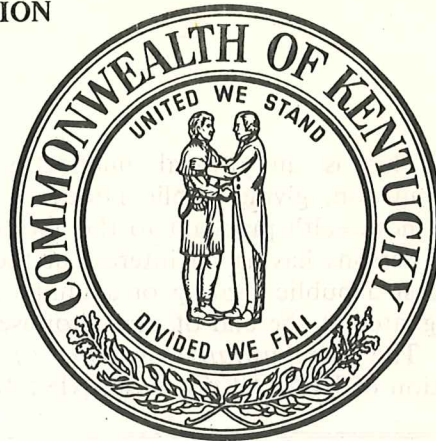


LEGISLATIVE RESEARCH COMMISSION
FRANKFORT, KENTUCKY

VOLUME 2, NUMBER 5

MONDAY, DECEMBER 1, 1975



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This is an official publication of the Commonwealth of Kentucky, Legislative Research Commission, giving public notice of all proposed regulations filed by administrative agencies of the Commonwealth pursuant to the authority of Kentucky Revised Statutes 13.082.

Persons having an interest in the subject matter of a proposed regulation published herein may request a public hearing or submit comments within 30 days of the date of this issue to the official designated at the end of each proposed regulation.

The *Administrative Register of Kentucky* is the monthly advance sheets service for the 1976 Edition of KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE.

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KENTUCKY ADMINISTRATIVE REGULATIONS are codified according to the following system and are to be cited by Title, Chapter and Regulation number, as follows:

| Title | Chapter | Regulation |
|---|---|-----------------------------------|
| 806 KAR | 50 | : 155 |
| Cabinet, Department, Board or Agency | Bureau, Division or Major Function | Specific Area of Regulation |

Administrative Register of Kentucky

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Public Hearings

704 KAR 3:280. Professional performance improvement project. [2 KY.R. 230]

704 KAR 10:020. Evaluation of elementary, middle and secondary schools. [2 Ky.R. 231]

The Department of Education, Bureau of Instruction, has scheduled public hearings on these two regulations for 9 a.m. EST Tuesday, December 30, 1975, in the State Board Room on the 17th Floor of the Capital Plaza Tower, Frankfort, Kentucky 40601.

Persons desiring additional information may contact Samuel Alexander, Secretary, State Board of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

Emergency Regulations

JULIAN M. CARROLL, GOVERNOR
EXECUTIVE ORDER 75-947
 October 16, 1975

EMERGENCY REGULATION
 Department for Human Resources
 Bureau for Social Insurance

WHEREAS, the Department for Human Resources has been delegated responsibility for implementation of a program of Aid to Families with Dependent Children—Unemployed Fathers, as of July 1, 1975; and

WHEREAS, due to the proposed implementation date, the Department for Human Resources is unable to comply with the normal administrative regulation filing procedures; and

WHEREAS, the Department for Human Resources has determined and finds that an emergency exists and that there is an immediate necessity for the enactment of a regulation to implement the aforementioned program;

NOW, THEREFORE, I, JULIAN M. CARROLL, Governor of the Commonwealth of Kentucky, by the authority vested in me by Section 13.085(2) of the Kentucky Revised Statutes, hereby acknowledge the finding of the Department for Human Resources that an emergency exists and direct that the attached Regulation become effective immediately upon being filed in the Office of the Legislative Research Commission.

JULIAN M. CARROLL, Governor
 THELMA L. STOVALL, Secretary of State

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 2:012E. Unemployed fathers' program.

RELATES TO: KRS 205.222, 205.223
 PURSUANT TO: KRS 13.082, 194.050
 EFFECTIVE: October 21, 1975
 EXPIRES: February 18, 1975

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer public assistance programs under Title IVA of the Social Security Act. Title IVA provides for inclusion of children of

unemployed fathers within the AFDC category at the option of the state. KRS 205.222 and 205.223 provide for a program in respect to children of unemployed fathers to be implemented effective July 1, 1975 upon a finding of the Secretary of the Department that certain conditions in relation to unemployment and funding exist. Inasmuch as such finding has been made, this regulation sets forth the conditions of eligibility specific to cases of needy children of unemployed fathers, hereinafter referred to as AFDC-UF.

Section 1. Regulations of General Applicability: Income and resource limitations as contained in 904 KAR 2:010 and all technical requirements as contained in 904 KAR 2:005, except that section relating to deprivation of parental support, shall be applicable to the AFDC-UF program.

Section 2. Definition of Unemployment: In accordance with 45 C.F.R. section 233.100, to be eligible for AFDC-UF based on unemployment, the natural or adoptive father who is legally married to the mother of the needy child has, for at least thirty (30) days, been:

- (1) Totally unemployed; or
- (2) Employed less than 100 hours a month; or
- (3) Employed more than 100 hours for a particular month but the work is intermittent and the excess is temporary in nature, that is, he was under the 100 hour standard during two (2) prior months and expects to be under the 100 hour standard during the next month; and
- (4) At time of application, prior labor market attachment exists in that:
 - (a) He has earned an income of not less than fifty dollars (\$50) during six (6) or more calendar quarters ending on March 31, June 30, September 30 or December 31, within any thirteen (13) calendar quarter period ending within one (1) year of application; or
 - (b) Within twelve (12) months prior to application received unemployment compensation.
- (5) Under this definition, the father shall not be considered as unemployed if he is:

(a) Temporarily unemployed due to weather conditions or lack of work if he can anticipate return to work within 30 days; or

(b) On strike, or unemployed as a result of involvement in a labor dispute when such involvement would disqualify

the individual for unemployment insurance in accordance with KRS 341.360; or

(c) A farm owner or tenant farmer, unless he has previously habitually required and secured outside employment and currently is unable to secure outside employment; or

(d) Self-employed and not available for full-time employment.

Section 3. Other Conditions of Eligibility: All unemployed fathers shall:

(1) Register for employment with the Bureau for Manpower Services and/or be certified for participation in the Work Incentive Program.

(2) Accept any bona fide offer of full-time employment or training.

Section 4. Receipt of Unemployment Compensation: AFDC-UF shall not be paid for any month in which the unemployed father receives unemployment compensation but the unemployed father may, at his option, choose to receive AFDC-UF instead of unemployment compensation benefits to which he is otherwise entitled.

Section 5. Reasons for Discontinuance. In addition to technical or financial ineligibility as related to any AFDC case, AFDC-UF shall be discontinued whenever:

(1) The father obtains employment of 100 hours or more per month;

(2) The father begins to receive unemployment benefits;

(3) The father refuses a bona fide offer of suitable employment or training.

(4) Discontinuances under subsection (3) above shall be authorized only when the worker has determined that good cause for refusal did not exist in accordance with the following criteria:

(a) A definite bona fide offer was not made at a minimum wage customary for such work in the community;

(b) The father is unable to engage in such employment or training for mental or physical health reasons;

(c) The father has no way to get to and from the work site or the site is so far removed from the home that commuting time would exceed three (3) hours daily.

(d) Working conditions at such job or training would be a risk to the father's health or safety.

Section 6. Exception to Advance Notice Requirement: Adequate notice of termination, but not necessarily ten (10) days advance notice, shall be provided at the time the recipient father receives unemployment benefits due to the specific limitation of concurrent receipt as contained in 45 C.F.R. section 233.100. All recipients shall be advised of this exception at the time of application and each quarterly review.

GAIL S. HUECKER, Commissioner
C. LESLIE DAWSON, Secretary

ADOPTED: June 20, 1975

RECEIVED BY LRC: October 21, 1975 at 10:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Secretary for Human Resources, Capitol Annex,
Frankfort, Kentucky 40601.

JULIAN M. CARROLL, GOVERNOR

Executive Order 75-897

September 30, 1975

EMERGENCY REGULATION

Department of Fish and
Wildlife Resources

WHEREAS, the U.S. Fish and Wildlife Service, Department of the Interior, has jurisdiction in the regulation of hunting throughout the several states; and

WHEREAS, all regulation of season framework, daily bag and possession limits, and shooting hours for migratory species, by the Kentucky Department of Fish and Wildlife Resources, must comply with federal regulations; and

WHEREAS, the recent promulgation of federal hunting regulations makes it impossible for the Kentucky Department of Fish and Wildlife Resources to comply with normal filing procedures under Chapter 13 of the Kentucky Revised Statutes; and

WHEREAS, the Commissioner of the Department of Fish and Wildlife Resources, in conjunction with the Secretary of the Development Cabinet, pursuant to Kentucky Revised Statutes 150.300, 150.305, 150.320, 150.330, 150.340, 150.360, has promulgated the attached Regulation;

NOW, THEREFORE, I, JULIAN M. CARROLL, Governor of the Commonwealth of Kentucky, by the authority vested in me by Section 13.085(2) of the Kentucky Revised Statutes, hereby acknowledge the finding of the Department of Fish and Wildlife Resources that an emergency exists and direct that the attached regulation become effective immediately upon being filed in the Office of the Legislative Research Commission.

JULIAN M. CARROLL, Governor

THELMA L. STOVALL, Secretary of State

DEVELOPMENT CABINET

Department of Fish and Wildlife Resources

301 KAR 2:024E. Waterfowl seasons; limits.

RELATES TO: KRS 150.025, 150.170, 150.175, 150.235, 150.305, 150.330, 150.340, 150.360

PURSUANT TO: KRS 13.082

EFFECTIVE: October 22, 1975

EXPIRES: January 20, 1976

NECESSITY AND FUNCTION: This regulation pertains to the bag limits, possession limits and seasons for the taking of certain migratory birds, including waterfowl. In accordance with KRS 150.015, this regulation is necessary for the continued protection and conservation of the migratory birds listed herein, and to insure a permanent and continued supply of the wildlife resource for the purpose of furnishing sport and recreation for present and future residents of the state. The framework of this regulation falls within the seasons and bag limits dictated by the U.S. Fish and Wildlife Service. The function of this regulation is to provide for the prudent taking of migratory birds within reasonable limits based upon an adequate supply.

Section 1. Seasons:

(1) Ducks, Coots and Mergansers: Noon (prevailing time)

November 19 through November 26, 1975 to Noon (prevailing time) December 10 through January 20, 1976.

(2) Geese: November 12 through January 20, 1976.

(3) Rails (Sora and Virginia): November 12 through January 20, 1976.

(4) Gallinules: November 12 through January 20, 1976.

Section 2. Limits. (1) Ducks:

(a) Bag Limits. A point system bag limit is in effect. Point values for species and sexes taken are as follows (either sex unless specified):

1. Canvasback and redhead: 100 points;

2. Hen mallard, black duck, wood duck and hooded merganser: Ninety (90) points;

3. Pintail, blue-winged teal, cinnamon teal, green-winged teal, gadwall, shoveler and scaup: ten (10) points;

4. Drake mallard and all other species of ducks and mergansers not mentioned above: thirty-five (35) points;

5. Coots; but limited to fifteen (15) daily and thirty (30) in possession: zero (0) points.

(b) The daily bag limit is reached when the point value of the last duck taken, added to the total of the point values of the other ducks already taken during that day, reaches or exceeds 100 points. The maximum number of points possible is 195.

(c) Possession limits. The possession limit is the maximum number of ducks of those species and sexes which could have legally been taken in two (2) days. The maximum number of points possible for the possession limit is 390.

(2) Geese:

(a) Bag Limits. Five (5) (only one (1) Canada or two (2) white-fronted or one (1) of each; except in Hickman, Fulton, Ballard and Carlisle Counties where the daily bag limit may include two (2) Canada or two (2) white-fronted or one (1) of each).

(b) Possession Limits. Five (5) (any combination of Canada, blue, snow or white-fronted geese, not to include more than two (2) Canada and two (2) white-fronted; except in Hickman, Fulton, Ballard and Carlisle Counties where the possession limit is any combination of the above species not to include more than four (4) Canada and white-fronted in the aggregate, of which not more than two (2) may be white-fronted geese).

(3) Others:

(a) Coots: bag limit fifteen (15), possession limit thirty (30);

(b) Rails (Sora and Virginia): bag limit twenty-five (25) (single or in the aggregate), possession limit twenty-five (25) (singly or in the aggregate);

(c) Gallinules: bag limit fifteen (15), possession limit thirty (30).

Section 3. Migratory Bird Shipping and Transporting Restrictions. Migratory birds taken may not be transported, shipped, or delivered for transportation or shipment by common carrier, the postal service, or by any person except as the personal baggage of the hunter taking the birds unless such birds have a tag attached, signed by the hunter, stating his address, total number and species of birds, and the date such birds were killed.

Section 4. Shooting Hours. The basic shooting hours for ducks, geese, coots, mergansers, rails and gallinules shall be one-half (1/2) hour before sunrise to sunset (prevailing time); except for opening day of both parts of the duck season (excluding geese) which opens at noon prevailing

time. The shooting hours for ducks and geese on Ballard County Wildlife Management Area shall be one-half (1/2) hour before sunrise to twelve (12) o'clock noon prevailing time.

Section 5. Shot Restrictions. Only shot no larger than No. 2 is allowed for waterfowl hunting.

Section 6. Methods of Taking. Migratory game birds and water fowl may be taken only by the aid of dogs, livestock, artificial decoys, with longbow and arrow, or with shotgun (not larger than ten (10) gauge and incapable of holding more than three (3) shells) and fired from the shoulder, and by means of falconry, with the aid and use of bird calls, except recorded or electrically amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds. One (1) fully feathered wing or head must remain attached to all waterfowl species for identification purposes.

Section 7. Wildlife Management Areas Open to Waterfowl Hunting. (1) Ballard County Wildlife Management Area, located in Ballard County, Kentucky, and described as follows: bounded on the north by the Turner Landing Road, on the west by the Ohio River, on the south by the Terrell Landing Road, on the east by refuge sign markers and visible yellow paint markers on tree line; a tract of land known as the Rudy and Haydon tracts bounded on the south by the Turner Landing Road, on the east by refuge sign markers and visible yellow paint markers on tree line, on the north by Kentucky Highway 473, then running south along the east bank of Mitchell Lake to the Turner Landing Road; also, open on the north side of the refuge proper a tract of land north of the Clark Line Road including Shelby Lake and west to the Ohio River and continuing north to yellow signs:

(a) Species and Seasons:

1. Ducks, Coots and Mergansers: December 11 through January 20, 1976 (excluding Sundays and Christmas Day);

2. Geese: December 1 through January 20, 1976 (excluding Sundays and Christmas Day).

(b) There will be an eight (8) shell limit per hunter on the Ballard County Wildlife Management Area when hunting geese. This does not apply when hunting ducks from pothole blinds or pits as separated from goose hunting areas. Shooting ducks is prohibited in goose hunting areas and shooting geese in duck areas is prohibited. The barrel and magazine of all guns will be checked for ammunition before the hunter enters the check station. No shot larger than No. 2 will be allowed for hunting waterfowl. Any hunter on the management area under the age of eighteen (18) must be accompanied by an adult. Any person whose transportation to and from pits and blinds is furnished by the Department of Fish and Wildlife Resources must have his gun encased.

(c) Miller Tract, located in Ballard County, Kentucky, and consisting of 300 acres, more or less south of the Terrell Landing Road and marked with yellow signs reading "Wildlife Management Area for Public Hunting" is open to waterfowl hunting during the regular statewide season. Pits and blinds must be 100 yards apart and 100 yards from Terrell Landing Road. Both ducks and geese may be taken by hunters occupying a pit or blind. Shooting hours conform to statewide regulations.

(2) Land Between the Lakes Wildlife Management Area, located in Lyon and Trigg Counties and described as follows: Waterfowl hunting is permitted on Kentucky Lake

below elevation 359 feet and at higher elevations within twenty-five (25) yards of the 359 foot elevation, Kentucky-Tennessee state line to Barkley Canal in all bays is open to hunting, except Duncan, Smith and Pisgah Bays which are indicated by signs and are closed to hunting. No permits are required. The remainder of Kentucky Lake is open to waterfowl hunting in conformance with statewide regulations.

(3) Lake Barkley Wildlife Management Area. Refuge areas are as follows and will be closed to fishing, boating and hunting or molesting of waterfowl as designated by posted signs:

(a) Refuge area on the west side of the main channel between river mile 51 (Hayes Landing Light) and river mile 57.3 (Crooked Creek Light) as designated by signs will be closed from November 1, 1975 through February 15, 1976.

(b) Refuge area surrounded by levee and located between river mile 68.4 and river mile 70.4 will be closed from October 1, 1975 through February 28, 1976.

(c) Open Hunting Areas. Hunting will be permitted on the remainder of Lake Barkley with the exception of recreation areas and access points which will be closed and designated by posted signs at the entrance of said areas. Waterfowl hunting along the western shore of the lake will be confined to those areas below the 359 foot contour, and those areas within twenty-five (25) yards of the 359 foot elevation.

(d) Permanent blinds or pits must be registered on a permit issued by the Corps of Engineers. Applicants for blind or pit permits must show a Kentucky hunting license to the registration clerk before a permit will be issued. Registration will be conducted at the Lake Barkley Resource Manager's Office located at Barkley Dam off U. S. Highway 641-62 on October 1 from 8:00 to 9:00 a.m., prevailing time. Applicants for permanent blinds or pits will take part in a special drawing to determine the order of blind registration. The drawing, which will close promptly at 9:00 a.m., will be followed by registration in which hunters with the lowest numbers will receive first choice of locations. Hunters who miss out on the special October 1 drawing will be requested on a first come, first served basis at the Resource Manager's Office from 8:00 to 3:00 p.m. (prevailing time) weekdays, except federal holidays, from October 1 through December 31. A permit will be issued for each permanent blind or pit and only one permit will be issued per hunter. All pits and blinds must be 100 yards apart and 200 yards from any refuge as designated by signs. Permanent pits or blinds must be removed no later than thirty (30) days after the close of the waterfowl season or they become the property of the Department of Fish and Wildlife Resources.

(4) Barren Lake Wildlife Management Area, located in Barren, Allen and Monroe Counties and including all lands and waters owned and operated by the Department of the Army, Corps of Engineers, including those under license to the Kentucky Department of Fish and Wildlife Resources as marked by red painted steel boundary posts, excluding all recreation and park areas, is open to waterfowl hunting during the regular statewide season. Lands under license to the department are open to hunting for all other wildlife species during the regular statewide seasons. Permanent blinds must be registered and a blind permit issued by the Corps of Engineers. Registration will be conducted at the Barren Lake Resource Manager's Office located near the dam off Kentucky Highway 252, from October 1 through December 31, 1975, during weekdays only, from 7:30 a.m.

to 4:00 p.m. prevailing time, excluding federal holidays. A permit will be issued for each permanent blind and only one (1) permit will be issued per hunter. All blinds must be removed no later than thirty (30) days after the close of the waterfowl season or they become the property of the Department of Fish and Wildlife Resources.

(5) Nolin, Rough, Green and Buckhorn Wildlife Management Areas, including all lands and waters owned and operated by the Department of the Army, Corps of Engineers, including those under license to the Kentucky Department of Fish and Wildlife Resources, and excluding all recreation and park areas, are open to all waterfowl hunting during the regular statewide season. Permanent blinds must be registered and a blind permit issued by the Corps of Engineers. Registration will be conducted at each of the Resource Manager's offices located at or near the dam sites, from October 1 through December 31, 1975, during weekdays only, from 7:30 a.m. to 4:00 p.m. prevailing time, excluding federal holidays. A permit will be issued for each permanent blind and only one (1) permit will be issued per hunter. All blinds must be 100 yards apart. Permanent blinds must be removed no later than thirty (30) days after the close of the waterfowl season or they become the property of the Department of Fish and Wildlife Resources.

Section 8. Wildlife Management Areas Closed to All Hunting for Waterfowl, Coot, Gallinules and Rails:

(1) Sauerheber Unit of the Sloughs Wildlife Management Area, located in Henderson County, and described as follows, will be closed to all hunting, fishing, boating and trespassing except by authorized persons during the period October 15, 1975 through March 15, 1976; bounded on the north by Kentucky Highway 268 and including all state-owned lands to the south, within the area designated by yellow signs.

(2) Central Kentucky Wildlife Management Area, located in Madison County.

(3) Dewey Lake Wildlife Management Area, located in Floyd County.

(4) Grayson Wildlife Management Area, located in Carter and Elliott Counties.

Section 9. This regulation will not be valid after January 29, 1976.

ARNOLD L. MITCHELL, Commissioner
DR. ROBERT C. WEBB, Chairman

ADOPTED: August 29, 1975

RECEIVED BY LRC: October 22, 1975 at 9:30 a.m.

Amended Regulations

(In order to show the effect of amendments, the original regulation is reprinted with matter being deleted enclosed within brackets and new matter underlined where typewritten, or in italics if typeset.)

SECRETARY OF THE CABINET Department of Revenue (Proposed Amendment)

103 KAR 40:100. Consumer tax; customs.

RELATES TO: KRS 243.720, 243.730

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: This regulation provides the method of collection of consumer taxes on alcoholic beverages entering Kentucky through the United States Bureau of Customs.

Section 1. Excise taxes imposed under KRS 243.720 on the use of alcoholic beverages shall be paid on all quantities of distilled spirits, wine and malt beverages imported into Kentucky through the United States Bureau of Customs for personal consumption *in this state* [by the purchase of tax permits from the Department of Revenue].

Section 2. *Persons desiring to secure releases of alcoholic beverages from the United States Bureau of Customs shall issue to Customs authorities an acknowledgement of liability for Kentucky alcoholic beverage taxes. The acknowledgement shall be on a form prescribed by the Department of Revenue and shall contain such information as the department may deem necessary to reasonably protect the revenues of the Commonwealth.* [Before a tax permit can be issued, a release from the Alcoholic Beverage Control Board must be presented designating the quantity and kind of alcoholic beverages (distilled spirits, wine or beer) being imported into Kentucky.]

Section 3. *The tax due pursuant to Section 1 shall be paid to the department by the importer on or before the fifteenth day of the calendar month following the month in which the beverages are imported into this state.*

MAURICE P. CARPENTER, Commissioner

ADOPTED: November 3, 1975

APPROVED: WILLIAM E. SCENT, Secretary

RECEIVED BY LRC: November 3, 1975 at 10:30 a.m.

SUBMIT COMMENT FOR REQUEST OR HEARING

TO: Commissioner, Department of Revenue, Capitol Annex, Frankfort, Kentucky.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION Real Estate Commission (Proposed Amendment)

201 KAR 11:135. Salesman's obtaining broker's license.

RELATES TO: KRS 324.045

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: To inform and set certain standards for the licensees and to protect the public. *Amendment necessary for clarification.*

Section 1. A salesman who desires to obtain a broker's license is a person who has *been actively engaged in the real estate business* [participated in the selling of real estate] averaging at least twenty (20) hours per week during the preceding two (2) years.

Section 2. If the applicant can meet the educational requirements, then the two (2) year requirement is reduced to one (1) year. Proof of said activities will take the form of a notarized sworn affidavit signed by both the applicant and his employing broker.

Section 3. Any affiant found to have misrepresented facts in their sworn statement shall be subject to disciplinary proceedings by the commission and criminal penalties for perjury.

CHARLES R. BROWN, Chairman

APPROVED: WILLIAM E. SCENT, Commissioner

ADOPTED: September 18, 1975

RECEIVED BY LRC: October 23, 1975 at 4:00 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: General Counselor, Kentucky State Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION Board of Registration for Professional Engineers and Land Surveyors (Proposed Amendment)

201 KAR 18:040. Fees.

RELATES TO: KRS 322.040, 322.090, 322.100, 322.110, 322.120, 322.140, 322.150, 322.160, 322.420

PURSUANT TO: KRS 13.082, 322.090, 322.100, 322.120, 322.140, 322.190, 322.420

NECESSITY AND FUNCTION: KRS Chapter 322 gives the board certain authority to fix fees, and this is intended to outline fees covering various steps of application, examination, certification, registration and/or renewal fees.

Section 1. Fees. (1) License fees under KRS 322.040 shall be forty dollars (\$40) *if one (1) examination is involved and fifty dollars (\$50) if two (2) are involved* and under KRS 322.120 the fee shall be thirty-five dollars (\$35). The fee for intraining certification shall be *twenty dollars (\$20) [fifteen dollars (\$15)]*. Application fees should accompany all applications and shall be transmitted by check or money order made payable to "Kentucky State Registration Board."

(2) Applications for licensing under KRS 322.040 shall be accompanied by an initial fee of twenty-five dollars (\$25) and under KRS 322.120 by the total fee of thirty-five dollars (\$35). These fees will be retained by the board as non-refundable application fees, the same to be credited to the applicant when and if a license is granted.

(3) If approved under KRS 322.120 the license

certificate will be issued without further fee, and if under KRS 322.040, it will be issued upon receipt by the board of the final payment of fifteen dollars (\$15), *or twenty-five dollars (\$25) representing the balance of the total licensing fee of forty dollars (\$40) or fifty dollars (\$50) as may be applicable.*

(4) Only one (1) complete application form is required for a license in any one or more branches of engineering or land surveying. However, an updating of the application and an additional application fee of twenty-five dollars (\$25) is required for each additional branch of engineering or section of the law under which the applicant subsequently applies for licensing. *The update must stress the work experience the applicant has had in the branch he wishes to add.*

(5) Applications for certification as engineer-in-training and land surveyor-in-training shall be accompanied by a fee of *twenty dollars (\$20)* [fifteen dollars (\$15)]. If approved, a certificate will be issued without a further fee.

(6) The fees accompanying applications for licensing and in-training certification shall entitle the applicants to one (1) examination and one (1) re-examination if required *and if taken at the next regularly scheduled examination period; applicants who defer their first re-examination will be required to pay a duplicate fee: twenty dollars (\$20) for in-training and twenty-five dollars (\$25) for principles and practice examinations.* Application for the second re-examination must be accompanied by a fee of forty dollars (\$40) for licensing and *twenty dollars (\$20)* [fifteen dollars (\$15)] for in-training certification.

GEORGE W. VAUGHN, Secretary-Treasurer

ADOPTED: 28 October 1975

APPROVED: WILLIAM E. SCENT, Commissioner

RECEIVED BY LRC: November 11, 1975 at 2:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Executive Director, State Board of Registration For Professional Engineers and Land Surveyors, University Station, Lexington, Kentucky 40506.

(The two regulations which follow, published originally in the June issue [1 Ky.R.1243, 1245], were rejected by the Administrative Regulation Review Subcommittee at its July 2, 1975 meeting. The issuing agency amended the proposed regulations to meet the Subcommittee's objections and the two regulations were approved for filing at the Subcommittee's meeting on November 12, 1975 and became effective on that date.)

201 KAR 19:035

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

Board of Examiners and Registration of Architects As Amended

201 KAR 19:035. Qualifications for examination.

RELATES TO: KRS 323.050, 323.060

PURSUANT TO: KRS 323.210

SUPERSEDES: BERA:E 3

EFFECTIVE: November 12, 1975

NECESSITY AND FUNCTION: This regulation is

necessary to further define eligibility of applicants for admission to the examinations.

Section 1. Eligibility to Take the State Board Examination: (1) Any person who possesses the qualifications prescribed in KRS 323.050, and as further defined in other sections of these regulations, shall be eligible to take the examinations.

(2) It should be understood, however, that the education and experience required are more than mere vehicles to admission. These requirements and the examination itself are two (2) distinct exercises on the road to registration. Each supplements and sustains the other, but neither can replace the other as a vital part of professional training.

Section 2. General Requirements for Examination: Applicants for examination must meet the following requirements: (1) Must be a graduate of an accredited school of architecture, or the equivalent thereof, as determined by board regulations, with such additional experience as the board may prescribe and approve.

(2) Be a legal resident of the Commonwealth of Kentucky unless specifically exempted by the board therefrom for a justifiable reason.

(3) Be at least twenty-five (25) years of age.

(4) Be of good moral character: One (1) or more of the following *may* [shall] be sufficient to prevent an applicant from being considered to be of "good moral character:"

(a) Conviction of a felony.

(b) *Chronic alcoholism, persistent drug abuse, or any such acts of behavior which would, if he were licensed, jeopardize or impair his judgment to meet his professional responsibility as an architect to the public welfare and safety.*

[(b) Persistent acts of civil disobedience, chronic alcoholism or drug abuse, or any other such acts which unfavorably reflect upon the applicant's character or which would, if he were licensed, cast reflections upon the dignity of the profession of architecture.]

(c) Submitting a misstatement or misrepresentation of facts in an application or in supplementary information.

(d) Violating any provision of KRS Chapter 323 or board rules and regulations either before or after admission to examination.

(e) Violating the registration law of any other state, territory or country.

(5) The board will review and evaluate the candidate's record of education, employment, experience, personal character, professional affiliations and civic activities.

(6) The applicant will appear for a personal audience so that the board may have the opportunity to judge his general qualifications for the practice of architecture, his ethical precepts, his resourcefulness, initiative and purpose in seeking a career in architecture and his general talents therefor.

(7) The candidate must demonstrate to the board that his qualifications and preparation for examination are adequate.

Section 3. Experience Required and Equivalencies Allowed: (1) A graduate from an accredited school of architecture shall, in addition thereto, have at least three (3) years of architectural experience satisfactory to the board. In general, an applicant who does not hold a degree from an accredited school of architecture will be required to have two (2) additional years of satisfactory experience

for each calendar year of deficiency in architectural education, or a total of twelve (12) years.

(2) To be eligible for examination an applicant must present authentic evidence, by means of college transcripts and letters from employers, architects and others that he has met all the requirements noted in other sections and that he has had well diversified and satisfactory training in the many areas of architectural practice.

(3) In order to give the applicant a better understanding of the time and nature of the required experience, including related types of work which may be applied thereto, the board has adopted the N.C.A.R.B. "Table of Equivalents for Education, Training and Experience" as a guide. A copy is included with each request for application forms, or may be obtained individually from the board office. The current edition shall apply.

(4) Training and experience acquired up to the date of the applicant's personal audience with the board (approximately three (3) months after the application deadline) if supported by supplementary documentation may be counted as credit.

L.WAYNE TUNE, Executive Director

ADOPTED: August 8, 1975

APPROVED: WILLIAM E. SCENT, Commissioner

RECEIVED BY LRC: November 3, 1975 at 11:15 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Executive Director, State Board of Examiners and Registration of Architects, P. O. Box 7097, Lexington, Kentucky 40502.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

Board of Examiners and Registration of Architects As Amended

201 KAR 19:075. Refusal to grant or renew license.

RELATES TO: KRS 323.050, 323.120

PURSUANT TO: KRS 323.210

SUPERSEDES: BERA:R 1

EFFECTIVE: November 12, 1975

NECESSITY AND FUNCTION: This regulation is necessary to aid the board in making judgment as to proper conduct and fitness of both applicants and architects.

Section 1. Refusal to Grant or Renew License: The board may refuse to admit an applicant to examination or, after examination, refuse to grant or renew a license to any person convicted of a felony, or who, in the opinion of the board, has been guilty of gross unprofessional conduct [, or who is addicted to habits of such character as to render him unfit to practice architecture]. The submission of false evidence or other misrepresentation in applying for examination and registration is fraudulent, and the board will refuse to grant a license to anyone found guilty thereof, and will revoke any license granted to a person whose application contains such false evidence or misrepresentation.

L.WAYNE TUNE, Executive Director

ADOPTED: August 8, 1975

APPROVED: WILLIAM E. SCENT, Commissioner

RECEIVED BY LRC: November 3, 1975 at 11:15 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Executive Director, State Board of Examiners and Registration of Architects, P. O. Box 7097, Lexington, Kentucky 40502.

DEPARTMENT OF TRANSPORTATION Bureau of Vehicle Regulation (Proposed Amendment)

601 KAR 9:040. Reciprocity.

RELATES TO: KRS Chapters 138, 186, 281

PURSUANT TO: KRS 13.082, 281 600, 281.610

NECESSITY AND FUNCTION: KRS 281.600 requires the Department of Transportation to establish reasonable requirements with regard to continuous and adequate service of transportation. This regulation specifies the requirements for uniform regulation of all motor vehicles engaged in interstate commerce.

Section 1. In General. Before a motor carrier is entitled to reciprocity whereby the operation of its motor vehicles engaged exclusively in interstate commerce is exempted from payment of registration fees as required by KRS Chapter 186, or seat and mileage taxes as required by KRS Chapter 186, there shall be a reciprocity agreement between the Commonwealth of Kentucky and the state in which the motor carrier's equipment should be, or is properly licensed. In determining whether a motor vehicle is entitled to reciprocity, the law of Kentucky dealing with reciprocity, rules and regulations of the department, and the reciprocity agreements between the states involved shall be the determining factors.

Section 2. Identification Cards for Vehicles Operating Under Reciprocity Agreements. Before any motor vehicle as described in KRS 281.011(2) and any other motor vehicle operated by a motor carrier as described in KRS 138.655(5) shall be entitled to reciprocal privileges when operating in interstate commerce in Kentucky and entitled to use the highways of this state, the owners and operators shall apply to the Department of Transportation for a motor vehicle identification card. Such application shall be made on forms prescribed and furnished by the department and shall be accompanied by a fee of two dollars (\$2) for each motor vehicle identification card applied for. The motor vehicle identification card shall be completed by the motor carrier and returned to the department for validation. Such card shall be carried in the cab of the motor vehicle at all times. Failure to display this card shall constitute a violation of the department's rules and regulations.

Section 3. Identification Cards for Vehicles Licensed in Kentucky. Before any motor vehicle as described in KRS 281.011(2) and any other motor vehicle operated by a motor carrier as described in KRS 138.655(5) can be operated in intrastate commerce or interstate commerce, such vehicle must have a vehicle identification card, which card must be carried in the cab of the vehicle at all times. The owner or operator of such vehicle shall apply to the Department of Transportation for the motor vehicle identification card. The application shall be on forms prescribed and furnished by the department. No fee shall be charged by the department for the issuance of this card. The identification card will be completed by the motor carrier and returned to the department for validation. Failure to display this card shall constitute a violation of the department's rules and regulations.

Section 4. Information to be set out on the Identifica-

tion Cards. Identification cards shall be issued annually upon payment of the prescribed fee and upon compliance with all statutory requirements and appropriate rules and regulations. The card shall contain a designation of "private carrier" or "for hire carrier," the name and address of the holder; the identification of the vehicle in accordance with the rules and regulations of the department; such other information as may be required; and in addition, shall have thereon the KYU license number issued to the owner or operator by the Department of Transportation under KRS 138.655 for the use of gasoline and special fuels on the public highways of this state.

Section 5. Identification of Leased Vehicles. (1) Notwithstanding the provisions of Sections 2 and 3, any motor vehicle qualified under Section 1 and leased to an authorized carrier for operation in interstate commerce may elect to obtain a thirty (30) day reciprocal permit issued by the department for a fee of *two dollars (\$2)* [four dollars (\$4)] each, which must be displayed in the cab of the vehicle, as identification for such vehicle.

(2) The motor carrier to whom a thirty (30) day reciprocal permit is issued is responsible for the proper use of such permit by the lessor. The motor carrier shall write in ink on each thirty (30) day reciprocal permit issued to it the date of execution. The thirty (30) day reciprocal permit shall be removed from the vehicle and destroyed at the expiration of the lease or thirty (30) days, whichever is shorter. Any vehicle operating with a thirty (30) day reciprocal permit which has not been dated as required herein shall be deemed to be operating without identification and the motor carrier shall be subject to the penalties provided by law.

Section 6. Itinerant Truckers. Motor vehicles used by itinerant truckers, salesmen, solicitors and peddlers to transport merchandise to be sold and disposed of in Kentucky, while upon or from a public highway or street, shall not be entitled to reciprocal privileges while in Kentucky except where contrary provisions are made by the reciprocity agreements in effect between Kentucky and the state where the vehicle is licensed.

Section 7. Violations of Kentucky Law. Any motor vehicle operating into or through Kentucky in excess of the maximum weight or size limit allowed by the provisions of KRS Chapter 189, or in excess of the maximum weight or size limits allowed by overweight or oversize permits issued pursuant to the provisions of KRS Chapter 189, or when said vehicle fails to display the motor vehicle identification card required by Sections 2, 3 and 4, may, within the discretion of the department, be denied reciprocal privileges in Kentucky in addition to the other penalties provided by the Kentucky Revised Statutes.

Section 8. Non-Reciprocal Trip Permits. Any motor vehicle by a non-resident not otherwise entitled to reciprocity in the Commonwealth of Kentucky and which motor vehicle operates in interstate commerce may be operated through this state for one (1) round trip, provided the operator, prior to the entry of the vehicle into this state, secures from the Department of Transportation

a non-reciprocal trip permit. The application for this permit must briefly describe the vehicle, designate the place of entry into Kentucky, destination of the vehicle and name of the operator. The operator must have a Kentucky motor carrier fuel use permit and the KYU number must be shown on the application. If the operator does not have a fuel tax permit, a temporary fuel permit good for ten (10) days may be secured in accordance with 601 KAR 9:060. The applicant shall furnish evidence for the time required for the single round trip into or through Kentucky, and the permit shall be issued for such time, but not in any case to exceed ten (10) days. The cost of this permit will be twenty-five dollars (\$25) paid in advance.

O. B. ARNOLD, Commissioner

ADOPTED: October 20, 1975

APPROVED: JOHN C. ROBERTS, Secretary

RECEIVED BY LRC: October 29, 1975 at 9:55 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Commissioner, Bureau of Vehicle Regulation, State Office Building, Frankfort, Kentucky 40601.

DEPARTMENT OF TRANSPORTATION

Bureau of Vehicle Regulation

(Proposed Amendment)

601 KAR 10:070. Exemptions.

RELATES TO: KRS 189.659

PURSUANT TO: KRS 13.082, 174.080, 189.657

NECESSITY AND FUNCTION: KRS 189.659 allows the Department to issue inspection permits to operators of commercial vehicles with approved safety programs and grants certain exemptions from the effect of the inspection statutes. This regulation implements that statute so that the Department can get needed information relative to approving such safety programs and to recognizing such exemptions. *It also exempts from compliance certain vehicles which are subject to more frequent safety inspections.*

Section 1. Any operator of commercial vehicles who carries out a safety program and who desires an inspection permit shall seek approval of his program by the following method:

(1) Submission of his permit request and the grounds for the request in writing to the Department;

(2) Submission of the safety program schedule to be followed, specifying the nature, scope, and frequency of the safety inspection;

(3) Submission of any information that might assist the department in making a determination regarding the permit request;

(4) Submission of a statement that, if a permit is granted, any change in the procedures, standards or frequency of the approved safety inspections will be filed with the department sufficiently in advance of such proposed change, in every case not less than sixty (60) days prior to such change. No such change will be permitted until and unless the request has been approved in writing by the department.

Section 2. The requirements of Section 1 shall not pertain to the exemption for vehicles operated in interstate

commerce and subject to the safety regulations adopted by the Interstate Commerce Commission (ICC); and such exemption shall be recognized by means of an official cab card issued by the department and identifying a vehicle as being authorized to operate in interstate commerce, a driver daily log book, as required by ICC regulations, and/or the M.C. number painted on the vehicle. The requirements of Section 1, insofar as appropriate for getting information needed to recognize the exemption, shall pertain to operators of vehicles claimed to be exempt because of being subject by regulation to stricter and more frequent safety inspections as provided for in KRS 189.659(2).

Section 3. The requirements of KRS 189.641 to 189.647, KRS 189.651 to 189.659 and 189.993 shall not apply to motor vehicles registered having a declared gross weight in excess of 38,000 pounds.

O. B. ARNOLD, Commissioner

ADOPTED: October 29, 1975

APPROVED: JOHN C. ROBERTS, Secretary

RECEIVED BY LRC: October 29, 1975 at 3:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Commissioner, Bureau of Vehicle Regulation,
Department of Transportation, State Office Building,
Frankfort, Kentucky 40601.

DEPARTMENT OF TRANSPORTATION

Bureau of Highways (Proposed Amendment)

603 KAR 5:095. Truckway classifications.

RELATES TO: KRS 189.222

PURSUANT TO: KRS 13.082, 174.050, 189.222

NECESSITY AND FUNCTION: KRS 189.222 authorizes the Secretary of Transportation to establish reasonable weight and dimension limits on all highways included in the State Primary Road System. This regulation is adopted to identify those portions of the highway system affected and indicate their classification.

Section 1. The classification for KY 1808 is added to read as follows:

A—From: Jct. KY 90, approximately 4.0 miles Northeast of Monticello, extending southeast 1.054 miles.

B—All other portions not herein classified.

JOHN C. ROBERTS, Secretary

ADOPTED: October 17, 1975

RECEIVED BY LRC: October 29, 1975 at 9:55 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Dandridge F. Walton, Deputy Secretary for Legal
Affairs, Department of Transportation, Frankfort,
Kentucky 40601.

EDUCATION AND ARTS CABINET Department of Education Bureau of Education for Exceptional Children (As Amended)

707 KAR 1:050 Programs for exceptional children.

RELATES TO: KRS 157.200 to 157.305

PURSUANT TO: KRS 13.082, 156.070, 156.160

SUPERSEDES: SBE Chapter 54

EFFECTIVE: November 12, 1975

NECESSITY AND FUNCTION: To recodify and repromulgate State Board of Education Regulations for Programs for Exceptional Children pursuant to KRS 13.082.

Section 1. General provisions. Local boards of education shall operate programs for exceptional children of compulsory school attendance age pursuant to KRS 157.200 to 157.305, inclusive, and the criteria listed in this section and Sections 2 to 10 below:

(1) Classroom unit: Classroom units for exceptional children are allocated to local school districts provided the following criteria are met:

- (a) Approved teacher;
- (b) Approved housing;
- (c) Planned program; and
- (d) Required number of children in membership.

(2) Fractional classroom unit: A fractional classroom unit is a unit having fewer pupils than the prescribed pupil-teacher ratio as indicated in the appropriate sections below or if the program is in operation for less than a full day or full school year. Such units shall be allotted and certified on a basis proportionate to the pupil-teacher ratio and/or the proportionate length of the school day or the school year.

(3) Personnel: Appropriate state certification shall be required. Additional classroom units for teachers of exceptional children allotted to any school district for the 1972-73 school year, and thereafter, shall be staffed by teachers who are fully certified in the appropriate area of exceptionality, except as provided in 704 KAR 20:165.

(4) Housing:

(a) The resource room and special class programs for exceptional children shall be housed in an elementary or secondary school, dependent upon the age range of the pupils, unless exceptions are provided in Sections 2 to 10 below pertaining to specific areas of exceptionality. Classrooms shall meet the standards for regular classrooms as specified in State Board of Education regulations.

(b) Housing for the itinerant teacher plan shall be in facilities and/or rooms appropriate for instructing pupils in small groups or individually.

(5) Program plans: The appropriate program plan for exceptional pupils shall be determined by the needs of the pupils in the local school district. Programs shall be organized and operated under one or more, or a combination of the following:

(a) A special class plan shall be a classroom based program in which the handicapped pupil is enrolled. The chronological age range for pupils enrolled in the special class shall not exceed four (4) years. The pupils shall participate in the regular class whenever possible.

(b) A resource room plan shall be a program which serves exceptional pupils who shall be enrolled in the regular class and shall be able to do part of their classwork in the regular class. The pupil shall go to the resource room for special instruction not available in the regular class. No

more than eight (8) pupils shall be in the resource room for instructional purposes at any one time.

(c) An itinerant teacher plan shall be a teacher who travels to the pupils' school(s) on a regularly scheduled basis to work with pupils either individually or in small groups. Pupils shall be enrolled in a regular class and shall receive a portion of their instruction in the regular program.

(d) A variation plan shall be a variation of the above plans to include one or more areas of exceptionality for which the local school district has submitted a request and received approval from the Bureau of Education for Exceptional Children.

(e) Programs for the trainable mentally handicapped shall be operated under the special class plan.

(6) Teacher headquarters: For the itinerant teacher plan permanent work space, in addition to the area where personnel work with pupils, shall be provided.

(7) Travel expenses: For the itinerant teacher plan the local board of education shall defray travel expenses incurred by personnel in the execution of duties related to the program.

(8) Length of school day: The length of the school day shall be the same as for non-handicapped children except as specified in KRS 157.200 which relates to instruction in a child's home or in hospitals or sanatoria.

(9) Admission and Release Committees: Local school district personnel shall establish one (1) district-wide Administrative Admissions and Release Committee and a School-Based Admissions and Release Committee in each school with appropriate membership and functions are listed below:

(a) Administration Admissions and Release Committee. The membership of the Administrative Admissions and Release Committee (AARC) shall consist of:

1. Director, local school district program for exceptional children, chairperson (permanent member).
2. Local school district superintendent or his designee (permanent member).
3. Referred pupil's principal (if the child is enrolled in a public or private school).
4. Involved instructional supervisor depending on the age and level of the child.
5. The parent(s) of the referred child or their designee (at parent(s) discretion).
6. Consulting members as requested by the AARC.

(b) The functions of the AARC shall include the following:

1. Receive information on identified children not currently enrolled in the local school district who are thought to need special educational services and/or programs.
2. Follow due process procedures to insure that exceptional children and their parents are guaranteed procedural safeguards in decisions regarding identification, evaluation, and educational placement.
3. Designate qualified persons to conduct appropriate evaluations on identified children.
4. Discuss results of the evaluation and make recommendations as to appropriate services and/or programs for the identified child. These recommendations shall include a written summary, in educationally relevant and common terms, of the referred pupil's special needs offering explicit strategies for meeting such needs and stating criteria by which the effectiveness of such intervention strategies may be determined.
5. Determine if the local school district can provide appropriate services, if local programs must be changed to

accommodate the identified child, if additional services or programs will be developed, or if the child must receive services outside the local school district.

6. Review extreme cases where the School-Based Admissions and Release Committee is not able to reach a decision on appropriate educational placement for a referred pupil and make recommendations as to appropriate educational placement.

7. At least annually, review the placement of each exceptional child living in the local school district but receiving services outside the local school district in relation to his educational progress in that setting.

8. Serve as the review committee in cases in which parents disagree with the recommendations of the SBARC as to appropriate services to be provided for their child.

(c) School-Based Admissions and Release Committee. The membership of the School-Based Admissions and Release Committee (SBARC) shall consist of:

1. Building principal, chairperson.
2. Referring teacher(s).
3. Teacher(s) of exceptional children.
4. Parent(s) of the referred pupil or their designee (at parent's discretion).

5. Consulting members providing input into the referred pupil's educational program (i.e. guidance counselor, psychometrist, psychologist, school nurse, school social worker, etc.).

(d) The functions of the SBARC shall include the following:

1. Receive referrals on pupils currently enrolled in the school thought to need special educational services and/or programs.
2. Follow due process procedures to insure that exceptional children and their parents are guaranteed procedural safeguards in decisions regarding identification, evaluation, and educational placement.
3. Conduct or obtain appropriate evaluations on referred pupils.
4. Discuss results of formal and informal evaluations.
5. Make recommendations for appropriate services and/or programs for the referred pupil. These recommendations shall include a written summary, in educationally relevant and common terms, of the referred pupil's special needs, offering explicit strategies for meeting such needs and stating criteria by which the effectiveness of such intervention strategies may be determined.
6. At least annually, review the placement of each exceptional child in the school in relation to his educational progress in that setting.
7. Refer cases where appropriate services are not available within the school to the AARC.

[(9) Admission and release committees: Local school district personnel shall establish an Administrative Admission and Release Committee and a School Based Admissions and Release Committee in each school with appropriate membership and functions as listed below.]

[(a) Administrative Admissions and Release Committee: The membership of the Administrative Admissions and Release Committee (AARC) shall consist of the director of the local school district program for exceptional children as chairperson, the referred pupil's principal, the involved instructional supervisor depending on the age and level of the child, and, others as requested by the AARC. The functions of the AARC shall be to receive information on identified children not currently enrolled in the local school district who are thought to need special educational services and/or programs; designated qualified persons to conduct a

full-core evaluation on identified children; analyze results of the full-core evaluation and make recommendations as to appropriate services and/or programs for the identified child, including a written summary in educationally relevant and common terms of the referred pupil's special needs offering explicit strategies for meeting such needs and stating criteria by which the effectiveness of such intervention strategies may be determined; determine if the local school district can provide appropriate services, if local programs must be changed to accommodate the identified child, if additional services or programs will be developed, or if the child must receive services outside the local school district; meet with parents of identified pupils to explain the results of all assessments used in making a recommendation for appropriate services and/or programs, and inform parents of their right to see the records of such assessments; review extreme cases where the SBARC is not able to reach a decision on appropriate educational placement for a referred pupil and make recommendations as to appropriate educational placement; periodically review the placement of each exceptional child living the local school district but receiving services outside the local school district in relation to his educational progress in that setting; serve as the review committee at hearings in which parents disagree with the recommendations of the SBARC as to appropriate services to be provided for their child.]

[(b) School-Based Admissions and Release Committee: The membership of the School-Based Admissions and Release Committee (SBARC) shall consist of the building principal as chairperson, the referring teacher(s), teacher(s) of exceptional children, and consulting members providing input into the referred pupil's educational program such as guidance counselor, psychometrist, ph such as guidance counselor, psychometrist, psychologist, and school nurse. The function of the SBARC shall be to receive referrals on pupils currently enrolled in the school thought to need special educational services and/or programs, conduct intermediate evaluations on referred pupils, analyze results of formal and informal diagnostic assessments (intermediate and/or full-core evaluation), make recommendations for appropriate services and/or programs for the referred pupil including a written summary in educationally relevant and common terms of the referred pupil's special needs which offers explicit strategies for meeting such needs and states criteria by which the effectiveness of such intervention strategies may be determined, meet with parents of referred pupils to explain the results of all assessments used in making a recommendation for appropriate services and/or programs, inform parents of their right to see the records of such assessments, periodically review the placement of each exceptional child in the school in relation to his educational progress in that setting, and, refer cases where appropriate services are not available within the school to the AARC.]

(10) *Identification of exceptional children. Local school district personnel shall commence and/or continue the identification of exceptional children residing in their school district who are otherwise eligible for attendance in public education systems but who are not attending a program of the local district. Local school district personnel shall forward a summary report of each identification of a child and the notification of parents to the Department of Education.*

[(10) Evaluation: Exceptional pupils shall be evaluated in accordance with the following process:]

[(a) Intermediate evaluation: An intermediate evaluation shall be completed on each child referred to programs for

exceptional children. It shall consist of the referring person's assessment of the pupil's specific strengths and weaknesses in the academic and/or behavioral areas, a behavior observation of the referred pupil in familiar surroundings, such as the classroom and playground, formal and informal educational evaluation data composed of, individual and group standardized academic achievement tests and specific diagnostic assessment of basic skills areas such as reading, math, language, etc.]

[(b) Full-core evaluation: A full-core evaluation shall be performed before any child currently enrolled in the local school district can receive services in a program for exceptional children requiring him to be in a setting outside the regular classroom for more than twenty-five (25) percent of the regular school day. It shall also be completed on each child referred to the programs for exceptional children who is not currently enrolled in the local school district. It shall consist of a measure of social competence, a developmental history, an individual psychological assessment of current intellectual functioning, and additional reports, information and assessments deemed necessary by the admissions and release committee(s), such as vision, hearing, medical, and speech.]

[(c) Evaluations shall be completed by persons who are qualified to perform such evaluations as necessary for determining the current academic, social, emotional, and physical needs of each child referred to programs for exceptional children. Suggested persons conducting one or more components of the intermediate or full-core evaluation shall include, but not be limited to the following: Educational diagnostician, guidance counselor, physician, psychiatrist, psychologist, psychometrist, school nurse, social worker, teacher of exceptional children.]

(11) *Due process procedures: Each child and his or her parents and the local school district shall be guaranteed procedural safeguards in decisions regarding identification location, evaluation, and educational placement of the child in programs for exceptional children. The safeguards shall include the following:*

(a) *The child shall be represented by his or her parent(s). "Parent" refers to a natural mother or father, an adoptive mother or father, a legally appointed guardian, or a surrogate parent. "Surrogate parent" refers to a person appointed to act in place of parent(s) or guardian(s) when the child's parents or guardians are unknown, are unavailable, or the child is a ward of the state.*

(b) *The parent(s) shall receive notification from the local school district that their child has been referred as a candidate for programs for exceptional children and that the child has the right to receive an educational opportunity from the public schools.*

(c) *All communications with parents concerning the identification, evaluation, and educational placement of the child shall include written and oral notification in English and in the primary language of the parent's home.*

(d) *The local school district shall obtain written parental approval to administer any specific individual psychological, psychiatric, medical and/or educational test for the purpose of placement of a child in a program for exceptional children. Any request to administer such tests shall be accompanied by statements which will inform the parent of:*

1. *The parent's right to deny permission for such tests, with the understanding that the local school district can request a hearing to present its reasons for the evaluation and try to obtain approval to conduct the evaluation;*

2. *The parent's right to review all school records*

pertaining to their child.

(e) If a parent fails to respond to the local school district's repeated attempts to obtain consent for evaluation, by means in addition to regular mail (e.g., telephone, home visit), the local school district may proceed with the evaluation of special needs. The local school district shall provide notice to the parent(s) regarding full due process rights in this proceeding. The local school district shall:

1. Demonstrate with documentation that it has repeatedly attempted to contact the parent(s) through efforts that were reasonably likely to succeed;

2. Established with facts about the child's performance in his/her present placement that there is reasonable likelihood that the child will be found to have special needs.

(f) If the parent(s) refuse to give permission for the evaluation, the local school district shall either accept their decision or shall request an impartial hearing. The written request for a hearing should:

1. Document that resolution by conference with the concerned parents has been attempted and failed;

2. Demonstrate that the initiation of the evaluation procedure is justified because the present placement of the child is detrimental to the child's educational progress, or is dangerous to the child's health and safety, or is disruptive to the program for other children.

(g) If, when the evaluation is completed, a change is proposed in the child's educational program, the local school district shall notify the parent in advance of the proposed action. Such notice shall be presented orally and in writing, the written notice via certified mail. The notice shall:

1. Describe in detail the proposed action as well as the reasons why such action is deemed appropriate;

2. Specify the tests or reports upon which the proposed change is based;

3. State that the school files pertaining to the child are open for parental review;

4. Describe in detail the right to obtain a due process hearing;

5. Inform the parent(s) of alternative educational programs, including reasons why such programs are not suitable;

6. List the community agencies which provide free legal counsel;

7. Inform the parent(s) of the right to obtain an independent evaluation of the child;

8. Describe the procedure for appeal;

9. State that the child will remain in the present educational placement until such time as a decision is forthcoming or until such time that a proposed educational placement is accepted by both parties.

(h) The local school district shall obtain written parental approval prior to the placement of their child in a program for exceptional children. In addition, at the beginning of each school year in which the child has continued placement in a program for exceptional children, the local school district shall provide the parents with written verification of the placement.

(i) In cases where parent(s) and a local school district disagree on the need for evaluation of a child and/or the educational placement of a child, a hearing shall be conducted in accordance with the following procedures:

1. The hearing shall be in the school district of residence and held in the form of a conference between the parents, their representative, a representative of the appropriate

Admissions and Release Committee, and the hearing officer;

2. The local school district shall provide factual information concerning the appropriateness of the proposed evaluation or educational placement of the child;

3. An impartial hearing officer shall be appointed to preside at the hearing. "Impartial hearing officer" refers to a person(s) assigned to preside at a due process hearing and whose duty is to assure that proper procedures are followed. The impartial hearing officer must be: (i) Unbiased—not prejudicial for or against any party involved, (ii) Disinterested—not having any stake in the outcome;

4. The hearing officer shall provide parents and local school district representatives with notice of the hearing five (5) days prior to the hearing date. This notice shall include the time and place of the hearing, which shall be convenient for the parent(s);

5. The parent(s) and the local school district shall be given the right to have legal counsel or other professional persons attend the hearing;

6. All parties involved shall have the right to present evidence and testimony;

7. The hearing shall be closed to the public unless the parent(s) request an open hearing;

8. The parent(s), the local school district, or their respective representatives shall have the right to question all witnesses;

9. If the child is over the age of majority, he/she shall have the right to attend the hearing;

10. A tape recording or other verbatim record of the hearing shall be made;

11. At all stages of the hearing procedures, interpreters for the deaf and/or interpreters fluent in the primary language of the home shall be provided when needed.

(j) The hearing officer's decision shall be issued in accordance with the following requirements:

1. The decision shall be based solely on evidence and testimony presented at the hearing;

2. The decision shall be sent via certified mail to the parent(s), to the local school district, and to their respective representatives, return receipt requested, within five (5) days of the completion of the conference;

3. The decision shall include a summary of all proceedings and state the reasons for the decision;

4. Upon request of the parents or the local school district, a copy of the tape recording or other verbatim record of the hearing shall be transcribed and provided;

5. A statement shall be included that the decision of the hearing officer is binding upon the parent(s) or the child if over the age of majority, and upon the local school district, its officers, employees and agents, subject to procedures for administrative or judicial appeal;

6. The decision of the hearing officer shall include a statement of the procedures to be used for appealing such decision.

(k) Appeals maybe initiated by a parent(s) or by the local school district in accordance with these requirements:

1. The appeal shall be heard by the State Board of Education or its impartial designee. Any designee shall meet all requirements described for hearing officers;

2. The appeal shall be conducted in accordance with state administration procedure;

3. The opportunity shall be given to the parents to appeal the decision of the State Board of Education or its designee to a state court.

(l) In order to provide every child eligible for a public education with the protection of procedural due process,

even under circumstances where a child's parent(s) or guardian(s) are not known, are unavailable, or the child is a ward of the state, each child shall be assigned a parent surrogate.

(m) The State Department of Education and local school districts in cooperation with other public and private agencies shall recruit persons and maintain a registry of such persons who can and will serve as surrogate parents. Persons selected as surrogate parents shall:

1. Have no other vested interest that would conflict with their primary allegiance to the child they would represent;

2. Be committed to personally and thoroughly acquainting themselves with the child and the child's educational needs;

3. Be of the same racial, cultural, and linguistic background of the children they represent;

4. Be familiar with the educational system within the state;

5. Be readily accessible to the children they represent.

(n) Assignment of a surrogate to a particular child shall be made according to the following procedures:

1. Any person may file a request for the assignment of a surrogate to a child with the child's local school district with a copy of the request to the State Department of Education.

2. The local school district shall send a notice of the request for a surrogate to the adult in charge of the child's place of residence and to the parent(s) or guardian(s) at their last known address in an effort to determine the need for a surrogate parent.

3. If the local school district determines need for a surrogate as provided in Section 1(11), the State Department of Education shall be notified of the need. The State Department of Education shall assign a surrogate within five (5) days of the notification.

4. The assigned surrogate shall represent the child through the time of the first periodic review of the child's educational placement.

5. Surrogates shall not be assigned to children who have reached the age of majority.

(o) If at any time during the school year, the child's educational placement appears to be inappropriate to the parent(s), the principal, the teacher(s), or specialist(s) providing services to the child, any one of such persons may request a review of the placement:

1. When a placement in a less restrictive environment is seen as more appropriate, the Admissions and Release Committee shall review the child's placement. If the committee determines the child's needs can be met in a less restrictive setting, the child's placement and educational program shall be changed and support services provided as necessary. The parent(s) and local school district shall be afforded all due process rights as described in Section 1(11).

2. When a review is requested for the purpose of securing a more restricted educational placement for the child, the review shall take place after the current educational program has been implemented for the minimum time of one (1) month. The Admissions and Release Committee shall conduct the review. The parent(s) and local school district shall be afforded all due process rights as described in Section 1(11).

[(11) Identification of exceptional children. Local school district personnel shall commence and or continue the identification of exceptional children residing in their school district who are otherwise eligible for attendance in public education system but who are not attending a

program of the local district.]

[(12) Due process procedures: Exceptional children and their parents shall be afforded appropriate due process procedures which shall include but not be limited to the following:]

[(a) Parents of exceptional children shall be notified in writing by local school district personnel that their child has been identified (referred) as an exceptional child and that such child has the right to receive an educational opportunity from the public school sufficient to their needs under the laws of the Commonwealth and the consent agreement.]

[(b) Local school district personnel shall forward a copy of the report of such identification and notification to the Department of Education.]

[(c) Local school district personnel shall provide that each exceptional child, for whom there is no existing local regular or special program or who is otherwise excluded from a local school system, shall receive a hearing in regard to that child's educational opportunities under the laws of the Commonwealth and the regulations of the State Board of Education. Such hearing shall be conducted on an informal basis and shall consist of notification to the parents and an opportunity for them to appear before the Administrative Admissions and Release Committee with respect to such exclusion. At that hearing, information shall be furnished to the parents concerning all available programs suitable to the needs, capacities, and capabilities of the child so advised and the responsibilities of the local school district with regard thereto. A written report of such hearing along with a statement as to determinations made in regard to the further education of such a child shall be forwarded to the Department of Education.]

[(d) Parents of exceptional children shall have the right to appeal the results of the hearing to the Department of Education in order to coordinate various special education programs which may be available to the child outside the district. The Superintendent of Public Instruction shall designate an individual or individuals within the Department of Education to hear such appeals.]

[(e) Such due process procedures shall be carried out in an orderly and prompt fashion.]

Section 2. Programs for Crippled and Other Health Impaired. (1) Eligibility criteria: A pupil shall be eligible for enrollment in a program for crippled and other health impaired if a licensed physician determined that he is physically unable to attend regular class. A medical statement by a licensed physician shall be on file in the central office. The Admissions and Release Committee shall review this statement as well as any additional reports, information and assessments deemed necessary for placement of each individual child in an appropriate educational program.

(2) Program membership:

(a) Program membership shall be six (6) to fifteen (15) pupils per teacher for the special class plan.

(b) Program membership shall be ten (10) to twenty (20) pupils per teacher for the resources room plan and the itinerant teacher plan. The Bureau of Education for Exceptional Children, Department of Education, shall have the authority to *increase the maximum membership to twenty-five (25)* [waive the maximum membership requirements] upon submission of a written request and justification by a local school district.

(3) Facilities: Facilities for rest periods shall be provided.

Section 3. Home Instruction, Hospital Instruction, Combined Home and Hospital Instruction Programs for Exceptional Children. (1) Eligibility Criteria:

(a) An exceptional child shall be eligible for instruction in his home, hospital, or sanatorium provided a signed statement is secured from a licensed physician, psychologist, psychiatrist, or public health officer, that the condition of the child prevents or renders inadvisable attendance at school or application to study. This statement shall be kept on file in the local school district office. The Admissions and Release Committee shall review this statement and any additional reports, information and assessments that it deems necessary for the placement of each individual child in appropriate educational program. The child shall be returned to a less restrictive and more appropriate educational environment when improvement of his condition renders this advisable.

(b) Children with communicable diseases shall not be enrolled in a home instruction program.

(c) A responsible adult shall be present in the home during the time the home instruction teacher is present.

(d) *Home Instruction shall not be used as a substitute for a more appropriate educational placement for exceptional children.*

(2) Program membership:

(a) Program membership for a home instruction program shall be six (6) to ten (10) pupils per teacher.

(b) Program membership for a special class in a hospital shall be six (6) to fifteen (15) pupils per teacher.

(c) Program membership for a combined home and hospital instruction program shall be six (6) to fifteen (15) pupils per teacher.

(3) Schedule of visits and planning: The home instruction teacher shall complete a visitation and planning schedule. This schedule shall include specific times for teaching, for planning and for conferences. A copy of this schedule shall be on file in the central office.

(4) Attendance records: The home instruction teacher shall keep a regular Kentucky attendance register. A pupil enrolled on the home instruction program on the basis of the minimum standard of two (2) one (1) hour visits per week shall be counted as being in attendance five (5) days.

(5) Home instruction of high school students: High school pupils on home instruction programs shall meet minimum State Board of Education requirements, follow the prescribed local course of study, and acquire the required number of units prior to graduation from high school. Credits shall be issued through the high school which the pupil would attend if he were not homebound. These credits shall be transferable to the same extent as credits earned in a regular high school program.

(6) Hospital instruction: Hospital instruction shall mean a special class within a hospital or individual instruction within a hospital for children who are confined to the hospital for care and treatment and, according to medical prescription, are well enough to participate.

(7) Combined home and hospital instruction: If there is not a sufficient number of pupils in the hospital to warrant the establishment of a special class or it is otherwise unfeasible, the school district shall operate a combined home and hospital instruction program with the teacher dividing his time according to the proportionate number of pupils enrolled in the two (2) programs.

(8) Mobile van: Local school districts shall have the authority to use a mobile van for the instructional program providing a request for approval has been submitted and approval has been received from the Department of Education.

Section 4. Programs for Educable Mentally Handicapped Pupils.

(1) Eligibility criteria: Pupils who meet the definition pursuant to KRS 157.200 (4) *and who obtain intelligence quotient scores between fifty (50) and seventy-five (75) on individual intelligence tests* shall be eligible for enrollment in programs for the educable mentally handicapped. *Pupils whose intelligence score is borderline may be placed in a program for the educable mentally handicapped on a trial basis upon the recommendation of the appropriate Admissions and Release Committee. "Trial basis" shall be a period of time no longer than four (4) months, at which time the placement decision shall be reviewed by the appropriate Admissions and Release Committee in consultation with the teacher in whose classroom the pupil was enrolled.*

(2) Evaluation: *The evaluation of pupils referred for identification and placement purposes shall consist of:*

(a) *The referring person's assessment of the pupil's specific strengths and weaknesses in the academic and behavioral areas.*

(b) *A behavioral observation of the referred pupil in familiar surroundings (i.e., classroom, playground, etc.).*

(c) *Formal and informal educational evaluation data composed of individual and/or group standardized academic achievement tests and assessment of basic skills areas such as reading, math and language.*

(d) *A developmental history.*

(e) *An individual psychological assessment utilizing a recognized standardized measure of individual intelligence.*

(f) *In cases where vision, hearing, or serious emotional disturbance is suspected to be the primary handicapping condition, a referral for appropriate assessments by qualified professional(s) shall be made.*

(g) *Evaluations of referred pupils shall be completed by persons who are qualified to perform such evaluations.*

(3) [(2)] Program membership: Membership requirements shall range from ten (10) to twenty (20) pupils per teacher. The Bureau of Education for Exceptional Children, Department of Education, shall have the authority to *increase [waive] the maximum membership to twenty-five (25) [requirements]* upon submission of a written request and justification by a local school district.

Section 5. Programs for Trainable Mentally Handicapped Pupils.

(1) Eligibility criteria: Pupils who meet the definition pursuant to KRS 157.200(5) *and who obtain intelligence quotient scores below fifty (50) on individual intelligence tests* shall be eligible for enrollment in programs for the trainable mentally handicapped.

(2) Evaluation: *The evaluation of pupils referred for identification and placement purposes shall consist of:*

(a) *The referring person's assessment of the pupil's specific strengths and weaknesses in the academic and behavioral areas.*

(b) *A behavioral observation of the referred pupil in familiar surroundings (i.e., classroom, playground, etc.).*

(c) *A measure of social competence.*

(d) *An assessment of basic skills areas such as reading, math and language.*

(e) *A developmental history.*

(f) *An individual psychological assessment utilizing a recognized standardized measure of individual intelligence.*

(g) *In cases where vision, hearing, orthopedic handicaps or serious emotional disturbance is suspected to be the primary handicapping condition, a referral for appropriate assessments by qualified professional(s) shall be made.*

(h) *Evaluations of referred pupils shall be completed by persons who are qualified to perform such evaluations.*

(3) [(2)] Program membership: Membership requirements shall range from six (6) to twelve (12) children per teacher. The Bureau of Education for Exceptional Children, Department of Education, shall have authority to *increase* [waive] the maximum membership to *fourteen (14)* [requirements] upon submission of a written request and justification by a local school district.

(4) [(3)] Age range: The chronological age range for the special class shall not exceed six (6) years. The Bureau of Education for Exceptional Children, Department of Education, shall have the authority to waive the age range requirements upon submission of a written request and justification by a local school district.

(5) [(4)] Housing:

(a) Classes for trainable mentally handicapped pupils shall be housed in an elementary or secondary school commensurate with the age range of the pupils unless specific approval of other facilities have been obtained from the Bureau of Education for Exceptional Children and the Division of Buildings and Grounds, Department of Education.

(b) Classrooms shall meet the standards for regular classrooms as specified in State Board of Education regulations.

Section 6. Programs for Children With Learning Disabilities (Neurologically Impaired). (1) Eligibility criteria: Pupils who meet the definition pursuant to KRS 157.200(8) shall be eligible for enrollment in programs for children with learning disabilities.

(2) *Evaluation: The assessment of the referred pupil for identification and placement purposes shall consist of:*

(a) *The referring person's assessment of the pupil's specific strengths and weaknesses in the academic and behavioral areas.*

(b) *A behavioral observation of the referred pupil in familiar surrounding (i.e., classroom, playground, etc.).*

(c) *Individual and/or group standardized achievement test(s) of basic skills.*

(d) *A group measure of current intellectual functioning. In those few cases where the pupil performs below minus one (1) standard deviation on the group measure, an individual measure of intelligence shall be administered by qualified personnel.*

(e) *In cases where vision, hearing, or serious emotional disturbance is suspected to be the primary handicapping condition, a referral for appropriate assessments by qualified professional(s) shall be made.*

[(2) Program membership: Program membership for programs for children with learning disabilities (neurologically impaired) shall be as indicated below. The Bureau of Education for Exceptional Children, Department of Education, shall have the authority to waive the maximum membership requirements upon submission of a written request and justification by a local school district.]

[(a) Program membership for the special class plan shall be six (6) to eight (8) pupils per teacher through the intermediate level and six (6) to ten (10) pupils per teacher for the junior/senior high level.]

[(b) Program membership for the resource room plan and the itinerant teacher plan shall be eight (8) to fifteen (15) pupils per teacher.]

(3) Program Membership:

(a) Alternative I and II: Itinerant teacher and resource room program:

1. Program membership: eight (8) to fifteen (15) pupils per teacher.

2. The Bureau of Education for Exceptional Children, Department of Education, shall have the authority to increase the maximum membership to twenty (20) pupils per teacher for the itinerant teacher and resource room program alternatives upon submission of a written request and justification by a local school district.

(b) Alternative III: Special class program membership:

1. Pre-school through intermediate level: six (6) to ~~ten~~ *eight* (8) pupils per teacher.

2. Junior and senior high level: six (6) to ten (10) pupils per teacher.

3. Age range: Chronological age range for the special class shall not exceed four (4) years.

Section 7. Programs for Emotionally Disturbed (Behavior Disorders). (1) Eligibility criteria: Pupils shall be eligible for enrollment in a program for the emotionally disturbed (behavior disorders) whose emotional and behavioral disorders indicate they can benefit from a modified learning environment and an instructional program compatible with their individual learning needs. *Such pupils may demonstrate varying degrees of the following:*

(a) *An inability to learn which cannot be explained by intellectual, sensory or health factors.*

(b) *A variety of extreme behavior patterns ranging from hyperactive, impulsive responses to depression and withdrawal.*

(c) *A general, pervasive mood of unhappiness or depression.*

(d) *A persistent inability to establish and maintain meaningful interpersonal relationships.*

(e) *A tendency to develop physical symptoms such as speech problems, pains and fears, associated with personal and/or school problems.*

(2) *Evaluation: The assessment of the referred pupil for identification and placement purposes shall consist of:*

(a) *The referring person's assessment of the referred pupil's specific strengths and weaknesses in the behavioral and academic areas.*

(b) *A behavior observation of the referred pupil in familiar surroundings (i.e., classroom, playground, etc.).*

(c) *Individual and/or group standardized achievement test(s) which measures performance in reading, arithmetic, and other basic skills areas.*

(d) *A developmental and social history.*

(e) *Individual psychological, psychiatric, and/or medical evaluation(s) when recommended by appropriate school authorities.*

[(2) Program membership: Program membership for programs for children with emotional disturbance (behavior disorders) shall be as indicated below. The Bureau of Education for Exceptional Children, Department of Education, shall have the authority to waive the maximum membership requirements upon submission of a written request and justification by a local school district.]

[(a) Program membership for the mildly to moderately emotionally disturbed pupils shall be from eight (8) to fifteen (15) pupils per teacher.]

[(b) Program membership for the severely emotionally disturbed pupils shall be from five (5) to eight (8) pupils per teacher.]

(3) Program membership:

(a) Alternatives I and II: Itinerant and resource room program:

1. Program membership: eight (8) to fifteen (15) pupils per teacher.

2. The Bureau of Education for Exceptional Children, Department of Education, shall have the authority to increase the maximum membership to twenty (20) pupils per teacher for the itinerant teacher and resource room alternatives upon submission of a written request and justification by a local school district.

(b) Alternative III: Special class program membership:

1. Six (6) to eight (8) pupils per teacher.

2. Age range: Chronological age range for the special class shall not exceed four (4) years.

[(3) Housing:]

[(a) Programs for the emotionally disturbed (behavior disorders) shall be housed in an elementary or secondary school commensurate with the age range of the pupils unless specific approval of other facilities has been obtained from the Bureau of Education for Exceptional Children and the Division of Buildings and Grounds, Department of Education.]

[(b) Classroom shall meet the standards for regular classrooms as specified in State Board of Education regulations.]

Section 8. Programs for Speech Handicapped (Communication Disorders). (1) Admission and eligibility: Any pupil having a speech handicap/communication disorder shall be eligible for placement. Admission shall be based upon evaluation and/or recommendation by personnel certified by the Department of Education.

(2) Organizational patterns: Programs shall be organized and operated according to a plan which shall provide for individual or group instruction on a daily or less than daily basis.

(3) Planning: One-half (1/2) day per week shall be allotted for planning and conferences.

(4) Program membership: Membership requirements shall range from forty (40) to seventy-five (75) pupils per week. The Bureau of Education for Exceptional Children, Department of Education, shall have the authority to waive the membership requirements upon submission of a written request and justification by local school district.

(5) Reports: Data related to individual pupil status, required to complete state and local districts forms/reports, shall be maintained.

(6) Release: Shall be based upon ongoing subjective and objective assessment and/or recommendation by appropriately certified personnel.

(7) Mobile van: Local school districts shall have the authority to use a mobile van for the instructional program providing a request for approval has been submitted and approval has been received from the Department of Education.

Section 9. Programs for Children With Visual Handicaps.

(1) Eligibility criteria: A pupil shall be eligible for enrollment in a program for the Visually Handicapped if an eye specialist certifies that he has a visual acuity of 20/70 or less in the better eye after correction.

(2) Reports and information: An eye examination report, completed and signed by an eye specialist shall be obtained. *The Admissions and Release Committee shall obtain and review any additional reports, information and assessments that it deems necessary for the placement of each individual child in an appropriate educational program.*

(3) Program membership: Program membership for the special class plan, the itinerant teacher plan and the resource room plan shall be from five (5) to ten (10) pupils per teacher. The Bureau of Education for Exceptional Children, Department of Education, shall have the authority to waive the maximum membership requirements upon submission of a written request and justification by a local school district.

Section 10. Programs for Multiple Handicapped Children. (1) Eligibility criteria: Pupils who meet the definition pursuant to KRS 157.200(10) shall be eligible for enrollment in programs for the multiple handicapped.

(2) Evaluation: *The evaluation of pupils referred for placement in programs for the multiple handicapped shall include a comprehensive, individual child evaluation. This evaluation shall include a developmental and social history, a medical evaluation, and individual psychological assessment of current intellectual functioning, and any additional reports, information and assessments deemed necessary by the Admissions and Release Committee for the appropriate placement of each child.*

(3) [(2)] Program membership: Program membership shall be from five (5) to ten (10) pupils per teacher.

(4) [(3)] Type of programs: Appropriate special education programs for multiple handicapped children shall provide for continuing instructional programs and services commensurate with the child's ability. Multiple handicapped children shall be integrated into other programs as possible.

(5) [(4)] Housing: Classes for multiple handicapped children shall be housed in an elementary or secondary school, dependent upon the age range of the pupils unless specific approval of other facilities has been obtained from the Bureau of Education for Exceptional Children and the Division of Buildings and Grounds, Department of Education.

(6) [(5)] Age range: The chronological age range for the special class shall not exceed six (6) years unless specific approval for an extended age range has been obtained from the Bureau of Education for Exceptional Children.

LYMAN V. GINGER,

Superintendent of Public Instruction

ADOPTED: September 10, 1975

RECEIVED BY LRC: October 21, 1975 at 12:30 p.m.

PUBLIC PROTECTION AND REGULATION

Department of Banking and Securities

As Amended

808 KAR 1:060. Remote service units.

RELATES TO: KRS 287.180, 289.061

PURSUANT TO: KRS 13.082, 287.011, 287.020, 289.702

EFFECTIVE: November 12, 1975

NECESSITY AND FUNCTION: To clarify the definition of the term "branch" and "branch office," as used in KRS 287.180 and 289.061, respectively, and to provide a procedure and set of criteria for the establishment of remote service units so as to ensure the maintenance of competitive equality between state and federally chartered financial institutions.

Section 1. Unless otherwise provided, whenever the term "bank" is used in this regulation, it shall be deemed to refer to either a state-chartered bank or savings and loan association.

Section 2. *Except as provided in Section 11 of this regulation*, a bank may receive and act upon communications from its customers transmitted through electronic or mechanical devices (hereinafter referred to as "remote service units") requesting the withdrawal of funds either from the customer's deposit account or from a previously authorized line of credit, or instructing the bank to receive funds or to transfer funds for the customer's benefit. In accordance with a customer's request or instruction, and subject to verification by the bank, *and the restrictions of Section 11 of this regulation*, cash or checks may be received, and cash may be dispensed at the location of the device.

Section 3. Any transaction initiated by a remote service unit shall be subject to verification by the bank, either by direct wire transmission or otherwise.

Section 4. Although the approval of the commissioner shall not be required to operate the devices described in this regulation, if a bank wishes to establish, use or share a device which allows customers to leave cash or checks for deposit or to receive cash in connection with a debit to any of his accounts, then such bank shall furnish to the Department of Banking and Securities at least thirty (30) days prior to its actual use of such device the following information: (1) The location;

(2) A general description of the area where located and the manner of installation at that location;

(3) The manner of operation, including whether the device is on-line, and a step-by-step analysis of how a customer is to use the device. A description of how the transactions are recorded and verified should also be included;

(4) The types of transactions that will be performed;

(5) Whether the device will be manned, and if so, by whose employee;

(6) Whether the device will be shared, and if so, the names and locations of the other institutions participating, and the costs and terms of the sharing agreement;

(7) The manufacturer and, if owned, the purchase price; or, if leased, the lease payments and the name of the lessor;

(8) If a card or other device is used to activate the remote service unit, how such card or device is to be used;

(9) Consumer protection procedures, including the disclosure of rights and liabilities of consumers and protection against wrongful or accidental disclosure of confidential information;

(10) The distance from the nearest office of the reporting bank, and the distance from the nearest remote service unit of the reporting bank;

(11) The distance from the nearest office of another bank that will not share the facility, and the name of such other bank; and the distance from the nearest remote service unit that is not shared by the reporting bank, and the names of the financial institutions that use such unit;

(12) Insurance and the security provisions protecting the installation and its users.

Section 5. The commissioner may, if he deems it appropriate, allow a bank to establish, use or share a remote

service unit less than thirty (30) days after furnishing the information required by Section 4.

Section 6. Written notice must be given to the Department of Banking and Securities at least ten (10) days prior to changing any of the operations described in a notice previously given pursuant to Section 4; provided that the commissioner may, if he deems it appropriate, allow a change upon shorter notice.

Section 7. Any bank which desires to operate or to enable its customers to utilize a remote service unit must make such device available for use by customers of any other bank or savings and loan association which has its principal office in the same county, whether it be state or federally chartered, upon the request of such bank or savings and loan association to share in the use of the device and to share all costs, including a reasonable return on capital expenditures incurred in connection with its development, installation and operation; provided, that banks and savings and loan associations shall be required to share these devices with federally-chartered banks and savings and loan associations only to the extent that each particular federally-chartered bank or savings and loan association is willing to share its own remote service units with such state-chartered bank or savings and loan association; and further provided that a remote service unit which is located on the same property that a bank or savings and loan association office is located on, or which is a mere extension of such office need not be made available for use by any other financial institution or its customers. *Except as provided in Section 11 of this regulation*, remote service units which are capable of being operated without the assistance of either bank or non-bank employees need not be made available for use by any other bank or savings and loan association, whether it be state or federally chartered.

Section 8. One or more banks sharing one or more remote service units may give a single notice to the Department of Banking and Securities, provided that such notice include the information listed in Section 4 for each shared device.

Section 9. The Commissioner of the Department of Banking and Securities reserves the right to require new or additional information from any financial institution desiring to participate in the operation of one or more remote service units.

Section 10. No notice is required for any device which:

(1) Is used only to transfer funds for goods or services received, and through which neither cash is dispensed nor cash or checks left for subsequent deposit;

(2) Is used solely to verify a customer's credit for purposes of cashing a check or completing a credit card transaction.

Section 11. No bank shall establish, share, or in any way participate in the operation or use of a remote service unit unless such unit is located within the county in which its principal office is located[.] ; *provided that a bank may share in the use of a remote service unit that is located outside of the county in which its principal office is located if such remote service unit is so programmed that the only type of transaction available to an out-of-county user is the dispensing of funds. For purposes of this regulation, the*

term "out-of-county user," as it relates to a particular remote service unit, shall be deemed to refer to an individual who has his principal banking relationship with a state or federally chartered bank or savings and loan association whose principal office is located in a county other than that in which the remote service unit is located.

Section 12. A remote service unit may not be staffed by a bank employee; except that the bank may, for a reasonable period of time, provide an employee to instruct and assist customers in the operation of the device. The use of non-bank employees to operate or assist in the operation of remote service units shall not be deemed to constitute the conducting of the business of banking by them or their employers, and such non-bank employees may be trained in the use of the devices by bank employees.

Section 13. Any financial transaction effected by use of a remote service unit shall be deemed to be transacted at the bank and not at the remote service unit, and such remote service unit shall not be considered to be a branch or branch office.

Section 14. If, as a result of this regulation, any action by one or more banks would be in violation of what is commonly referred to as the anti-trust law, then this regulation shall be construed so as to permit or require only such action as shall not be in violation of such law.

JOHN L. WILLIAMS, Commissioner

ADOPTED: July 21, 1975

APPROVED: ELIJAH M. HOGGE, Secretary

RECEIVED BY LRC: November 10, 1975 at 3:55 p.m.

Proposed Regulations

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 4:020. Denial, probation, suspension or revocation of institution eligibility to participate in authority programs.

RELATES TO: KRS 164.740 to 164.764, 164.780, 164.785

PURSUANT TO: KRS 13.082, 164.748(3)

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky post-secondary institutions. This regulation sets forth the manner in which the authority or its delegated officers may deny, probate, suspend or revoke the authority's Declaration of Institutional Eligibility to participate in any of the student financial assistance programs administered by the authority.

Section 1. Denial. The authority or any of its delegated officers may, upon verification of misstatements of fact related to an institution's certification and declaration to participate in an authority administered program, refuse to execute a declaration of eligibility for such institution.

Section 2. Probation. The authority or any of its delegated officers may, upon documentation that such institution has failed through acts of commission or omission to abide by the regulations pertaining to any authority administered program for which the institution has previously been issued a declaration of eligibility to participate, probate an institution's eligibility to participate in authority administered programs for a period not to exceed one (1) year.

Section 3. Suspension. The authority or any of its delegated officers may, upon documentation that such institution has failed through acts of commission or omission to abide by the regulations pertaining to any authority administered program for which the institution has previously been issued a declaration of eligibility to participate, suspend an institution's eligibility to participate

in authority administered programs for a period not to exceed one (1) year.

Section 4. Revocation. The authority or any of its delegated officers may, following any period of probation or suspension of an institution's eligibility to participate in any authority administered programs, in the absence of institutional correction of deficiencies which resulted in the probation or suspension, revoke an institution's eligibility to participate in all or any of the authority administered programs. Institutions which have their eligibility revoked may not submit a new agreement form to the authority prior to the expiration of one (1) calendar year immediately following the date of eligibility revocation.

Section 5. Notices. In the event eligibility of any institution is denied, probated, suspended or revoked by act of an officer of the authority, the institution shall be provided with notice of such action which shall be issued in the name of the officer and shall contain a concise statement of the reason for the denial, probation, suspension or revocation of eligibility and sufficient information to reasonably apprise the institution of the substance of the facts claimed to constitute a violation of authority program regulations and shall inform the institution of their right to appeal to the authority for a hearing on all issues contained therein. All requests for hearings must be made to the authority at 120 Mero Street, Frankfort, Kentucky 40601, within twenty (20) days of receipt of the notice. Such notices or appeals may be effected in the manner prescribed by law for the service of civil process or by the officer forwarding same to the institution or by the institution forwarding same to the authority by U. S. registered mail or certified mail, postage prepaid, to the address of the institution as reflected by the records of the authority or to the authority at 120 Mero Street, Frankfort, Kentucky 40601.

Section 6. Hearings. In the event denial, probation, suspension or revocation of eligibility results from the actions of a delegated officer of the authority, the institution may appeal to the full authority for a hearing to

determine the facts in the case. At such a hearing the officer or officers of the college may be accompanied by counsel of their own choosing and at their own expense. If the findings warrant, the authority may uphold the findings of its officer or may find in favor of the institution. The hearing may be conducted by the authority board or by a hearing officer or a hearing committee appointed by the authority board. All members of the authority and all persons appointed by the authority as hearing officers or as members of a hearing committee are authorized to administer oaths, issue subpoenas for the attendance of witnesses and for the production of books, papers and documents and to cite for contempt before the circuit or quarterly court in the county in which the hearing is held for disobedience of its process or for contumacious or disrespectful conduct. The institution proceeded against shall be entitled to be represented at the hearing in person or by counsel or both and shall be entitled to introduce testimony by witnesses or, if the authority so permits, by depositions. Hearing officers and hearing committees shall prepare a proposed findings of fact and conclusions of law.

Section 7. Decisions and Appeals. All decisions denying, probating, suspending or revoking institutional eligibility may be made by an officer of the authority and shall be binding upon the authority and the institution in the absence of an appeal by the institution to the full authority. In the event an appeal is made by an institution to the full authority the decision resulting from a hearing conducted by the authority shall become final and conclusive thirty (30) days after notice thereof is given as provided.

PAUL P. BORDEN, Executive Director

ADOPTED: October 30, 1975

RECEIVED BY LRC: November 14, 1975 at 4:40 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Executive Director, Kentucky Higher Education Assistance Authority, 120 Mero Street, Frankfort, Kentucky 40601.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 5:010. Authority, purpose, name of grant programs.

RELATES TO: KRS 164.740 to 164.764, 164.780, 164.785

PURSUANT TO: KRS 13.082, 164.748(3)

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky post-secondary institutions. This regulation sets forth the purpose and names of these grant programs.

Section 1. The State Student Incentive Grant Program (SSIG) authorized under KRS 164.740 to 164.764 provides eligible Kentucky residents grant assistance in order to pursue post-secondary educational programs at eligible Kentucky institutions.

Section 2. The Kentucky Tuition Grant Program (KTG) authorized under KRS 164.780 and 164.785 provides qualified Kentucky residents who bear the major costs of attending accredited independent colleges and universities

within the Commonwealth a tuition or fees grant as supplementary aid to students where need exists.

Section 3. Awards from the State Student Incentive Grant Program or the Kentucky Tuition Grant Program or a combination of the two (2) may be referred to as KHEAA grants.

PAUL P. BORDEN, Executive Director

ADOPTED: October 30, 1975

RECEIVED BY LRC: November 14, 1975 at 4:40 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Executive Director, Kentucky Higher Education Assistance Authority, 120 Mero Street, Frankfort, Kentucky 40601.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 5:015. Use for 1976-77 and subsequent years.

RELATES TO: KRS 164.740 to 164.764, 164.780, 164.785

PURSUANT TO: KRS 13.082, 164.748(3)

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky post-secondary institutions. This regulation states the application period to which these regulations shall apply.

Section 1. The following regulations shall be in effect for applications for KHEAA grants to be awarded for the 1976-77 academic year and thereafter: 11 KAR 5:010, 11 KAR 5:020, 11 KAR 5:030, 11 KAR 5:040, 11 KAR 5:050, 11 KAR 5:060, 11 KAR 5:070, 11 KAR 5:080, 11 KAR 5:085, 11 KAR 5:090, 11 KAR 5:100.

PAUL P. BORDEN, Executive Director

ADOPTED: October 30, 1975

RECEIVED BY LRC: November 14, 1975 at 4:40 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Executive Director, Kentucky Higher Education Assistance Authority, 120 Mero Street, Frankfort, Kentucky 40601.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 5:020. Definitions.

RELATES TO: KRS 164.740 to 164.764, 164.780, 164.785

PURSUANT TO: KRS 13.082, 164.748(3)

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky post-secondary institutions. This regulation sets forth the definitions of acronyms, words and phrases used in the administration of KHEAA grant programs.

Section 1. Definitions. (1) "Academic year" is a period of time, usually eight (8) or nine (9) months, during which a full-time student would normally be expected to

complete the equivalent of two (2) semesters, two (2) trimesters, or three (3) quarters of instruction.

(2) "Accredited" for the purpose of the State Student Incentive Grant is interpreted by the authority to mean fully accredited pursuant to KRS 164.740(3), (4), (5), or (6). Accredited for the purpose of the Kentucky Tuition Grant is interpreted by the authority to mean fully accredited by the Commission on Colleges of the Southern Association of Colleges and Schools. The authority, therefore, does not recognize as fully accredited those institutions classified as "correspondent" or "recognized candidate for accreditation" or institutions having "three-letter" accreditations.

(3) "Agreement" is the document titled "Certifications and Declarations to Participate in the Kentucky Higher Education Assistance Authority Grant Programs" executed by the educational institution and the "Authority Declaration of Eligibility to Participate in the Kentucky Higher Education Assistance Authority Grant Programs" executed by the authority.

(4) "Application" means Kentucky Financial Aid Form, a copy of which is herein filed by reference. This form is available from Kentucky Higher Education Assistance Authority, Frankfort, Kentucky 40601.

(5) "Authority" is the Board of Directors of the Kentucky Higher Education Assistance Authority.

(6) "Basic Grant" is an award under the Basic Educational Opportunity Grant Program operated by the United States Government under the provision of PL Number 92-315.

(7) "Clock hour" is a period of time which is the equivalent of a fifty (50) to sixty (60) minute class, lecture or recitation, or a fifty (50) to sixty (60) minute period of faculty-supervised laboratory, shop training or internship.

(8) "Degree" means the earned academic title or designation, mark, appellation or series of letters or words which signify satisfactory completion of the requirements of an educational program of undergraduate study beyond the secondary school level and which leads to an associate or bachelor's degree.

(9) "Dependent student" is a KHEAA grant applicant who answers yes for the years specified on the application to any questions relating to living with parents more than two (2) consecutive weeks in a year, listing as a tax exemption on parents' United States income tax return, and receipt of financial assistance from parents.

(10) "Eligible course of study" is a program offered by an eligible institution which:

(a) Enrolls as regular students only those persons having either a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate;

(b) Is of at least two (2) academic years duration; and

(c) Leads to a degree in a field other than theology, divinity, or religious education.

(11) "Eligible institution" is an accredited educational institution in Kentucky which offers an eligible course of study which is not comprised solely of sectarian instruction, which has entered into an agreement with the authority, and which is licensed under the provisions of KRS 164.945 to 164.947 and Executive Order 74-633.

(12) "Executive director" is the chief administrative officer appointed by the authority.

(13) "Full-time student" is a student who is carrying a full-time academic work load, other than by correspondence, measured in terms of:

(a) Course work or other required activities as

determined by the institution in which the student is enrolled, including any combination of courses, work experience, research or special studies which the institution requires of the student to consider him as being engaged in full-time study, and which amounts to the equivalent of a minimum of twelve (12) semester hours or twelve (12) quarter hours per academic term for institutions utilizing trimesters, semesters or quarter hour systems; and

(b) The tuition and fees customary for full-time study at that institution.

(14) "Independent student" is a KHEAA grant applicant who answers no to all questions relating to living with parents more than two (2) consecutive weeks in a year, listing as a tax exemption on parents' United States income tax return, and receipt of financial assistance from parents.

(15) "KHEAA grant program officer (KGPO)" is the full-time administrative official designated on the agreement by a participating institution to serve as the authority's on-campus agent to certify all institutional transactions and activities with respect to the KHEAA grant programs.

(16) "Over-award" means provision through any and all sources of more financial assistance than is needed by a student.

(17) "Parental contribution (PC)" is the amount the parents or others in loco parentis of a dependent student can reasonably be expected to contribute toward meeting the student's educational cost. PC is determined for KHEAA grant programs by application of the uniform methodology of need analysis assessment to the data entered on the application.

(18) "Proprietary institution" means a school:

(a) Which provides a program of training of at least two (2) academic years duration to prepare students for gainful employment in a recognized occupation;

(b) Which admits as regular students only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate;

(c) Which is legally authorized under the provisions of the Proprietary School Act of 1972 and under the provisions of KRS Chapter 331 to provide a program of education beyond secondary education;

(d) Which is licensed by the Council on Public Higher Education under the provisions of KRS 164.945 to 164.947 and Executive Order 74-633;

(e) Which, pursuant to KRS 164.740(6), is accredited by the Association of Independent Colleges and Schools, Accreditation Commission, which is successor to the Commission for Business Schools;

(f) Which is not a public or other nonprofit institution; and

(g) Which has been in existence for at least two (2) years.

(19) "Resident of Kentucky" is a person who is classified as an instate student in accordance with the "Policy on Classification of Students for Fee Assessment Purposes at State-Supported Institutions of Higher Education" as adopted and from time to time amended by the Council on Public Higher Education.

(20) "Student contribution (SC)" is the amount the student and/or spouse can reasonably be expected to contribute toward meeting the applicant's educational cost. The SC is determined for KHEAA grant programs by application of the uniform methodology of need analysis assessment to the data entered on the application.

(21) "Student eligibility index (SEI)" is the expected

family contribution computed by the United States Office of Education, or its contractor from the data on the application for a basic grant.

(22) "Total cost of education (TCE)" for an academic year is an amount determined for each applicant by the following formula: normal tuition and fees for a full-time student at the institution chosen by the applicant plus maximum board contract plus minimum room contract. For a one (1) semester applicant one-half (½) of the TCE shall be used. For institutions which do not have room and board charges, a maintenance allowance of \$900 for the year or \$450 for a semester will be allowed.

PAUL P. BORDEN, Executive Director

ADOPTED: October 30, 1975

RECEIVED BY LRC: November 14, 1975 at 4:40 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Executive Director, Kentucky Higher Education Assistance Authority, 120 Mero Street, Frankfort, Kentucky 40601.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 5:030. Student eligibility requirements.

RELATES TO: KRS 164.740 to 164.764, 164.780, 164.785

PURSUANT TO: KRS 13.082, 164.748(3)

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky post-secondary institutions. This regulation sets forth eligibility requirements for KHEAA grant programs.

Section 1. Eligibility of Students. In order to qualify for a KHEAA grant, a student shall:

- (1) Be a resident of the Commonwealth of Kentucky;
- (2) Be enrolled as a full-time student in an eligible course of study;
- (3) Be enrolled in an eligible institution;
- (4) Have established financial need for the grant program assistance pursuant to 11 KAR 4 pursuant to 11 KAR 5:050 and 11 KAR 5:060;
- (5) Have remaining eligibility. A student enrolled in an associate degree program shall be limited to four (4) semesters or six (6) quarters of grant eligibility. A student enrolled in a bachelor's s grant eligibility. A student enrolled in a bachelor's degree program shall be limited to eight (8) semesters or twelve (12) quarters of grant program eligible eligibility. An exception may be granted if the bachelor's program leads to a first degree and is designed to be completed in a ten (10) semester period in which case the eligibility may be extended at the discretion of the authority to ten (10) semesters; and
- (6) Not receive financial assistance in excess of financial need.

PAUL P. BORDEN, Executive Director

ADOPTED: October 30, 1975

RECEIVED BY LRC: November 14, 1975 at 4:40 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Executive Director, Kentucky Higher Education Assistance Authority, 120 Mero Street, Frankfort, Kentucky 40601.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 5:040. Forms to be used by eligible institutions.

RELATES TO: KRS 164.740 to 164.764, 164.780, 164.785

PURSUANT TO: KRS 13.082, 164.748(3)

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky post-secondary institutions. This regulation sets forth the forms prescribed by the authority to be used by an institution to establish that it is an eligible institution.

Section 1. The authority will provide institutions which appear to be eligible and desire to participate in the KHEAA grant programs the agreement and declaration forms herein filed by reference. These forms may be obtained from the Kentucky Higher Education Assistance Authority, Frankfort, Kentucky 40601. The agreement must be completed by the proper authorities of the institution and returned to the authority in order for that institution to be considered for the Authority's Declaration of Institutional Eligibility to Participate in the Kentucky Higher Education Assistance Authority Grant Programs.

Section 2. Upon receipt of the properly executed agreement, the authority will review the document and such other information as is available from the accrediting agency, the state licensing and approval agencies and from the authority's records to determine whether the institution does qualify itution. In the absence of information to the contrary, the authority will declare the institution to be eligible.

Section 3. The authority may, pursuant to 11 KAR 4:020, deny, suspend, probate, or revoke the Authority's Declaration of Institutional Eligibility to Participate in the Kentucky Higher Education Assistance Authority Grant Programs.

PAUL P. BORDEN, Executive Director

ADOPTED: October 30, 1975

RECEIVED BY LRC: November 14, 1975 at 4:40 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Executive Director, Kentucky Higher Education Assistance Authority, 120 Mero Street, Frankfort, Kentucky 40601.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 5:050. Student application.

RELATES TO: KRS 164.740 to 164.764, 164.780, 164.785

PURSUANT TO: KRS 13.082, 164.748(3)

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky post-secondary institutions. This regulation prescribes the form to be used by students to apply for and establish financial need for KHEAA grant programs.

Section 1. The application shall be completed and submitted in accordance with the instructions provided by the authority. The application and instructional folder herein filed by reference are available from the Kentucky Higher Education Assistance Authority, Frankfort, Kentucky 40601.

Section 2. An applicant must indicate the choice of an eligible institution on the application to be considered for the KHEAA grant. If that choice changes, grant program eligibility shall be redetermined and award determination shall be recomputed by the authority as of the date of receipt by the authority of notification of such change.

PAUL P. BORDEN, Executive Director

ADOPTED: October 30, 1975

RECEIVED BY LRC: November 14, 1975 at 4:40 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Executive Director, Kentucky Higher Education Assistance Authority, 120 Mero Street, Frankfort, Kentucky 40601.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 5:060. Award determination procedure.

RELATES TO: KRS 164.740 to 164.764, 164.780, 164.785

PURSUANT TO: KRS 13.082, 164.748(3)

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky post-secondary institutions. This regulation sets forth the award determination procedures for the KHEAA grant programs.

Section 1. State Student Incentive Grant Program eligibility. Each application shall be reviewed for determination that all eligibility requirements set forth in 11 KAR 5:030 for SSIG are met. If the applicant is eligible for SSIG consideration, the amount of award eligibility shall be determined by reference to the SSIG award shall be assigned in order of ascending parental contribution with students having the least expected parental contribution receiving awards first. SSIG awards will be offered to the extent that funds are available.

Section 2. Kentucky Tuition Grant Program Eligibility. Whether or not the applicant is eligible for an SSIG award, the application shall be reviewed for determination of eligibility for a Kentucky Tuition Grant award.

Section 3. KTG Need. For each KTG eligible applicant, the KTG need shall be computed according to the following formula: KTG need equals total cost of education minus the sum of:

- (1) Expected basic grant;
- (2) Expected parental contribution for dependent applicants or expected student and/or spouse contribution for independent applicants; and
- (3) SSIG.

Section 4. KTG award. (1) If an applicant has not received an SSIG award but the KTG need is an amount

equal to or greater than \$200, the KTG shall be the lesser of the KTG need or the maximum grant authorized by KRS 164.785(3) provided that KTG awards will be offered only to the extent that funds are available.

(2) If an applicant has received an SSIG award and the KTG need is an amount equal to or greater than fifty dollars (\$50), the KTG award shall be the lesser of the KTG need or the maximum grant authorized by KRS 164.785(3) provided that KTG awards will be offered only to the extent that funds are available.

Section 5. Minimum award amount. The minimum KHEAA grant awarded to any recipient for a given academic year will be \$200. Minimum award for a one (1) semester grant will be \$100.

Section 6. SSIG and/or KTG shall be awarded as a KHEAA grant.

Section 7. A KHEAA grant shall not exceed the cost of tuition and fees charged to the student during the academic year of the award. A semester award shall not exceed tuition and fee charges for that semester.

Section 8. The authority may reduce or revoke a KHEAA grant upon receipt of documentation that the total non-repayable gift assistance from other state funds in combination with the KHEAA grant will exceed the student's total cost of education.

Section 9. The authority shall reduce or revoke a KHEAA grant upon receipt of documentation that financial assistance from sources other than the authority in combination with the KHEAA grant will exceed the institution's financial need determination for that student. The KGPO and the award recipient shall make every reasonable effort to provide the authority the information needed to prevent an overaward.

PAUL P. BORDEN, Executive Director

ADOPTED: October 30, 1975

RECEIVED BY LRC: November 14, 1975 at 4:40 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Executive Director, Kentucky Higher Education Assistance Authority, 120 Mero Street, Frankfort, Kentucky 40601.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 5:070. Notification of award.

RELATES TO: KRS 164.740 to 164.764, 164.780, 164.785

PURSUANT TO: KRS 13.082, 164.748(3)

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky post-secondary institutions. This regulation sets forth the procedures for notification of grant awards to recipients and to eligible institutions.

Section 1. The authority will notify each applicant of

the decision of the authority regarding eligibility for a grant.

(1) The authority will notify each KHEAA grant recipient of the amount of award together with disbursement information. The recipient must notify the authority of any incorrect information appearing on the notice, including name, address, social security number or institutional choice errors or changes.

(2) The authority will notify applicants who will not receive grants the reason for their denial.

Section 2. Periodically the authority may forward to the KGPO at each eligible institution a roster of student recipients indicating that institution as the one where they plan to enroll.

PAUL P. BORDEN, Executive Director

ADOPTED: October 30, 1975

RECEIVED BY LRC: November 14, 1975 at 4:40 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Executive Director, Kentucky Higher Education Assistance Authority, 120 Mero Street, Frankfort, Kentucky 40601.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 5:080. Disbursement procedures.

RELATES TO: KRS 164.740 to 164.764, 164.780, 164.785

PURSUANT TO: KRS 13.082, 164.748(3)

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky post-secondary institutions. This regulation sets forth the disbursement procedures for KHEAA grant programs.

Section 1. Eligibility Verification. (1) The KHEAA grant program eligibility verification roster will be forwarded to the KGPO at each eligible institution prior to the beginning of each semester.

(2) The KGPO shall certify the eligibility of KHEAA grant recipients according to instructions attached to the roster and return it to KHEAA at least three (3) weeks prior to the date on which receipt of the KHEAA grant checks is requested.

Section 2. Checks, Check Register. (1) Upon receipt of the properly certified eligibility verification roster, the authority will issue to the KGPO individual checks made payable to each award recipient.

(2) The checks will be accompanied by two (2) copies of a KHEAA grant check register, one (1) copy of which shall be retained by the institution and the other returned to the authority in accordance with instructions attached thereto. The instructions will specify:

(a) Conditions under which a check shall be disbursed to the KHEAA grant recipient;

(b) That each recipient shall sign the check register indicating receipt of the check;

(c) Conditions under which a check shall be returned to the authority; and

(d) The date on which the register and any undisbursed checks shall be returned to the authority.

(3) An institution which has not returned a previous check register or completed it according to instructions may not receive another check register and additional checks until it has satisfied the requirements in Section 2(2) above.

PAUL P. BORDEN, Executive Director

ADOPTED: October 30, 1975

RECEIVED BY LRC: November 2

RECEIVED BY LRC: November 14, 1975 at 4:40 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Executive Director, Kentucky Higher Education Assistance Authority, 120 Mero Street, Frankfort, Kentucky 40601.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 5:085. Requirement of basic grant application.

RELATES TO: KRS 164.740 to 164.764, 164.780, 164.785

PURSUANT TO: KRS 13.082, 164.748(3)

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky post-secondary institutions. This regulation prohibits payment of second semester KHEAA grant disbursements to students who do not apply for Basic Grants.

Section 1. To receive a spring semester KHEAA grant disbursement, a KHEAA grant recipient must have applied for a basic grant. Recipients for whom documentation of such application has not been received prior to the beginning of said semester shall have the remaining undisbursed portion of their KHEAA grant cancelled.

PAUL P. BORDEN, Executive Director

ADOPTED: October 30, 1975

RECEIVED BY LRC: November 14, 1975 at 4:40 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Executive Director, Kentucky Higher Education Assistance Authority, 120 Mero Street, Frankfort, Kentucky 40601.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 5:090. Refund policy.

RELATES TO: KRS 164.740 to 164.764, 164.780, 164.785

PURSUANT TO: KRS 13.082, 164.748(3)

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky post-secondary institutions. This regulation sets forth the refund policy for KHEAA grant programs.

Section 1. No refund of KHEAA grant funds shall be due to the authority or a student recipient after six (6) weeks from the first day of classes in the enrollment period for which the grant is awarded.

Section 2. When a KHEAA grant recipient withdraws before six (6) weeks after the first day of classes in the enrollment period for which the grant is awarded, the amount to be refunded to the authority shall be in the same ratio to the amount of total refund as the amount of KHEAA grant funds already disbursed to the student at the time he withdraws from the institution bears to the KGPO's calculation of student budget for the period of enrollment for which the refund is due.

Section 3. The formula for computing KHEAA refund shall be: amount of KHEAA refund equals disbursed KHEAA grant amount divided by KGPO's calculation of student budget times the amount of total refund.

PAUL P. BORDEN, Executive Director

ADOPTED: October 30, 1975

RECEIVED BY LRC: November 14, 1975 at 4:40 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Executive Director, Kentucky Higher Education Assistance Authority, 120 Mero Street, Frankfort, Kentucky 40601.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 5:100. Records and reports.

RELATES TO: KRS 164.740 to 164.764, 164.780, 164.785

PURSUANT TO: KRS 13.082, 164.748(3)

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky post-secondary institutions. This regulation requires that eligible institutions provide records and reports to the authority.

Section 1. Records and Reports. Any eligible institution shall, upon written request by the authority, make available to the authority:

(1) All records relied upon by that institution to certify to the authority that any recipient of funds from the authority is an eligible student pursuing an eligible course of study. Any institution which requires a student to execute a contract providing for payment of tuition and fees shall include on the face of that contract:

- (a) Date the student signed the contract;
- (b) Date student began or will begin classes;
- (c) Expected graduation date;
- (d) Major field of study;
- (e) Minor field of study; and
- (f) Full or part-time enrollment status.

A copy of the contract for each applicant certified as eligible shall be submitted with the "Eligibility Verification Roster."

(2) Such other reports and information as are necessary to determine that the institution has complied with these regulations and with the certifications and declarations contained in the agreement.

PAUL P. BORDEN, Executive Director

ADOPTED: October 30, 1975

RECEIVED BY LRC: November 14, 1975 at 4:40 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Executive Director, Kentucky Higher Education Assistance Authority, 120 Mero Street, Frankfort, Kentucky 40601.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

11 KAR 5:101. Repeal of 1975-76 regulations.

RELATES TO: KRS 164.740 to 164.764, 164.780, 164.785

PURSUANT TO: KRS 13.082, 164.748(3)

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky post-secondary institutions. This regulation repeals existing regulations for grant programs administered by KHEAA at the close of the academic year 1975-76.

Section 1. Regulations pertaining to the administration of the State Student Incentive Grant Program for the academic year 1975-76, 11 KAR 1:015, 11 KAR 1:020, 11 KAR 1:025, 11 KAR 1:030, 11 KAR 1:035, 11 KAR 1:040, 11 KAR 1:045, 11 KAR 1:050, 11 KAR 1:055, 11 KAR 1:060, 11 KAR 1:065, 11 KAR 1:070, 11 KAR 1:075, are repealed, effective June 30, 1976.

Section 2. Regulations pertaining to the administration of the Kentucky Tuition Grant Program for the academic year 1975-76, 11 KAR 2:010, 11 KAR 2:020, 11 KAR 2:030, 11 KAR 2:040, 11 KAR 2:050 as amended, 11 KAR 2:070, 11 KAR 2:080, 11 KAR 2:090, 11 KAR 2:110, 11 KAR 2:120, are repealed, effective June 30, 1976.

PAUL P. BORDEN, Executive Director

ADOPTED: October 30, 1975

RECEIVED BY LRC: November 14, 1975 at 4:40 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Executive Director, Kentucky Higher Education Assistance Authority, 120 Mero Street, Frankfort, Kentucky 40601.

EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

200 KAR 3:045. Monthly meal charges at mansions.

RELATES TO: KRS 42.035, 42.037

PURSUANT TO: KRS 42.035, 42.037

NECESSITY AND FUNCTION: KRS 42.035 and 42.037 direct that reasonable amounts shall be deducted from the salary or other allowance, of the Governor and Lieutenant Governor for the consumption of food by them and their families. This regulation sets forth the maintenance charges to be paid by the Governor and Lieutenant Governor relative to members of their families living at the respective mansions and maintenance charges to be paid by other state employees required by their regular duties to receive meals at the respective mansions.

Section 1. Monthly maintenance charges shall be paid by all persons receiving meals on a regular basis in the

Executive Mansion and the Lieutenant Governor's Mansion. Payment shall be made either by means of a deduction from the salary paid on the regular payroll, or by check payable directly to the Treasurer, Commonwealth of Kentucky; provided, however, that direct payment by check shall be in advance on a monthly basis.

Section 2. The monthly maintenance charges to be paid by the Governor and Lieutenant Governor relative to the members of their respective families living at the respective mansions shall be as follows:

(1) The Governor, Lieutenant Governor, and adult members of their respective families fifty-six dollars (\$56) each.

(2) Children over twelve (12) years of age, thirty-two dollars (\$32) each.

(3) Children under twelve (12) years of age, twenty-four dollars (\$24) each.

Section 3. The monthly maintenance charges to be paid by all other state employees, required by their regular duties to receive meals at the respective mansions, shall be as follows:

(1) Sixteen dollars (\$16) for one (1) meal.

(2) Twenty-five dollars (\$25) for two (2) meals.

(3) Thirty-two dollars (\$32) for three (3) meals.

WILLIAM E. SCENT, Commissioner

ADOPTED: November 3, 1975

RECEIVED BY LRC: November 5, 1975 at 1:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: The Commissioner, Executive Department for Finance and Administration, 301 Capitol Annex, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Administration and Finance

702 KAR 3:180. Additional categories and add-on weight for exceptional children.

RELATES TO: KRS 157A.060(4)

PURSUANT TO: KRS 156.070, 156.130, 156.160, 13.082

NECESSITY AND FUNCTION: To provide "add-on weight" for categories and exceptional children not included in KRS 157A.060(2).

Section 1. As authorized by KRS 157A.060(4) the following categories and "add-on weight" are approved by the State Board of Education:

| Categories | "Add-on Weight" |
|-------------------|-----------------|
| Home Instruction | 2.40 |
| Home and Hospital | 1.60 |
| Hospital | 1.60 |
| Speech | .30 |

LYMAN V. GINGER,

Superintendent of Public Instruction

ADOPTED: September 10, 1975

RECEIVED BY LRC: October 30, 1975 at 10:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mr. Samuel Alexander, Secretary, State Board of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of November 12, 1975 Meeting

(Subject to Subcommittee approval at its next meeting on December 10, 1975.)

The Administrative Regulation Review Subcommittee held its seventeenth meeting on Wednesday, November 12, 1975, at 10 a.m. in Room 327 of the Capitol. Present were: Members: Senator Michael R. Moloney and Representative James A. Davis.

LRC Staff: David Ashley, E. Hugh Morris, Mabel D. Robertson, Paula D. Lay, William H. Raines and Garnett Evins.

Guests: Don Hughes and Charles Hardin, Department for Human Resources; Julius Rather, Jo Ann Gorham and Kathryn Hanley, Kentucky Society of Radiologic Technologists; Gary L. Dailey, F. E. Hodges and Bill Willis, Department of Transportation; Thomas C. Jacob and Carl Page, Department of Banking and Securities; John P. Knight, Jr., Ted R. Frith, Malcolm B. Chancey and Jack H. Shipman, Liberty National Bank, Louisville; E. F. Zopp, Citizens Fidelity Bank and Trust Company, Louisville; and William O. Rudd, First National Bank of Louisville.

The minutes of the meeting of October 8, 1975 were approved.

The following regulations from the Department for Human Resources, Bureau for Health Services, were postponed until the December 10, 1975 meeting at the request of the agency so that Julius Rather, attorney for the Kentucky Society of Radiologic Technologists, will have an opportunity to study the agency's statement of affirmative consideration.

902 KAR 105:010. Radiation Operators' Certification, Definitions. (Amended)

902 KAR 105:020. Radiation Operators' Certification, General requirements.

902 KAR 105:030. Radiation Operators' Certification, Teaching Institution's curricula. (Amended)

902 KAR 105:040. Radiation Operators' Certification, Medical or osteopathic physician supervision. (Amended)

902 KAR 105:050. Radiation Operators' Certification, Chiropractor supervision

902 KAR 105:060. Radiation Operators' Certification, Podiatrist supervision.

902 KAR 105:070. Radiation Operators' Certification, Violations and enforcement.

Proposed regulation 201 KAR 5:010, Board of Optometric Examiners, was passed over and Mrs. Robertson was asked to advise the board on the proper amendment to comply with the objection of the Subcommittee.

Proposed regulation 201 KAR 19:090, Board of Examiners and Registration of Architects, Obligations of practice, which was previously rejected by the Subcommittee and returned to the LRC without change, was forwarded to Mr. Philip W. Conn, Director, Legislative Research Commission.

The following regulations were returned to the Executive Department for Finance and Administration for these reasons:

201 KAR 8:015, Division of Occupations and Professions, Board of Dentistry, was returned for the reason that Section 1 of the proposed regulation prohibits licensed

dentists from owning or operating a dental laboratory. While the intent of the regulation may be good there is no apparent statutory authority for such prohibition in existence at this time. Also, there does not appear to be any authority for requiring an annual convention to be held by the Kentucky Dental Laboratory Association.

201 KAR 12:032, Division of Occupations and Professions, Board of Hairdressers and Cosmetologists, was returned for the reason that there does not appear to be any statutory authority for granting temporary work permits nor for the charging of fees for such permits.

The following regulations were approved and ordered filed:

OFFICE OF THE GOVERNOR

Kentucky Higher Education Assistance Authority
Kentucky Tuition Grant Program

11 KAR 2:050. Students' application forms. (Amended)

SECRETARY OF THE CABINET

Department of Personnel

Personnel Rules

101 KAR 1:140. Service regulations. (Amended)

EXECUTIVE DEPARTMENT FOR FINANCE
AND ADMINISTRATION

Division of Occupations and Professions

Board of Medical Licensure

201 KAR 9:015. Professional and ethical conduct.

Board of Hairdressers and Cosmetologists

201 KAR 12:082. School's course of instruction.

Board of Examiners and Registration of Architects

201 KAR 19:035. Qualification for examination. (Amended)

201 KAR 19:075. Refusal to grant or renew license. (Amended)

CABINET FOR DEVELOPMENT

Department of Fish and Wildlife Resources

Fish

301 KAR 1:015. Boats and outboard motors; size limits. (Amended)

301 KAR 1:058. Methods for taking turtles.

301 KAR 1:075. Gigging, grabbling or snagging, tickling and noodling. (Amended)

Game

301 KAR 2:055. Pits and blinds; restrictions. (Amended)

Hunting and Fishing

301 KAR 3:070. Goose harvest reporting.

DEPARTMENT OF TRANSPORTATION

Bureau of Vehicle Regulation

Driver Improvement

601 KAR 13:010. Medical Review Board; basis for examination, evaluation, test. (Amended)

Bureau of Highways

Traffic

603 KAR 5:095. Truckway classifications. (Amended)

DEPARTMENT OF EDUCATION

Bureau of Instruction

Teacher Certification

704 KAR 20:005. Kentucky Plan for preparation program approval. (Amended)

Exceptional Children

707 KAR 1:050. Programs for exceptional children.

PUBLIC PROTECTION AND REGULATION

Department of Banking and Securities

Administration

808 KAR 1:060. Remote service units. (Amended)

The meeting was adjourned at 11 a.m. to meet again on Wednesday, December 10, 1975, at 10 a.m., in Room 327 of the Capitol.

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