EDUCATION AND LABOR CABINET
Education Professional Standards Board
(Amendment)

16 KAR 2:140. Probationary certificate for teachers of exceptional children and interdisciplinary early childhood education[, birth to primary].

RELATES TO: KRS 157.3175, 161.020, 161.030, 34 C.F.R. 300.156 (c)(2)[34 C.F.R. 200.56, 20 U.S.C. 7801(23)]

STATUTORY AUTHORITY: KRS 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020 and 161.030 require that a teacher and other professional school personnel hold a certificate of legal qualification for the respective position to be issued upon completion of a program of preparation prescribed by the Education Professional Standards Board (EPSB). KRS 161.028(1)(a) requires the EPSB[Education Professional Standards Board] to establish the standards for obtaining and maintaining a teaching certificate. KRS 161.028(1)(b) requires that a teacher education institution be approved for offering the preparation program corresponding to a particular certificate on the basis of standards and procedures established by the EPSB[Education Professional Standards Board]. KRS 161.028(1)(f) requires the EPSB[Education Professional Standards Board] to issue and renew any certificate. This administrative regulation establishes a plan for recruiting certified teachers[qualified individuals] into positions for teachers of exceptional children and interdisciplinary early childhood education.[ages birth to primary age.]

Section 1. Requirements for Probationary Certificate for Teachers of Exceptional Children or Interdisciplinary Early Childhood Education. [Definition. "Qualified teacher" means a teacher who holds an interdisciplinary early childhood education certificate or who has received an approval as established in 16 KAR 2:040, Section 5, unless the superintendent of the employing school district has documented evidence that the teacher is unsuitable for appointment.]

[Section 2.] [If a qualified teacher is not available for the position as teacher of children birth to primary age, as attested by the local school superintendent, the superintendent, on behalf of the local board of education, may request a]

(1) A one (1) year probationary certificate for teachers of exceptional certificate or interdisciplinary early childhood education may[certificate] be issued to a candidate who:

(a) Holds a Kentucky teaching certificate; and

(b) Is enrolled in an EPSB approved educator preparation program for the certification area for which application is being made. [as provided in this administrative regulation.]

[(1)] [A prerequisite for a one (1) year probationary interdisciplinary early childhood education certificate for teaching children, birth to primary age, shall be:]

[(a)] [A certificate or statement of eligibility in kindergarten or elementary special education; or]

[(b)] [A certificate in another area, if the applicant has had one (1) year of teaching children birth through age five (5) years.]

[(2)] [The applicant shall have:]

[(a)] [Enrolled in an approved preparation program for certification in interdisciplinary early childhood education established in 16 KAR 2:040; and]

[(b)] [Completed a minimum of nine (9) semester hours of credit in the development of children below primary age or in special education.]

[(3)] [The requirements established in subsection (2) of this section shall be verified by submission of a curriculum contract completed by the teacher education institution with

~~an interdisciplinary early childhood education preparation program approved pursuant to 16 KAR 2:040.]~~

~~[(4)] [The applicant shall complete twelve (12) clock hours of training established by the Kentucky Department of Education prior to employment.]~~

~~[(5)] [The applicant shall complete an additional six (6) clock hours of training established by the Kentucky Department of Education within the first three (3) months of employment.]~~

~~[(6)] [To apply for the probationary interdisciplinary early childhood education certificate, the applicant shall submit a completed Form CA-BP to the Education Professional Standards Board.]~~

(2) Application for a probationary certificate for a teacher of exceptional children or interdisciplinary early childhood education shall:

(a) Contain a recommendation from the educator preparation provider for the grade level and specialization of the probationary certificate; and

(b) Be in compliance with 16 KAR 2:010, Section 3(1).

(3) The probationary certificate for a teacher of exceptional children or interdisciplinary early childhood education shall be issued in accordance with the grade level and specialization as recommended by the educator preparation provider and valid for employment consistent with the area of certification being sought through the preparation program.

Section 2. ~~[Section 3.]~~ Requirements for Renewal of a Probationary Certificate for Teachers of Exceptional Children or Interdisciplinary Early Childhood Education~~[Certificate]~~.

(1) Upon application to the EPSB, a candidate shall be eligible for renewal of the probationary certificate for a teacher of exceptional children if he or she is in compliance with 16 KAR 2:010, Section 3(1), and has a recommendation from the educator preparation provider based on continued enrollment and progress towards the completion of the preparation program.

(2) The probationary certificate for teachers of exceptional children or interdisciplinary early childhood education may be renewed a maximum of two (2) times. ~~[The first renewal of the probationary interdisciplinary early childhood education certificate shall be for one (1) year based upon:]~~

~~[(a)] [Evidence of employment in a Kentucky school district or nonpublic school as a teacher of children ages birth to primary;]~~

~~[(b)] [Completion of at least six (6) semester hours or its equivalent from the interdisciplinary early childhood education preparation program as approved pursuant to 16 KAR 2:040 and indicated on the teacher's curriculum contract; and]~~

~~[(c)] [Successful completion of the Kentucky Teacher Internship Program established in 16 KAR 7:010. A teacher who has successfully completed the Kentucky Teacher Internship Program prior to issuance of the initial probationary certificate or who is not required to complete the internship program under the requirements for out-of-state teachers established in KRS 161.030(5) shall not be required to complete the internship program again while serving on the probationary certificate.]~~

~~[(2)]~~

~~[(a)] [Subsequent one (1) year renewals of the probationary interdisciplinary early childhood education certificate shall require at least six (6) semester hours or its equivalent of additional credit from the interdisciplinary early childhood education preparation program as approved pursuant to 16 KAR 2:40 and as indicated on the teacher's curriculum contract.]~~

~~[(b)] [The total validity period of the probationary certificate for interdisciplinary early education shall not exceed three (3) years in compliance with the No Child Left Behind Act of 2001, 20 U.S.C. 7801(23) and 34 C.F.R. 200.56.]~~

(3) Upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and successful completion of all program requirements for the approved exceptional children or interdisciplinary early childhood education preparation program ~~[established in 16 KAR 2:040,]~~including successful completion of all required assessments established in 16 KAR 6:010, a professional certificate for teaching exceptional children established in 16 KAR 2:010 or interdisciplinary early childhood education, birth to primary, established in 16 KAR 4:020 and valid for five (5) years shall be issued.

(4) Program requirements for completion of the exceptional children interdisciplinary early childhood education preparation program while serving on the probationary certificate established in this administrative regulation shall not include student teaching.

~~[Section 4.] [Incorporation by Reference.]~~

~~[(1)] [Form CA-BP, 08/15, Education Professional Standards Board, is incorporated by reference.]~~

~~[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 100 Airport Road, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

JUSTIN MITCHELL, Board Chair

APPROVED BY AGENCY: May 14, 2024

FILED WITH LRC: May 15, 2024 at 11:30 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on July 29, 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 July 31, 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.

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 qualifications and procedures for probationary certificates for teachers of exceptional children and interdisciplinary early childhood education.

(b) The necessity of this administrative regulation:
This administrative regulation is necessary to set the certification requirements for probationary certificates for teachers of exceptional children and interdisciplinary early childhood education.

(c) How this administrative regulation conforms to the content of the authorizing statutes:
KRS 161.020, 161.028 and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Education Professional Standards Board.

(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 probationary certificate for teachers of exceptional children and interdisciplinary early childhood education.

(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 proposed amendment streamlines the language in the regulation to make clear that any Kentucky certified teacher is eligible for a probationary certificate upon enrollment in an approved educator preparation program for teachers of exceptional children or interdisciplinary early childhood education, removes the requirement that the candidate complete coursework prior to issuance of the certificate and removes the reference to an outdated application form. The amendment will remove the need for 16 KAR 2:160, allowing the EPSB to withdraw that regulation and cover all probationary certificates for teaching special education in one regulation.

(b) The necessity of the amendment to this administrative regulation:
This amendment is necessary to allow candidates to be issued probationary certificates upon enrollment in an approved educator preparation program for teachers of exceptional children or interdisciplinary early childhood education.

(c) How the amendment conforms to the content of the authorizing statutes:
The amendment sets the requirements for issuance of the probationary certificate, removes the condition that the candidate have a job offer, and removes references to the Kentucky Teacher Internship Program which was removed from statute by Senate Bill 265 during the 2024 Legislative Session.

(d) How the amendment will assist in the effective administration of the statutes:
This amendment streamlines the language in the regulation to make clear that any Kentucky certified teacher is eligible for a probationary certificate upon enrollment

in an approved educator preparation program for teachers of exceptional children or interdisciplinary early childhood education.

(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 an approved educator preparation program, and those pursing probationary 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:

This amendment will not require any additional actions from the regulated entities. It removes the reference to an outdated application form and removes the requirements that an applicant possess a job offer or complete coursework prior to issuance of the probationary certificate. Applicants for the probationary certificate will have to enroll in an approved educator preparation program. Institutions of higher education will have to verify enrollment.

(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 issuance of a probationary certificate to eligible candidates sooner. This will assist districts in filling vacancies with certified teachers.

(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 as staff and structures are already in place to issue probationary certificates.

(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 teachers seeking probationary certification for teaching exceptional

children or interdisciplinary early childhood education.

FISCAL IMPACT STATEMENT

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

KRS 161.020, KRS 161.028, KRS 161.030, 34 C.F.R. § 300.156.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions:

The Education Professional Standards Board.

(a) Estimate the following for the first year:

Expenditures:No additional expenditures are expected to be needed since the systems and staff are already in place for processing applications and issuing probationary certificates.

Revenues:The amendment to this administrative regulation is not expected to generate any revenue during the first year as this regulation does not create fees and there are no fees associated with probationary certificates.

Cost Savings:No cost savings are expected with this amendment.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

Expenditures, revenues and cost savings are not expected to differ in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):

Public-school districts.

(a) Estimate the following for the first year:

Expenditures:There are no expected expenditures for districts as there are no costs associated with the probationary certificates.

Revenues:This regulation sets the standards for the probationary certificate for teachers of exceptional children or interdisciplinary early childhood education. It will not generate revenue for districts.

Cost Savings:There may be some cost savings in the form of staff time, since applicants no longer have to have an offer of employment prior to issuance of the probationary certificate, districts will not have to initiate the application for the probationary certificate.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

The expenditures, revenues and cost savings are not expected to differ in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3):

Applicants for probationary certificates for teaching exceptional children or interdisciplinary early childhood education.

(a) Estimate the following for the first year:

Expenditures:There are no expected expenditures for applicants as there are no costs associated with the probationary certificates.

Revenues:This regulation sets the standards for the probationary certificate for teachers of exceptional children or interdisciplinary early childhood education. It will not generate revenue for districts.

Cost Savings:There is no expected cost savings since there has never been a fee to applicants for probationary certificates.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?
The expenditures, revenues and cost savings are not expected to differ in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:
There is no fiscal impact as a result of the proposed amendments to this regulation. There is no financial cost to districts or applicants for probationary teaching certificates. While processing applications and issuing probationary teaching certificates does require staff time and resources from the Education Professional Standards Board, the amendments can be carried out by the existing staff and systems.

(b) Methodology and resources used to determine the fiscal impact:
The methodology and resources used to determine that there is no fiscal impact, is looking to current systems and processes to see if additional expenditures or resources are needed to carry out the amendments. Since no additional expenditures or resources are needed to carry out the amendments, and there are no fees created for districts or applicants, it was determined there is no fiscal impact.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate)
There is not an expected major economic impact from this regulation as it does not create additional costs for the Education Professional Standards Board or the regulated entities.

(b) The methodology and resources used to reach this conclusion:
The methodology and resources used to determine this is looking to current systems and processes to see if additional expenditures or resources are needed to carry out the amendments. Since no additional expenditures or resources are needed to carry out the amendments, and there are none.

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 the probationary certificate for teachers of exceptional children and interdisciplinary early childhood education contained in this administrative regulation comply with the requirement in 34 C.F.R. § 300.156 (c)(2) because candidates using this pathway to obtain special education certification will assume functions as a teacher only for a specified period not to exceed three years, and demonstrate satisfactory progress toward full certification. As probationary certificates are only available for candidates who hold a Kentucky teaching certificate, they are receiving professional development in accordance with KRS 156.095 and supervision and guidance in accordance with KRS 156.557.

(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 for probationary certification for teachers of exceptional children or interdisciplinary early childhood education 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 probationary certificates for teachers of exceptional children 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.