternative route to certification institute and determine the quality of the application based on compliance with subsection (2) of this section. The review team shall recommend acceptance or denial of the application to the EPSB and shall include a supporting rationale for the recommendation.
- (6) The EPSB shall review the external review team's recommendation, shall approve or deny each application, and shall transmit the decision and rationale for the decision to the provider.
- (7) The provider may revise and resubmit a plan that has been denied.
- (8) Any approval granted by the EPSB shall specify the period of approval of the institute, which shall not exceed two (2) years for initial approval. A provider may apply for an extension of approval as established in Section 3 of this administrative regulation.

Section 3. Continuance of Program Approval.

- (1) An institute provider may apply for continuance of an approved alternative route to certification institute for an additional period of time not to exceed seven (7) years. The request for continuance shall specify any changes in program components that have occurred since the institute received prior EPSB approval and that are planned for implementation in subsequent training periods.
- (2) The request for continuance shall provide specific examples of demonstrating program quality as established in this section and the application required by this administrative regulation. The request for continuance shall include statistical information related to teacher retention for all prior candidates who have completed the institute. Standards for program approval established under this administrative regulation shall be maintained under any program extension.

Section 4. Revocation for Cause.

- (1) If an area of concern or an allegation of misconduct arises after an institute has been approved, staff shall bring a complaint to the EPSB for initial review.
- (2) After review of the allegations in the complaint, the EPSB may refer the matter to the external review team for further investigation.
- (3)
 - (a) Notice of the EPSB's decision to refer the matter and the complaint shall be sent to the provider.
 - (b) Within thirty (30) days of receipt of the complaint, the provider shall respond to the allegations in writing and provide information pertaining to the allegations in the complaint to the EPSB.
- (4)
 - (a) The external review team shall review any evidence supporting the allegations and any information submitted by the provider.
 - (b) The external review team may conduct on-site evaluations to evaluate the quality of the program.
 - (c) Upon completion of the review, the external review team shall issue a report recommending to the EPSB continued approval of the institute or revocation of institute approval if the institute no longer meets the standards and requirements for approval established in this administrative regulation.
- (5) The provider shall receive a copy of the external review team's report and may file a response to the recommendation.
- (6)
 - (a) The recommendation from the external review team and the provider's response shall be presented to the EPSB.
 - (b) The EPSB shall consider the findings and recommendations of the external review team and make a final determination regarding the approval of the institute.

Section 5. Reconsideration.

- (1) If a provider seeks reconsideration of an EPSB decision, the provider shall submit a request within thirty (30) days of receipt of the EPSB official notification. A provider shall submit the request on the grounds that:
 - (a) A prescribed standard was disregarded;
 - (b) A procedure was not followed; or
 - (c) Evidence of compliance in place at the time of the review and favorable to the provider was not considered.
- (2) A panel of no fewer than three (3) members shall be appointed by the EPSB chair from members of the EPSB who do not have a conflict of interest regarding the provider or institute. The ad hoc committee shall recommend action on the request to the full EPSB.

Section 6. Data Reports.

- (1) The EPSB shall maintain data reports related to:
 - (a) Approval status of all EPSB approved Option 7 programs;
 - (b) Contact information for the person responsible for the institute;
 - (c) Year of last program review;
 - (d) Tables relating the institute total enrollment disaggregated by ethnicity and gender for the last three (3) years;
 - (e) Tables relating the institute faculty disaggregated by the number of full-time equivalents (FTE), ethnicity, and gender for the last three (3) years;
 - (f) Table of the number of program completers for the last three (3) years;
 - (g) Table relating pass rates on the required assessments;
 - (h) Table relating program completer satisfaction with the preparation program; and
 - (i) Table relating new teacher (under three (3) years) and supervisor satisfaction with the preparation program.
- (2) A provider shall report to the EPSB staff at the end of each school year continuous improvement efforts relating to the institute.

Section 7. Temporary Provisional Certificate.

- (1) An eligible candidate who meets the requirements of KRS 161.048(8)(a)1. through 4. and 16 KAR 2:010, Section 3(1), shall be issued a one (1) year provisional teaching certificate.
- (2) The candidate shall apply to the EPSB and provide:
 - (a) Official transcripts of all college work undertaken by the candidate establishing proof of a bachelor's degree or graduate degree and grade point average;
 - (b) Proof of a passing score on the admission assessments as established in 16 KAR 5:020, unless the applicant holds a terminal degree;
 - (c) Proof of a passing score on the academic content assessment, as established in 16 KAR 6:010, in the area in which certification is being sought;
 - (d) Verification by the institute provider of completion of half of the requisite institute hours; and
 - (e) Evidence of employment in a Kentucky school district or regionally- or nationally accredited nonpublic school in the content area of the certification.
- (3) ~~[The temporary provisional certificate may be renewed for a maximum of two (2) additional years.]~~
- ~~{(4)}~~ A candidate shall be eligible for first renewal of the temporary provisional certificate upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and:
 - (a) Verification of completion of:
 1. 240 hour institute for elementary or K-12 certification; or
 2. 180 hour institute for middle or high school certification; and
 - (b) Evidence of employment in a Kentucky school district or regionally- or nationally accredited nonpublic school in the content area of the certification.
- ~~(4)~~ A candidate shall be eligible for subsequent renewal of the temporary provisional certificate upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and successful completion of the following requirements:
 - (a) Evidence of employment in a Kentucky school district or regionally- or nationally accredited nonpublic school in the content area or areas indicated on the initial certificate; and
 - (b) Recommendation from the institute provider based on continued enrollment, completion of mentoring and progress towards the completion of the program.
- ~~(5)~~ If a candidate is required to complete an internship in accordance with KRS 161.030, they shall complete the required assessments as established in 16 KAR 6:010 prior to

issuance of the final temporary provisional and shall complete the internship during the final temporary provisional certificate.

(6) A candidate for exceptional children or interdisciplinary early childhood certification may only renew the temporary provisional certificate two (2) times.

(7) All other candidates may renew the temporary provisional certificate four (4) times.

Section 8. Professional Certificate.

(1) Upon completion of all program requirements established in this administrative regulation, the applicant may apply for the professional certificate.

(2) Prior to issuance of the professional certificate, the candidate shall obtain a passing score on the pedagogy assessment, as established in 16 KAR 6:010, for the certificate being sought.

(3) Upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and verification that a candidate has met all eligibility requirements for certificate issuance, the EPSB shall issue the candidate a professional certificate.

Section 9. Incorporation by Reference.

(1) "Guidelines for Submitting an Application to Provide an Alternative Route to Certification Institute (Option 7)", 2022, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JUSTIN MITCHELL, Board Chair

APPROVED BY AGENCY: April 10, 2023

FILED WITH LRC: April 26, 2023 at 3:00 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on July 24, 2023, at 10:00 a.m. in the State Board Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard 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 the proposed administrative regulation. Written comments shall be accepted through July 31, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Todd Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321; email regcomments@education.ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Todd Allen

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes the standards and procedures of the Option 7 institute route to certification.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to set the standards and procedures for the Option 7 institute route to certification.

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

KRS 161.028 requires the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining a teaching certificate. KRS 161.048(8) creates the Option 7 alternative route to certification and KRS 161.048(1)(e) requires the Education Professional Standards Board to promulgate administrative regulations establishing standards and procedures for the alternative certification options.

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

This administrative regulation delineates the requirements for providing an Option 7 alternative route to certification program as well as the requirements for candidates of the route to obtain certification.

(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 extends the renewals for the temporary provisional certificate under the Option 7 alternative route to teacher certification from two (2) renewals to four (4) renewals unless the candidate is pursuing certification to teach exceptional children or interdisciplinary early childhood education.

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

This amendment is necessary to comply with recent amendments to KRS 161.048(8) created by Senate Bill 49 from the 2023 Legislative Session. It extends the renewal of the one-year temporary provisional certificate from two (2) renewals to four (4) renewals unless the candidate is pursuing certification to teach exceptional children or interdisciplinary early childhood education.

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

The amendment conforms to the authorizing statutes by extending the renewal period for the Option 7 alternative route to certification but complies with federal limitations for teachers of exceptional children under the Individuals with Disabilities Education Act. 34 C.F.R. § 300.156 (c)(2)(i)(C), provides that those teaching under alternative certifications can only assume functions as a special education teacher for a maximum of three years.

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

This amendment will set the requirements for the renewal of the Option 7 alternative route to teacher certification.

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

171 Kentucky school districts, 31 Institutions of Higher Education with and approved educator preparation program, and applicants for certification.

(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:

Individuals wishing to utilize the extended renewal of the temporary provisional certificate will have to maintain employment with a district and progress towards completion of the Option 7 program. Districts will have to provide the EPSB with verification of continued employment, and the Option 7 provider will have to base any recommendation for renewal of the temporary provisional certificate on continued enrollment, completion of mentoring and progress towards the completion of the program.

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

There is no fee established by the Education Professional Standards Board in this regulation.

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

Those pursuing Option 7 certification will have an extended period to complete the alternative route. Districts can also employ individuals under this route on a temporary provisional certificate for two additional years unless the teacher is pursuing certification for teaching exceptional children or interdisciplinary early childhood education.

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

(a) Initially:

There are no costs expected to implement this amendment.

(b) On a continuing basis:

There are no expected continuing costs with this amendment.

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

General Fund and certification fees collected pursuant to 16 KAR 4:040.

(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:

At this time, it is not expected that an increase in fees or funding will be necessary for the Education Professional Standards Board to implement this administrative regulation.

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

Certification fees are established by 16 KAR 4:040. No additional fees are established by this regulation.

(9) TIERING: Is tiering applied?

Tiering is not applicable to the requirements of this regulation.

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?

The Education Professional Standards Board, public-school districts, and public institutions of higher education with approved educator preparation programs.

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

KRS 161.028, KRS 161.030, KRS 161.048, 34 C.F.R. § 300.156 (c)(2)(i)(C).

(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 will not generate any revenue for the Education Professional Standards Board in the first year. This will not generate revenue for participating school districts but may generate revenue in the form of tuition for participating institutions of higher education.

(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?

Each applicant for certification through this route will have to pay the certification fee established in 16 KAR 4:040. In the past, this route has not garnered much interest so it is unknown how many applications will be received through it. Certification fees are a part of the Education Professional Standards Board's restricted funds, that in accordance with KRS 161.028 (1)(m) can be used towards the costs of issuance, reissuance, and renewal of certificates, and the costs associated with disciplinary action against a certificate holder. In subsequent years, this will not generate revenue for participating school districts but may generate revenue in the form of tuition for participating institutions of higher education.

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

There are no additional costs expected with this amendment.

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

There are no additional costs expected with this amendment.

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:

At this time, it is unknown how many future educators will pursue extended renewal through this route. Once an applicant completes the route and is ready to apply for full certification, they are required to pay the certification fee established in 16 KAR 4:040. The certification fees collected for these applications will offset the costs of renewal.

(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?

None anticipated.

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

None anticipated.

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

There are no costs created by this amendment.

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

There are no costs created by this amendment.

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

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(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)] There is not an expected major economic impact from this regulation as it does not create costs for the Education Professional Standards Board or the regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate.

34 C.F.R. § 300.156 (c)(2) establishes standards for a teacher participating in an alternate route to special education certification program to meet personnel qualifications under the Individuals with Disabilities Education Act.

(2) State compliance standards.

The standards for Option 7 contained in this administrative regulation comply with the requirement in 34 C.F.R. § 300.156 (c)(2) because candidates using the alternative pathway to obtain special education certification will receive high-quality professional development, participate in a program of intensive supervision that consists of structured guidance and regular ongoing support, assume functions as a teacher only for a specified period not to exceed three years, and demonstrate satisfactory progress toward full certification.

(3) Minimum or uniform standards contained in the federal mandate.

34 C.F.R. § 300.156 (c)(2) requires teachers participating in an alternate route to special education certification program to receive high-quality professional development, participate in a program of intensive supervision that consists of structured guidance and regular ongoing support, assume functions as a teacher only for a specified period not to exceed three years, and demonstrate satisfactory progress toward full certification as prescribed by the State.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?

This regulation will not impose stricter requirements, or additional or different responsibilities or requirements. All candidates in the Option 7 alternative route to certification will receive high-quality professional development, participate in a program of intensive supervision that consists of structured guidance and regular ongoing support, and demonstrate satisfactory progress toward full certification. The regulation will limit temporary provisional certification for special education instructors to three years as required by the federal regulation.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

Not applicable.