

**EDUCATION AND LABOR CABINET**  
**Education Professional Standards Board**  
**(Amendment)**

**16 KAR 4:020. Certification requirements for teachers of exceptional children.**

RELATES TO: KRS 157.200, 157.250, 161.020, 161.028(1), 161.030, 20 U.S.C. 1412; 34 C.F.R. 300.156

STATUTORY AUTHORITY: KRS 161.020, 161.028(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020 and 161.028 require the Education Professional Standards Board (EPSB) to establish standards and requirements for obtaining and maintaining a teaching certificate for all public-school positions, including those for teaching exceptional children. This administrative regulation establishes the certification requirements for teachers of exceptional children.

**Section 1. Certification Requirements for Assignment of Special Education Personnel.**

- (1) In accordance with Chapter 2 of Title 16 of the Kentucky Administrative Regulations, the EPSB shall issue certificates for teaching exceptional children with one (1) or more of the disabilities defined in 34 C.F.R. 300.8 and 707 KAR 1:002.
- (2) A teacher holding the following certification shall be assigned to serve students with moderate and severe disabilities at any grade level: Certification for Teaching Exceptional Children – Moderate and Severe Disabilities, Grades Primary through 12.
- (3) A teacher holding the following certification shall be assigned to serve students with learning and behavior disorders:
  - (a) Certification for Teaching Exceptional Children – Learning and Behavior Disorders, Grades 8 through 12; or
  - (b) Certification for Teaching Exceptional Children – Learning and Behavior Disorders, Grades Primary through 12.
- (4) A teacher holding the following certification shall be assigned to serve students with visual impairments at any grade level: Certification for Teaching Exceptional Children – Visually Impaired, Grades Primary through 12.
- (5) A teacher holding the following certification shall be assigned to serve students with hearing impairments at any grade level:
  - (a) Certification for Teaching Exceptional Children – Hearing Impaired, Grades Primary through 12; or
  - (b) Certification for Teaching Exceptional Children – Hearing Impaired with Sign Proficiency, Grades Primary through 12.
- (6) A teacher holding the following certification shall be assigned to serve students with speech and language and communications disorders: Certification for Teaching Exceptional Children – Communication Disorders, Grades Primary through 12.
- (7) A teacher holding the following certification shall be assigned to serve students with orientation and mobility disabilities: Certification for Teaching Exceptional Children – Orientation and Mobility Specialist.

**Section 2. ~~[Waiver]~~ Requests for Program Teacher Assignment.**

- (1) Local school districts which need to assign teachers to teach exceptional classes or students, with the exception of students receiving services for communication disorders, not consistent with the teacher's certification for teaching exceptional children shall request approval~~[a waiver]~~ for the program teacher assignment through the Kentucky Department of Education's (KDE) Office of Special Education and Early Learning and ~~[be approved by]~~ the EPSB.
- (2) The EPSB and KDE shall give consideration for this approval based on information provided by the local school district in its request. The request shall include:

- (a) The teacher's name, school assignment, certificate number, class plan assignment, and current certification;
  - (b) A listing of pupils currently served by category of exceptionality;
  - (c) A listing of pupils the district is requesting to be served by exceptionality; and
  - (d) Any other relevant information which the district wishes to have considered in the decision-making process.
- (3) Following consideration by the KDE and ~~approval by~~ the EPSB, the local district shall be promptly notified of the decision on the waiver request.
- (4) The assignment shall not exceed the length of the school year for which it was initiated.

*JUSTIN MITCHELL, Board Chair*

APPROVED BY AGENCY: December 11, 2023

FILED WITH LRC: December 15, 2023 at 11:45 a.m.

**PUBLIC HEARING AND COMMENT PERIOD:** A public hearing on this proposed administrative regulation shall be held on February 28, 2024, 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 February 29, 2024. 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](mailto: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 certification requirements for teachers of exceptional children.

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

This administrative regulation is necessary to set the certification requirements for teachers of exceptional children and the procedures for requesting a program teacher assignment.

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

KRS 161.020 requires a certificate of legal qualifications for any public-school position for which a certificate is issued. KRS 161.028 requires the EPSB to establish standards and requirements for obtaining and maintaining a teaching certificate. This administrative regulation establishes the certification requirements for teachers of exceptional children.

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

This administrative regulation delineates the certification requirements for the assignment of special education personnel and sets the procedures for requesting program teacher assignments.

**(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 updates the terminology in Section 2 of the regulation to more adequately reflect the process of program teacher assignments.

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

This amendment is necessary to remove the term waiver which does not apply to the program teacher assignment.

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

The amendment removes inaccurate terminology and reflects the correct name of the program teacher assignment.

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

This amendment updates the terminology in Section 2 of the regulation to more adequately reflect the process of program teacher assignments.

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

171 Kentucky school districts and educators seeking the program teacher assignment.

**(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:**

This amendment will not require any additional actions from the regulated entities.

**(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):**

Compliance will result in approval of the requested program teacher assignment.

**(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.

**(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:**

An increase in fees or funding will not 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:**

No fees are established or increased by this regulation.

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

Tiering is not applicable to the requirements of this regulation because the standards apply to all districts and teachers seeking the program teacher assignment.

## 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 EPSB and public-school districts.

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

KRS 161.020, KRS 161.028.

**(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?**

The amendment to this administrative regulation is not expected to generate any revenue during the first year.

**(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?**

The amendment to this administrative regulation is not expected to generate any revenue during subsequent years.

**(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:**

The EPSB is not imposing or collecting any fees under this administrative regulation. The process for program teacher assignments is already established, and no additional costs to that process are established by this amendment.

**(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 additional costs for the EPSB or the regulated entities.