

STATEMENT OF EMERGENCY

781 KAR 1:030E.

This emergency administrative regulation is being promulgated pursuant to KRS 13A.190(1)(a) and is necessary to address an imminent threat to public welfare, ensure continued compliance with federal vocational rehabilitation requirements, and implement the mandates of SB 103 RS 25. The Office of Vocational Rehabilitation (OVR) is currently operating under an Order of Selection (OOS) because available resources are insufficient to serve all eligible individuals with disabilities. Under the existing regulatory framework, OVR cannot correctly assign priority categories or administer OOS in a manner consistent with 34 C.F.R. §§ 361.36, 361.41, and 361.42. As a result, individuals with the most significant disabilities are being placed on waitlists under outdated and noncompliant criteria. Immediate regulatory correction is required to avoid continued improper prioritization and further delay in service delivery. Immediate action is also required to prevent jeopardizing federal funding for the OVR program. Continued administration of an unlawful OOS constitutes federal noncompliance and poses a direct risk to Kentucky's ability to draw federal vocational rehabilitation funds. This creates an imminent threat to public welfare, as OVR is currently unable to serve new eligible individuals and cannot release any of the approximately 3,000 individuals now waiting for services until the regulations are corrected. In addition, SB 103 RS 25 amended KRS 151B.195 to require OVR to promulgate administrative regulations that established a preference for in-state services and set forth its policy and procedure used to establish service fees. Ordinary administrative regulation procedures are inadequate to prevent this harm, because the delay inherent in the ordinary process would prolong improper administration of the OOS and extend service denials for individuals with the most significant disabilities. Therefore, this emergency regulation is necessary to establish the legally required framework for OVR to comply with federal and state law and to protect public welfare.

This emergency regulation will be replaced by an ordinary administrative regulation because it is necessary for agency operations and to ensure the agency's policies are more transparent. The companion ordinary administrative regulation is identical to this emergency regulation.

ANDY BESHEAR, Governor

VICKIE WISE, Deputy Secretary

EDUCATION AND LABOR CABINET
Department of Workforce Development
Office of Vocational Rehabilitation
(Emergency Amendment)

781 KAR 1:030E. Order of selection.

RELATES TO: KRS 151B.190, 34 C.F.R. 361.36, 361.53, 361.54, 29 U.S.C. 721(a)(5), (15), (21)(A)

STATUTORY AUTHORITY: KRS 151B.185(2), (3), 151B.195(1), 29 U.S.C. 709(c), 34 C.F.R. 361.36, 361.54

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.195(1) requires the Executive Director of the Office of Vocational Rehabilitation to promulgate administrative regulations governing the services, personnel, and administration of the State Vocational Rehabilitation Agency. 34 C.F.R. 361.36(c) requires the office to determine, prior to the beginning of each fiscal year, whether to establish and implement an order of selection for state vocational rehabilitation services. 34 C.F.R. 361.36(d) requires federal guidelines for the imposition of an order of selection. This administrative regulation establishes when an order of selection shall be applied to the provision of vocational rehabilitation services in order to distribute limited funds more equitably over the entire population of otherwise eligible individuals.

Section 1. Order of Selection.

(1) If the executive director determines that the office's projected fiscal or personnel resources are insufficient to provide the full range of services as required by the Rehabilitation Act of 1973, as amended, to all eligible individuals, the office shall inform the Statewide Council and implement the order of selection on a state-wide basis in compliance with 34 C.F.R. 366.36.

(2) An eligible individual previously declared eligible for and receiving vocational rehabilitation services under an individualized plan for employment shall not be affected if the office implements an order of selection.

(3) On implementation of the order of selection, the office shall continue to accept referrals of and applications from individuals with disabilities and continue determining eligibility for services.

(4) The order of selection shall not impact the provision of information, referral services, or authorization of assessment for determining eligibility.

(5) If the office is unable to provide services to all eligible individuals, the office shall first serve individuals with the most significant disability in the highest open priority category. Within each priority category, individuals shall be served in order of application date.

(6) The order of selection established in this section shall be followed with the categories to be served designated at the time of implementation.

(7) The executive director may serve individuals from the waitlist, open, or close one or more priority categories as appropriate, to provide services to as many individuals as funds allow.

VICKIE WISE, Deputy Secretary

APPROVED BY AGENCY: December 30, 2025

FILED WITH LRC: December 31, 2025 at 12:10 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 26, 2026 at 1:00 pm, at Mayo-Underwood Hearing Room 133CE, 500 Mero Street, Frankfort, Kentucky 40601. 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 February 28, 2026. 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: Brooke McDaniel, Administrative Specialist Senior, Office of Vocational Rehabilitation, 500 Mero Street, First Floor, Frankfort, Kentucky 40601, 502-782-2539, brooke.mcdaniel@ky.gov.