

EDUCATION AND LABOR CABINET
Kentucky Board of Education
Department of Education
(Amendment)

704 KAR 3:410. Preschool education program for four (4) year old children.

RELATES TO: KRS 65.250, 156.160, 157.3175, 158.032(3), 158.120, 214.034, 34 C.F.R. Part 99

STATUTORY AUTHORITY: KRS 156.070, 156.160, 157.3175

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160 authorizes the Kentucky Board of Education to promulgate administrative regulations establishing standards which school districts shall meet in student, program, service and operational performance. KRS 157.3175 authorizes preschool education programs for ~~["at risk"]~~ four (4) year old children who are at risk of educational failure and authorizes that administrative regulations be promulgated to establish eligibility criteria, program guidelines, and standards for personnel. This administrative regulation establishes the criteria for the preschool education program for ~~["at risk"]~~ four (4) year old children who are at risk of educational failure, including procedures for a grant allocation system, eligibility criteria for children to be served, guidelines for program operation, and standards for personnel.

Section 1. Definitions.

- (1) "Child~~[Day]~~ care" means the same as in 922 KAR 2:090~~[a program which is designed to supplement but not substitute for the parent's responsibility for the child's protection, development and supervision, when it is necessary or desirable for the parent or child to be out of the home for all or part of the day or night].~~
- (2) "Developmentally appropriate preschool program" means a program as defined by KRS 157.3175(2).
- (3) "Double session" means a variation of the program that operates with one (1) teacher who works with a group of children in a morning session and a different group of children in the afternoon session.
- (4) "Evidence-based" has the same meaning as in 20 U.S.C. sec. 7801(21).
- (5) "Paraprofessional" has the same meaning as in 704 KAR 3:550.
- (6) ~~[(4)]~~ "Screening" means a systematic process for determining which children from the general population may need enhancement, support, or further evaluation in a particular area and is not an initial evaluation to determine if the child is a child with a disability.

Section 2. Eligibility.

- (1) Except as provided in subsection (2) of this section, a child shall be eligible for enrollment in the preschool program if the child is:
 - (a) A resident of the district or an approved non-resident pursuant to KRS 158.120;
 - (b) Four (4) years old by August~~[October]~~ 1 of the school year; and
 - (c) Approved for free lunch based on federal free lunch criteria in effect as of the child's initial day of attendance in preschool; or
 - (d) Eligible to the extent required by the Elementary and Secondary Education Act of 1965 or its successor.
- (2) Preschool eligibility may be determined up to six ~~(6)~~~~[four (4)]~~ months prior to the start of school. Once free lunch eligibility has been approved, the child shall remain eligible for enrollment in the preschool program for the remainder of the school year.
- (3) ~~[(2)]~~ A resident child or approved non-resident child who is four (4) years old by August~~[October]~~ 1 but who is not otherwise eligible ~~[for the free lunch program]~~ may be

served if space is available.

Section 3. Grant Allocation System.

(1) A local school district shall submit a proposal to the Kentucky Department of Education to operate or oversee the operation of a developmentally appropriate preschool education program for eligible children. Each proposal shall include the requirements set forth in KRS 157.3175(5) and (6).

(2) Funding for districts shall be based on the preschool grant allocation system established in 702 KAR 3:250.

Section 4. Interagency Agreements.

(1) A preschool facility or service provided by a local school district, either directly or by contract or cooperative agreement with another provider, shall meet the requirements of this administrative regulation and all other applicable school laws and administrative regulations.

(2) A contract or cooperative agreement for operating the preschool program may be negotiated with another school district, another public agency, private school or preschool program. A nonpublic school program providing preschool services shall be approved for that purpose by the Kentucky Board of Education.

(3) A contract or cooperative agreement shall be in writing and shall include at a minimum the contents set forth in KRS 65.250.

(4) State preschool funds may be used in a private program if a signed contract or cooperative agreement is on file in the district which documents that:

(a) ~~The program is separately incorporated from a religious institution;~~

~~(b) The program maintains a nonsectarian board of directors;~~

~~(c) All proceeds and debts are the property of that corporation;~~

~~(b) (d) The program pays reasonable rent; and~~

(c) No portion of state funds are appropriated to, or used by, any church, sectarian, or denominational school in compliance with Section 189 of the Kentucky Constitution.

~~(e) The program's curriculum is not religious in nature.~~

Section 5. Enrollment.

(1) Enrollment of a child in the preschool program shall be at the discretion of the parent or legal guardian. Each local school district shall establish and maintain a continuous ~~an active~~ recruitment process which systematically assures enrollment of eligible children. Eligible children shall not be placed on a wait list. This process shall be outlined in a written plan which includes procedures for:

(a) Notification of the right to participate, presented in the parent's primary language or natural mode of communication;

(b) Identification of all eligible children regardless of race, sex, creed, color, national origin or disability ~~handicapping~~ ~~condition~~;

(c) Written documentation to demonstrate that emphasis has been given to recruiting those eligible children not currently served by a preschool program; and

(d) Contact to agencies and programs serving local preschool children or their families to encourage participation in the recruitment process, taking into account the demographic makeup of the community and the needs of the children and their families.

(2) Upon enrollment ~~Prior to attendance~~, each child shall have on file:

(a) A certified copy of the student's ~~a legal~~ birth certificate; or

(b) Other reliable proof of the student's identity and age, and an affidavit of the inability to produce a copy of the birth certificate as required by KRS 158.032(3);

(c) (b) A current immunization certificate ~~Kentucky Certificate of Immunization~~ as required by KRS 214.034;

- (d) ~~[(e)]~~ Preventative student health care examinations ~~[A medical examination]~~ meeting requirements of 702 KAR 1:160~~[704 KAR 4:020]~~ conducted within one (1) year~~[six (6) months]~~ prior to entry into the school program; and
- (e) ~~[(d)]~~ Information as to eligibility ~~[for the National School Lunch Program]~~.
- (3) An educational record shall be kept confidential according to the requirements of the Family Education Rights and Privacy Act regulations, 34 C.F.R.~~[CFR]~~ Part 99.
- (4) Daily attendance records shall be maintained and submitted through the statewide student information system~~[district's standard attendance reports or an approved, verifiable alternative method]~~. A parent or legal guardian shall be contacted with respect to an enrolled child whose participation in the program is irregular or who has been absent for four (4) consecutive program days.
- (5) Students who are eligible only as at risk of educational failure who miss sixteen (16) consecutive school days without a documented excuse may be unenrolled and remain eligible in accordance with Section 2(1) of this administrative regulation when:
- (a) The parent or guardian gives written consent; or
- (b) At least four (4) documented attempts to reengage the parent or guardian are unsuccessful.

Section 6. Program Operation.

- (1) The local school district shall select one (1) of the following program options:
- (a) Standard half-day, five (5) day a week program (single session);
- (b) Half-day, four (4) day a week program in single or double session, with the fifth day for services to children and their families, such as family~~[home]~~ visits, special experiences for children, parent training, special education and case manager tasks, or coordination of medical or social services;~~[or]~~
- (c) Full day, four (4) days a week program with the fifth day for services to children and their families, such as family visits, special experiences for children, parent training, special education and case manager tasks, or coordination of medical or social services; or
- (d) A locally-designed program approved by the Commissioner of Education before initial implementation and before the locally-designed program is amended~~[chief state school officer]~~.
- (2) If a double session program is utilized, adequate time~~[the following provisions shall be made:]~~
- ~~[(a)]~~ ~~[Time]~~ shall be allotted between sessions~~[prior to each session]~~ to allow staff to prepare for the session as well as give individual attention to children entering and leaving the program;
- (3) In all programs:
- (a) ~~[(b)]~~ Classified staff shall be provided lunch and rest times pursuant to KRS Chapter 337 ~~[Adequate break time shall be provided for staff during the course of the day];~~
- (b) Certified staff shall be provided a duty free lunch period each day pursuant to KRS 158.060;
- (c) Staff assignments shall provide time for parent involvement activities and coordination of services described in subsections (7) through (10)~~[(5) through (8)]~~ of this section; and
- (d) Maximum number of children assigned to one (1) lead teacher shall be limited to the ratio established in Section 8~~[Section 7(4)]~~ of this administrative regulation.
- (4) ~~[(3)]~~ The hours of operation ~~[of the half day program]~~ may vary but shall provide a minimum of two and one-half (2 1/2) hours of instructional~~[classroom]~~ time per day, which shall not include the time required to provide breakfast or lunch. The program

shall provide direct services for children or parents for the minimum number of teaching days set by the local school district for the school year.

~~(5) [(4)]~~ Maximum group size for eligible children shall be twenty (20) children. The staff ratio in the classroom shall consist of one (1) adult for a maximum of ten (10) children pursuant to staff qualifications established in Section ~~8~~~~[7]~~ of this administrative regulation. ~~[Consideration shall be given to increasing the number of staff or decreasing the group size depending upon the needs of the children, including the needs of children with disabilities. An]~~At no time shall one (1) adult [shall not] be left alone with more than ten (10) preschool children.~~[The local school district shall have a written policy for assistance from another adult if one (1) adult is responsible for a group of children.]~~

~~(6)~~ The local school district shall have a written policy describing:

(a) How consideration is given to increasing the number of staff or decreasing the group size depending upon the needs of the children, including the needs of children with disabilities; and

(b) How assistance from another adult is available if one (1) adult is responsible for a group of children.

~~(7) [(5)]~~ The program shall allow for active family~~[parental]~~ involvement. Consideration of the different types of family structures, such as the single parent, foster parent and extended family, shall be made when planning activities. At least the following opportunities shall be made available to parents or guardians:

(a) Participation in classroom and other preschool activities as volunteers or observers;

(b) Parent training, education or other activities which the parent has helped to develop;

(c) Working with the child in cooperation with preschool staff;

(d) Meeting with preschool and other appropriate staff regarding the child's individual needs and progress or other two (2) way communication systems developed with the parent or guardian; and

(e) Periodic family~~[home]~~ visits by preschool staff, with a minimum of two (2) visits per child per year and with the first visit conducted within sixty (60) school days after enrollment. Family visits shall be conducted in the home or at a secondary location and shall be in person unless the parent or guardian requests a virtual family visit.

~~(8) [(6)]~~ To meet the comprehensive needs of children, the program shall collaborate with medical, health, mental health and social service agencies. Information about community services, resources and facilities shall be made available to parents. Program staff shall assist ~~with~~~~[parents in]~~ coordinating interagency services for children and families.

~~(9) [(7)]~~ A local school district shall administer a valid and reliable child development screener within thirty (30) days of enrollment. The child development screener shall:~~[assure through coordination with existing medical and social services that all children participating in the program receive child development and health screening.]~~

~~[(a)] [Health screening shall include growth assessment, vision and hearing screening, assessment of current immunization status, and general health status.]~~

~~(a) [(b)] [Child development screening shall include]~~ Include screening of gross and fine motor skills, cognitive functioning, communication skills, self-help skills and social-emotional skills.

~~[(c)] [Child development screening may be accomplished through various means, including systematic observation in the classroom or other natural setting. Screening results shall not be used for determining placement or planning the curriculum.]~~

(b) Be administered by personnel trained to administer the screener;

~~[(d)] [Child development and health screening shall be completed within thirty (30) school days of enrollment by personnel trained in the procedures utilized.]~~

(c) Be tracked and documented for all four (4) year old children enrolled in the program; and

(d) Child development screening results and recommended follow-up shall be shared with the parent or guardian.

~~[(e)] [Contact shall be made with the parent or legal guardian if screening results indicate a need for further assessment by a specialist, follow-up, or referral for special education and related services or other appropriate resources.]~~

~~(10) [(8)]~~ A local school shall assist the parent or legal guardian as needed through cooperation with existing medical and social services to obtain the physical examination required of all children prior to school enrollment.

~~[(9)] [The preschool program shall include developmentally appropriate experiences in cognitive, communication, social, physical, and emotional development as well as creative expression. The preschool program shall assist young children with their intrapersonal and interpersonal skills and in maximizing self-management and independence. The program shall include appropriate learning activities and teaching techniques in accordance with each child's level of comprehension and maturation.]~~

Section 7. Learning environment.

~~(1) [(10)]~~ The program shall provide a supportive social and emotional climate which:

(a) Enhances children's understanding of themselves as individuals, and in relation to others, by providing for individual, small group, and large group activities;

(b) Gives children many opportunities for success through developmentally appropriate program activities;~~and]~~

(c) Provides an environment of acceptance which helps each child develop a positive self-concept, enhance his or her individual strengths, celebrate his or her individuality~~[build ethnic pride]~~, and facilitate social relationships;~~and[-]~~

(d) Integrates an evidence-based social and emotional supplemental curriculum that promotes social and emotional development and addresses challenging behaviors.

~~(2) [(11)]~~ The program shall promote the development of cognitive~~[intellectual]~~ skills by:

(a) Encouraging children to solve problems, initiate activities, explore, experiment, question, and gain mastery through learning by doing (concrete experiential learning);

(b) Promoting language understanding and use in an atmosphere that encourages ~~each~~ communication among children and between children and adults;

(c) Utilizing an evidence-based curriculum aligned with the domains of Kentucky's Early Childhood Standards, revised in 2021~~[in which a variety of skills are integrated into activities targeted toward the interests of children]~~;

(d) Encouraging children to organize their experiences and understand concepts;

(e) Providing developmentally appropriate instruction to support growth in the foundational skills of literacy and numeracy;

~~(f) [(e)]~~ Utilizing a language experience approach to introduce printed materials according to the individual developmental level of the child; ~~and]~~

(g) Presenting daily opportunities for interactive literacy and numeracy routines;

~~(h) [(f)]~~ Providing a daily balance of activities to include~~[in the following dimensions]~~:

1. Indoor and outdoor time;

2. Quiet and active time;

3. Individual and group time;

4. Large and small groups;

5. Child and staff initiated interactions;~~and]~~

6. Structured and play-based activities;~~[spontaneous.]~~

7. Free choice center work; and

8. Routines to establish child familiarity with the daily schedule.

~~(3) [(12)]~~ The program shall promote physical growth by:

- (a) Providing adequate indoor and outdoor space pursuant to Section 9[8] of this administrative regulation;
 - (b) Providing developmentally appropriate materials and equipment, in sufficient quantity to allow choice, and providing supervised time for children to use large and small muscles to increase their physical skills;
 - (c) Providing appropriate guidance while children use equipment and materials which promote children's physical growth;
 - (d) Providing breakfast or lunch to each eligible child, pursuant to the requirements of the National School Breakfast Program or National School Lunch Program;
 - (e) Providing developmentally appropriate information regarding nutrition, involving children as feasible in the planning and preparation of snacks and meals, and providing appropriate supervision during meals to develop language, understanding and problem-solving skills; and
 - (f) Providing developmentally appropriate information about health as an integral part of program activities.
- (4) ~~[(13)]~~ The program shall promote social skills and social interactions by:
- (a) Providing positive guidance with consistent, clear rules presented in developmentally appropriate ways; and
 - (b) Providing positive adult and peer role models, focusing on the level of the child.
- ~~[(14)] [The program shall be individualized to meet the special needs of children by:]~~
- ~~[(a)] [Having a curriculum which is relevant and reflective of the needs of the population served (such as, bilingual or bicultural, multicultural, rural, urban, or migrant);]~~
 - ~~[(b)] [Having staff and program resources reflective of the racial and ethnic population of the children in the program; and]~~
 - ~~[(c)] [Providing adaptations for children with special needs.]~~
- (5) ~~[(15)]~~ The program shall utilize developmentally appropriate materials and equipment as follows:
- (a) Furniture, equipment and materials shall be of sufficient quantity, quality and variety to meet the needs of the children and shall be arranged in a way as to facilitate learning, assure a balanced program of play-based~~[spontaneous]~~ and structured activities, and encourage self-reliance in the children. Test sheets, worksheets, coloring sheets, and workbooks~~[and ditto sheets]~~ shall not be used as they are not developmentally appropriate for preschool children.
 - (b) The equipment and materials shall be:
 1. Consistent with the specific educational objectives of the local program;
 2. Representative of the children in the program ~~[Consistent with the cultural and ethnic background of the children];~~
 3. Geared to the age, ability, and developmental needs of the children;
 4. Safe, durable, and kept in good condition;
 5. Stored in a safe and orderly fashion when not in use;
 6. Accessible, attractive, and inviting to the children; and
 7. Designed to provide a variety of learning experiences and to encourage experimentation and exploration.
- (6) ~~[(16)]~~ Space shall be arranged so that children may work individually, together in small groups, and in a large group. Space shall be arranged to provide clear pathways for children to move from one area to another.
- (7) ~~[(17)]~~ Centers or areas in the classroom shall include space for activities including art, blocks, ~~[blockbuilding, cooking, gross motor, housekeeping or]~~ dramatic play, ~~[language arts or]~~ library, manipulative materials, mathematics, technology, ~~[math or problem solving, multimedia,]~~ music, science and writing~~[or social studies, and wood working].~~
- (8) Technology centers and screen time shall:

- (a) Provide developmentally appropriate content designed as an educational supplement to help children explore, create, problem solve, interact, and learn with and from one another; and
- (b) Not substitute for active play, engagement, and interaction with other children and adults.
- (9) ~~((18))~~ Assessment of children within the preschool program shall be for the purpose of planning activities and evaluating progress, and shall not be used to restrict entry into or exit from the preschool program. The program shall include developmentally appropriate valid and reliable assessment of preschool children which:
- (a) Provides for ongoing observation, recording and evaluation of each child's growth and development for the purpose of planning activities to suit individual needs;
- ~~((b))~~ ~~[Is accomplished by observation or activity with the child in familiar structured and informal situations;]~~
- ~~((c))~~ ~~[Includes information from parents;]~~
- (b) ~~((d))~~ Is used to inform parents on a regular basis regarding the child's progress in motor, cognitive, communication, social and emotional, and adaptive skills and development; and~~[physical, intellectual, communication, social, emotional, intrapersonal, and interpersonal skills and development;]~~ and
- (c) ~~((e))~~ considers the ~~[cultural]~~ background of the child.
- (10) ~~((19))~~ Children shall not be retained in the preschool program.
- (11) ~~((20))~~ The preschool program shall provide developmentally appropriate instruction to children regarding safety procedures, such as riding the bus and emergency procedures.
- (12) ~~((21))~~ The preschool program shall utilize the local school district's current safety policies regarding accident records, medical emergency plans, fire and disaster plans, first aid, dispensing of medications, and reporting of child abuse and neglect, with modification as needed to accommodate young children.

Section 8. ~~[Section 7.]~~ Personnel.

- (1) Instructional staff in the preschool shall include the following types of personnel:
- ~~((a))~~ A lead teacher who meets the following qualifications:
- (a) ~~[1.]~~ Beginning with the 2002-2003 school year, a person who holds a certificate in accordance with KAR Chapter 16~~[or statement of eligibility for a certificate in interdisciplinary early childhood education;]~~ or has been exempted by the Kentucky Education Professional Standards Board from additional certification in order to continue teaching in an early childhood position; ~~or~~ ~~[.]~~
- (b) A school district may request approval from the Department of Education to use as the instructional lead a person who meets the preschool associate teacher qualifications and who has been continuously employed in the same district prior to school year 2004-2005 to perform paraprofessional instructional duties pursuant to 704 KAR 3:420; ~~or~~ ~~[.]~~
- ~~[2.]~~ ~~[Prior to the 2002-2003 school year, if a person meeting qualifications listed in subparagraph 1 of this paragraph is not available, interim approval shall be issued in accordance with the following criteria:]~~
- ~~[a.]~~ ~~[Personnel with a baccalaureate or higher degree in child development, early childhood education, or early childhood special education;]~~
- ~~[b.]~~ ~~[Personnel with kindergarten certification;]~~
- ~~[c.]~~ ~~[Personnel with special education certification valid for primary grades;]~~
- ~~[d.]~~ ~~[Personnel with a master's degree, bachelor's degree or licensure in communication disorders, speech and language, or speech pathology;]~~
- ~~[3.]~~ ~~[If a person who meets the qualifications established in subparagraph 1 or 2 of this paragraph is not available, a local board may develop a training plan in early~~

~~childhood education and request approval for an individual with a minimum of one (1) year of early childhood training or experience and a degree in family studies, social work, psychology, nursing, or other related area, including education if not specified under subparagraph 1 or 2 of this paragraph.]~~

~~[4.] [A local board may request approval for a person who meets the preschool associate teacher qualifications to perform paraprofessional instructional duties pursuant to 704 KAR 3:420; and]~~

~~[(b)] [A teaching assistant who is an instructional aide.]~~

(2) Lead teachers employed pursuant to subsection (1)(a)2 of this section shall not serve as a lead teacher in any district after initial employment is terminated.

(3) [(2)] A preschool classroom shall have at least one (1) lead teacher. A paraprofessional[teaching assistant] or other professional personnel shall be used in addition to the lead teacher to provide an appropriate adult-child ratio in each classroom, pursuant to Section 6(5)[6(4)] of this administrative regulation. A lead teacher shall provide instructional services to a maximum of twenty (20) children, within the parameters of subsection (5)[(4)] of this section.

(4) [(3)] A lead teacher shall be responsible for organizing the classroom, implementing[providing] a developmentally appropriate curriculum and assessments, and supervising and assigning the activities of paraprofessionals[teaching assistants], student helpers, and other noncertified staff in the preschool program[class]. A lead teacher shall be responsible for at least the following parental activities, described in Section 6(7)[6(5)] of this administrative regulation:

(a) Parent participation in the classroom;

(b) Parent-teacher conferences; and

(c) A minimum of two (2) family[home] visits per child per year.

(5) [(4)] A local school district shall assign professional staff, including but not limited to the lead teacher, to coordinate program operations[conduct parental involvement activities and coordination with health and social services,] pursuant to Section 6(7) through (10)[(5) through (8)] of this administrative regulation. A lead teacher who has been assigned preschool coordination responsibilities pursuant to Section 6(7) through (10) of this administrative regulation[related to parent involvement activities and health and social services] and who operates double sessions shall be considered to be going beyond responsibilities set out in subsection 4[(3)] of this section and shall provide services to a maximum of thirty-four (34) children total, within the adult-child ratio per classroom established in Section 6(5)[6(4)] of this administrative regulation.

(6) [(5)] A lead teacher shall participate in the required number of professional development days applicable to certified personnel in the local school district. A paraprofessional[teaching assistant] shall participate annually in a minimum of eighteen (18) hours of professional development. Professional development activities shall be related to the nature and needs of young children and their families, including those with special needs. Records shall be kept for all personnel documenting participation in professional development training.

(7) [(6)] At all times, a program shall have a staff person on the premises who is trained in emergency first aid and cardiopulmonary resuscitation (CPR).

Section 9. [Section 8.] Facilities, Safety, Health, and Transportation.

(1) A preschool program shall operate in compliance with administrative regulations promulgated by the Kentucky Board of Education in areas including facilities, safety, health, and transportation.

(2) If a program is extended to provide child care before or after the standard operating hours of the preschool program, that portion of the program [shall be considered day care

~~and~~ shall meet the standards for ~~child[day]~~ care facilities promulgated by the Cabinet for Families and Children and established in ~~[905 KAR Chapter 2 and]~~ 922 KAR Chapter 2.

(3) A local school district may provide transportation to preschool children. If a local school district transports preschool children, services shall be operated in conformance with administrative regulations pertaining to the transportation of school children, as established in 702 KAR Chapter 5.

(4) Regardless of whether transportation is provided, a local school district shall make provisions for safe arrival and departure of all children, with a written policy~~[procedure]~~ for ensuring that preschool children are:~~[released to the parent or a person authorized by the parent.]~~

(a) Supervised by a school employee during arrival and departure; and

(b) Released to the parent, guardian, or a person authorized by the parent or guardian.

Release shall be hand-to-hand when a local district transports preschool children.

Section 10. [Section 9.] Program Evaluation.

(1) At least annually, parents, staff and other professionals shall be involved in evaluating the local preschool program's effectiveness in meeting the needs of participating children.

(2) The program evaluation shall address:

(a) Rate of participation by eligible children;

(b) Parental satisfaction with services provided;

(c) Growth ~~[Success]~~ of participating children as they complete the preschool program and enter~~[progress through]~~ the primary school program; and

(d) Adherence to state administrative regulations on the subject area.

(3) A local school district preschool program shall be subject to evaluation by the Department of Education to determine the effectiveness of the statewide preschool program and local school district adherence to this administrative regulation.

Section 11. Incorporation by Reference.

(1) Kentucky's Early Childhood Standards, Revised 2021, is hereby incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky Department of Education, Office of Special Education and Early Learning, 300 Sower Blvd. 4th floor, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m. eastern time. This material may also be accessed on the Kentucky Department of Education website at: <https://www.education.ky.gov/districts/legal/Pages/Kentucky-Revised-Statutes.aspx>

COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

DR. ROBBIE FLETCHER, Commissioner

SHARON PORTER ROBINSON, Chair

APPROVED BY AGENCY: October 6, 2025

FILED WITH LRC: October 7, 2025 at 12:00 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on December 23, 2025, at 10am, in Room 516, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. 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. 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 December 31, 2025. 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: Todd G. 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 G. Allen

Subject Headings:Education: Elementary, Child Care, Children and Minors, Disability and Disabilities, Education Professional Standards

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes the criteria for the preschool education program for 4-year-old children who are at risk of educational failure, including procedures for a grant allocation system, eligibility criteria for children to be served, guidelines for program operation, and standards for personnel.

(b) The necessity of this administrative regulation:

KRS 157.3175 requires the Kentucky Board of Education (KBE) to adopt administrative regulations establishing the guidelines for the preschool education program. Without this regulation, local school districts will not have established guidelines for implementing the preschool education program.

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

KRS 157.3175 specifically requires the Kentucky Board of Education to adopt administrative regulations establishing the guidelines for the preschool education program.

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

704 KAR 3:410 is currently in effect and establishes guidelines for the preschool education program.

(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:

Definitions were added, a large section was split into two sections, updates were made to language regarding interagency agreements, additions were made to align with current statutes and regulations, provisions were added to increase flexibility for some requirements, requirements were added to include valid and reliable screeners and assessments and evidence-based curricula, Kentucky's Early Childhood Standards were incorporated by reference, and increased opportunities to develop foundational literacy and numeracy skills were added.

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

This regulation is being amended to avoid expiration. The date on which children must turn three or four to be eligible for the preschool education program is not in alignment with the date of eligibility in the statute, due to statutory changes made in 2013. Several areas were identified where statutory alignment and clarification were needed.

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

The amendments change the date on which children must turn three or four to be eligible for the preschool education program from October 1 to August 1. Amendments also conform to other areas of statute, such as required documentation for school enrollment and break and lunch times for classified and certified staff.

(d) How the amendment will assist in the effective administration of the statutes:
The amendments provide clarification and remove outdated information.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, 2021 Acts Chapter 167.

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

171 school districts, the Kentucky School for the Blind, and the Kentucky School for the Deaf are affected by this administrative regulation.

(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment:

Local school districts will need to review existing policies and procedures to ensure their preschool program aligns with statutory and regulatory requirements, as well as ensure they are using valid and reliable screeners and assessments and evidence-based curricula.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4):

Costs to local school districts are in the form of staff time and instructional materials needed to comply with the regulation. It has not been determined how many districts will need to make changes to instructional materials. We believe most are already using valid and reliable screeners and assessments, as well as evidence-based curricula.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4):

Amendments regarding valid and reliable screeners and assessments, evidence-based curricula, and developmentally appropriate instruction in foundational literacy and numeracy skills aim to increase school readiness for children who attend the preschool education program and prepare them for a successful transition into the primary program.

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

(a) Initially:

Existing staff currently implement this administrative regulation, and no fiscal impact is anticipated.

(b) On a continuing basis:

Existing staff currently implement this administrative regulation, and no additional fiscal impact is anticipated through this amendment.

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

Currently, general funds appropriated by the General Assembly allow the Kentucky Department of Education to implement this administrative regulation and no additional fiscal impact is anticipated through this amendment.

(8) 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:

This administrative regulation does not establish or increase any fees. Costs to the Kentucky Department of Education are in the form of staff time monitoring the preschool education program. At this time, an increase in staff time is not anticipated.

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

There are no fees associated with this administrative regulation.

(10) TIERING: Is tiering applied?

Tiering is not applied. The regulation applies uniformly.

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 156.070, 156.160, 157.3175.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act:

1990 Ky. Acts ch. 476, Pt. I, sec. 16, effective July 13, 1990.

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

The Kentucky Department of Education, through the Kentucky Board of Education is the promulgating agency.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year:Costs to the Kentucky Department of Education are in the form of staff time monitoring the preschool education program. At this time, an increase in staff time is not anticipated.

For subsequent years:Costs to the Kentucky Department of Education are in the form of staff time monitoring the preschool education program. At this time, an increase in staff time is not anticipated.

2. Revenues:

For the first year:This regulation does not generate revenue.

For subsequent years:This regulation does not generate revenue.

3. Cost Savings:

For the first year:Amendments to this regulation are not expected to result in cost savings for the Kentucky Department of Education.

For subsequent years:Amendments to this regulation are not expected to result in cost savings for the Kentucky Department of Education.

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

Local school districts, the Kentucky School for the Blind, and the Kentucky School for the Deaf.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year:Costs to local school districts are in the form of staff time and instructional materials needed to comply with the regulation. It has not been determined how many districts will need to make changes to instructional materials. We believe most are already using valid and reliable screeners and assessments, as well as evidence-based curricula.

For subsequent years:Costs to local school districts are in the form of staff time and instructional materials needed to comply with the regulation. It has not been determined how many districts will need to make changes to instructional

materials. We believe most are already using valid and reliable screeners and assessments, as well as evidence-based curricula.

2. Revenues:

For the first year:Amendments to this regulation are not expected to generate revenue.

For subsequent years:Amendments to this regulation are not expected to generate revenue.

3. Cost Savings:

For the first year:Amendments to this regulation are not expected to result in cost savings for local school districts.

For subsequent years:Amendments to this regulation are not expected to result in cost savings for local school districts.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a):

None.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year:Not applicable.

For subsequent years:Not applicable.

2. Revenues:

For the first year:Not applicable.

For subsequent years:Not applicable.

3. Cost Savings:

For the first year:Not applicable.

For subsequent years:Not applicable.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation:

Costs to the Kentucky Department of Education are in the form of staff time monitoring the preschool education program. At this time, an increase in staff time is not anticipated. Costs to local school districts are in the form of staff time and instructional materials needed to comply with the regulation. It has not been determined how many districts will need to make changes to instructional materials. We believe most are already using valid and reliable screeners and assessments, as well as evidence-based curricula.

(b) Methodology and resources used to reach this conclusion:

The Kentucky Department of Education considered current data collected from local school districts regarding valid and reliable assessments, and developmentally appropriate curricula aligned with Kentucky's Early Childhood Standards.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14):

This administrative regulation will not have a "major economic impact", as defined by KRS 13A.010(14).

(b) The methodology and resources used to reach this conclusion:

The Kentucky Department of Education considered current data collected from local school districts regarding valid and reliable assessments, and developmentally appropriate curricula aligned with Kentucky's Early Childhood Standards.