

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Office for Children with Special Health Care Needs
(Amended After Comments)

911 KAR 1:085. Early Hearing Detection and Intervention Program.

RELATES TO: KRS 13B.050, 15.111(2)(g), 194A.030(5), 200.460 200.499, 211.645, 211.647, 213.046(16), 216.2970, 334A.020(5)

STATUTORY AUTHORITY: KRS 194A.030(5), 194A.050(1), 211.647(3), 216.2970(1)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate the programs and fulfill the responsibilities vested in the cabinet, to implement programs mandated by federal law, or to qualify for federal funds. KRS 194A.030 authorizes the Office for Children with Special Health Care Needs (OCSHCN) to promulgate administrative regulations as may be necessary to implement and administer its responsibilities under KRS 200.460 to 200.490. KRS 211.647(3) authorizes OCSHCN to promulgate administrative regulations establishing standards for infant audiological assessment and diagnostic centers. KRS 216.2970(1) requires the OCSHCN to promulgate administrative regulations establishing approved methods for auditory screening for all infants born in hospitals offering obstetric services and alternative birthing centers with at least forty (40) births per year. This administrative regulation establishes standards, eligibility criteria, application processes, reporting requirements, and appeal rights for entities seeking designation as approved infant audiological assessment and diagnostic centers, and identifies approved methods for auditory screening for newborn infants in hospitals and alternative birthing centers.

Section 1. Definitions.

- (1) "AAA Guidelines" means the "Clinical Guidance Document Assessment of Hearing in Infants and Young Children" published by the American Academy of Audiology.
- (2) "ASHA Guidelines" means the "Guidelines for the Audiologic Assessment of Children from Birth to 5 Years of Age" published by the American Speech-Language-Hearing Association.
- (3) "Audiologist" is defined by KRS 334A.020(5).
- (4) "Audiology extern" means a student engaged in the clinical experience component of an audiology doctoral degree program.
- (5) "Auditory brainstem response" or "ABR" means an objective electrophysiologic measurement of the brainstem's response to the ear when stimulated with a click sound or tone burst.
- (6) "Automated auditory brainstem response" or "AABR" means an automatic ABR resulting in a pass/refer outcome.
- (7) "JCIH Guidelines" means "Year 2019 Position Statement: Principles and Guidelines for Early Hearing Detection and Intervention Programs" published by the Joint Committee on Infant Hearing.
- (8) "Office" or "OCSHCN" is defined by KRS 211.645(2).
- (9) "Otoacoustic emissions" means an objective physiological test method for measuring responses elicited directly from the cochlea.

Section 2. Eligibility Criteria for Centers.

- (1) In order to be eligible for designation as a Level 1 infant audiological assessment and diagnostic center, an entity located in Kentucky shall:

- (a) Employ at least one (1) audiologist who:
 - 1. Is currently licensed pursuant to KRS Chapter 334A;
 - 2. Has experience testing children in the age range newborn to three (3) years; and
 - 3.
 - a. Performs all evaluations; or
 - b. Directly supervises audiology externs performing evaluations;
 - (b) Possesses [~~Possesses~~] the capacity to complete the following tests:
 - 1. Otoscope examination;
 - 2. Tympanometry;
 - 3. Ipsilateral acoustic reflex measurement;
 - 4. Contralateral acoustic reflex measurement;
 - 5. Ear-specific behavioral observation audiometry;
 - 6. Speech awareness threshold;
 - 7. Speech recognition or reception threshold;
 - 8. Play audiometry; and
 - 9. Either:
 - a. Otoacoustic emissions with diagnostic or screening capabilities; or
 - b. ABR screening;
 - (c) Annually calibrate all measuring and testing equipment; and
 - (d) Submit a complete application and assurance packet in accordance with Section 3 of this administrative regulation.
- (2) In order to be eligible for designation as a Level 2 infant audiological Assessment and diagnostic center, an entity located in Kentucky shall:
- (a) Meet the requirements specified in subsection (1) of this section; and
 - (b) Possess the capacity to complete:
 - 1. Otoacoustic emissions with diagnostic or screening capabilities;
 - 2. Frequency-specific ABR;
 - 3. Bone conduction ABR; and
 - 4. Real ear measures.

Section 3. Application Process.

- (1) An entity seeking designation as an infant audiological assessment and diagnostic center shall submit to OCSHCN a completed application packet containing:
 - (a) Completed and signed form OCSHCN-E106, Potential Infant Audiological Assessment and Diagnostic Center Questionnaire;
 - (b) Copies of current professional licenses for audiologists performing evaluations;
 - (c) Copies of current calibration certificates for audiological testing equipment; and
 - (d) Copies of policies and procedures for tests and measures requested on the OCSHCN-E106, Potential Infant Audiological Assessment and Diagnostic Center Questionnaire.
- (2) OCSHCN shall review an entity's application within thirty (30) calendar days Of receiving a complete packet submitted in accordance with subsection (1) of this Section.
- (3) Upon review of an entity's application packet, OCSHCN's executive director or designee shall approve the entity as a Level 1 Infant Audiological Assessment and Diagnostic Center if:
 - (a) The entity meets the requirements specified in Section 2(1) of this administrative regulation; and
 - (b) OCSHCN determines that the entity's policies and procedures conform to best practice standards as described in JCIH Guidelines and:
 - 1. AAA Guidelines; or
 - 2. ASHA Guidelines.

(4) Upon review of an entity's application packet, OCSHCN's executive director or designee shall approve the entity as a Level 2 Infant Audiological Assessment and Diagnostic Center if:

(a) The entity meets the requirements specified in Section 2(2) of this Administrative regulation; and

(b) OCSHCN determines that the entity's policies and procedures conform to best practice standards as described in JCIH Guidelines and:

1. AAA Guidelines; or

2. ASHA Guidelines.

(5) If OCSHCN's executive director or designee determines that the entity does not meet the requirements specified in Section 2 of this administrative regulation, OCSHCN shall:

(a) Advise the entity and request clarifying information; or

(b) Deny the designation as an Infant Audiological Assessment and Diagnostic Center and notify the entity of appeal rights pursuant to Section 8 of this administrative Regulation.

(6) Approvals shall expire on December 31 of odd-numbered years. All entities seeking continued approval shall re-apply by December 1 of that year in accordance with this section.

Section 4. Publication of Approved List.

(1) In accordance with KRS 211.647, OCSHCN shall maintain a current listing of all approved Infant Audiological Assessment and Diagnostic Centers, with contact information.

(2) OCSHCN shall make the listing public through the following methods:

(a) Posting on its agency Web site, <https://chfs.ky.gov/agencies/ocshcn> [~~http://chfs.ky.gov/agencies/ocshcn~~];

(b) Providing to the Cabinet for Health and Family Services, Office of Administrative and Technology Services, for inclusion on the KY-CHILD electronic information system used by birthing hospitals and centers;

(c) Enclosing as an attachment to correspondence with parents; and

(d) Mailing a listing to birthing hospitals and centers upon request.

Section 5. Removal from Approved List and Updates Required.

(1) OCSHCN shall remove an entity from the approved list and notify the entity of the removal if the entity requests removal.

(2) If OCSHCN receives a complaint that an entity no longer meets the requirements of Section 2 of this administrative regulation, OCSHCN shall:

(a) Advise the entity of the complaint;

(b) Request clarifying information from the entity;

(c) Review any information received; and

(d) Determine whether the entity meets the eligibility requirements of Section 2 of this administrative regulation.

(3) If OCSHCN determines that the entity no longer meets the eligibility requirements, the office shall:

(a) Notify the entity of appeal rights pursuant to Section 8 of this administrative regulation; and

(b) Remove the entity from the approved list.

(4) Following approval, an Infant Audiological Assessment and Diagnostic Center shall provide documentation via form OCSHCN-E107, Infant Audiological Assessment and Diagnostic Center Program Modification, if the changes in circumstances occur:

(a) Employment or termination of employment of an audiologist;

(b) Change in licensure status of an audiologist;

(c) Relocation of agency, name change, or addition of a location; or

(d) Modification to policy or procedure with regard to evaluations described in Section 2 of this administrative regulation.

Section 6. Reporting Requirements.

(1) Upon completion of diagnostic testing of an infant or child aged birth to three (3) years described in KRS 211.647(5), an approved Infant Audiological Assessment and Diagnostic Center shall report to OCSHCN via form OCSHCN-E3:

- (a) Identifying and demographic information;
- (b) Results of the follow-up audiological evaluation; and
- (c) Documentation of the referral required by KRS 211.647(5).

(2) An approved Infant Audiological Assessment and Diagnostic Center shall submit information specified in subsection (1) of this section electronically via the KY-CHILD electronic information system for permanent hearing loss, within forty-eight (48) hours of evaluation, in accordance with KRS 211.647, via form OCSHCN-E3.

(3) Scheduled appointments which are not kept by families shall be marked in the KY-CHILD electronic information system as no-show within four (4) calendar days if not rescheduled.

Section 7. Resource and Informational Materials. OCSHCN shall make available to families of all newborns and children ages birth to three (3) years identified as having permanent hearing loss information provided by the Kentucky Commission on the Deaf and Hard of Hearing.

Section 8. Appeal Rights. An entity denied designation as an Infant Audiological Assessment and Diagnostic Center or which has been removed from the approved list may request an administrative hearing from the Office of Administrative Hearings within the Department of Law in accordance with KRS 15.111(2)(g) and KRS 13B.~~[in accordance with 911 KAR 1:090.]~~

Section 9. Approved Methods of Auditory Screening for Newborn Infants and Children Ages Birth to Three (3) Years.

(1) Auditory screenings pursuant to KRS 216.2970(1) shall include at least one (1) of the following physiological tests:

- (a) AABR; or
- (b) Otoacoustic emissions.

(2) Auditory screening reports shall:

- (a) Document the results of physiological tests conducted;
- (b) Document the presence of any risk factors pursuant to KRS 211.645(5); and
- (c) Be submitted via the KY-CHILD electronic information system

Section 10. ~~[.]~~Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "Clinical Guidance Document Assessment of Hearing in Infants and Young Children", 1/2020;
- (b) "OCSHCN-E106, Potential Infant Audiological Assessment and Diagnostic Center Questionnaire", 03/2025~~[6/2022]~~;
- (c) "OCSHCN-E107, Infant Audiological Assessment and Diagnostic Center Program Modification", 03/2025~~[6/2022]~~;
- (d) "Guidelines for the Audiologic Assessment of Children From Birth to 5 Years of Age" 2004 American Speech-Language-Hearing Association;
- (e) "Year 2019 Position Statement: Principles and Guidelines for Early Hearing Detection and Intervention Programs" Joint Committee on Infant Hearing; and
- (f) "OCSHCN-E3 Audiology Update Form (AUF) Worksheet", 04/2026~~[03/2025]~~
~~[6/2022]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office for Children with Special Health Care Needs, 310 Whittington Parkway, Suite 200, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m. or online at the agency's Web site at <https://chfs.ky.gov/agencies/ocshcn>~~[https://chfs.ky.gov/agencies/eeshen]~~.

(3)

(a) The material in paragraph (a) is available online at <https://www.audiology.org/practice-guideline/clinical-guidance-document-assessment-of-hearing-in-infants-and-young-children>.

(b) The materials in paragraph (b), (c), (d), (e), and (f) is available online at the agency's website at <https://www.chfs.ky.gov/agencies/ocshcn/Pages/Incorporated.aspx>

JOHN R. LANGEFELD, MD, Commissioner

STEVEN J. STACK, MD, MBA., Secretary

APPROVED BY AGENCY: May 8, 2026

FILED WITH LRC: May 14, 2026 at 11:45 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Emily Allen/ Krista Quarles **Phone Number:** (502) 564-3568/(502) 564-7476 **Email:** Emily.Allen@ky.gov/CHFSregs@ky.gov

Subject Headings:Administrative Hearings, Audiology, Deaf and Hard of Hearing

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation assists in providing guidance that follow the Early Hearing Detection and Invention Act and state authority.

(b) The necessity of this administrative regulation:

This amended regulation is necessary to ensure that agencies receiving Early Hearing Detection and Intervention Act funding are adhering to the same guidance and identification process for infant hearing loss.

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

This administrative regulation amendment uses the authorized statutes as a base to build the guidance provided in this regulation. This amended regulation allows Kentucky to provide more up-to-date forms for clarity, the removal of reference to a repealed administrative regulation 911 KAR 1:090. In addition, this regulation updates the referenced OCSHCN website.

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

This amended regulation removes reference to 911 KAR 1:090 as this regulation is being repealed and the reference in this administrative regulation is no longer necessary. In addition, there will be updates to necessary forms in order to provide clarity in application when applying to become an audiological diagnostic center.

(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 amendment to this administrative regulation updates the process in which to file an appeal to the Early Hearing Detection and Intervention program as well as, updating necessary forms changing First Steps to Kentucky Early Intervention System (KEIS). The Amended After Comments version of this regulation revises the OCSHCN E-3 form to include ASSR testing and to update the clinical diagnosis to Auditory Neuropathy Spectrum Disorder. These changes reflect both the availability of this testing in the OCSHCN clinic and the accurate clinical diagnosis.

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

The amendment to this administrative regulation is necessary to clarify the process of appeal for the Early Hearing Detection and Intervention Services. The Amended After Comments version of this regulation updates the OCSHCN E-3 form to allow documentation of testing for patients who undergo ASSR testing. It also replaces the term "Auditory Dys-Synchrony" with "Auditory Neuropathy Spectrum Disorder" to reflect current clinical diagnostic terminology.

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

This amendment conforms to the content of the authorizing statute to ensure there is a policy in place in the instance that an appeal is deemed necessary.

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

The amendment of the administrative regulation will assist with effective administration of the statute outlining the appeal process.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, 2023, Senate Bill 48

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

Kentucky Office for Children with Special Health Care Needs; Children with special health care needs and their families; and 12 Kentucky assessment and diagnostic audiological centers.

(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:

The agencies above will need to ensure they meet the specified expectations in the updated reference materials. These amendments are to update practice reference materials that take into account newer procedural standards.

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

The proposed amended regulation will cost the agencies a minimal amount if not an actual reduction in costs.

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

This amended regulation should result in more updated practice references for providers.

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

(a) Initially:

There will be no cost to the cabinet to implement this administrative regulation.

(b) On a continuing basis:

There will be no cost to the cabinet to implement this administrative regulation.

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

Early Hearing Detection and Intervention Act funding, and state funds.

(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:

Not applicable.

(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?

There is no tiering for this program as there are no fees related to this program or regulation.

FISCAL IMPACT STATEMENT

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

: 42 U.S.C. 280g-1, KRS 194A.030(5), 194A.050(1), 211.647(3), 216.2970(1), 7.136(2)

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

The Office for Children with Special Health Care Needs and the Early Detection and Intervention Services within the Cabinet for Health and Family Services.

(a) Estimate the following for the first year:

Expenditures:This administrative regulation will not impact expenditures for the Office for Children with Special Health Care Needs. The Amended After Comments version will not impact expenditures for the Office for Children with Special Health Care Needs.

Revenues:This administrative regulation will not impact revenues for the Office for Children with Special Health Care Needs. The Amended After Comments version will not impact revenues for the Office for Children with Special Health Care Needs.

Cost Savings:This administrative regulation will not impact on cost saving for the Office for Children with Special Health Care Needs. The Amended After Comments version will not impact cost savings for the Office for Children with Special Health Care Needs.

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

There will be no change in expenditures, revenues, or cost savings in subsequent years. The Amended After Comments version will not impact expenditures, revenues, or costs savings in subsequent years.

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

There are no affected local entities. The Amended After Comments version will not impact local entities for the Office for Children with Special Health Care Needs.

(a) Estimate the following for the first year:

Expenditures:Not applicable

Revenues:Not applicable

Cost Savings:Not applicable

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

Not applicable.

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

Kentucky assessment and diagnostic audiological centers.

(a) Estimate the following for the first year:

Expenditures:Not applicable

Revenues:Not applicable

Cost Savings:Not applicable

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

There will be no change in subsequent years. The Amended After Comments version will not impact expenditures, revenues, or cost savings in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:

This administrative regulation will not have a fiscal impact. The Amended After Comments version will not have a fiscal impact on this administrative regulation.

(b) Methodology and resources used to determine the fiscal impact:

The programs outlined in the administrative regulation are already in existence and there will be no additional fiscal impact on the proposed amendments. The Amended After Comments version will not change the programs outlined in the administrative regulation, there will be no additional 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)

This administrative regulation does not have a major economic impact. The Amended After Comments version will not have a major economic impact.

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

The programs outlined in the administrative regulation are already in existence and there will be no additional fiscal impact on the proposed amendments. The Amended After Comments version does not adapt the programs outlined in the administrative regulation that are already in existence therefore, there will be no additional fiscal impact.