

LEGISLATIVE RESEARCH COMMISSION  
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IN THIS ISSUE

Public Hearing.....	391
Emergency Regulations Now In Effect:	
Education.....	391
Human Resources.....	396
Amended After Hearing:	
Education.....	396
Proposed Amendments:	
Higher Education Assistance Authority.....	408
Board of Veterinary Examiners.....	409
Education.....	410
Public Service Commission.....	423
Harness Racing Commission.....	431
Housing, Buildings and Construction.....	436
Human Resources.....	439
Proposed Regulations Received Through September 15:	
Legislative Research Commission.....	456
Higher Education Student Loan Corporation.....	458
Revenue.....	458
Education.....	462
Housing, Buildings and Construction.....	463
Reprint:	
Human Resources.....	464
Minutes of the Administrative Regulation Review Subcommittee.....	465

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates.....	D2
KRS Index.....	D5
Subject Index.....	D8

UNLESS WRITTEN NOTIFICATION OF INTENT TO ATTEND  
A PUBLIC HEARING IS RECEIVED BY THE PROMULGATING  
AGENCY AT LEAST FIVE (5) DAYS BEFORE THE HEARING  
DATE, THE HEARING MAY BE CANCELLED.

MEETING NOTICE: The next meeting of the Administrative Regulation  
Review Subcommittee is October 7 and 8, 1985. For information, call  
502-564-8100, ext. 535.

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

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## PUBLIC HEARINGS

The administrative body shall schedule a public hearing on proposed administrative regulations, proposed amendments to administrative regulations, and proposed repeal of administrative regulations to be held not less than twenty (20) nor more than thirty (30) days following publication of the administrative regulation. The time, date, and place of the hearing and the name and address of the agency contact person shall be included on the last page of the administrative regulation when filed with the Compiler's office.

This information shall be published in the "Administrative Register" at the same time as the initial publication of the administrative regulation. Any person interested in attending the hearing must submit written notification of such to the administrative body at least five (5) days before the scheduled hearing. If no written notice is received at least five (5) days before the hearing, the administrative body may cancel the hearing.

If the hearing is cancelled, the administrative body shall notify the Compiler immediately by telephone of the cancellation with a follow-up letter and the Compiler will note upon the face of the original administrative regulation that the hearing was cancelled.

No transcript of the hearing need be taken unless a written request for a transcript is made, and the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript.

If an administrative body has several proposed administrative regulations published at the same time, the proposed administrative regulations may be grouped at the convenience of the administrative body for purposes of hearings.

## EMERGENCY REGULATIONS NOW IN EFFECT

(NOTE: Emergency regulations expire 90 days from publication or upon replacement or repeal.)

## STATEMENT OF EMERGENCY

KRS 158.750 broadly authorizes and funds a public school remedial instruction program. When 704 KAR 3:355 was originally promulgated in March, 1985, the formula for generation of transition room teachers for the 1985-86 school year was based upon performance of pupils at 26% or more below mastery in the area of reading on the Kentucky Essential Skills Test (KEST). Pupils who scored at 26% or more below mastery in the area of mathematics alone were allowed to be served in the transition room as a second priority, but did not generate funds for the unit. Because there was no prior experience with the new KEST, nor record of students' performance on it, the conservative formula was intended to prevent the generation of more transition classroom units than appropriations would fund. The area of reading was determined to be a higher priority than mathematics for transition room instruction.

In the summer of 1985, actual pupil performance on the KEST was determined and calculations were made of numbers of transition classrooms and instructional assistants generated. At that time, it became apparent that appropriations for the remediation program were sufficient to also fund transition classrooms on the basis of second priority pupils who scored at 26% or more below mastery in the area of mathematics alone on the KEST.

A more liberal, but statutorily-authorized, revision of the regulation to treat the pupils who score at this low level in mathematics alone as first priority students will permit them to both generate teacher units and to benefit by

being selected for instruction by the teacher on a first-priority basis.

Because it was not possible to make this determination until mid-July, and many school districts were beginning the school term in early August, it is necessary to implement this revision in the regulation on an emergency basis. The emergency regulation will be replaced by an ordinary administrative regulation.

MARTHA LAYNE COLLINS, Governor  
ALICE McDONALD, Superintendent

EDUCATION AND HUMANITIES CABINET  
Department of Education  
Office of Instruction

704 KAR 3:355E. Essential skills remediation.

RELATES TO: KRS 156.070, 158.750

PURSUANT TO: KRS 156.070

EFFECTIVE: September 13, 1985

NECESSITY AND FUNCTION: KRS 158.750 broadly authorizes and funds a public school remedial instruction program; and KRS 156.070 authorizes the State Board of Education to prescribe courses of study, curricula, and programs as deemed necessary for the efficient management, control, and operation of the public schools. This regulation sets forth the criteria for the authorized public school remediation program, procedures for allotment of units, eligibility criteria for pupils to be served, qualifications and job descriptions for personnel, requirements for housing of units, and requirements for program evaluation.

Section 1. Definitions. (1) Transition classroom means a separate, self-contained, full-time classroom staffed by a teacher who is trained to provide remedial instruction.

(2) Instructional assistant means a trained paraprofessional employee of the school district who provides tutorial instruction under the supervision of a teacher.

(3) Remediation means a program of instruction designed to correct educational deficiencies.

(4) Mastery level means a determined level reflected by a score on an achievement test from which a pupil may be expected to progress without remedial assistance.

Section 2. Funding of Units. Funding of remedial units shall be as follows:

(1) For the 1985-86 school year, state funding for a transition classroom unit, to include only a teacher's salary allotment and current operating expense allotment, equal to the rank and experience and current expense allotment stipulated in the biennial budget for foundation program units, shall be made on the basis of one unit for each thirteen (13) pupils who at the end of kindergarten, first, or second grade in the 1984-85 school year achieve twenty-six (26) percent or more below the established mastery level in reading and/or [reading and] mathematics on the Kentucky Essential Skills Test (KEST). Classroom units shall be awarded on a fractional unit basis. In school districts where fractional units result, local school districts may allocate average daily attendance funds received through the Minimum Foundation Program for those pupils eligible for transition classrooms in order to supplement the funding from the remedial program and create full scale transition classroom units.

(2) For the 1985-86 school year, state funding for an instructional assistant unit, to include a salary allotment, shall be reimbursed to local school districts based on actual expenses not to exceed \$8,000 annually per instructional assistant unit and awarded on the basis of one (1) unit for each twenty (20) pupils who at the end of kindergarten, first, or second grade in the 1984-85 school year achieve ten (10) to twenty-five (25) percent below the established mastery level in reading and/or mathematics on the KEST. Instructional assistant units shall be awarded on a fractional unit basis.

(3) No single pupil shall be counted for purposes of generating both a transition classroom unit and instructional assistant unit.

(4) For each year after the 1985-86 school year, funding of transition classroom and instructional assistant units shall be on the basis of test scores of pupils during the year two (2) years preceding said year.

(5) If the amount appropriated in the biennial budget is insufficient to fund the number of transition classroom and instructional assistant units generated, the allotments to districts shall be adjusted on a pro-rata share basis of the units actually calculated to be needed, with first priority assigned to funding transition classroom units.

Section 3. Eligibility Criteria. Selection of pupils to be served in the remediation program shall be as follows:

(1) No more than fifteen (15) pupils who score at the twenty-six (26) percent or more below mastery level in reading and/or mathematics on

the KEST shall be enrolled in a transition classroom.

(a) If there are fewer than thirteen (13) eligible pupils identified for any such allocated unit, and to enhance the availability of remedial instruction for needy pupils, local school districts may group pupils according to the following priorities in order to create a transition classroom unit:

1. Pupils achieving twenty-six (26) percent or more below the established mastery in [on] reading and/or mathematics;

2. Pupils achieving twenty-six (26) percent or more below mastery levels on mathematics only;

2. [3.] Pupils achieving from ten (10) to twenty-five (25) percent below mastery level on reading and/or mathematics;

3. [4.] Pupils achieving up to ten (10) percent below mastery in reading and/or mathematics;

4. [5.] Pupils with the greatest needs, as determined by KEST scores, shall be selected first. When pupils are grouped to create a transition classroom, fractional units shall continue to be allocated based upon the KEST scores of eligible pupils and not on the level of remediation to which the pupil is assigned.

(b) Pupils who remain at least twenty-six (26) percent or more below mastery of essential skills in reading and/or [reading and] mathematics after one (1) year of remedial instruction in a transition classroom, may be eligible for services in a transition classroom for an additional year. Decisions regarding continued service in a transition room and decisions on promotion or retention for individual pupils shall be based upon the KEST score as well as records of ongoing progress and teacher recommendations.

(2) No more than twenty-two (22) pupils who score between ten (10) and twenty-five (25) percent below mastery in reading and/or mathematics on the KEST shall be served by an instructional assistant.

(3) Pupils who score up to ten (10) percent below mastery in reading and/or mathematics on the KEST shall be provided remediation as needed by the regular classroom teacher.

(4) School districts shall notify in writing the parents or guardians of any pupil selected for remediation of the intent to serve the pupil in the remediation program. School districts shall have a written policy for screening pupils which includes criteria for including or excluding individual pupils in the remediation program when documented evidence exists that such pupils' scores on the KEST do not reflect actual academic performance or when children who have not been tested with the KEST enroll in the school district. Under this provision, a pupil may be included in the program only with written parental consent. Such evidence shall be made available to the Kentucky Department of Education when requested.

(5) With the exception of those pupils who are handicapped only by a speech impairment or a physical handicap, as defined in 707 KAR 1:053, pupils who have been appropriately identified as handicapped by an admissions and release committee are not eligible to be served in the remediation program except upon a determination by the admissions and release committee that there is no other appropriate educational placement for such a pupil.



Section 4. Program Operation. The remediation program shall include appropriate student learning activities and teaching techniques. The major emphasis of the remediation program shall be reading and mathematics. The level of intensity of remedial instruction shall be based upon the degree of need of the pupils served. The most intensive level of remedial instruction shall be provided in the transition classroom in the content areas of reading and mathematics. Content of other required curricula shall be taught with an emphasis on reading and mathematics. Pupils receiving remedial education shall participate equally in all school services provided for first and/or second grade pupils in such areas as art, music, physical education and extra curricular activities in the same manner in which other pupils in the district receive such services.

Section 5. Qualifications of Personnel and Job Descriptions. Personnel qualified to serve in the remediation program shall meet the requirements for the position and fulfill the job description as follows:

(1) Teacher:

(a) Requirements:

1. Hold valid elementary education teaching certification;

2. Have demonstrated ability to work with pupils who have not been successful in the regular classroom;

3. Have at least one (1) year prior experience as a classroom teacher unless waived by the Superintendent of Public Instruction based upon documented evidence of lack of availability of personnel with such experience; and

4. Participate in program training as specified by the Kentucky Department of Education and local district.

(b) Job description:

1. Implement instructional techniques and learning activities as required by the Kentucky Department of Education and local district;

2. Assess and document pupil progress on a continuous basis and modify instruction as necessary;

3. Maintain program records as required by the Kentucky Department of Education and local district;

4. Communicate with and involve parents; i.e., teacher/parent conferences, written communications, and home visits; and

5. Communicate with other teachers, instructional assistants and supervisors as necessary.

(2) Instructional Assistant:

(a) Requirements:

1. Hold minimum of high school diploma;

2. Demonstrate competent language skills;

3. Have demonstrated ability to work with pupils who have not been successful in the regular classroom; and

4. Participate in program training as specified by the Kentucky Department of Education and local district.

(b) Job description: Under the direction of the supervising teacher:

1. Implement instructional techniques and learning activities as required by the Kentucky Department of Education and local district;

2. Provide tutorial instruction to pupils individually or in small groups;

3. Assist with the documentation of pupil progress on a continuous basis;

4. Prepare and organize materials and equipment for remedial instruction; and

5. Participate as an integral member of the remediation instructional team.

Section 6. Facilities. (1) The remediation program shall be housed in facilities which are in compliance with 702 KAR 4:060, 702 KAR 4:070 and 702 KAR 4:080.

(2) In the event facilities are not available which meet the minimum square footage standards, the instructional area shall provide at least twenty-four (24) square feet of instructional space per pupil served or no less than 312 square feet.

Section 7. Program Evaluation. School districts shall evaluate the effectiveness of their remediation programs by collecting specified program data and submitting a report to the Kentucky Department of Education on a timely basis.

(1) The report shall include, but not be limited to:

(a) A list of names of pupils served.

(b) A summary of pupil progress on essential skills.

(c) Evidence of utilization of remediation materials and techniques.

(d) Evidence of parent involvement activities.

(e) Evidence of communication and coordination efforts within the schools.

(2) An interim report shall be submitted to the Department of Education by December 15, 1985 and a full report by July 1 of each year thereafter.

(3) On-site monitoring of remediation programs shall occur in conjunction with state evaluation for accreditation of schools.

Section 8. Alternative Remediation Program. School districts may elect to implement an alternative to the transition classroom for pupils who are otherwise eligible for a transition class. The alternative shall be established according to the collaborating teacher model.

(1) Funding shall be the same as for a transition classroom and the teacher shall have the same qualifications as a transition room teacher. School districts shall submit a report for the alternative model as required in Section 7 of this regulation.

(2) The purpose of the collaborating teacher model shall be:

(a) To provide comparative data on differing approaches to remediation; and

(b) To provide remediation in the regular classroom to pupils who have failed to master essential skills.

(3) In order to provide data for comparative purposes, districts desiring to implement a collaborating teacher program, which are funded for more than three (3) transition classrooms, must propose and operate the alternative remediation program and at least one (1) transition classroom.

(4) The collaborating teacher shall function in the following manner:

(a) The collaborating teacher shall provide direct instruction within the regular teachers' classrooms to eligible pupils. Instruction shall be focused on remediation of deficiencies of essential skills in the areas of reading and mathematics. Instruction shall be on an

individual or small group basis, depending upon pupil functioning levels.

(b) The collaborating teacher shall work with regular classroom teachers to develop an individual plan of remediation for each eligible pupil. The collaborating teacher shall also be responsible for monitoring the academic progress of each pupil with regard to identified essential skills requiring remediation.

(c) The collaborating teacher shall cooperate with regular classroom teachers on planning, scheduling, and space requirements.

(d) The collaborating teacher shall have no administrative or school management responsibilities.

(5) The collaborating teacher model shall also contain the following components:

(a) Support for the regular classroom teachers in efforts to teach and motivate low achieving pupils;

(b) Involvement of parents through parent contracts and parent support groups;

(c) Training in effective use of teacher aides and instructional assistance for pupil specific remediation;

(d) Incorporation of peer tutoring and team learning strategies;

(e) Tutoring and coaching in pupil self-management skills;

(f) Design of special homework assignment strategies;

(g) Development of cognitive and thinking skills, and problem solving;

(h) Incorporation of motivational techniques;

(i) Design of enrichment activities; and

(j) Participation in long-term staff development and team building strategies.

(6) The Department of Education shall provide training, program materials and supervision to support the implementation of program components and shall assist collaborating teachers in developing a network for sharing program information.

(7) School districts seeking to implement a collaborating teacher program shall follow procedures established by the Department of Education which shall include but not be limited to the following:

(a) Each district must submit a written request for program information and an application for participation.

(b) Each district must submit a proposal which shall identify the pupils to be served and the way in which the general requirements of the program will be specifically accomplished. The forms and format for representing this information shall be developed and supplied by the Department of Education. These forms will identify the specific criteria which will be used for deciding local district participation and the process by which these decisions shall be made.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: September 10, 1985

FILED WITH LRC: September 13, 1985 at 11 a.m.

#### STATEMENT OF EMERGENCY

Under KRS 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter

194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

#### CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management & Development

904 KAR 1:022E. Skilled nursing facility services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

EFFECTIVE: August 30, 1985

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the provisions relating to skilled nursing facility services for which payment shall be made by the medical assistance program in behalf of both the categorically needy and medically needy.

Section 1. Participation Requirements. Each facility desiring to participate as a skilled nursing facility must meet the following requirements:

(1) An application for participation shall be made to the cabinet using the procedures specified by the Commissioner, Department for Social Insurance, Cabinet for Human Resources. A vendor number shall be assigned to the facility by the cabinet when participation status is achieved.

(2) Each skilled nursing facility shall be required to have participatory status in the program of health care known as Title XVIII, Medicare, before the conditions of participation for Title XIX shall be deemed met.

Section 2. Provision of Service. Payment for services shall be limited to those services provided to eligible individuals meeting the criteria of patient status in that they require skilled nursing care on a continuous basis following an acute illness or as a result of a chronic disease and/or disability and are receiving such care in a participating facility.

Section 3. Determining Patient Status. Professional staff of the cabinet, or the Kentucky Peer Review Organization operating under its lawful authority pursuant to the terms of its agreement with the cabinet, shall review and evaluate the health status and care needs of the recipient in need of institutional care giving consideration to the medical diagnosis, care needs, services and health personnel required to meet these needs and the feasibility of meeting the needs through alternative institutional or non-institutional services. Patients qualify for skilled nursing care when

their needs mandate skilled nursing and/or skilled rehabilitation services on a daily basis and when, as a practical matter, the care can only be provided on an inpatient basis. Where the inherent complexity of a service prescribed for a patient is such that it can be safely and/or effectively performed only by or under the supervision of technical or professional personnel, the patient would qualify for skilled nursing care. A patient with an unstable medical condition manifesting a combination of care needs in the following areas may qualify for skilled nursing care:

- (1) Intravenous, intramuscular, or subcutaneous injections and hypodermoclysis or intravenous feeding;
- (2) Naso-gastric or gastrostomy tube feedings;
- (3) Nasopharyngeal and tracheotomy aspiration;
- (4) Recent and/or complicated ostomy requiring extensive care and self-help training;
- (5) In-dwelling catheter for therapeutic management of a urinary tract condition;
- (6) Bladder irrigations in relation to previously indicated stipulation;
- (7) Special vital signs evaluation necessary in the management of related conditions;
- (8) Sterile dressings;
- (9) Changes in bed position to maintain proper body alignment;
- (10) Treatment of extensive decubitus ulcers or other widespread skin disorders;
- (11) Receiving medication recently initiated, which requires skilled observation to determine desired or adverse effects and/or frequent adjustment of dosage;
- (12) Initial phases of a regimen involving administration of medical gases;
- (13) Receiving services which would qualify as skilled rehabilitation services when provided by or under the supervision of a qualified therapist(s), such as: on-going assessment of rehabilitation needs and potential; therapeutic exercises which must be performed by or under the supervision of a qualified physical therapist; gait evaluation and training; range of motion exercises which are part of the active treatment of a specific disease state which has resulted in a loss of, or restriction of, mobility; maintenance therapy when the specialized knowledge and judgment of a qualified therapist is required to design and establish a maintenance program based on an initial evaluation and periodic reassessment of the patient's needs, and consistent with the patient's capacity and tolerance; ultra-sound, short-wave, and microwave therapy treatments; hot pack, hydrocollator infra-red treatments, paraffin baths, and whirlpool (in cases where the patient's condition is complicated by circulatory deficiency, areas of desensitization, open wounds, fractures or other complications, and the skills, knowledge, and judgment of a qualified physical therapist are required); and services by or under the supervision of a speech pathologist or audiologist when necessary for the restoration of function in speech or hearing.

Section 4. Re-evaluation of Need for Service. Skilled nursing service shall be provided for as long as the health status and care needs are within the scope of program benefits as described in Sections 2 and 3 of this regulation. Patient status shall be re-evaluated at least once every six (6) months. If a

re-evaluation of care needs reveals that the patient no longer requires skilled care, payment shall continue for ten (10) days to permit orderly transfer to a lesser level of care. Patients who met patient status criteria as of August 31, 1985 on the basis that they would have been reclassified to intermediate care patient status except for the unavailability of such a bed, and had continued to receive care in the facility while on the waiting list of suitable facilities, will be considered to meet patient status criteria through January 31, 1986 so long as the pre-existing conditions for such patient status criteria continue to be met. [Patients in skilled facilities who would be reclassified to intermediate care patient status except for the unavailability of an intermediate care bed, may be considered to meet patient status criteria for skilled care, so long as the patient continues to reside in that facility and providing the patient's name is placed on the waiting list of suitable facilities.]

Section 5. Evaluation of Patient Status for Persons with Mental Disorders. A person with a mental disorder meeting the health status and care needs specified in Sections 2 and 3 of this regulation shall generally be considered to meet patient status. However, these individuals are specifically excluded from coverage in the following situations:

(1) When the cabinet determines that in the individual case the combination of care needs is beyond the capability of the facility, and that placement in the skilled nursing facility is inappropriate due to potential danger to the health and welfare of the patient, other patients in the facility and/or staff of the facility; and

(2) When the skilled nursing care needs result directly and specifically from the mental disorder; i.e., are essentially symptoms of the mental disorder.

Section 6. Reserved Bed Days. The cabinet will cover reserved bed days (effective December 1, 1984) in accordance with the following specified upper limits and criteria.

(1) Reserved bed days will be covered for a maximum of fourteen (14) days per absence for a hospital stay with an overall maximum of forty-five (45) days per provider during the calendar year.

(2) Reserved bed days will be covered for a maximum of fifteen (15) days per provider during the calendar year for leaves of absence other than for hospitalization.

(3) Coverage during a recipient's absence for hospitalization or leave of absence is contingent on the following conditions being met:

(a) The person is in Title XIX payment status in the level of care he/she is authorized to receive and has been a resident of the facility at least overnight. Persons for whom Title XIX is making Title XVIII co-insurance payments are not considered to be in Title XIX payment status for purposes of this policy;

(b) The person can be reasonably expected to return to the same level of care;

(c) Due to demand at the facility for beds at that level, there is a likelihood that the bed would be occupied by some other patient were it not reserved;

(d) The hospitalization is for treatment of an acute condition, and not for testing,

brace-fitting, etc.; and

(e) In the case of leaves of absence other than for hospitalization, the patient's physician orders and plan of care provide for such leaves. Leaves of absence include visits with relatives and friends, and leaves to participate in state-approved therapeutic or rehabilitative programs.

Section 7. The provisions of this regulation as amended shall be effective on September 1, 1985.

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 30, 1985

FILED WITH LRC: August 30, 1985 at 4 p.m.

#### STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will not be replaced by an ordinary administrative regulation in accordance with House Bill 334.

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

CABINET FOR HUMAN RESOURCES  
Department for Social Services  
Division of Program Management

905 KAR 6:020E. State plan for CSBG Program.

RELATES TO: KRS 273.410 to 273.453

PURSUANT TO: KRS 194.050, 273.448

EFFECTIVE: August 23, 1985

NECESSITY AND FUNCTION: P.L. 97-35, Subtitle B

- "Community Services Block Grant Program," enacted August 13, 1981, authorizes grants to states to ameliorate the causes of poverty in communities within the state. KRS 194.050 authorizes the Cabinet for Human Resources to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the Kentucky Community Services Block Grant Program in accordance with applicable state and federal laws and regulations.

Section 1. State Plan for Community Services Block Grant Programs. The Cabinet for Human Resources hereby adopts by reference the "Community Services Block Grant Program Plan for the Commonwealth of Kentucky" for the fiscal and program year ending September 30, 1985 [1984], as the plan for utilization of CSBG funds. The plan includes assurances as required by federal law and regulations; provisions for use of funds by community action agencies; programmatic considerations such as geographic areas to be served, client eligibility, and complaint procedures; and fiscal considerations such as administration, required match, and allocation formula. The "Community Services Block Grant Program Plan" may be reviewed during regular working hours at the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky.

Section 2. Summary of Amendments. Strike the Community Services Block Grant Program Plan for fiscal year 1983-84 and substitute in lieu thereof Community Services Block Grant Program Plan for fiscal year 1984-85. This plan sets forth the services that will be provided with the federal funds available.

ANNA GRACE DAY, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 8, 1985

FILED WITH LRC: August 23, 1985 at 4 p.m.

### AMENDED AFTER HEARING

EDUCATION AND HUMANITIES CABINET  
Department of Education  
Office of Instruction  
(Amended After Hearing)

704 KAR 7:020. Counselor; criteria and duties.

RELATES TO: KRS 157.360 [156.130]

PURSUANT TO: KRS 156.070, 157.320 [13.082]

NECESSITY AND FUNCTION: KRS 157.360 requires the Superintendent of Public Instruction to allot to local school districts as part of the Foundation Program, classroom units for administrative and special instructional services; and 704 KAR 3:010 allows guidance counselor units as a form of ASIS units. This regulation is necessary to determine criteria for employment of counselor personnel in local schools and directions for appropriate functions.

Section 1. Accreditation standards shall be the criterion for employment of counselors. Counselor units shall be considered on the basis of a minimum ratio of one (1) counselor unit for each 300 pupils in a school or schools served by the counselor. The required ratio shall be in accordance with accreditation standards.

Section 2. (1) The counselor's duties shall be determined by the guidance plan of the school in which the counselor is to function.

(2) Effective until September 1, 1987, persons certified and employed as school guidance counselors are recognized as qualified examiners for the purpose of administering, scoring, and interpreting individual intellectual assessments of students in the public schools of the Commonwealth, as such intellectual assessments may be deemed necessary or advisable by local school districts, provided the local

superintendent of schools appropriately determines a guidance counselor performing such duties meets the following requirements:

(a) The counselor has a minimum of three (3) hours of graduate course work in individual intellectual assessment;

(b) The counselor has had experiences in test administration, interpretation, and report writing under supervision and administers only those tests which were a part of the instruction;

(c) The counselor has had experiences in the identification and placement process for exceptional children; and

(d) The counselor has a job description and guidance plan which clearly state the assignment of individual intellectual assessment responsibilities on file with the Division of Student Services, Department of Education.

(3) A letter from the local superintendent must be submitted to the Division of Student Services prior to December 31, 1985, verifying that the above requirements relative to administering, scoring, and interpreting individual intellectual assessments of students have been met.

(4) From January 1, 1986, to September 1, 1987, no counselor may administer, score or interpret individual intellectual assessments, unless a letter of verification is on file with the Department of Education.

Section 3. On and after September 1, 1987, in order to be qualified to administer, score, or interpret individual intellectual assessments of students in the public schools of the Commonwealth, guidance counselors holding the verification as set forth in Section 2 of this regulation for the 1986-87 school year must, prior to September 1, 1987, satisfactorily complete appropriate requirements prescribed by the Counsel on Teacher Education and Certification and approved by the State Board of Education in order to receive a certificate endorsement for thereafter continuing the administration and interpretation of intelligence assessments. After September 1, 1987, in order to administer, score and interpret intelligence assessments, guidance counselors not so verified for the 1986-87 school year must complete a course of study as prescribed by the Counsel on Teacher Education and Certification and approved by the State Board of Education and receive a certificate endorsement for the administration and interpretation of intellectual assessments, in order to be recognized as a qualified examiner for such purpose. [counselors must hold a certificate endorsement for the Administration and Interpretation of Intellectual Assessments. This endorsement shall require the completion of an approved nine (9) hour program as prescribed by the Council on Teacher Education and certification, recommended by the Superintendent of Public Instruction and approved by the State Board of Education, to include preparation for administering, scoring, and interpreting the intellectual assessments most commonly used in the Kentucky schools.]

ALICE McDONALD, Superintendent  
APPROVED BY AGENCY: September 10, 1985  
FILED WITH LRC: September 13, 1985 at 10 a.m.

EDUCATION AND HUMANITIES CABINET  
Department of Education  
Office of Vocational Education  
(Amended After Hearing)

705 KAR 4:210. Diploma requirements for postsecondary students.

RELATES TO: KRS 163.030

PURSUANT TO: KRS 156.070, 163.030

NECESSITY AND FUNCTION: KRS 163.030 gives the State Board of Education all necessary power and authority in administering the state's vocational education programs. This regulation is necessary in order to set a statewide standard for awarding diplomas to postsecondary students in the state's vocational-technical schools.

Section 1. The following requirements shall be met before a diploma is awarded to a postsecondary vocational education student. Each applicant must:

(1) Hold a high school diploma or meet GED requirements;

(2) Meet the academic requirements as measured by the Comprehensive [California] Test of Basic Skills or Test of Adult Basic Education as specified in 709 KAR 1:070; or, for deaf and/or hearing impaired students, an achievement test that is normed for the deaf and/or hearing impaired.

(3) Complete one (1) course each in the areas of study skills, computer literacy, economics, and employability skills, or have demonstrated competence in each such area;

(4) Complete the tasks for a major set forth on the Dictionary of Occupational Titles, provided such is designated as a diploma exit point in one of the postsecondary vocational programs as defined in the "Office of Education DOT Cross Reference" prepared by the Program Services Division and distributed on November 21, 1984. Said document is hereby incorporated by reference, and a copy of such may be obtained from the Occupational Management Information Unit in the Office of Vocational Education; and

(5) Pass a written occupational achievement test prepared by the Office of Vocational Education and validated by Kentucky vocational teachers for the particular occupational program. The test shall be normed using scores from Kentucky students.

Section 2. Students may take the occupational achievement test after verification by the instructor that the student has successfully demonstrated shop or laboratory performance, technical knowledge, attitude and conduct. Students who fail to pass the occupational achievement test may retake the test at the next testing period, remain enrolled for additional instruction, or terminate enrollment and accept a certificate of completion. Students who elect to retake the test may only be retested one (1) time without additional instruction or related work experience.

Section 3. Clear and specific notice of diploma requirements and of levels of satisfactory achievement shall be disseminated to each student upon entrance into a vocational program.

Section 4. These regulations shall apply to

postsecondary students entering vocational programs August 1, 1985, and thereafter.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: September 10, 1985

FILED WITH LRC: September 13, 1985 at 10 a.m.

COMPILER'S NOTE: The reference material to this regulation is being amended due to a public hearing. As this material is not published in the Administrative Register, copies of the reference material being amended may be obtained from the Regulation Compiler's Office.

EDUCATION AND HUMANITIES CABINET  
Department of Education  
Office of Vocational Rehabilitation  
(Amended After Hearing)

706 KAR 1:010. Three-year plan for vocational rehabilitation services.

RELATES TO: KRS 156.010, 156.031, 163.140, 163.160

PURSUANT TO: KRS 163.140

NECESSITY AND FUNCTION: Section 101, Title I, P.L. 93-112, as amended, requires the submission of a three (3) year state plan for Vocational Rehabilitation Services to the Secretary, United States Department of Education. The plan must be approved in order for a state to be eligible for grants from the allotments of funds under Title I, P.L. 93-112, as amended by P.L. 93-516 and P.L. 95-602, and P.L. 98-221, and this regulation adopts the pertinent state plan developed and approved by the Department of Education and sets [setting] forth rules governing the services, personnel, and administration of the Office of Vocational Rehabilitation.

Section 1. Pursuant to the authority vested in the Kentucky State Board of Education by KRS 163.140, the revised Kentucky State Plan for Vocational Rehabilitation Services for the period October 1, 1985 [1982] through September 30, 1988, [1985, effective October 9, 1984 as revised September 12, 1984] is presented herewith for filing with the Legislative Research Commission, and incorporated by reference. A copy of said plan can be obtained from the Office of Vocational Rehabilitation, Department of Education.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: September 10, 1985

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EDUCATION AND HUMANITIES CABINET  
Department of Education  
Office of Education for Exceptional Children  
(Amended After Hearing)

707 KAR 1:051. Exceptional children's programs.

RELATES TO: KRS 157.200 to 157.290, 157.360

PURSUANT TO: KRS [13.082,] 156.070, 157.220, 157.221, 157.250, 157.360

NECESSITY AND FUNCTION: KRS 157.200 to 157.290 set forth the state statutory framework for special education programs for exceptional children; and KRS 157.360 provides the mechanism

for state financial support of local school district programs for exceptional children. This regulation establishes requirements for special education programs and is necessary to assure uniformity in providing special education and related services to exceptional children and to conform with Public Law 94-142.

Section 1. General Provisions. Local school boards of education shall operate programs for exceptional children of school attendance age pursuant to KRS 157.200 to 157.290 inclusive, and the criteria listed in this chapter.

(1) Classroom units. Local school districts shall request classroom units for the education of exceptional children from the State Department of Education by filling out the appropriate application(s) as provided by the Office [Bureau] of Education for Exceptional Children, and in accordance with KRS 157.360(6). Application(s) shall be made pursuant to schedules established by the Office [Bureau] of Education for Exceptional Children.

(a) In order to receive tentative allotment of minimum foundation classroom units local school districts shall assure that the following criteria are met:

1. Approved teacher;
2. Approved housing;
3. Approved program plan; and
4. Minimum number of children for type of unit requested.

(b) Pursuant to KRS 157.360(6)(c) and (d), local school districts may choose between two (2) options for reimbursement for exceptional child units to provide home or hospital instruction. The two (2) options are as follows:

1. [(1)] One (1) unit may be allocated for each ten (10) children in average daily attendance for the current school year, as provided by KRS 157.360(6)(c); or

2. [(2)] The district may provide home or hospital instruction on an hourly basis, as provided by KRS 157.350(6)(d). The hourly reimbursement rate per child for districts utilizing this option shall be calculated as follows:

State Average Teacher's Salary (185 Day School Term X 6 Instructional Hours) + Current Operating Expense (175 Day Instructional Term X 6 Instructional Hours) = Hourly Reimbursement Rate

A maximum average of three (3) instructional hours per child per week will be reimbursed. The total reimbursement amount must be spent on teacher salary, travel expenses and teaching supplies for the home/hospital program. A minimum of seventy-five (75) percent of the total reimbursement amount must be allocated for teacher salary. An amount not to exceed twenty-five (25) percent of the total reimbursement amount shall be allocated for travel expenses and teaching supplies and equipment.

(c) Local school districts shall receive final allotment of minimum foundation classroom units provided the above criteria are met and the local school district validates to the State Department of Education that said unit(s) is operating pursuant to criteria listed in this chapter. Validation shall be made by filling out appropriate record(s) as provided by the Office [Bureau] of Education for Exceptional Children

and shall be made pursuant to established schedules. Final allotment of funds due each district for reimbursement of home and hospital instruction programs shall not be distributed until all monthly attendance reports due for a given school district are received by the Department of Education.

(2) Fractional classroom unit. A fractional classroom unit is a unit having fewer pupils than the prescribed pupil-teacher ratio as indicated in regulations pertaining to the specific categorical program 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) Qualifications for assignments of special education personnel. Teachers employed for a teaching assignment in a classroom unit for exceptional pupils shall hold appropriate state certification in the area(s) of assignment as required in Title 704 KAR Chapter 20, except as hereinafter provided:

(a) Teachers of classes for severely profoundly handicapped. Teachers assigned to classes established to serve pupils classified as severely/profoundly handicapped (S/PH) shall possess a certificate valid at any grade level for teaching trainable mentally handicapped or severely/profoundly handicapped pupils of any age.

(b) Teachers of classes for multiple handicapped. Teachers assigned to classes established to serve multiple handicapped (MH) pupils shall meet the following requirements:

1. As of September 1, 1986, the assigned teacher shall possess a certificate valid at any grade level for teaching:

a. Trainable mentally handicapped or severely/profoundly handicapped for assignment to classes where the majority of students are [for] multiple handicapped pupils whose intellectual functioning is trainable mentally handicapped; or

b. Educable mentally handicapped, learning disabilities, physically/orthopedically handicapped or learning and behavior disorders for assignment to classes where the majority of students are [for] multiple handicapped (MH) pupils whose intellectual functioning is educable mentally handicapped or above. Severely/profoundly handicapped pupils shall not be assigned to classes taught by teachers with the certification specified in this section.

2. Teachers employed as of September 1, 1985, and assigned to classes for multiple handicapped students who do not possess a certificate as specified in paragraph (b)1a and b of this subsection may continue to be assigned to such classes provided the teacher has had class assignments in a class for multiple handicapped pupils for each of the preceding three (3) years, and the Kentucky Department of Education approved the assignment for each of the years involved. [Except as hereinafter provided, the assigned teacher shall have special skills, experience or training related to the concomitant conditions (such as vision, hearing, orthopedic) of the multiple handicapped pupils assigned to the class. The district shall maintain on file a description of the teacher's special skills, experience or training in the concomitant conditions. This description shall be based on results of teacher evaluation,

continuing education activities, and previous teaching experiences.]

[3. Personnel development activities shall be provided by the local school district for those teachers who do not have special skills, training or experience in the concomitant conditions. The activities shall be conducted according to a written plan for personnel development. Such plan shall be developed jointly by the teacher, the supervisor of special education programs and the teacher's principal. Activities may include consultation from appropriately trained and/or certified persons, college courses, workshops, seminars, or inservice programs. Topics shall be related to methods, materials and educational assessment in the concomitant areas. A survey course shall not meet this requirement. Expenses for such activities, excluding college courses, shall be provided by the local school district. Activities shall continue until objectives of the personnel development plan have been met or until additional certification(s) is obtained. Documentation describing the activities completed shall be maintained in the local school district with the assigned teacher's Kentucky teaching certificate. Documentation must include but not be limited to the date, time, location, name and title/position of person(s) who provided the activity, and the objectives of the activity. Such records shall be made available upon request to representatives of the Kentucky Department of Education.]

(c) Teachers of cross-categorical classes. Teachers assigned to special education classes serving more than one (1) category of exceptional pupils (cross-categorical programs) shall possess a certificate valid for teaching pupils of each of the specific areas of exceptionality to be enrolled, except as follows:

1. Local school districts may serve pupils classified as educable mentally handicapped (EMH), learning disabled (LD) and emotionally disturbed (ED) within the same classroom, provided teachers assigned to such classes are certified in at least two (2) of the categories of exceptionality or have certification in the area of learning and behavior disorders (LBD). Teachers employed as of September 1, 1985, with assignments to such classes and who are certified in only one (1) of the areas of exceptionality served may continue to be assigned to such classes until September 1, 1988, by which time appropriate certification must be obtained. Or, teachers employed as of September 1, 1985, and assigned to classes which include pupils of an exceptionality not covered by their certification may continue to be assigned to such classes, provided the teacher has had class assignments which included such exceptional pupils for each of the preceding three (3) years, and the Kentucky Department of Education approved the assignment for each of the years involved.

2. Local school districts may serve pupils classified as trainable mentally handicapped, severely/profoundly handicapped and multiple handicapped whose intellectual functioning is trainable mentally handicapped within the same classroom, provided teachers assigned to such classes are certified in trainable mentally handicapped or severely/profoundly handicapped.

3. Local school districts may serve pupils classified as educable mentally handicapped



(EMH) and learning disabled (LD) within the same classroom, provided teachers assigned to such classes are certified in the category of exceptionality of the majority of pupils or have certification in the area of learning and behavior disorders (LBD).

(d) Local school districts which need to assign teachers to teach classes or pupils not consistent with the above criteria and which do not correspond with the certification of the assigned teachers shall request approval for the teacher assignment from the Kentucky Department of Education, Office of Education for Exceptional Children.

1. The Kentucky Department of Education shall give consideration for such approval based on information provided by the local school district as follows:

a. Request shall be made prior to September 15 or within ten (10) school days of the need for assignment if it occurs after September 15 and shall include the teacher's name, school assignment, social security number and class plan assignment;

b. Teacher's current certification(s) and a listing of pupils by category of exceptionality to be served demonstrating that the teacher meets qualifications for assignment to teach the majority [at least sixty (60) percent] of the exceptional pupils enrolled and that only one (1) additional category of exceptional pupils shall be included in the classroom;

c. Verification that the pupils in the added category of exceptionality pupils to be served cannot be assigned to a teacher who is qualified for assignment to a class serving such pupils either within the local school district or in a program in contiguous local school district:]

d. Verification of provision of classroom support services (i.e. aides, volunteers, peer tutors) to assist with the pupils assigned to the class; and]

e. Description of consultation and training related to the additional category of pupils, including topics and dates, to be provided the assigned teacher by appropriately trained categorical specialists; or, description of special skills, experience, or training the teacher possesses which would enable the teacher to adequately meet the needs of the additional pupils assigned.]

2. The assignment shall not exceed the length of the school year during which it was initiated.

[3. Approval to continue such assignment beyond the initial year shall be made contingent upon verification that the teacher is pursuing an approved course of study leading to full certification requirements in the area of additional assignment.]

[4. A local school district which fails to meet the above criteria for assignment shall be subject to reduction in allocation of minimum foundation classroom unit funding.]

[(e) Assignments as teachers for home and hospital programs. Teachers providing instruction to exceptional pupils in home and hospital program shall be provided with the skills needed to meet the individual needs as set forth in the pupil's individual education program. The local school district shall provide on-going consultation by appropriately certified categorical specialists.]

(e) [(f)] Replacement teacher for special education classes. When a local school district

loses the services of the approved special education teacher after September 15, a replacement teacher may be used for a classroom unit for exceptional children under the following conditions:

1. The teacher qualifies for assignment to the class as specified in paragraphs (a) through (d) of this subsection.

2. If a teacher with appropriate certification in special education is not available for the vacated position, the local school district may assign a teacher to the class, with the exception of speech and communication disorders, pursuant to the following:

a. The superintendent and the local board of education shall submit an application to the Kentucky Department of Education, Office of Education for Exceptional Children, for each replacement teacher. The application shall be made on forms provided by the Kentucky Department of Education. Information which validates all attempts to employ an appropriately certified teacher shall accompany the application and shall document the following:

(i) Teachers with certification in special education are not available within the local school district for the position.

(ii) Efforts have been made to recruit a teacher certified in special education for the vacant position. This vacancy has been publicized by appropriate means, including advertisement of the vacant position.

[(iii) The local school district has been unsuccessful in recruiting a certified special education teacher for the vacant position either from the listings of teachers supplied by the State Department of Education or by means of the placement services of teacher education institutions.]

(iii) [(iv)] The position will be filled by the best certified person available giving preference to the factors of academic preparation, prior successful teaching experience or related educational work.

b. The replacement teacher must qualify as a basic classroom teacher and hold, at minimum, a provisional elementary, middle or secondary certificate valid for the grade level of the assignment.

c. The replacement teacher may not be employed for the same teaching assignment for the following year without obtaining appropriate certification or endorsement in special education.

d. If the Kentucky Department of Education, Office of Education for Exceptional Children, approves the replacement teacher, the effective employment date for the replacement teacher shall be the date the application and accompanying documentation are received and stamped in by the Office of Education for Exceptional Children.

(4) Program plan. The appropriate program plan for exceptional pupils in the local school district shall be determined by the needs of the pupils. Consideration shall be given to the least restrictive environment concept in the placement of pupils. Programs shall be organized and operated under one or more, or a combination of the following:

(a) Classroom units plans:

1. A resource plan shall be a program which serves exceptional pupils who shall be entered on the class roll of a regular class teacher and shall do part of their classwork in the regular



class. The pupils shall receive special instruction from the resource teacher as specified on their individual education programs. The number of pupils served by the resource teacher and the number of pupils in the resource room for instructional purposes at any one (1) time shall be determined by the appropriate categorical regulations. The resource plan shall utilize a classroom-based teacher or an itinerant teacher.

2. A special class plan shall be a classroom-based program which serves exceptional pupils who shall be entered on the class roll of the special class teacher. The pupils shall participate in the regular class program to the maximum extent appropriate as specified on the pupils' individual education programs. The number of pupils and the chronological age range for pupils enrolled in the special class shall be determined by the appropriate categorical regulations. A classroom-based teacher shall be utilized for this plan.

3. A hospital instructional plan shall be a program which provides educational services on a regularly scheduled basis to pupils in a hospital setting. The itinerant teacher providing educational services in the hospital shall keep a regular Kentucky attendance register. A pupil receiving services in a hospital setting shall have a minimum of two (2) one (1) hour visits per week in order to be counted as being in attendance five (5) days. Special education and related services for the identified exceptional pupil in a hospital setting shall be provided as specified on the pupil's individual education program (IEP). The hospital instructional plan shall utilize a classroom-based teacher an itinerant teacher, or a visiting teacher.

4. A home instruction plan shall be a program which provides educational services to pupils at the home on a regularly scheduled basis. The teacher providing educational services at the home shall keep a regular Kentucky attendance register. A pupil receiving educational services under this plan shall have a minimum of two (2) one (1) hour visits per week in order to be counted in attendance five (5) days. Special education and related services for the identified exceptional pupil served under this plan shall be provided as specified on the pupil's individual education program (IEP). The home instruction plan shall utilize an itinerant teacher or a visiting teacher.

(b) Teacher and housing. Each classroom unit plan shall be housed as specified and shall operate utilizing one (1) of the following types of teachers:

1. A classroom-based teacher shall be an approved teacher who shall provide educational services to exceptional students in a classroom provided for such services. The classroom-based teacher providing services through the resource plan or special class plan shall be housed in an elementary or secondary school dependent upon the age range of the pupils or in an approved special school or facility. Classroom location shall be made consistent with the least restrictive environment concept. Classrooms shall meet the standards for regular classrooms pursuant to 702 KAR 4:060. The classroom-based teacher providing services in a hospital setting shall be housed in facilities and/or rooms appropriate and adequate for instructing pupils in small groups or individually.

2. An itinerant teacher shall be an approved teacher who travels to exceptional pupils' school(s), class(es), homes, or hospital setting(s) on a regularly scheduled basis to work with pupils either individually or in small groups. Those pupils being served in a school facility shall be entered on the class roll of a regular class teacher and shall receive the majority of their instruction through the regular program. The itinerant teacher shall work with the pupils in an area in the regular classroom or in a room provided for such services. Housing for the itinerant teacher providing services in a school shall be in facilities and/or rooms appropriate for instructing pupils in small groups or individually and shall be housed in an elementary or secondary school dependent upon the age range of the pupils or in an approved special school or facility. The itinerant teacher shall be provided permanent work space. For the itinerant teacher who travels to the pupils' school(s), class(es), homes, or hospital setting(s) the board of education shall defray travel expenses incurred by personnel in the execution of duties related to the program pursuant to 702 KAR 3:120.

(3) A visiting teacher shall be an approved teacher in a home and/or hospital program who travels to the necessary setting to provide appropriate instruction to pupils on an hourly basis. Teacher salary, travel expenses, and teaching supplies for the visiting teacher will be provided through the funding mechanism set forth in 707 KAR 1:051, Section 1(b).

(c) A variation plan shall be an alternative to the above plans. The local school district shall submit a written request to and receive approval from the Office [Bureau] of Education for Exceptional Children prior to implementation of a variation plan. Written requests for such plan shall be made pursuant to provisions established by the Office [Bureau] of Education for Exceptional Children. In granting approval the Office [Bureau] of Education for Exceptional Children shall assure that approved requests for such plan shall contain but not be limited to the following components:

1. Rationale for need of the variation plan;
2. Detailed description of the plan;
3. Verification of teacher's certification in the categorical area of the majority of the students to be served; and
4. Method of evaluation to be used to determine effectiveness of the plan.

(5) Length of school day. The length of school day shall be the same as for non-handicapped children except as specified in KRS 157.270 and 158.060. Requests for and approval of changes in length of school day shall be made in writing pursuant to provisions established by the Office [Bureau] of Education for Exceptional Children.

(6) Instructional materials and equipment. Instructional materials and equipment appropriate to the educational needs of the identified exceptional child shall be provided as required under 704 KAR 2:020.

Section 2. Identification of Exceptional Children. Each local school district shall have in operation policies and procedures to insure that all exceptional children are identified, located and evaluated. As used here, this requirement refers to all exceptional children who are in need of special education and related

services and are residing within the jurisdiction of the local school district, including those exceptional children who are out of school; in local school district programs; and, being served by other public and private agencies and institutions within the local school district's jurisdiction. Local school district policies and procedures shall include the development, implementation, monitoring and evaluation of a practical method of determining:

- (1) Which children are currently receiving needed special education and related services; and
- (2) Which children need special education and related services but are not currently receiving these services.

Section 3. Admissions 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 as listed below. In addition, for those school districts with a school census figure of 15,000 or over, sub-district admissions and release committees may be established pursuant to approval by the Office [Bureau] of Education for Exceptional Children.

(1) Administrative admissions and release committee. The membership of the Administrative Admissions and Release Committee (AARC) shall consist of:

- (a) Director, local school district's program for exceptional children or person having such responsibility, chairperson (permanent member);
- (b) Local school district superintendent or designee (permanent member);
- (c) Referred pupil's principal and teacher (if the child is enrolled in public or private school);
- (d) Involved instructional supervisor depending on the age and level of the child;
- (e) The parent(s) of the referred child;
- (f) The referred child, where appropriate;
- (g) Personnel responsible for providing evaluation information, where appropriate; and
- (h) Other persons as requested by any member of the AARC.

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

- (a) Receive referrals of the following nature:
  1. Written information on identified children not currently enrolled in the local school district, including those children enrolled in non-public schools, who are thought to need special education and related services.
  2. Cases where the school-based admissions and release committee is not able to determine an appropriate educational placement for a referred pupil and make recommendations as to appropriate educational placement.
  3. Cases from school-based admissions and release committee where appropriate services are not available within the school.
- (b) Follow due process procedures to insure that exceptional children and their parent(s) are guaranteed procedural safeguards in decisions regarding identification, evaluation, and educational placement.
- (c) Assure that appropriate evaluations on referred children are obtained or conducted.
- (d) Review written results of the formal and informal evaluation to determine if the referred child meets eligibility criteria for a category

of exceptionality.

(e) Determine if the identified child needs special education and related services.

(f) Develop an individual education program (IEP) for the identified child needing special education and related services to make recommendations as to appropriate services and/or programs for the identified child. The AARC shall 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. For those pupils who shall receive services within the local school district, the appropriate school-based admissions and release committee shall assume responsibility for the implementation, monitoring, evaluation and annual review of the IEP as well as annual review of placement. In those cases where the local school district has determined that appropriate special education and related services cannot be provided through existing programs in the local school district, services shall be provided to the identified child pursuant to the following:

1. Local school district referral of an exceptional child to a public or private agency. The Administrative Admissions and Release Committee shall:

a. Contact a public agency or approved private agency/organization, as provided in 707 KAR 1:070, which provides the type of services specified on the child's IEP regarding the possible referral of the child to the agency.

b. Insure that a representative(s) of the receiving agency shall participate in a meeting(s) with the AARC regarding the possible referral. Participation may be provided through attendance at meetings, written communications, and/or individual or conference calls. Receiving agency means an approved agency/organization which has indicated a willingness to provide the services requested by the local school district.

c. In collaboration with representative(s) of the receiving agency, review and revise, where appropriate, the child's IEP.

d. In collaboration with representative(s) of the receiving agency, determine if such agency is the appropriate agency to provide the specified services. If the agency is an appropriate one, such agency assumes responsibility for implementing the provisions of the special education and related services specified on the IEP.

e. The local school district shall be responsible for providing continued educational services to the child until such time as the child enters the programs provided by the receiving agency.

2. Placement of an exceptional child in a public or private agency:

a. Public agency (another local school district, Kentucky School for the Blind, Kentucky School for the Deaf). Upon admission of the referred child to the agency's program, the agency shall: Assume responsibility for providing special education and related services to the exceptional child as specified on the IEP; and, insure that the child and parent(s) are afforded all rights and protections as required and provided in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060.

b. An admissions and release committee of the

receiving public agency shall: Conduct meetings for the purposes of reviewing and where appropriate revising the IEP, assure that the IEP shall be reviewed on at least an annual basis and revised where appropriate; insure that any review (including annual review) and revision of the IEP shall be done with the input and approval of the parent(s); and, insure that any review and revisions of the IEP shall include input and approval of the local school district placing the child in the program. The participation of the parent(s) and the local school district placing the child may take place through attendance at meetings, written communications and/or individual or conference calls.

c. Monitoring and evaluation of the IEP shall be done by specific members of the receiving public agency's admissions and release committee at intervals specified on the IEP. This shall be done to document progress and mastery of objectives specified in the IEP. Written results of such monitoring and evaluation shall be forwarded to the parent(s) and the Administrative Admissions and Release Committee of the local school district placing the child in the agency's program.

d. Responsibilities of the Administrative Admissions and Release Committee of the local school district placing the child in another public agency shall be: participation in meetings called by the receiving agency for the purpose of review and revision of the IEP; and, at least annually, review the exceptional child's IEP and review the placement of each exceptional child receiving services outside the local school district in relation to his educational progress in that setting.

e. Private agency/organization (as defined in 707 KAR 1:070) the private agency shall provide those special education and related services specified on the child's IEP. At the discretion of the local school district, the private agency may initiate and conduct meetings for the purposes of reviewing and revising the child's IEP. When circumstances warrant, the private agency shall be responsible for notifying the local school district of the need to initiate and conduct a meeting for such purposes. The local school district shall insure that the parent(s) and a local school district representative(s) are involved in any decision regarding review and revisions of the child's IEP; and, agree to any placement changes before such changes are implemented.

f. Responsibilities for the Administrative Admissions and Release Committee of the local school district placing the child in a private agency shall be: participation in meetings called by the receiving agency regarding review and revision of the IEP; at least annually, review the exceptional child's IEP and review the placement of each exceptional child receiving services outside the local school district in relation to the educational progress in that setting; and, insuring that the child and parent(s) are afforded all rights and protections as required and provided in Sections 9 and 10 of this regulation and 707 KAR 1:060.

(g) For those referred pupils who are determined by the AARC not to need special education and related services, the AARC shall provide the referring person and the parents with written explanation of why the child is not to receive special education and related

services, shall provide in writing recommended remedial action, and shall provide written notice pursuant to 707 KAR 1:060.

(3) School-based admissions and release committee (SBARC): The membership of the school-based admissions and release committee shall consist of:

(a) Chairperson, building principal or designee. The designee shall be recommended by the building principal and approved by the local school superintendent. This person shall not be a regular or special education teacher, (permanent member).

(b) Referring person(s) or the referred child's regular teacher(s);

(c) Teacher(s) of exceptional children;

(d) Parent(s) of the referred pupil;

(e) The referred child, where appropriate;

(f) Other persons providing input into the referred pupil's educational program as requested by any member of the SBARC; and

(g) Personnel responsible for providing evaluation information, as appropriate. For a child who has been evaluated for the first time, the chairperson shall assure that a member of the evaluation team participates in the meeting; or that a representative of the school district is present who is knowledgeable about the evaluation procedures used with the child and is familiar with the results.

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

(a) Receive written referrals on pupils currently enrolled in the school and thought to need special education and related services.

(b) Follow due process procedures to insure that exceptional children and their parents are guaranteed procedural safeguards in decisions regarding identification, evaluation and educational placement.

(c) Assure that appropriate evaluations on referred children are obtained or conducted.

(d) Review written results of the formal and informal evaluations to determine if the referred child meets eligibility criteria for a category of exceptionality.

(e) Determine if the identified child needs special education and related services.

(f) Develop an individual education program (IEP) for the identified child needing special education and related services to make recommendations as to appropriate services and/or programs for the identified child.

(g) At least annually, review the pupil's IEP and review the placement of each exceptional child in the school in relation to his or her educational progress in that setting to determine;

1. Continuation of current educational placement;

2. Change in educational placement; or

3. That special education and related services are no longer needed.

(h) For those referred pupils who are determined by the SBARC not to need special education and related services the SBARC shall provide the referring person and the parents with written explanation why the child is not to receive special education and related services, shall provide in writing recommended remedial actions, and shall provide written notice pursuant to 707 KAR 1:060.

(i) Refer cases where appropriate services are not available within the school to the AARC.

(5) If at any time during the school year, the

child's IEP or 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 placement. The appropriate admissions and release committee shall conduct the review. The child, parent(s) and local school district shall be afforded all due process rights as described in 707 KAR 1:060. When a review is requested for the purpose of securing a more restrictive or less restrictive environment, the appropriate admissions and release committee shall determine that the child's needs can appropriately be met in the proposed setting and the child's placement and educational program shall be changed and support services provided as necessary.

(6) At any time, during the three (3) years following an individual evaluation utilized for initial placement purposes, or for re-evaluation purposes, the parent(s), principal, teacher(s), or specialist(s) providing services to the child may request a re-evaluation. The appropriate admissions and release committee shall be responsible for assuring that such evaluation(s) are obtained or conducted, and shall follow the procedures outlined in Section 3(2) and (4) of this regulation, functions of the AARC and SBARC.

(7) Sub-district admissions and release committees: For those school districts with a school census figure of 15,000 or over, sub-district admissions and release committees (ARCs) may be established within the local school district to facilitate school to school placements. The sub-district ARCs shall not supplant administrative and school-based admissions and release committees and their respective functions. Sub-district ARCs shall be established to conform with district-specified school groupings. Those local school districts wishing to establish sub-district ARCs shall submit a written request to and receive approval from the Office [Bureau] of Education for Exceptional Children prior to implementation of the plan and pursuant to provisions specified by the Office [Bureau] of Education for Exceptional Children. The membership and functions of sub-district committees shall be similar to the membership and the functions of the administrative admissions and release committee.

Section 4. Child Evaluation. Child evaluation refers to the sum total of information needed to make educational decisions about the child, including information obtained from such sources as informal and formal testing, aptitude and achievement tests, behavior observation, teacher/parent interviews, work samples, social/developmental history, medical history, school records and anecdotal records. The appropriate admissions and release committee shall be responsible for assuring that child evaluation information is obtained from all available sources, documented and carefully considered in making placement decisions pursuant to the following:

(1) All due process procedures related to evaluation as required and provided in Section 9 of this regulation and 707 KAR 1:060 shall be followed.

(2) Appropriate evaluations shall be conducted by a multidisciplinary team. Evaluation personnel shall be determined by the appropriate admissions and release committee and shall

include at least one (1) teacher or other specialist with knowledge in the suspected area of exceptionality.

(3) Areas for evaluation shall be determined by the appropriate admissions and release committee and as specified by regulations related to the suspected area of exceptionality, including where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

(4) Evaluation procedures: To the maximum extent possible, child evaluation procedures, shall be non-discriminatory in that:

(a) Techniques and/or materials used are non-biased relative to race, culture, socio-economic status or impaired sensory, manual, or speaking skills, in order to insure that tests results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure.

(b) Qualified personnel provide the evaluation services. Qualified personnel refers to those certified special education personnel and others who have met, approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area of child evaluation. Such personnel shall be trained in specific areas of child evaluation and shall assure that they:

1. Have the expertise to conduct the evaluation;

2. Understand the use of the different evaluation procedures; and

3. Properly administer and interpret the evaluation results.

4. Such personnel may include but are not limited to: educational diagnosticians, assessment specialists, classroom teachers, speech and language therapists, psychologists, psychometrists, counselors.

(c) Tests and materials are provided and administered in the child's native language or primary mode of communication, unless it is clearly not feasible to do so.

(d) Tests and materials have been validated for the specific purpose for which they are used.

(e) Tests and materials are administered by trained personnel in conformance with the instructions provided by the producer.

(f) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.

(5) No single evaluation procedure shall be used to determine an appropriate program for a child.

(6) Each child placed in a program for exceptional children shall be re-evaluated every three years or more frequently as warranted.

(7) Any evaluation conducted within one year prior to the current referral may be accepted by the appropriate admissions and release committee as a legitimate substitute for another evaluation of the same type provided the information obtained meets the criteria specified in subsection (1) to (5) of this section.

Section 5. Individual Education Programs (IEP). The appropriate admissions and release committee shall be responsible for the development, implementation, and

monitoring/evaluation of each exceptional child's individual education program.

(1) Development. The individual education program shall include but not be limited to the following components:

(a) Present level of educational/behavioral performance including a written summary of strengths and weaknesses.

(b) Annual goals based on child's current level of functioning.

(c) Short term instructional objectives for each of the annual goals. Short term instructional objectives refer to measurable intermediate steps between the present level of educational/behavioral performance and the specified annual goals. These objectives are identified for the purpose of periodically reviewing and evaluating pupil progress toward meeting the annual goal(s) specified on the IEP.

(d) Specific special education and related services needed to meet the specified goals and objectives.

(e) Extent to which the child will participate in the regular education program.

(f) Projected dates for initiation of specified educational and related services.

(g) Anticipated duration of the specified special education and related services.

(h) Appropriate objective criteria and evaluation procedures; and

(i) Schedule for determining, at least on an annual basis, whether the goals and objectives are being achieved.

(2) Implementation and evaluation. The appropriate admissions and release committee shall be responsible for assuring that strategies and activities designed to meet short-term objectives are implemented, and that the child's progress toward and mastery of the short-term objectives is evaluated at least annually.

(a) For each short-term objective specified on the IEP the appropriate admissions and release committee shall assign a specific person(s) who shall be responsible for determining and implementing appropriate strategies and activities that will assist the child in achieving the specified objectives and goals.

(b) The implementer(s) shall maintain records of student progress in achieving short term objectives.

(c) The above records shall be utilized by the implementer and the appropriate admissions and release committee for on-going evaluation of the IEP to determine the effectiveness and appropriateness of the IEP and to document implementation of the IEP.

Section 6. Placement. Placement shall mean the special education and related services provided an exceptional child and shall not refer solely to enrollment in a minimum foundation program classroom unit for exceptional children.

(1) All exceptional children as defined in KRS 157.200 are eligible for placement. The appropriate admissions and release committee shall identify the specific handicapping condition of the child. The specific area of exceptionality (handicapping condition) of the child shall be that category for which the child meets eligibility criteria following evaluation procedures as specified in the appropriate categorical regulations.

(2) All due process procedures related to placement as required and provided in Section 9

of this regulation and 707 KAR 1:060 shall be followed.

(3) For each identified exceptional child needing special education and related services, the appropriate admissions and release committee shall:

(a) Determine placement;

(b) Base placement on the child's IEP;

(c) Determine placement at least annually; and

(d) Make placement consistent with the least restrictive environment concept as required in Section 7 of this regulation.

(4) Temporary placement. Temporary placement may occur for thirty (30) school days, upon written request from the parent(s), for those exceptional pupils who are new enrollees to the local school district and who have been provided special education and related services by another local school or agency in the school days preceding the request. Documentation shall be on record that special education and related services were provided to the pupil by the other school district or agency. The pupil shall be placed in the same type program as previously provided and in accordance with the IEP. Within the thirty (30) school days the admissions and release committee shall convene to carry out its functions as specified in Section 3(4) of this regulation.

(5) Trial placement. Trial placement shall be a temporary placement for students not new to the school or school system and may be considered pursuant to the following conditions:

(a) The placement shall be for no longer than four (4) school months and shall not be continued beyond this time as a trial placement.

(b) Written rationale justifying the trial placement shall be provided by the admissions and release committee recommending such placement and shall be maintained with the IEP.

(c) The pupil shall have an IEP specifying trial placement and the starting and ending dates of such placement.

(d) A trial placement shall not serve as a substitution for a more appropriate placement.

(e) The appropriate admissions and release committee shall review the trial placement no later than four (4) school months after initiation of services to determine the effectiveness of such services, and to make recommendations for continuation in that program or a change in program.

(f) All due process procedures as required and provided in Sections 9 and 10 of this regulation and 707 KAR 1:060 shall be afforded the parent, child, and school, including written parental permission for trial placement.

(6) Change in placement. Change in placement refers to those actions that cause a significant alteration in programming for a child who is currently receiving special education and related services.

(a) Change in placement shall mean, but not be limited to, a change from:

1. Special education and related services to regular education, including regular education with support services;

2. One (1) categorical program to another (e.g., TMH to EMH);

3. Or to a more or less restrictive environment (e.g., special class to resource room).

(b) Any change in placement shall follow due process procedures to insure that exceptional children and their parents are guaranteed

procedural safeguards in decisions regarding identification, evaluation, and placement, including the written prior notice requirements as specified in 707 KAR 1:060.

(c) Any change in placement shall be subject to established admissions and release committee procedures and consideration of the least restrictive environment concept.

**Section 7. Least Restrictive Environment.** Least restrictive environment refers to that educational setting or program in which he identified child can function most effectively based upon his/her unique needs and capabilities.

(1) To the maximum extent appropriate exceptional children as defined in KRS 157.200 including those children in public or private institutions or other care facilities shall be educated with children who are not identified as exceptional.

(2) Self-contained classes, separate schooling or other removal of exceptional children from the regular educational environment shall occur only when the nature or severity of the exceptionality is such that education in the regular class with the use of supplementary aids and services cannot be achieved satisfactorily.

(3) Unless an exceptional child's individual education program requires some other arrangement, the child shall be educated in the school in which he or she would attend if not identified as exceptional.

(4) Each agency providing educational services shall insure that a continuum of placement alternatives is available to meet the needs of exceptional children for special education and related services. The alternatives shall include but not be limited to instruction in the regular classroom, special classes, special schools and home and hospital instruction. The alternatives shall also make provision for supplemental services such as resource room or itinerant instruction to be provided in conjunction with regular class placement.

(5) The identified child shall be returned to the most normal setting possible when specified goals and objectives have been achieved, consistent with the child's capabilities and educational needs and as determined by the appropriate admissions and release committee.

**Section 8. Program Completion.** An exceptional pupil shall be granted a high school diploma pursuant to meeting criteria and standards as provided in the "Program of Studies for Kentucky Schools." These pupils should be considered a part of the graduating class and no distinction shall be made in the ceremonies.

**Section 9. Procedural Safeguards.** (1) Each local school district shall establish and implement reasonable timelines in order for the identification, evaluation, and placement of referred pupils to occur without delay and pursuant to the specifications of this section and 707 KAR 1:060.

(2) Each child and his or her parent(s) 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 as provided in 707 KAR 1:060, the "Due Process Policy and Procedure Manual." These safeguards shall include the following:

(a) The child shall be represented by his or her parent(s) at all decision making points in the identification, evaluation and placement process. "Parent" refers to a natural mother or father, adoptive mother or father, a legally appointed guardian, a person acting as a parent of a child, (grandparent, stepparent, etc.) or a surrogate parent appointed to act in this capacity.

(b) The parent(s) shall receive written notification from the local school district that their child has been referred as a possible candidate for programs for exceptional children and that the child has the right to receive a free, appropriate public education.

(c) Parent(s) shall receive written notification in English and the primary language of the home regarding identification, evaluation and placement procedures.

(d) The local school district shall obtain written parental permission prior to initial individual evaluation and initial placement in a program for exceptional children.

(e) The local school district shall provide the parent(s) with written notification of continuation of placement.

(f) The parent(s) shall have the right to obtain an independent educational evaluation conducted by a qualified examiner. The results of this evaluation must be considered in decisions regarding the provision of a free appropriate public education to the child.

(g) In accordance with procedures outlined in 707 KAR 1:060, the "Due Process Policy and Procedure Manual," either the parent(s) or the local school district may request an impartial due process hearing to resolve disagreements regarding proposed or refused actions related to the identification, evaluation and educational placement of exceptional children. Appeals related to the due process hearing decision shall be conducted pursuant to 707 KAR 1:080.

(h) Where a child's parent(s) or guardian(s) are not known, are unavailable or the child is a ward of the State, such child shall be assigned a surrogate parent to represent him/her in all matters relating to the provision of a free, appropriate public education.

1. The State Department of Education and local school districts, in cooperation with other public and private agencies, shall recruit persons who can and will serve as surrogate parents. The State Department of Education, Office [Bureau] of Education for Exceptional Children, shall maintain a registry of such persons to act in this capacity. Persons selected as surrogate parents shall:

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

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

c. Be familiar with the educational system within the state; and

d. Be readily accessible to the children they represent.

2. Assignment of a surrogate to a particular child shall be made according to the following procedures:

a. 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, Office [Bureau] of Education for Exceptional

Children.

b. 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.

c. If the local school district determines need for a surrogate as provided in subsection (2)(a) of this section, the State Department of Education, Office [Bureau] of Education for Exceptional Children, shall be notified in writing of such need. The Office [Bureau] of Education for Exceptional Children shall assign a surrogate within seven (7) calendar days of the notification.

d. The assigned surrogate shall represent the child in all matters relating to identification, evaluation and placement, and the provision of a free appropriate public education.

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

f. An individual assigned as a surrogate shall not be an employee of a public agency involved in the education or care of the child.

(i) Testing and evaluation materials utilized for the purpose of evaluation and placement of exceptional children must be selected and administered so as not to be racially or culturally discriminatory.

(j) Decisions regarding the placement of exceptional children shall be made with regard to educating these pupils to the maximum extent appropriate with their non-handicapped peers in the least restrictive environment.

Section 10. Confidentiality of Personally Identifiable Information. The public agency shall develop and adopt policies and procedures consistent with the provisions of the Family Educational Rights and Privacy Act and confidentiality requirements of PL 94-142 for all exceptional children. These shall include the following:

(1) Parent(s) shall be notified annually of all requirements concerning personally identifiable information.

(2) Educational records collected, maintained, and used by the agency are open for inspection and review by the child's parent(s) and a representative of the parent(s).

(3) The agency shall comply with a parental request to inspect and review records without unnecessary delay, before any meeting of the admissions and release committee, before an impartial due process hearing, and in no case more than forty-five (45) days after the request has been made.

(4) Upon request of the parent(s) the public agency must provide an explanation and interpretation of such records.

(5) Copies of the records must be provided if failure to do so would prevent the parent(s) from exercising their right to review and inspect the records. A nominal fee may be charged unless it would prevent such access rights. A fee may not be charged for record search or retrieval.

(6) An agency may presume that the parent(s) has the authority to inspect and review records relating to his/her child unless the agency has

been advised that the parent(s) does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.

(7) A record of access shall be maintained for those individuals obtaining access to such records, except the parent(s) and authorized parties of the agency, including the name of the party, the date of access, and the purpose for which the party was authorized to use the records.

(8) Information from records containing data on more than one (1) child shall be provided in such a way as to preserve the confidentiality of the other pupils.

(9) A list of the location and types of education records collected, maintained and used by the agency shall be provided by the agency to parent(s) on request.

(10) The parent(s) have the right to request an amendment of information in the education records pursuant to the following:

(a) The agency shall decide whether to amend the information within a reasonable period of time of receipt of the request and shall notify the parent(s) of this effect.

(b) If the agency refuses to amend the records, it shall inform the parent(s) of their right to a record amendment hearing.

(c) If the result of the hearing does not require such amendment, the parent(s) has the right to place a statement outlining the points of dissent in the education records. This statement must accompany the information each time it is released.

(d) If the agency amends the records as a result of the hearing, it shall so inform the parent(s) in writing.

(11) Parental consent must be obtained before disclosing personally identifiable information to individuals or agencies unless otherwise authorized to do so as delineated in the Family Educational Rights and Privacy Act and PL 94-142.

(12) Each agency shall protect the confidentiality of records at collection, storage, disclosure and destruction stages and shall insure that all persons collecting or using records receive training in confidentiality requirements.

(13) One (1) agency official shall assume responsibility for insuring the confidentiality of personally identifiable information.

(14) A current listing of the names and titles of individuals in the public agency who have access to education records must be maintained for public inspection.

(15) Public agencies must inform the parent(s) when education records are no longer needed for educational services and destroy that information upon request of the parent(s). The agency must inform the parent(s) that such information could be needed later for social security benefits or other purposes. A permanent record of the pupil's name, address, phone, grades, attendance record, classes attended, grade level completed and year completed may be maintained without time limitation.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: September 10, 1985

FILED WITH LRC: September 13, 1985 at 10 a.m.



## PROPOSED AMENDMENTS

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY  
(Proposed Amendment)

## 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 13A.100 [13.082], 164.748(4)

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky educational 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 eligible courses of study at Kentucky educational 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 where need exists.

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

Section 4. The KHEAA grant programs are administered in accordance with procedures established by the authority and delineated in the 1985-86 [1984-85] KHEAA Grant Manual, the text and appendix B being incorporated herein by reference. A current copy of the manual shall be maintained on file with the Legislative Research Commission. Copies of the manual may be obtained upon request to the authority. Participating educational institutions shall maintain a current copy of the manual on file and, upon request, make a copy of the manual available for review by students.

PAUL P. BORDEN, Executive Director

APPROVED BY AGENCY: May 21, 1985

FILED WITH LRC: September 11, 1985 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing regarding this regulation is scheduled to be held at 1050 U.S. 127 South, Frankfort, Kentucky, on Monday, October 28, 1985, at 10 a.m. Any interested persons wishing to comment or attend the hearing pursuant to KRS Chapter 13A must submit their written comments or statement of intent to attend to: The Executive Director, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, no later than Wednesday, October 23, 1985. Absent such response from the public, the hearing may be cancelled.

## REGULATORY IMPACT ANALYSIS

Agency Contact Person: Richard Casey

(1) Type and number of entities affected: None  
(a) Direct and indirect costs or savings to those affected:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: No change

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: There are no viable alternatives

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This amendment incorporates revisions to a program operations manual of a nonsubstantive nature (i.e., updating of calendar deadlines, changes in format, corrections, etc.).

Tiering:

Was tiering applied? No. Concept of tiering does not apply to this situation.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY  
(Proposed Amendment)

## 11 KAR 6:010. Commonwealth Work Study Program.

RELATES TO: KRS 164.744(2), 164.748(4), 164.753(6)

PURSUANT TO: KRS 13A.100, 13A.110, 164.748(4)

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority ("Authority") is empowered to administer student financial assistance programs in the form of work-study. The purpose of this regulation is to name the authority's program, and set forth the procedures under which it will be administered.

Section 1. There is hereby established a program of student financial assistance known as the Commonwealth Work Study Program, which may be cited as the KHEAA-CWSP or merely as CWSP.

Section 2. The Commonwealth Work Study Program is operated under provisions of Kentucky Revised Statutes 164.740 to 164.765 and Title 11 of the Kentucky Administrative Regulations.

Section 3. Participants in the Commonwealth Work Study Program shall comply with procedures and requirements established by the Authority



delineated in the "Commonwealth Work Study Program Manual of Procedures and Guidelines, 1985 [1984] Edition" incorporated herein by reference. A current copy of this manual shall be maintained on file with the Legislative Research Commission. Copies of the manual may be obtained upon request to the Authority. Participating educational institutions shall maintain a current copy on file and, upon request, make a copy of the manual available for review by students and employers.

PAUL P. BORDEN, Executive Director

APPROVED BY AGENCY: May 21, 1985

FILED WITH LRC: September 11, 1985 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing regarding this regulation is scheduled to be held at 1050 U.S. 127 South, Frankfort, Kentucky, on Monday, October 28, 1985, at 10 a.m. Any interested persons wishing to comment or attend the hearing pursuant to KRS Chapter 13A must submit their written comments or statement of intent to attend to: The Executive Director, Kentucky Higher Education Assistance Authority, 1050 U.S. 127 South, Frankfort, Kentucky 40601, no later than Wednesday, October 23, 1985. Absent such response from the public, the hearing may be cancelled.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Richard Casey

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: No change

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: There are no viable alternatives.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: This amendment incorporates revisions to a nonsubstantive nature (i.e., updating of calendar deadlines, changes in format, corrections, etc.)

Tiering:

Was tiering applied? No. Tiering does not apply to this situation.

#### FINANCE AND ADMINISTRATION CABINET Division of Occupations and Professions Board of Veterinary Examiners (Proposed Amendment)

#### 201 KAR 16:010. Code of Conduct.

RELATES TO: KRS 321.350(6)(7)

PURSUANT TO: KRS 321.240

NECESSITY AND FUNCTION: KRS 321.350(6) provides that the board may suspend or revoke a certificate of license for any gross negligence, incompetence or misconduct in the practice of veterinary medicine in this Commonwealth. KRS 321.350(7) provides for the suspension or revocation of a certificate of license for any violation of the code of conduct promulgated by the board. This regulation sets forth certain acts or inaction which shall constitute gross negligence or misconduct in the practice of veterinary medicine and likewise sets forth a code of conduct for each licensed practitioner.

Section 1. The failure on the part of any veterinarian to take the time necessary to attempt to diagnose the condition of the animal which he is attempting to treat shall constitute gross negligence, incompetence and misconduct.

Section 2. The continued failure of a veterinarian to treat the animal which he has undertaken to treat in a manner that a qualified veterinarian would use under the same or similar circumstance shall constitute gross negligence, incompetence and misconduct.

Section 3. The failure of a veterinarian to maintain adequate equipment to treat animals that he is called upon to treat in the practice of veterinary medicine shall constitute gross negligence, incompetence and misconduct in the practice of veterinary medicine.

Section 4. All veterinary offices and clinics, including instruments and equipment contained therein, shall at all times be kept clean and free from any condition or surroundings that will make or tend to make said instruments and equipment unsanitary or unhygienic.

Section 5. Any veterinarian who misrepresents or misstates information on a health certificate or any other document relating to the sale, movement or transportation of animals, or who pre-signs health certificates or other related documents in order that they may be used by some other person or persons, is guilty of misconduct in the practice of veterinary medicine.

Section 6. No veterinarian shall permit, encourage or aid any person or corporation to engage in the unauthorized and illegal practice of veterinary medicine.

Section 7. A veterinarian shall be guilty of misconduct if he sells or offers for sale medicine and drugs at any place other than his office, clinic or hospital or at the place where he is treating animals and the drugs and medicines will be used in the treatment of said animal.

Section 8. A veterinarian may advertise by any medium. (1) Advertisements shall not be false, misleading or fraudulent.

(2) Any representation that the veterinarian is a board certified specialist in any speciality of veterinary medicine unless that veterinarian has been certified by a certifying board approved by the Kentucky Board of Veterinary Examiners and has furnished proof of such certification to the board, is prohibited. [Advertising which is informational and not deceptive is permitted, but is limited as follows:]

[(1) To informing the public of the availability of veterinary services and materials;]

[(2) Such advertisement may be by radio, television or any other medium.];

[(3) If additional charges may be incurred in the rendering of said advertised veterinary services for related services in individual cases, then the advertisement shall so state.]

[Section 9. In the absence of compelling reasons to the contrary, a minimum examination must be performed in all cases.]

[(1) In advertising a price for veterinary services, a minimum examination must be performed for the price stated and the required minimum examination shall include the following:]

[(a) Complete case history from the owner or person requesting the veterinary services;]

[(b) Detailed physical examination of the animal as is necessary to diagnose and treat the complaint or condition.]

[(2) Advertising which is not in the public interest and which is prohibited shall include, but that is not limited to the following:]

[(a) Is false, fraudulent, deceptive, misleading or unfair;]

[(b) Any price advertising veterinary services or materials which are not effective for the period of time prescribed for the advertising of prices under KRS Chapter 367;]

[(c) Any representation that the veterinarian is a specialist in any specialty of veterinary medicine unless that veterinarian has been certified by a certifying board approved by the Kentucky Board of Veterinary Examiners, and has furnished proof of such certification to the board's satisfaction.]

[(d) Represents intimidation or undue pressure;]

[(e) Claiming or using any secret or special method of treatment which the veterinarian refused to divulge to the Kentucky Board of Veterinary Examiners;]

[(f) Using coded or special names for veterinary services of materials that have an established trade name where such coded or special names are deceptive to consumers.]

Section 9. [10.] It shall be improper for veterinarians to write testimonials as to the virtue of drugs, medicines, remedies or foods except to report the results of properly controlled experiments or clinical studies to interested veterinary organizations and associations.

Section 10. [11.] Every veterinarian engaging in the practice of veterinary medicine, veterinary surgery, and veterinary dentistry in this state shall keep adequate and sufficient records of the examination and treatment of all animals examined and treated so as to afford information relative to these matters to those persons entitled to see such information.

KENNETH SIMS, Chairman

APPROVED BY AGENCY: September 13, 1985

FILED WITH LRC: September 13, 1985 at 11:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 22, 1985 at 10 a.m. in Room 34, Capitol, Frankfort, Kentucky. Those interested in attending this hearing shall contact in writing: Dr. Donald L. Applegate, Executive Secretary, State Board of Veterinary Examiners, Route 2, Cranston Road, Morehead, Kentucky 40351.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carl T. Miller, Jr.

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected:

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied?

#### EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Local Services

(Proposed Amendment)

#### 702 KAR 1:010. Facilities surveys and plans.

RELATES TO: KRS 157.420 [(3)], 157.622

PURSUANT TO: KRS 156.070 [, 156.160]

NECESSITY AND FUNCTION: KRS 157.420(3) requires that the capital outlay portion of Foundation Program funds be used by school districts for capital outlay projects approved by the Superintendent of Public Instruction in accordance with requirements of law and based on a survey made in accordance with regulations of the State Board of Education; and KRS 157.622 sets forth certain requirements for school facilities plans relative to participation in funding by the School Facilities Construction Commission. This regulation provides for the development and adoption of [To provide] a written plan describing construction and use of school facilities to guide school administrators in meeting the needs of the district.

Section 1. The Superintendent of Public Instruction shall conduct or cause to be conducted a facilities survey of each school district at least every five (5) years, and shall deliver to the local board of education a report which contains an assessment of existing conditions, and a recommended facilities plan which designates an organizational pattern, classification of school centers, and a priority schedule for construction and/or renovation needs. This survey shall be done in conjunction with the accreditation program, and shall be subject to the public hearing procedures required therefor by 704 KAR 10:022.

Section 2. A facilities survey report upon adoption by the local board of education and the State Board of Education shall become the facilities plan for the district unless an appeal, in lieu of adoption by the local board, is submitted to the Superintendent of Public Instruction in accordance with the accreditation process appeal provisions set forth in 704 KAR 10:022 [within sixty (60) days following receipt of the facilities survey report]. Each appeal shall include a proposed full facilities plan with the local board's requested priority listing of construction needs.

Section 3. [The Superintendent of Public Instruction shall review and report to the local board of education within a period of thirty (30) days the results of the appeal.] The facilities plan shall remain in effect until any changes have been approved by the State Board of Education [Superintendent of Public Instruction].

Section 4. A local board of education may at any time request the Superintendent of Public Instruction to conduct a review of a facilities plan for the district. Upon the presentation of written evidence that circumstances exist which necessitate temporary or permanent suspension or alteration of the adopted plan, the State Board of Education shall, at its next regular meeting, schedule a public hearing and designate a hearing officer to conduct the public hearing. The Superintendent of Public Instruction shall present at the public hearing such data as is appropriate to provide the hearing officer objective information upon which to make a recommendation. Members of the local school board, the general public, and interested individuals and parties shall be provided an opportunity to testify at the hearing. The hearing officer, whenever practicable, shall present his or her report at the next regularly scheduled meeting of the State Board of Education after the public hearing, at which time the State Board of Education shall make a final decision relative to the requested facility plan amendment. The Superintendent of Public Instruction shall make a recommendation to the State Board of Education relative to the requested revision of the facility plan at the time the hearing officer makes his or her report [Superintendent of Public Instruction shall within fifteen (15) days of the receipt of the request determine whether a review is justified and so advise the local board of education. If a review is deemed to be justified, such review shall be within ninety (90) days from date of authorization by the Superintendent of Public Instruction. If a review is deemed unjustified, the local board of education may without request

to the Superintendent of Public Instruction employ at local expense a reputable agency to conduct a facilities survey and submit same within ninety (90) days as an appeal pursuant to Section 2].

Section 5. The adopted facilities plan shall become the facilities plan of the local school district and shall be implemented to the extent that the financial ability of the district will permit as determined by the Superintendent of Public Instruction. The scope of any construction project recommended in the facilities plan shall not be changed unless the plan is amended.

ALICE MCDONALD, Superintendent

APPROVED BY AGENCY: September 10, 1985

FILED WITH LRC: September 13, 1985 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 23, 1985 at 9 a.m., EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 18, 1985. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Robert Spillman

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected: N/A

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None known

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This action is needed to implement the emergency provision enacted in the 1985 Extraordinary Session of the General Assembly. Section 30 of KRS Chapter 157.

Tiering:

Was tiering applied? No. Need for uniformity in adoption of facilities plans.

EDUCATION AND HUMANITIES CABINET  
Department of Education  
Office of Local Services  
(Proposed Amendment)

702 KAR 3:020. Bond issue approval.

RELATES TO: KRS 58.150, 156.070, [156.200, 162.060,] 162.080 to 162.100, 162.120 to 162.290 [162.170, 162.180], 162.300

PURSUANT TO: KRS 58.150, 156.070, [156.160,] 162.160, 162.170, 162.180

NECESSITY AND FUNCTION: KRS 58.150 authorizes the State Board of Education to allow local school districts to issue revenues and anticipation notes as an initial financing mechanism; KRS 156.070 gives the State Board the management and control of the common schools; and KRS 162.080 to 162.100, 162.120, 162.290, and 162.300 set forth methods and authorizations for school districts to finance capital construction projects through bonds. This regulation sets forth procedures [To provide a method] for the approval of bond and bond anticipation note issues by school districts.

Section 1. The Superintendent of Public Instruction shall determine the financial soundness of all school revenue bond issues. He shall supervise all phases of school revenue and voted bonds.

Section 2. The Superintendent of Public Instruction shall disapprove the sale of any school revenue or school voted bond issue which he deems to be not in accord with State Board of [for Elementary and Secondary] Education regulations or financially unsound for the district in question. The Superintendent of Public Instruction at the next special or regular meeting of the State Board of Education shall report the terms and conditions of all school revenue or school voted bond sales and certify that such sales were made in accordance with KRS Chapter 162 and the State Board of Education regulations.

Section 3. Fiscal agents must be registered with the Banking and Securities Commission in the Commonwealth of Kentucky. The local board of education shall select the fiscal agent for the proposed revenue bond issue. The fiscal agent shall employ appropriate bond counsel subject to approval of the local board of education. The allowable discount on bonds shall not exceed two (2) percent of the par value of the issue under contract.

Section 4. Twenty (20) percent of the revenues appropriate for bonding purposes must be set aside as a safety factor in determining the initial bonding potential of a local district. The Superintendent of Public Instruction may allow safety factors below twenty (20) percent to a minimum of ten (10) percent on a case by case basis dependent upon the financial stability of the individual school district. The following sources of revenue are eligible as annual revenues in support of school building revenue bonds or notes:

- (1) Utility gross receipts license tax (KRS 160.593);
- (2) Occupational income tax (KRS 160.593);
- (3) Excise income tax (KRS 160.593);
- (4) Special voted building fund ax (KRS

160.477):

- (5) General fund ad valorem tax (KRS 160.476);
- (6) Power equalization levy (KRS 157.565);
- (7) Capital outlay funds (KRS 157.5650; and
- (8) Special trust funds (when legal opinion provided by bond counsel).

Section 5. (1) Revenue bond anticipation notes or the reissuance (roll over) of bond anticipation notes shall be issued only upon approval of the State Board of Education on a case by case basis and in accord with KRS 58.150.

(2) Prior to submittal to the State Board of Education for approval, the local school district shall provide the Department of Education the following financial information:

(a) Sources and annual amounts of revenue available for debt service;

(b) Projected debt service of a comparably-sized bond issue using maximum interest rates that the district could support with current available revenues as reflected in subsection (2)(a) of this section; and

(c) Projected debt service on a comparably-sized bond issue based on the then-current market.

(3) The following criteria are established for determining the approval of bond anticipation notes or the reissuance (roll over) of bond anticipation notes:

(a) The district must show evidence that the available fiscal resources could support a twenty (20) year revenue bond issue at the then-current market rates plus one point five (1.5) percent;

(b) The district must agree to escrow the difference between a regular revenue bond issue at the then-current market twenty (20) year amortization schedule, level principal redemption) and the annual net interest cost of the bond anticipation notes. The escrow account shall be used to reduce the principal of the note at the call date, the termination date, or as is stipulated in the terms and conditions of the issue note;

(c) Notes shall be issued for a period not less than two (2) nor more than four (4) years with a one (1) year call provision; and

(d) Bonds may be required to be issued to replace callable notes should market conditions change such that permanent financing is advisable and warranted.

Section 6. [3.] The maximum net interest cost for the sale of school revenue bonds established by the State Board of Education shall be a rate no greater than the most current Bond Buyer's 20 - Bond Index plus one point five (1.5) percent. In the event a bid on an issue of bonds exceeds the maximum interest rate the Superintendent of Public Instruction may declare an emergency to exist and request the chairman to convene the State Board of Education for the purpose of approving or disapproving his recommendation that the bonds be sold.

ALICE MCDONALD, Superintendent

APPROVED BY AGENCY: September 10, 1985

FILED WITH LRC: September 13, 1985 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 23, 1985 at 9 a.m., EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those

persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 18, 1985. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

## REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ron Moubray

- (1) Type and number of entities affected:
  - (a) Direct and indirect costs or savings to those affected: 180 local school districts
    1. First year: None
    2. Continuing costs or savings: None
    3. Additional factors increasing or decreasing costs (note any effects upon competition): None
  - (b) Reporting and paperwork requirements: Additional paperwork required (as indicated in Regulation) only if bond anticipation notes are used.
- (2) Effects on the promulgating administrative body:
  - (a) Direct and indirect costs or savings: None
    1. First year: None
    2. Continuing costs or savings: None
    3. Additional factors increasing or decreasing costs: None
  - (b) Reporting and paperwork requirements: See 1(b)
- (3) Assessment of anticipated effect on state and local revenues: Can reduce long-term interest expense of local school districts if eligible for approval of notes.
- (4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
- (5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
  - (a) Necessity of proposed regulation if in conflict:
  - (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
- (6) Any additional information or comments:

Tiering:

Was tiering applied? Yes.

## EDUCATION AND HUMANITIES CABINET

Department of Education  
Office of Local Services  
(Proposed Amendment)

702 KAR 3:100. Data form, professional staff.

RELATES TO: KRS 157.390, 157.420

PURSUANT TO: KRS 156.070, 157.390

NECESSITY AND FUNCTION: KRS 157.390 through 157.420 sets forth how Foundation Program allotments are determined. This regulation allows the Department of Education to collect assignment and salary data on teachers employed by the school district and included in the Foundation Program calculation as classroom units.

Section 1. The Department of Education professional staff data form shall be completed during the week of September 15 for any teacher paid by and/or under the supervision of the district board of education. The completed forms shall be forwarded to the Division of School

Management and Audit not later than October 1 of each school year.

Section 2. Rank and experience of the teacher on September 15 shall determine the rank of the Foundation Program teacher for the school year except teachers having a higher rank certified by Office of Instruction, Division of Teacher Certification, dated between September 15 and January 31, shall be allotted five-tenths (0.5) unit on the September 15 rank, and five-tenths (0.5) unit on the rank earned on or before January 31 of the school year. Such a teacher employed subsequent to September 15 and prior to January 31 of the school year shall be allotted a fractional part of five-tenths (0.5) unit, based on the rank on the date employed and for the period employed prior to January 31, and five-tenths (0.5) unit on the higher certified rank on January 31.

Section 3. A vacancy or new position staffed between September 15 and January 31 shall be assigned a fraction of a classroom unit. Changes of personnel, vacancy, new position staffed, or position abolished shall be reported on the February amendment to the professional staff data form. This amendment shall be completed February 1 and is due in the Division of School Management and Audit on or before February 5. No part of a unit shall be granted for positions staffed after January 31.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: September 10, 1985

FILED WITH LRC: September 13, 1985 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 23, 1985 at 9 a.m., EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 18, 1985. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

## REGULATORY IMPACT ANALYSIS

Agency Contact Person: Robert E. Spillman

- (1) Type and number of entities affected: 180 LEA's
  - (a) Direct and indirect costs or savings to those affected: N/A
    1. First year:
    2. Continuing costs or savings:
    3. Additional factors increasing or decreasing costs (note any effects upon competition):
  - (b) Reporting and paperwork requirements: Existing procedures will cover these requirements (February amendment).
- (2) Effects on the promulgating administrative body:
  - (a) Direct and indirect costs or savings:
    1. First year: Minor computer programming alternations to Foundation Program
    2. Continuing costs or savings:
    3. Additional factors increasing or decreasing costs:
  - (b) Reporting and paperwork requirements:
  - (3) Assessment of anticipated effect on state and local revenues: Insignificant increase in

required Foundation Program funds.

(4) Assessment of alternative methods; reasons why alternatives were rejected:

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This action will recognize changes in the Rank of Certified Personnel between September 15 and January 31 for the purpose of allotting Foundation Program funds.

Tiering:

Was tiering applied? Yes.

**EDUCATION AND HUMANITIES CABINET**  
**Department of Education**  
**Office of Instruction**  
**(Proposed Amendment)**

**704 KAR 3:005. Educational Improvement Act.**

RELATES TO: KRS 158.650 to 158.740

PURSUANT TO: KRS 156.070, 158.650, 158.670, 158.700

NECESSITY AND FUNCTION: KRS 158.650 to 158.740, as amended by Senate Bill 202, the Educational Improvement Act, mandate a program of assessment, testing, annual performance reports, educational improvement plans and various sanctions to insure the right of public school students to acquire the competencies in the essential skills necessary to complete high school, pursue post secondary education, or enter the work force; and to assure such students access to programs and services appropriate to their educational needs in the areas of competencies in the essential skills, with the Department of Education to administer the act pursuant to regulations of the State Board of Education and to develop a comprehensive implementation plan. This regulation implements the duties and functions of the Educational Improvement Act of 1978, as amended by Senate Bill 202, by adopting the Department of Education's revised implementation plan.

Section 1. Each local district board of education shall prepare an Annual Performance Report which shall include local district data for the following factors: annual transportation cost per pupil transported; annual current expenses per pupil in average daily attendance; cost per pupil for instruction; cost per pupil for administration; percent of district revenue received from local, state and federal sources; local revenue per child in average daily attendance; assessed property value per child in average daily attendance; results of the state-mandated testing program; results of Scholastic Aptitude Test and American College Board Test; dropout rate; retention rate; percent average daily attendance; number and percent of students going to college or other post-secondary training; number and percent of students enrolled in special education and completing Individual Education Plans; percent of enrollment classified as economically

deprived; percent attendance by professional staff; student/teacher ratio; teacher/administrator ratio; salary data by rank; the number of teachers teaching out of their field of specialty and the number of classes taught by teachers out of their field of specialty; expenditures for staff in-service; courses exceeding the state Program of Studies requirements; and an executive summary of the Master Educational Improvement Plan Progress Report. This report shall be submitted to the State Board of Education by December 15, 1984 for the 1983-84 school year, and by September 15 of each succeeding school year and shall be published in the newspaper with the largest circulation in the county by October 1.

Section 2. Each local district board of education shall identify program and service deficiencies and student achievement deficiencies based upon the Annual Performance Report, the results of the most current review of the factors listed hereinafter and such other state-mandated performance reports as deemed appropriate. Deficiencies shall be determined as follows:

(1) The local school district shall be declared deficient in program and service offerings when one (1) or more of the following accreditation standards are not met.

(a) STANDARD - Legal responsibility:

1. Indicator - The local school district is in compliance with current applicable statutes of the Commonwealth of Kentucky and Kentucky administrative regulations and state board policies.

2. Indicator - The local school district is in compliance with current applicable federal laws and regulations.

(b) STANDARD - Curriculum and learning environment:

1. Indicator - Each school provides a minimum of 175 days of instruction.

2. Indicator - Each school provides a minimum of six (6) hours of instructional time per day.

3. Indicator - Each school is in compliance with the requirements in the Program of Studies in Kentucky Schools, K-12, pursuant to 704 KAR 3:304.

4. Indicator - Each school has a written plan for implementing the program of instruction for grades K-12.

5. Indicator - Opportunities are provided for citizens' groups to participate in the following:

- a. Curriculum study;
- b. Budget planning;
- c. Co-operative evaluation; and
- d. Accreditation study.

6. Indicator - The school has developed specific plans and procedures assuring accountability to the local board and to the public.

7. Indicator - Quality textbooks with current content and provided in adequate quantities to meet classroom needs.

8. Indicator - The school has sufficient materials and equipment available to implement the curriculum.

(c) STANDARD - School staff and administration:

1. Indicator - All professional personnel hold appropriate certificates for positions and/or assignments. (Each vocational staff member has the required work experience specific to the program being taught.)

2. Indicator - All teachers are teaching in

their major or minor field or specific areas of concentration.

3. Indicator - The local district has established and implemented procedures for evaluating all certified personnel based on the quality of their performance.

(d) STANDARD - Responsible pupil conduct: Indicator - Pupils, parents, teachers, administrators, and school board members are involved in the development of a code of pupil conduct and attendance based on assessed needs which is approved by the local school board; which is in compliance with state and federal law; and which contains a system by which all pupils, parents, and faculty members are informed annually of the pupil code and its provisions.

(e) STANDARD - Financial support and budget: Indicator - The budget provides for adequate funding of all required accrediting standards.

(2) The local district shall be declared deficient in program and service offerings when one (1) or more of the following planning and reporting standards are not met;

(a) STANDARD - Master Educational Improvement Plan. Indicator - The local school district shall prepare and implement the Master Educational Improvement Plan established jointly by the district and the Kentucky Department of Education and approved by the local board of education.

(b) STANDARD - Annual Performance Report.

1. Indicator - The local district shall prepare and submit each year as herein required, the Annual Performance Report to the State Board of Education.

2. Indicator - The local district shall publish the Annual Performance Report in the newspaper with the largest circulation in the county by October 1.

(3) The local school district shall be declared deficient in academic achievement when one (1) or more of the following standards of attainment of competencies are not met: STANDARD - Student Academic Performance.

(a) Indicator - Students in grades 3, 5, 7, and 10 shall score at or above the national average of fifty (50) normal curve equivalency on the total battery of the Comprehensive Test of Basic Skills.

(b) Indicator - Local school districts shall achieve an academic performance level at which eighty-five (85) percent of the students enrolled in each grade shall master the essential skills in the skills areas of reading and mathematics in the 1984-85 school year and in the additional skills areas of spelling, writing and library research reference skills each year thereafter. Districts achieving a performance level at which the percent of students in each grade mastering the essential skills is more than five (5) percentage points below eighty-five (85) percent shall be deemed to have a deficiency in that grade and skills area and shall develop and implement plans at the local level to correct the deficiency by two and five-tenths (2.5) percentage points each year [Students in grades K-12 shall achieve on the Kentucky Essential Skills Test an academic performance level to be established by the State Board of Education and filed as an amendment to this regulation in the five (5) essential skills areas on the Kentucky Essential Skills Test].

Local school districts achieving an academic performance level at which the percent of

students in each grade mastering the essential skills is more than five (5) percentage points below eighty-five (85) percent in three (3) or more grade levels in any one (1) skills area, or that fail to demonstrate in two (2) consecutive years the required improvement toward correcting a deficiency in a grade or skills area shall be deemed to have a deficiency in the applicable skills area and shall include in the Master Educational Improvement Plan a specific goal focused on improving the percent of students mastering the essential skills by at least two and five-tenths (2.5) percentage points each year. The goal shall include both process and product objectives which establish specific action, time frames, and outcomes that systematically move the district toward achieving an eighty-five (85) percent performance level in each grade and skills area.

(4) The local school district shall be declared deficient in product goals when one (1) or more of the following school district outcome standards are not met:

(a) STANDARD - Student Attendance.

1. Indicator - The percentage of attendance shall be calculated by dividing the aggregate days attendance by the aggregate days membership. Local school districts achieving a percent of attendance of more than ninety-three and five-tenths (93.5) but less than ninety-six (96) shall be deemed in a satisfactory range and shall include in the Master Educational Improvement Plan a specific goal focused on improving student attendance. The goal shall include both process and product objectives which establish specific action, time frames, and outcomes that systematically move the district toward achieving ninety-six (96) percent or better student attendance.

Local school districts achieving less than ninety-three and five-tenths (93.5) percent attendance shall be deemed deficient and shall include in the Master Educational Improvement Plan a specific goal focused on improving student attendance. The goal shall include both process and product objectives which establish specific actions, time frames, and outcome that systematically move the district toward achieving ninety-six (96) percent or better student attendance. In addition local school districts achieving less than ninety-three and five-tenths (93.5) percent attendance shall as a minimum achieve the following percentage improvements in attendance each year by range groupings in which they fall for that year:

Below ninety (90) percent - the difference between ninety (90) percent and the district's current percent of attendance;

Over ninety (90) percent but less than ninety-two (92) percent - two (2) percent;

Over ninety-two (92) percent but less than ninety-three and five-tenths percent - one (1) percent.

Any local school district failing to implement the Master Educational Improvement Plan shall be deemed deficient in accordance with subsection (2) of this section.

(b) STANDARD - Student Dropout.

1. Indicator - The dropout rate shall be defined as the annual percentages of students leaving school prior to graduation in grades 7-12 and include withdrawals in attendance accounting codes W6, W7, W10, and W11.

Local school districts with a dropout percentage of more than three and five-tenths



(3.5) percent but less than five and five tenths (5.5) percent shall be deemed in a satisfactory range and shall include in the Master Educational Improvement Plan a specific goal focused on reducing the dropout rate. The goal shall include both process and product objectives which establish specific actions, time frames, and outcomes that systematically move the district toward reducing the dropout percentage to three and five-tenths (3.5) percent or less.

Local districts with a dropout percentage greater than five and five-tenths (5.5) percent shall be deemed deficient and shall include in the Master Educational Improvement Plan a specific goal focused on reducing the dropout rate. The goal shall include both process and product objectives which establish specific actions, time frames, and outcomes that systematically move the district toward reducing the dropout percentage to three and five-tenths (3.5) percent or less. In addition, local districts with a dropout percent in excess of five and five-tenths (5.5) percent shall as a minimum achieve the following percentage improvements in reducing dropouts each year by the range groupings in which they fall for that year:

Over eight and five-tenths (8.5) percent - the difference between eight and five-tenths (8.5) percent and the district's current dropout percentage;

Less than eight and five-tenths (8.5) percent but more than seven (7) percent - one (1) percent;

Less than seven (7) percent but more than five and five-tenths (5.5) percent - .75 percent.

A local school district failing to implement the Master Educational Improvement Plan shall be deemed deficient in accordance with Section 2(2) of this regulation.

Section 3. (1) To correct deficiencies as defined by this regulation and meet other statutory requirements, each local board of education shall prepare and submit to the State Board of Education for approval, by October 15, 1985, a Master Educational Improvement Plan. The Master Educational Improvement Plan shall include as separate components the following: Part I, a plan for addressing accreditation deficiencies; Part II, a plan for addressing deficiencies in academic performance on state mandated tests; Part III, a plan for addressing the district personnel in-service needs (to be submitted by July 15 annually); Part IV, a plan for addressing the deficiencies identified as a result of the district's financial analysis; and Part V, such other components as necessary to correct deficiencies identified in other program and performance areas. The Master Educational Improvement Plan shall include specific time lines for correcting each deficiency and shall designate the individuals responsible for correcting each deficiency. The Master Educational Improvement Plan shall be established jointly by the district and the Kentucky Department of Education and shall be approved by the local board of education and the State Board of Education.

(2) Upon the initial filing and approval of a Master Educational Improvement Plan, the contents thereof shall supersede the separate component reports then on file.

Section 4. (1) Each district shall report to the Kentucky Department of Education by September 15 of each school year, its progress in correcting the deficiencies addressed in its Master Educational Improvement Plan. The Kentucky Department of Education shall identify those districts failing to make satisfactory progress in correcting deficiencies. The progress reports of the identified districts and such other reports as may be requested shall be reviewed by the Educational Improvement Advisory Committee which shall recommend to the Superintendent of Public Instruction for State Board action, those districts which are "educationally deficient" and which should be provided with technical assistance by the Kentucky Department of Education. Satisfactory progress shall be defined relative to "educationally deficient," as the district's compliance with and adherence to the time lines established in the approved Master Educational Improvement Plan which shall be submitted on an annual basis until the district is cleared of deficiencies.

(2) Where time lines established in a Master Educational Improvement Plan require remedial action by a district prior to the submission of a following year's progress report, the Superintendent of Public Instruction shall monitor such compliance and may recommend declarations of educational deficiency to the State Board of Education, where compliance is not accomplished, without recommendation or consideration by the Educational Improvement Advisory Committee.

Section 5. Local school districts failing to meet or make satisfactory progress toward correcting deficiencies in program and service standards and product standards, after having received technical assistance from the Kentucky Department of Education, shall be subject to direct management intervention by the State Board of Education, as defined by KRS 158.584(4). Satisfactory progress shall be defined as the district's compliance with and adherence to the time lines established in the approved Master Educational Improvement Plan.

Section 6. Subsequent to direct management intervention by the State Board of Education, if the local district still does not meet established time lines for correcting deficiencies, removal from office of a member or members of the local board or the superintendent or other school district personnel, pursuant to KRS 156.132 to 156.136, may be pursued by the state board.

Section 7. A district that has been declared an educationally deficient district by the state board shall be notified of such declaration in writing. At such time as an educationally deficient district shall be cleared by the Kentucky Department of Education of all deficiencies contributing to the declaration of educational deficiency, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall notify such a district in writing.

ALICE MCDONALD, Superintendent

APPROVED BY AGENCY: September 10, 1985

FILED WITH LRC: September 13, 1985 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has



been scheduled on October 23, 1985 at 9 a.m., EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 18, 1985. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Rebecca Brown

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Reporting requirements will be the same as specified in original regulation.

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

This amendment represents compliance with State Board Regulation 704 KAR 3:005 as approved.

Tiering:

Was tiering applied? No. Tiering was not applied because of the need for uniformity.

#### EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

(Proposed Amendment)

#### 704 KAR 3:355. Essential skills remediation.

RELATES TO: KRS 156.070, 158.750

PURSUANT TO: KRS 156.070

NECESSITY AND FUNCTION: KRS 158.750 broadly authorizes and funds a public school remedial instruction program; and KRS 156.070 authorizes the State Board of Education to prescribe courses of study, curricula, and programs as deemed necessary for the efficient management, control, and operation of the public schools. This regulation sets forth the criteria for the authorized public school remediation program, procedures for allotment of units, eligibility criteria for pupils to be served, qualifications

and job descriptions for personnel, requirements for housing of units, and requirements for program evaluation.

Section 1. Definitions. (1) Transition classroom means a separate, self-contained, full-time classroom staffed by a teacher who is trained to provide remedial instruction.

(2) Instructional assistant means a trained paraprofessional employee of the school district who provides tutorial instruction under the supervision of a teacher.

(3) Remediation means a program of instruction designed to correct educational deficiencies.

(4) Mastery level means a determined level reflected by a score on an achievement test from which a pupil may be expected to progress without remedial assistance.

Section 2. Funding of Units. Funding of remedial units shall be as follows:

(1) For the 1985-86 school year, state funding for a transition classroom unit, to include only a teacher's salary allotment and current operating expense allotment, equal to the rank and experience and current expense allotment stipulated in the biennial budget for foundation program units, shall be made on the basis of one unit for each thirteen (13) pupils who at the end of kindergarten, first, or second grade in the 1984-85 school year achieve twenty-six (26) percent or more below the established mastery level in reading and/or [reading and] mathematics on the Kentucky Essential Skills Test (KEST). Classroom units shall be awarded on a fractional unit basis. In school districts where fractional units result, local school districts may allocate average daily attendance funds received through the Minimum Foundation Program for those pupils eligible for transition classrooms in order to supplement the funding from the remedial program and create full scale transition classroom units.

(2) For the 1985-86 school year, state funding for an instructional assistant unit, to include a salary allotment, shall be reimbursed to local school districts based on actual expenses not to exceed \$8,000 annually per instructional assistant unit and awarded on the basis of one (1) unit for each twenty (20) pupils who at the end of kindergarten, first, or second grade in the 1984-85 school year achieve ten (10) to twenty-five (25) percent below the established mastery level in reading and/or mathematics on the KEST. Instructional assistant units shall be awarded on a fractional unit basis.

(3) No single pupil shall be counted for purposes of generating both a transition classroom unit and instructional assistant unit.

(4) For each year after the 1985-86 school year, funding of transition classroom and instructional assistant units shall be on the basis of test scores of pupils during the year two (2) years preceding said year.

(5) If the amount appropriated in the biennial budget is insufficient to fund the number of transition classroom and instructional assistant units generated, the allotments to districts shall be adjusted on a pro-rata share basis of the units actually calculated to be needed, with first priority assigned to funding transition classroom units.

Section 3. Eligibility Criteria. Selection of pupils to be served in the remediation program

shall be as follows:

(1) No more than fifteen (15) pupils who score at the twenty-six (26) percent or more below mastery level in reading and/or mathematics on the KEST shall be enrolled in a transition classroom.

(a) If there are fewer than thirteen (13) eligible pupils identified for any such allocated unit, and to enhance the availability of remedial instruction for needy pupils, local school districts may group pupils according to the following priorities in order to create a transition classroom unit:

1. Pupils achieving twenty-six (26) percent or more below the established mastery in [on] reading and/or mathematics;

2. Pupils achieving twenty-six (26) percent or more below mastery levels on mathematics only;

3. Pupils achieving from ten (10) to twenty-five (25) percent below mastery level on reading and/or mathematics;

4. Pupils achieving up to ten (10) percent below mastery in reading and/or mathematics;

5. Pupils with the greatest needs, as determined by KEST scores, shall be selected first. When pupils are grouped to create a transition classroom, fractional units shall continue to be allocated based upon the KEST scores of eligible pupils and not on the level of remediation to which the pupil is assigned.

(b) Pupils who remain at least twenty-six (26) percent or more below mastery of essential skills in reading and/or [reading and] mathematics after one (1) year of remedial instruction in a transition classroom, may be eligible for services in a transition classroom for an additional year. Decisions regarding continued service in a transition room and decisions on promotion or retention for individual pupils shall be based upon the KEST score as well as records of ongoing progress and teacher recommendations.

(2) No more than twenty-two (22) pupils who score between ten (10) and twenty-five (25) percent below mastery in reading and/or mathematics on the KEST shall be served by an instructional assistant.

(3) Pupils who score up to ten (10) percent below mastery in reading and/or mathematics on the KEST shall be provided remediation as needed by the regular classroom teacher.

(4) School districts shall notify in writing the parents or guardians of any pupil selected for remediation of the intent to serve the pupil in the remediation program. School districts shall have a written policy for screening pupils which includes criteria for including or excluding individual pupils in the remediation program when documented evidence exists that such pupils' scores on the KEST do not reflect actual academic performance or when children who have not been tested with the KEST enroll in the school district. Under this provision, a pupil may be included in the program only with written parental consent. Such evidence shall be made available to the Kentucky Department of Education when requested.

(5) With the exception of those pupils who are handicapped only by a speech impairment or a physical handicap, as defined in 707 KAR 1:053, pupils who have been appropriately identified as handicapped by an admissions and release committee are not eligible to be served in the

remediation program except upon a determination by the admissions and release committee that there is no other appropriate educational placement for such a pupil.

Section 4. Program Operation. The remediation program shall include appropriate student learning activities and teaching techniques. The major emphasis of the remediation program shall be reading and mathematics. The level of intensity of remedial instruction shall be based upon the degree of need of the pupils served. The most intensive level of remedial instruction shall be provided in the transition classroom in the content areas of reading and mathematics. Content of other required curricula shall be taught with an emphasis on reading and mathematics. Pupils receiving remedial education shall participate equally in all school services provided for first and/or second grade pupils in such areas as art, music, physical education and extra curricular activities in the same manner in which other pupils in the district receive such services.

Section 5. Qualifications of Personnel and Job Descriptions. Personnel qualified to serve in the remediation program shall meet the requirements for the position and fulfill the job description as follows:

(1) Teacher:

(a) Requirements:

1. Hold valid elementary education teaching certification;

2. Have demonstrated ability to work with pupils who have not been successful in the regular classroom;

3. Have at least one (1) year prior experience as a classroom teacher unless waived by the Superintendent of Public Instruction based upon documented evidence of lack of availability of personnel with such experience; and

4. Participate in program training as specified by the Kentucky Department of Education and local district.

(b) Job description:

1. Implement instructional techniques and learning activities as required by the Kentucky Department of Education and local district;

2. Assess and document pupil progress on a continuous basis and modify instruction as necessary;

3. Maintain program records as required by the Kentucky Department of Education and local district;

4. Communicate with and involve parents; i.e., teacher/parent conferences, written communications, and home visits; and

5. Communicate with other teachers, instructional assistants and supervisors as necessary.

(2) Instructional Assistant:

(a) Requirements:

1. Hold minimum of high school diploma;

2. Demonstrate competent language skills;

3. Have demonstrated ability to work with pupils who have not been successful in the regular classroom; and

4. Participate in program training as specified by the Kentucky Department of Education and local district.

(b) Job description: Under the direction of the supervising teacher:

1. Implement instructional techniques and learning activities as required by the Kentucky

Department of Education and local district;

2. Provide tutorial instruction to pupils individually or in small groups;

3. Assist with the documentation of pupil progress on a continuous basis;

4. Prepare and organize materials and equipment for remedial instruction; and

5. Participate as an integral member of the remediation instructional team.

Section 6. Facilities. (1) The remediation program shall be housed in facilities which are in compliance with 702 KAR 4:060, 702 KAR 4:070 and 702 KAR 4:080.

(2) In the event facilities are not available which meet the minimum square footage standards, the instructional area shall provide at least twenty-four (24) square feet of instructional space per pupil served or no less than 312 square feet.

Section 7. Program Evaluation. School districts shall evaluate the effectiveness of their remediation programs by collecting specified program data and submitting a report to the Kentucky Department of Education on a timely basis.

(1) The report shall include, but not be limited to:

(a) A list of names of pupils served.

(b) A summary of pupil progress on essential skills.

(c) Evidence of utilization of remediation materials and techniques.

(d) Evidence of parent involvement activities.

(e) Evidence of communication and coordination efforts within the schools.

(2) An interim report shall be submitted to the Department of Education by December 15, 1985 and a full report by July 1 of each year thereafter.

(3) On-site monitoring of remediation programs shall occur in conjunction with state evaluation for accreditation of schools.

Section 8. Alternative Remediation Program. School districts may elect to implement an alternative to the transition classroom for pupils who are otherwise eligible for a transition class. The alternative shall be established according to the collaborating teacher model.

(1) Funding shall be the same as for a transition classroom and the teacher shall have the same qualifications as a transition room teacher. School districts shall submit a report for the alternative model as required in Section 7 of this regulation.

(2) The purpose of the collaborating teacher model shall be:

(a) To provide comparative data on differing approaches to remediation; and

(b) To provide remediation in the regular classroom to pupils who have failed to master essential skills.

(3) In order to provide data for comparative purposes, districts desiring to implement a collaborating teacher program, which are funded for more than three (3) transition classrooms, must propose and operate the alternative remediation program and at least one (1) transition classroom.

(4) The collaborating teacher shall function in the following manner:

(a) The collaborating teacher shall provide

direct instruction within the regular teachers' classrooms to eligible pupils. Instruction shall be focused on remediation of deficiencies of essential skills in the areas of reading and mathematics. Instruction shall be on an individual or small group basis, depending upon pupil functioning levels.

(b) The collaborating teacher shall work with regular classroom teachers to develop an individual plan of remediation for each eligible pupil. The collaborating teacher shall also be responsible for monitoring the academic progress of each pupil with regard to identified essential skills requiring remediation.

(c) The collaborating teacher shall cooperate with regular classroom teachers on planning, scheduling, and space requirements.

(d) The collaborating teacher shall have no administrative or school management responsibilities.

(5) The collaborating teacher model shall also contain the following components:

(a) Support for the regular classroom teachers in efforts to teach and motivate low achieving pupils;

(b) Involvement of parents through parent contracts and parent support groups;

(c) Training in effective use of teacher aides and instructional assistance for pupil specific remediation;

(d) Incorporation of peer tutoring and team learning strategies;

(e) Tutoring and coaching in pupil self-management skills;

(f) Design of special homework assignment strategies;

(g) Development of cognitive and thinking skills, and problem solving;

(h) Incorporation of motivational techniques;

(i) Design of enrichment activities; and

(j) Participation in long-term staff development and team building strategies.

(6) The Department of Education shall provide training, program materials and supervision to support the implementation of program components and shall assist collaborating teachers in developing a network for sharing program information.

(7) School districts seeking to implement a collaborating teacher program shall follow procedures established by the Department of Education which shall include but not be limited to the following:

(a) Each district must submit a written request for program information and an application for participation.

(b) Each district must submit a proposal which shall identify the pupils to be served and the way in which the general requirements of the program will be specifically accomplished. The forms and format for representing this information shall be developed and supplied by the Department of Education. These forms will identify the specific criteria which will be used for deciding local district participation and the process by which these decisions shall be made.

ALICE MCDONALD, Superintendent

APPROVED BY AGENCY: September 10, 1985

FILED WITH LRC: September 13, 1985 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 23, 1985 at 9 a.m., EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the

regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 18, 1985. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

## REGULATORY IMPACT ANALYSIS

Agency Contact Person: Joanne C. Brooks

(1) Type and number of entities affected: 180 school districts

(a) Direct and indirect costs or savings to those affected:

1. First year: approximately \$4,000,000 additional appropriations will be utilized.

2. Continuing costs or savings: Second year will be the same.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Pupil performance after second year may increase or decrease costs.

(b) Reporting and paperwork requirements: Revision of regulation will not increase paperwork.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: Revision will cause no change in costs.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No change

(3) Assessment of anticipated effect on state and local revenues: No effect

(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternatives are not feasible within the constraints of the law.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Not applicable.

## EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

(Proposed Amendment)

704 KAR 10:022. Elementary, middle and secondary schools standards.

RELATES TO: KRS 156.160

PURSUANT TO: KRS 156.070, 156.160

NECESSITY AND FUNCTION: KRS 156.160 requires the State Board of Education to adopt rules and regulations relating to grading, classifying, and accrediting all common schools, and further allows private, parochial, and church schools to voluntarily comply with accreditation standards and to be so certified by the state board. This regulation implements this duty by prescribing

general standards to be used in evaluation of public elementary, middle and secondary schools, and of those non-public schools voluntarily seeking an accreditation evaluation.

Section 1. (1) Pursuant to the authority vested in the Kentucky State Board of Education by KRS 156.070 and 156.160, the Kentucky Standards for Grading, Classifying and Accrediting Elementary, Middle and Secondary Schools, as amended on September 10, 1985 [November 28, 1984], are presented herewith for filing with the Legislative Research Commission, and incorporated by reference.

(2) "Procedures for Kentucky Accreditation Program." April, 1985, as revised on September 10, 1985, is presented herewith for filing with the Legislative Research Commission and incorporated by reference.

Section 2. Pursuant to the authority vested in the Kentucky State Board of Education by KRS 156.160(2), non-public schools which voluntarily request accreditation shall be in compliance with all standards and indicators included in the Kentucky Standards for Grading, Classifying and Accrediting Elementary, Middle and Secondary Schools except those marked "N/A" (not applicable). These Voluntary Non-Public School Accreditation Standards, May, 1985, are presented herewith for filing with the Legislative Research Commission and incorporated herein by reference.

Section 3. The procedures for the voluntary accreditation of individual non-public schools or related groups of such schools under common management and control shall be as follows:

(1) All non-public schools or groups of schools which voluntarily request accreditation shall notify the Division of Accreditation by letter of their intentions.

(2) An Instructional Services Advisor (I.S.A.) shall be assigned to a school and shall be the liaison between the school and the Department of Education. The I.S.A. shall provide the school with the department's self-study guide and provide technical assistance as needed.

(3) An on-site team will visit each school to validate the school's self-study. This team shall be appointed by the Department of Education and shall consist of at least three (3) persons - an I.S.A., a local non-public school official and another Department of Education staff member.

(4) An additional team member shall be appointed for each additional five (5) faculty members beyond fifteen (15).

(5) A report shall be generated by the on-site team and a copy presented to the school or related group of schools. The school or related group of schools shall prepare a three (3) year plan of action to correct all non-compliance. The plan shall be monitored annually to assure that the plan of action is being implemented.

(6) The school or related group of schools shall then be placed on a five (5) year accreditation cycle. The first year shall be the self-study and the on-site visit followed by a three (3) year plan of action, and the last year shall be devoted to updating the self-study.

(7) State funds may not be used for the accreditation of non-public schools. Such schools shall reimburse the Department of Education the total costs of accreditation

certification, including necessary follow-up, either from their own funds or from any appropriate federal grants.

Section 4. "The Merit Rating Procedural Information and General Criteria for Guidance Programs," March, 1985, and "Merit Rating Guidelines for Kentucky Schools," as adopted on July 9, 1984, are presented herewith for filing with the Legislative Research Commission and incorporated by reference.

Section 5. A copy of all documents incorporated in this regulation may be obtained from the Office of Instruction, Department of Education.

ALICE MCDONALD, Superintendent

APPROVED BY AGENCY: September 10, 1985

FILED WITH LRC: September 13, 1985 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 23, 1985 at 9 a.m., EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 18, 1985. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carolyn Wosoba

(1) Type and number of entities affected: 180 school districts

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Routine reports as required in 5-year accreditation review.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: None considered

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Because of the need for consistency, tiering was not applied.

#### EDUCATION AND HUMANITIES CABINET Department of Education Office of Instruction (Proposed Amendment)

704 KAR 20:005. Kentucky standards for preparation program approval.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 156.070, 161.030

NECESSITY AND FUNCTION: KRS 161.020 prohibits any person from holding the position of superintendent, principal, teacher, supervisor, director of pupil personnel, or other public school position for which certificates may be issued unless he holds a certificate of legal qualifications for the particular position; KRS 161.025 gives the Kentucky Council on Teacher Education and Certification the duty to develop and recommend policies and standards relating to teacher preparation and certification; and KRS 161.030 rests the certification of teachers and other school personnel and the approval of teacher-preparatory colleges and universities and their curricula with the State Board of Education. This regulation establishes the standards and procedures which are to be used for the approval of the various teacher preparation programs offered by the colleges and universities, and where applicable, these curriculum standards are consistent with the Program of Studies as incorporated in 704 KAR 3:304.

Section 1. Pursuant to the statutory authority placed upon the Superintendent of Public Instruction, the State Board of Education, and the Kentucky Council on Teacher Education and Certification under KRS Chapter 161, there is hereby devised, created, and incorporated by reference the Kentucky Standards for the Preparation-Certification of Professional School Personnel, which shall include the standards and procedures for the approval of college and university curricula for the preparation programs.

Section 2. The Kentucky Standards for the Preparation-Certification of Professional School Personnel are hereby amended, and the amended document is hereby incorporated by reference and identified as the Kentucky Standards for the Preparation-Certification of Professional School Personnel, revised September [May], 1985. A copy of this document can be obtained from the Office of Instruction, Department of Education, Capital Plaza Tower, Frankfort, Kentucky.

ALICE MCDONALD, Superintendent

APPROVED BY AGENCY: September 10, 1985

FILED WITH LRC: September 13, 1985 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 23, 1985 at 9 a.m., EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 18, 1985. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James Fouche<sup>1</sup>

(1) Type and number of entities affected: Twenty-four (24) education institutions; persons preparing to become teachers for grades K-4.

(a) Direct and indirect costs or savings to those affected: No appreciable effect.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Teacher education institutions must redesign curricula for preparing teachers and submit the proposals to the Superintendent of Public Instruction for review and approval by the State Board of Education.

(2) Effects on the promulgating administrative body: No appreciable effect--this is part of the regular workload of the Department of Education.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Department of Education staff must review curriculum proposals from the teacher education institutions and recommend action to the Superintendent of Public Instruction and to the State Board of Education.

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: This regulation will necessitate some reassignment of faculty within the teacher education institutions over a two-three year transition period.

Tiering:

Was tiering applied? No. Ultimately applies to individual teacher candidates who must satisfy the same curriculum requirements for certification.

EDUCATION AND HUMANITIES CABINET  
Department of Education  
Office of Instruction  
(Proposed Amendment)

704 KAR 20:290. Certification for early elementary level.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 156.070, 161.030

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of

Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the council and approved by the state board. This regulation establishes an appropriate certificate for teaching at the early elementary level and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel.

Section 1. (1) Effective July 1, 1986, the provisional certificate for teaching in the early elementary grades K-4 shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005.

(2) The provisional certificate for teaching in the early elementary grades K-4 shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045 [initially for a duration period which expires ten (10) years from the calendar year of completion of the curriculum requirements. This certificate shall be renewed for a ten (10) year period only upon completion of the planned fifth-year program. The certificate may be extended for life upon completion of three (3) years of successful teaching experience on a regular certificate and upon completion of a planned fifth-year program].

(3) The provisional certificate for teaching in the early elementary grades K-4 shall be valid for teaching in kindergarten and in grades one (1) through four (4).

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: September 10, 1985

FILED WITH LRC: September 13, 1985 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 23, 1985, at 9 a.m., EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its July meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 18, 1985. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James Fouche

(1) Type and number of entities affected: None\*

(a) Direct and indirect costs or savings to those affected:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: None\*

- (a) Direct and indirect costs or savings:
  - 1. First year:
  - 2. Continuing costs or savings:
  - 3. Additional factors increasing or decreasing costs:
- (b) Reporting and paperwork requirements:
- (3) Assessment of anticipated effect on state and local revenues: None\*
- (4) Assessment of alternative methods; reasons why alternatives were rejected: None\*
- (5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None\*
- (a) Necessity of proposed regulation if in conflict:
  - (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
- (6) Any additional information or comments: \*This amendment merely brings the language of this regulation into conformity with other regulations recently adopted by the State Board of Education.

**Tiering:**

Was tiering applied? No. Ultimately applies to individual teacher candidates who must satisfy the same requirements for certification.

**PUBLIC PROTECTION AND REGULATION CABINET  
Public Service Commission  
(Proposed Amendment)**

**807 KAR 5:006. General rules.**

RELATES TO: KRS Chapter 278

PURSUANT TO: KRS 278.280(2)

NECESSITY AND FUNCTION: KRS 278.280(2) provides that the commission shall prescribe rules for the performance of any service or the furnishing of any commodity by any utility. This regulation establishes general rules which apply to electric, gas, water, sewage and telephone utilities.

Section 1. General Provisions. (1) The adoption of regulations by the commission shall not preclude the commission from altering or amending the same in whole or in part, or from requiring any other or additional service, equipment, facility, or standards, either upon request, or upon its own motion, or upon the application of the utility. No regulation of the commission shall in any way relieve a utility from any of its duties under the laws of this state.

(2) Whenever standards or codes are referred to in the commission's regulations it is understood that utilities employing competent corps of engineers are not to be prohibited thereby from continuing or initiating experimental work and installations which tend to improve, decrease the cost of, or increase the safety of their service.

Section 2. Definitions. In addition to the definitions as set out in KRS 278.010, the following definitions shall be used in interpreting the commission's regulations:

- (1) "Commission" means the Public Service Commission.
- (2) "Utility" means a [n energy] utility as defined in KRS 278.010(3).
- (3) "Customer" means any person, firm,

corporation or body politic supplied service by any [electric, gas or combined energy-non-energy] utility.

Section 3. Reports. (1) Financial and statistical reports. Every utility shall file annually a financial and statistical report upon forms to be furnished by the commission. Said report shall be based upon the accounts set up in conformity with the commission's order adopting uniform classification of accounts for utilities. This report shall be filed on or before March 31, each year. For good cause shown, the commission may, upon application in writing, allow a reasonable extension of time for such filing.

(2) Report of meters, customers and refunds. Every utility shall make periodical reports on such forms as may be prescribed, of meter tests, number of customers and amount of refunds.

(3) Other reports. Every utility shall make such other reports as the commission may at its discretion from time to time require.

(4) All records and reports shall be retained in accordance with the uniform system of accounts unless otherwise specified herein.

(5) All reports shall be accompanied by two (2) copies of a transmittal letter describing the report being furnished.

Section 4. Service Information. (1) The utility shall, on request, give its customers or prospective customers such information as is reasonably possible in order that they may secure safe, efficient and continuous service. The utility shall inform its customers of any change made or proposed in the character of its service which might affect the efficiency, safety, or continuity of operation.

(2) Prior to making any substantial change in the character of the service furnished, which would affect the efficiency, adjustment, speed or operation of the equipment or appliances of any customer, the utility shall obtain the approval of the commission. The application shall show the nature of the change to be made, the number of customers affected, and the manner in which they will be affected.

(3) The utility shall inform each applicant for service of the type, class and character of service that is available to him or her at his or her location.

Section 5. Special Rules or Requirements. (1) No utility shall establish any special rule or requirement without first obtaining the approval of the commission on proper application.

(2) A customer who has complied with the regulations of the commission shall not be denied service for failure to comply with the rules of the utility which have not been made effective in the manner prescribed by the commission.

Section 6. Meter Readings and Information. (1) Information on bills. Each bill rendered periodically by utilities shall show the class of service, the present and last preceding meter readings, the date of the present reading, the number of units consumed, the meter constant, if any, the net amount for service rendered, all taxes, the adjustments, if any, and the gross amount of the bill. The date after which a penalty may apply to the gross amount must be indicated. Estimated or calculated bills shall



be distinctly marked as such. The rate schedule under which the bill is computed shall be furnished under one (1) of the following methods:

- (a) By printing rate schedule on the bill.
- (b) By publishing in a newspaper of general circulation once each year or when rate is changed.
- (c) By mailing to each customer once each year or when rate is changed.
- (d) By providing a place on each bill where a customer may indicate his desire for a copy of the applicable rates and furnishing same by return first class mail.

(2) Meter readings. The registration of each meter shall read in the same units as used for billing unless a conversion factor be shown on the billing forms and if the meter does not read direct, the constant shall be plainly marked on the face of the meter dial.

(3) Flat rates. Flat rates for unmetered service shall approximate as close as possible the utility's rates for metered service and the rate schedule shall clearly set out the basis upon which consumption is estimated.

(4) Utilities now using or desiring to adopt mechanical billing or other billing systems of such a nature as to render compliance with all of the terms of subsection (1) of this section impracticable may make application to the commission for relief from part of these terms. For good cause shown, the commission may allow the omission of part of these requirements. Each utility shall submit the form of bill to be used by it to the commission for its approval.

(5) Each utility using customer-read meter information shall initiate a program to read each revenue related meter on its system at least once during each calendar year. Records shall be kept by the utility to insure that this information is available to the commission staff and any customer requesting such information.

Section 7. Deposits. (1) A utility may require from any customer or applicant for service a minimum cash deposit or other guaranty to secure payment of bills of an amount not to exceed two-twelfths (2/12) of the estimated annual bill of such customer or applicant, where bills are rendered monthly or an amount not to exceed three-twelfths (3/12) of the estimated annual bill of such customer or applicant, where bills are rendered bimonthly or an amount not to exceed four-twelfths (4/12) of the estimated annual bill of such customer or applicant where bills are rendered quarterly. The utility may require an equal deposit from all applicants for the same class of service. If the utility retains a residential deposit for more than eighteen (18) months, it shall advise the customer that the deposit will be recalculated based on actual usage upon the customer's request. The notice of deposit recalculation shall state that if the deposit on account differs by more than ten (10) dollars from the deposit calculated on actual usage, then the utility shall refund any over collection and may collect any underpayment. Refunds may be made by check or by credit to the customer's bill.

(2) Notification of a customer's right to a deposit recalculation shall be made at least once annually. The notice may be made by means of a general mailing (or bill stuffer) to all customers which specifies the above conditions.

(3) The refund provisions contained in subsection (1) of this section notwithstanding,

a utility shall not be required to refund any excess deposit if the customer's bill is delinquent by more than one (1) billing period at the time of recalculation.

(4) The utility shall issue to every customer from whom a deposit is received a certificate of deposit, showing the name of the customer, location of initial premises occupied, date and amount of the deposit. If a residential deposit is recalculated in accordance with the above provisions, the customer shall return the original certificate of deposit to the utility in return for a new, accurate certificate.

Section 8. Complaints. Upon complaint to the utility by a customer either at its office or in writing, the utility shall make a prompt and complete investigation and advise the complainant thereof. It shall keep a record of all such complaints concerning its utility service which shall show the name and address of the complainant, the date and nature of the complaint, and the adjustment or disposition thereof. Such records shall be maintained for five (5) years from the date of the resolution of the complaint.

Section 9. Bill Adjustment. (1) Whenever a meter in service is found upon periodic request or complaint test to be more than two (2) percent fast, additional tests shall be made at once to determine the average error of the meter. Said tests shall be made in accordance with the commission's regulation applicable to the type of meter involved.

(2) If the result of tests on a customer's meter shows an average error greater than two (2) percent fast, then the customer's bills, for the period during which the meter error is known to have existed, shall be recomputed and the account adjusted on the basis of the test. In the event the period during which the meter error existed is unknown, then the customer's bill shall be recomputed for one-half (1/2) of the elapsed time since the last previous test or for the past twelve (12) month period, whichever is less [but in no case to exceed twelve (12) months]. (See exception in subsection (5) of this section.)

(3) If the result of tests on a customer's meter shows an average error greater than two (2) percent slow, then the customer's bill, for the period during which the meter error is known to have existed, may be recomputed and the account adjusted on the basis of the test. In the event the period during which the meter error existed is unknown, then the customer's bill may be recomputed for one-half (1/2) of the elapsed time since the last previous test but in no case to exceed twelve (12) months.

(4) It shall be understood that when a meter is found to have an error in excess of two (2) percent fast or slow the figure for calculating the amount of refund or the amount to be collected by the utility shall be that percentage of error as determined by the test; i.e., it is the duty of the utility to maintain the accuracy of its measuring devices as nearly 100 percent as is commercially practicable. Therefore, percent error shall be that amount of error as is indicated by the test.

(5) The burden of maintaining measuring equipment so that it will register accurately is upon the utility; therefore, if meters are found upon test to register fast and if time for



periodic test has passed the refund shall be for the twelve (12) months specified in subsection (2) of this section plus the time exceeding the periodic test period; provided, however, that the commission may relieve the utility from this requirement in any particular case in which it is shown that the failure to make the periodic test was due to causes beyond the utility's control.

(6) Each utility shall establish procedures, to be included in its rules and regulations, to monitor customers' usage and shall file the procedures with the Commission for review. The procedures shall be designed to draw the utility's attention to unusual deviations in a customer's usage and shall provide for reasonable means by which the utility may determine the reasons for the unusual deviation. If a customer's usage is unduly high and the deviation is not otherwise explained, the utility shall test the customer's meter in accordance with subsections (2), (3) or (5) of this section.

(7) In instances in which the utility's procedure for monitoring usage indicates that an investigation of a customer's usage is necessary, the utility shall notify the customer either during or after the investigation of the reasons for the investigation, and of the findings of the investigation. In those instances where knowledge of a serious situation requires more immediate notice, the utility shall notify the customer by the most expedient means available.

(8) When a meter is tested and it is found necessary to make a refund or back bill a customer, the customer shall be notified in substantially the following form:

On \_\_\_\_\_, 19\_\_\_\_, the meter bearing identification No. \_\_\_\_\_ installed in your building located at \_\_\_\_\_ (Street and Number) in \_\_\_\_\_ (City) was tested at \_\_\_\_\_ (on premises or elsewhere) and found to register \_\_\_\_\_ (Percent fast or slow). The meter was tested on \_\_\_\_\_ (Periodic, Request, Complaint) test.

Based upon this we herewith \_\_\_\_\_ (Charge or Credit) you with the sum of \$\_\_\_\_\_, which amount has been noted on your regular bill.

(9) Whenever it is determined that a customer has been incorrectly billed for any reason, other than a meter which was registering incorrectly due to being out of tolerance, the utility may immediately attempt to determine the period during which the error has existed, and the customer's bill for the period during which the error is known to have existed may be recomputed, and the account readjusted to give a refund or collect an additional amount of revenue from the underbilled. The basis for recomputing the customer bills shall be based upon the historic usage data for the customer over the previous time period, unless that

information is not available; and in that case, then an average usage of similar customer loads over the previous time period involved shall be used in this adjustment. In the event the period during which the meter error existed is unknown, the customer's bill may be recomputed for one-half (1/2) of the elapsed time since the last previous test, or the past twelve (12) month period, whichever is less.

Section 10. Customer's Discontinuance of Service. (1) Any customer desiring service discontinued or changed from one address to another shall give the utility three (3) working days' notice in person or in writing, provided such notice does not violate contractual obligations.

(2) Upon request that service be reconnected at any premises subsequent to the initial installation or connection to its service lines, the utility may, subject to subsection (3) of this section, charge the applicant an amount not to exceed the actual average cost as approved by this commission of making such reconnection.

(3) Any utility desiring to establish a disconnection and/or reconnection charge under the provisions of subsection (2) of this section, shall submit for commission approval a formal application setting out:

(a) The actual average cost of making such reconnections; and

(b) The effect of such charges on the utility's revenues.

Section 11. Discontinuance of Service. (1) The utility may refuse or discontinue to serve an applicant or customer under the following conditions:

(a) For noncompliance with the utility's or commission's rules and regulations. However, no utility shall discontinue or refuse service to any customer or applicant for violation of its rules or regulations without first having made a reasonable effort to induce the customer or applicant to comply with its rules and regulations as filed with the commission. After such effort on the part of the utility, service may be discontinued or refused only after the customer shall have been given at least ten (10) days written notice of such intention, delivered to an adult member of his or her household or mailed to his or her last known address.

(b) When a dangerous condition is found to exist on the customer's or applicant's premises, the service shall be cut off without notice or refused, provided that the utility notify the customer or applicant immediately of the reasons for the discontinuance or refusal and the corrective action to be taken by the applicant or customer before service can be restored.

(c) When a customer or applicant refuses or neglects to provide reasonable access to the premises for the purpose of installation, operation, meter reading, maintenance or removal of utility property, the utility may discontinue or refuse service only after the customer or applicant shall have been given at least fifteen (15) days' written notice of such intention.

(d) Except as provided in subsection (2) of this section, a utility shall not be required to furnish service to any applicant when such applicant is indebted to the utility for service furnished until such applicant shall have paid such indebtedness.

(e) A utility may refuse or discontinue

service to a customer or applicant if the customer or applicant does not comply with state, municipal or other codes, rules and regulations applying to such service.

(2) A gas or electric utility may discontinue service under the following conditions:

(a) For nonpayment of bills - ten (10) day notice. However, no utility shall discontinue service to any customer for nonpayment of bills (including delayed charges) without first having made a reasonable effort to induce the customer to pay same. The customer shall be given at least ten (10) days' written notice, but the cut-off shall not be effected before twenty-seven (27) days after the mailing date of the original bill. Such termination notice shall be exclusive of and separate from any [the original] bill. If prior to discontinuance of service, there is delivered to the utility office, payment of the amount in arrears, then discontinuance of service shall not be made, or where a written certificate is filed signed by a physician, a registered nurse or a public health officer stating that, in the opinion of the person making the certification discontinuance of service will aggravate an existing illness or infirmity on the affected premises, service shall not be discontinued until the affected resident can make other living arrangements or until thirty (30) days elapse from the time of the utility's notification to the customer in writing of the existence of local, state and federal programs, providing for the payment of utility bills under certain conditions and of the offices to contact for such possible assistance. Service shall not be discontinued when the customer and the utility have reached agreement on a partial payment plan pursuant to subparagraph 1 of this paragraph and the customer is meeting the requirements of the plan. The written notice for any discontinuance of service shall advise the customer of his or her rights under this paragraph, subparagraph 1 and subparagraph 2 of this paragraph and of his or her right to dispute the reasons for such discontinuance.

1. Employee available to answer consumer questions and negotiate partial payment plan.

a. Every gas and electric utility shall have an employee available to answer questions regarding a customer's bill and to resolve disputes over the amount of such bill. Utilities shall keep the designated employee informed of the commission's regulations regarding customer bills. If a customer indicates to any utility personnel that he or she is experiencing difficulty in meeting a current utility bill, that employee shall be able to refer the customer to the designated employee for explanation of the customer's rights under this paragraph and 807 KAR 5:008. The designated employee shall be authorized to negotiate partial payment plans of an outstanding bill and accept payments where the customer has shown good faith in attempting to meet his or her financial obligations to the utility. Said employee shall be authorized by the utility to consider and shall consider proposals by the customer for a partial payment plan and retention of service. Each gas and electric utility shall also prominently display in each office in which payment is received a summary of the customer's rights under this section and 807 KAR 5:008.

b. Each utility shall maintain a telephone,

shall publish the telephone number in all service areas, and shall make the necessary provisions so that all customers may contact the utility employee without charge. Such provisions may include a policy allowing customers to make collect calls to the utility.

c. Each major [Class A or B] utility (as defined by the Uniform System of Accounts) shall have at least one (1) employee available to answer consumer questions and negotiate partial payment plans at the utility's office during the utility's established working hours but not less than seven (7) hours per day, five (5) days per week excluding holidays.

d. Each minor [Class C or D] utility (as defined by the Uniform System of Accounts) shall have an employee available to answer consumer questions and negotiate partial payment plans at the utility's office during the utility's established office hours but not less than seven (7) hours per day, one (1) day per week.

2. Certificate of need from Department for Social Insurance. Federal and statewide energy assistance programs are administered by the Kentucky Cabinet for Human Resources, Department for Social Insurance. Upon written certification from the Department for Social Insurance, issued at one (1) of its offices or the office of its designee, a customer who is eligible for energy assistance under the Department's guidelines or is certified as being in genuine financial need, defined as any household with gross income at or below 130 percent of the poverty level, and who has been issued a ten (10) day notice between December 1 and March 1 for nonpayment of a gas or electric bill and who presents such notice to the Department for Social Insurance or its designee, shall be allowed thirty (30) days in addition to such ten (10) day period in which to negotiate a partial payment plan with the utility provided such certification is delivered to the utility during the initial ten (10) day notice period by the applicant in person, by his or her agent, by mail, or by a telephone call from an employee of the Department for Social Insurance or its designee. The thirty (30) day period shall begin to run at the end of the tenth day of the ten (10) day period. When the customer exhibits good faith by offering to make a present payment commensurate with his or her ability to do so and by agreeing to a repayment schedule which would permit the customer to become current in the payment of his or her gas or electric bill as soon as possible but not later than October 15, the utility shall accept such partial payment plan. In addition to advising the customer of his or her rights under this paragraph, subparagraph 1 of this paragraph and this subparagraph, as required by paragraph (a) of this paragraph, the ten (10) day notice or a bill insert sent with the ten (10) day notice shall inform the customer of the telephone number and address of the nearest office of the Kentucky Cabinet for Human Resources, Department for Social Insurance. Referral of such customer to such office of the department may be made by a church, by a charitable or social organization, by a unit of state or local government, or by any other person.

3. Budget payment plan. Each jurisdictional gas and electric utility shall develop a budget payment plan whereby a customer may elect to pay a fixed amount each month on a yearly basis in lieu of monthly billings based on actual usage.

The provisions of this section relating to partial payments and budget plans shall apply primarily [only] to a utility's residential customers; however, a utility may offer budget payment plans to other classes of customers. It shall be the responsibility of the utility to disseminate information to its customers regarding the availability of such budget payment plan. If the commission finds, upon application, a budget plan for residential customers would materially impair or damage the utility's credit or operations, then it may grant the utility an exemption from the requirements of the budget plan. No exemption may extend beyond one (1) year without another application by the utility and a finding by the commission that said exemption should be allowed.

(b) For fraudulent or illegal use of service. When the utility has discovered evidence that by fraudulent or illegal means a customer has obtained unauthorized service or has diverted the service for unauthorized use or has obtained service without same being properly measured, the service to the customer may be discontinued without notice. The utility shall not be required to restore service until the customer has complied with all rules of the utility and regulations of the commission and the utility has been reimbursed for the estimated amount of the service rendered and the cost to the utility incurred by reason of the fraudulent use.

(3) A water, sewage or telephone utility may discontinue service under the following conditions:

(a) For nonpayment of bills. However, no utility shall discontinue service to any customer for nonpayment of bills (including delayed charges) without first having made a reasonable effort to induce the customer to pay same. The customer shall be given at least forty-eight (48) hours written notice, but the cut-off shall not be effected before twenty (20) days after the mailing date of any [the original] bill. Such termination notice shall be exclusive of and separate from the original bill. If prior to discontinuance of service, there is delivered to the utility office payment of the amount in arrears, then discontinuance of service shall not be made, or where a written certificate is filed signed by a physician, a registered nurse or a public health officer stating that, in the opinion of the person making the certification discontinuance of service will aggravate an existing illness or infirmity on the affected premises, service shall not be discontinued until the affected resident can make other living arrangements or until ten (10) days elapse from the time of the utility's notification.

(b) For fraudulent or illegal use of service. When the utility has discovered evidence that by fraudulent or illegal means a customer has obtained unauthorized service or has diverted the service for unauthorized use or has obtained service without same being properly measured, the service to the customer may be discontinued without notice. The utility shall not be required to restore service until the customer has complied with all rules of the utility and regulations of the commission and the utility has been reimbursed for the estimated amount of the service rendered and the cost to the utility incurred by reason of the fraudulent use.

(4) It shall be the duty of the utility before making service connections to a new customer to

ascertain the condition of the meter and service facilities for such customer in order that prior fraudulent use of the facilities, if any, will not be attributed to the new customer, and the new customer shall be afforded the opportunity to be present at such inspections. The utility shall not be required to render service to such customer until all defects in the customer-owned portion of the service, if any, shall have been corrected.

(5) Reconnection. For all cases of refusal or discontinuance of service as herein defined, except as provided in 807 KAR 5:008, where the cause for refusal or discontinuance has been corrected and all rules and regulations of the utility and the commission have been complied with, the utility shall promptly render service to the customer or applicant.

(6) When advance notice is required, such notice may be given by the utility by mailing by United States mail, postage prepaid, to the last known address of the applicant or customer.

Section 12. Special Charges. (1) A utility may make a reasonable charge for each of the following trips:

(a) To read a meter when the customer has failed to read the meter for three (3) consecutive billing periods. This pertains only to those utilities whose customers ordinarily read their own meters.

(b) To collect a delinquent bill. This trip may be made only after written notice has been sent to the customer stating that if the bill is not paid by a certain date, the service will be disconnected.

(c) To reconnect a service that has been disconnected for nonpayment of bills or for violation of the utility's or commission's rules and regulations. This charge may include the cost of disconnecting the service and, in accordance with Section 10 of this regulation, shall not exceed the actual average cost.

(2) The charges, however, shall be applied uniformly within reasonable classifications throughout the entire area served by the utility, shall be incorporated in the utility's rules and regulations, shall be subject to the approval of the commission, and shall yield only enough revenue to pay the expenses incurred in rendering these services.

Section 13. Meter Testing. (1) All electric, gas and water utilities furnishing metered service shall provide meter standards and test facilities, as more specifically set out under 807 KAR 5:022, 807 KAR 5:041 and 807 KAR 5:066. Before being installed for the use of any customer, all electric, gas and water meters shall be tested and in good working order and shall be adjusted as close to the optimum operating tolerance as possible, as more specifically set out in 807 KAR 5:022, Section 8(3)(a), 807 KAR 5:041, Section 17(1)(a)-(c) and 807 KAR 5:066, Section 16(2)(a), (b).

(2) A utility may have all or part of its testing of meters performed by another utility or agency approved by the commission for such purpose. Each utility, having tests made by another agency or utility shall notify the commission of said arrangements in detail to include make, type and serial number of standards used to make said checks or tests.

(3) No utility shall place in service any basic measurement standard required by these

rules unless it has been calibrated by the commission's Meter Standards Laboratory. All utilities or agencies making tests or checks for utility purposes shall notify the commission promptly of the adoption or deletion of any basic standards requiring calibration by the commission.

(4) Each electric, gas and water utility or agency doing meter testing for a utility shall have in its employ meter testers certified by this commission. These certified meter testers shall perform such tests as may be necessary to determine the accuracy of the utility's meters and to adjust the utility's meters to the degree of accuracy required by the regulations of the commission.

(5) A utility or agency desiring to have its employees certified as meter testers shall submit the names of applicants on the commission's form entitled "Application for Appointment of Meter Testers" and after compliance with the requirements noted in this form, the applicant may be certified as a meter tester and furnished with a card authorizing him or her to perform meter tests.

(6) A utility or agency may employ apprentices in training for certification as meter testers. The apprentice period shall be a minimum of six (6) months. All tests performed during this period by an apprentice shall be witnessed by a certified meter tester.

Section 14. Access to Property. The utility shall at all reasonable hours have access to meters, service connections and other property owned by it and located on customer's premises for purposes of installation, maintenance, meter reading, operation or removal of its property at the time service is to be terminated. Any employee of the utility whose duties require him or her to enter the customer's premises shall wear a distinguishing uniform or other insignia, identifying him or her as an employee of the utility, or carry a badge or other identification which will identify him or her as an employee of the utility, the same to be shown by him or her upon request.

Section 15. Meter Test Records. (1)(a) Test cards. A complete record of all meter tests and adjustments and data sufficient to allow checking of test calculations shall be recorded by the meter tester. Such record shall include: Information to identify the unit and its location; the date of tests; the reason for such tests; readings before and after the test; a statement of "as found" and "as left" accuracies sufficiently complete to permit checking of the calculations employed; indications showing that all required checks have been made; a statement of repairs made, if any; the identifying number of the meter; the type and capacity of the meter; and the constant of the meter.

(b) The complete record of tests of each meter shall be continuous for at least two (2) periodic test periods and shall in no case be less than two (2) years. [The record of the prior periodic test of each meter shall be maintained for at least ninety (90) days after the current test has been made or until a refund or billing has been made or it is determined that a refund or billing is not to be made in accordance with Section 9 of this regulation.]

(2) History. Each utility shall keep numerically arranged and properly classified

records giving for each meter owned and used by the utility for any purpose the identification number, date of purchase, name of manufacturer, serial number, type, rating, and the name and address of each customer on whose premises the meter has been in service with date of installation and removal. These records shall also give condensed information concerning all tests and adjustments including dates and general results of such adjustments. The records shall be of such character that a system can be used that will record the date of the last test and indicate the proper date for the next periodic test required by the applicable regulation of the commission.

(3) Sealing of meters. Upon completion of adjustment and test of any meter under the provisions of the regulations of the commission, the utility shall affix thereto a suitable seal in such a manner that adjustments or registration of the meter cannot be tampered with without breaking the seal. The seal shall be of a type acceptable to the commission.

(4) A utility may store any or all of the meter test and historical data described or required in subsections (1) and (2) of this section in a computer storage and retrieval system upon notification to the commission.

Section 16. Pole Identification. (1) Each utility owning poles or other structures supporting the company's wires, shall mark every pole or structure located within a built-up community with the initials or other distinguishing mark by which the owner of every such structure may be readily determined. For the purpose of this rule the term "built-up community" shall mean urban areas and those areas immediately adjacent thereto.

(2) Identification marks may be of any type but must be of a permanent material and shall be of such size and so spaced and hereafter maintained so as to be easily read from the surface of the ground at a distance of six (6) feet from the structure.

(3) When utilities' structures are located outside of a built-up community only every tenth structure need be so marked.

(4) All junction structures shall bear the identification mark and structure number of the owner.

(5) Poles need not be marked if they are clearly and unmistakably identifiable as the property of the utility.

(6) Each utility shall either number their structures and maintain a numbering system or use some other method of identification so that each structure in the system may be easily identified.

(7) The requirements herein shall apply to all existing structures and those hereafter erected and to all changes in ownership.

Section 17. Cable Television Pole Attachments and Conduit Use. (1) Each utility owning poles or other facilities conducting the company's wires shall permit cable television system operators who have all necessary licenses and permits to attach cables to such poles and to use such facilities, as customers, for transmission of signals to their patrons.

(2) The rates, terms and conditions on which such use of the utility's facilities are made shall be set forth in the tariffs of the utilities, which shall be prepared and filed in

accordance with the regulations of the commission governing tariffs generally.

(3) With respect to a complaint proceeding in any individual matter concerning cable television pole attachments before the commission, final action shall be taken on the same within a reasonable time, but in no event to exceed 360 days.

Section 18. [17.] System Maps and Records. (1) Each utility shall have on file at its principal office located within the state and shall file upon request with the commission a map or maps of suitable scale of the general territory it serves or holds itself ready to serve showing the following:

- (a) Operating districts.
- (b) Rate districts.
- (c) Communities served.
- (d) Location and size of transmission lines, distribution lines and service connections.
- (e) Location and layout of all principal items of plant.

(f) The date of construction of all items of plant by year and month.

(2) In each division or district office there shall be available such information relative to the utility's system as will enable the local representative to furnish necessary information regarding the rendering of service to existing and prospective customers.

(3) In lieu of showing the above information on maps a card record or suitable means may be used. For all construction the records shall also show the date of construction by month and year.

Section 19. [18.] Location of Records. All records required by the regulations of the commission shall be kept in the principal office of the utility or other acceptable safe storage place, and shall be made available to representatives, agents or employees of the commission upon reasonable notice and at all reasonable hours.

Section 20. [19.] Request Tests. Each utility shall make a test of any meter upon written request of any customer provided such request is not made more frequently than once each twelve (12) months. The customer shall be given the opportunity of being present at such request tests. If such tests show that the meter was not more than two (2) percent fast, the utility may make a reasonable charge for the test, the amount of such charge to be set out in the utility's rules and regulations filed with the commission, and subject to the approval of the commission.

Section 21. [20.] Complaint Tests. [(1)] Any customer of the utility may request a meter test by written application to the commission, after having first obtained a test from the utility [accompanied by payment of such fee for the test as prescribed below]. Such request may not be made more frequently than once each twelve (12) months. Upon receipt of such request, the commission will notify the utility to leave the customer's meter in place until such time as a commission representative is present to witness the removal and testing of said meter [completion of such test].

[(2)] If a meter tested upon complaint of a customer is found to register not more than two

(2) percent fast, the cost of such test shall be borne by the customer. However, if the meter shall be found to register more than two (2) percent fast, the cost of such test shall be borne by the utility and the amount of the deposit made by the customer shall be refunded.]

[(3)] The charges fixed by the commission for making such tests are as follows:]

[(a)] Electric. Direct current and single phase alternating current watt hour meters operating on circuits of not more than 250 volts:]

[Amperes Rated Capacity]	Fee
30 and under	\$ 6
Over 30 to 100	12
Each additional 50 amperes or factor thereof	3]

[Polyphase a.c. watt hour meters and single phase or direct current watt hour meters operating on circuits of over 250 volts with or without instrument transformers:]

[Kilowatts Rated Capacity]	Fee
5 KW and under	\$ 6
Over 5 to 25	12
Over 25 to 100	24
Over 100 to 500	48]

[Plus one-half (1/2) of the cost of transportation of the commission representative between the office of the commission and the point of test.]

[(b)] Gas. Displacement type meters operating on distribution system pressures:]

[Capacity in Cu. Ft. Per Hour]	Fee
1,000 cu. ft. per hour and under	\$12
Over 1,000 to 10,000	24
Over 10,000 to 100,000	36]

[Plus one-half (1/2) of the cost of transportation of the commission representative between the office of the commission and the point of test.]

[(c)] Water:

Size	Fee
Outlet 1 inch or less	\$12
Outlet over 1 inch to 2 inches	18
Outlet over 2 inch to 3 inches	24
Outlet over 3 inch to 4 inches	30]

[Plus one-half (1/2) of the cost of transportation of the commission representative between the office of the commission and the point of test.]

[(d)] For meters of a size or capacity not shown herein, the commission will fix a suitable fee upon application.]

Section 22. [21.] Safety Program. Each utility shall adopt and execute a safety program, fitted to the size and type of its operations. As a minimum, the safety program shall:

(1) Require employees to use suitable tools and equipment in order that they may perform their work in a safe manner.

(2) Instruct employees in safe methods of performing their work.

(3) Instruct employees who, in the course of their work are subject to the hazard of electrical shock, asphyxiation or drowning, in accepted methods of artificial respiration.

Section 23. [22.] Inspection of Systems. (1)

Each utility shall adopt procedures for inspection to assure safe and adequate operation of its facilities and compliance with commission rules. These procedures must be approved by [shall be filed with] the commission.

(2) Each electric utility shall make systematic inspections of its system in the manner set out below for the purpose of insuring that the commission's safety requirements are being met. Such inspections shall be made as often as necessary but in no event less frequently than is set forth below for various classes of facilities and types of inspection.

(a) At intervals not to exceed six (6) months:

1. Production facilities regularly operated and manned; continuous surveillance, monitoring and inspection as a part of operating procedure.

2. Unmanned production facilities including peaking units not on standby status; units shall be operated and inspected and all monitoring devices shall be checked to determine that there is no evidence of abnormality.

3. Substations where the primary voltage is sixty-nine (69) KV or greater; examination for the purpose of discovering damage to or deterioration of components including structures and fences; checking of all gauges and monitoring devices.

4. Underground network transformers and network protectors in vaults located in buildings or under sidewalks, examination for leaks, condition of case, connections, temperature and overloading.

5. Electric lines operating at sixty-nine (69) KV or greater (including insulators, conductors, and supporting facilities).

(b) At intervals not to exceed one (1) year:

1. Production facilities maintained on a standby status; also inspection and examination prior to any start up, except remotely controlled facilities.

2. Substations where the primary voltage is less than sixty-nine (69) KV but is fifteen (15) KV or greater:

(c) At intervals not to exceed two (2) years: Electric lines operating at voltages of less than sixty-nine (69) KV (including insulators, conductors and supporting facilities).

(d) Other facilities:

1. Utility buildings inspected for compliance with safety codes at intervals not greater than one (1) year.

2. Construction equipment inspected for defects, wear and operational hazards at intervals not greater than quarterly.

(e) On the receipt of a report of a potentially hazardous condition made by a qualified employee or public official or by a customer, all portions of the system (including those listed above) which are the subject of the report.

(f) Appropriate records shall be kept by each utility to identify the inspections made, deficiencies found and action taken to correct such deficiencies.

(3) Each gas utility shall make systematic inspections of its system for the purpose of insuring that the commission's safety requirements are being met. Such inspections shall be made as often as necessary but in no event less frequently than is prescribed or recommended by the Department of Transportation, Part 192 Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards, for the various classes of facilities as defined

in said standards, in accordance with the inspection procedures described therein.

(4) The following maximum time intervals are prescribed for certain inspections provided for in 49 CFR Part 192 Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards, with respect to which intervals are not specified and for certain additional inspections not provided for in such code.

(a) At intervals not to exceed one (1) year:

1. Production wells, storage wells and well equipment; visual inspection and examination of all exterior components.

2. Pressure limiting stations, relief devices and pressure regulating stations, including vaults.

3. The curb box on service line shall be inspected for accessibility.

(b) Other facilities:

1. Utility buildings inspected for compliance with safety codes at least annually.

2. Construction equipment under the control of the utility inspected for defects, wear and operational hazards at least quarterly.

(c) At intervals not to exceed the periodic meter test intervals: individual residential customer service regulators, vents and relief valve vents shall be checked for satisfactory operation.

(d) At intervals not to exceed the periodic meter test intervals: the curb box and valve on the service line shall be inspected for operable condition.

(e) On the receipt of a report of a potentially hazardous condition made by a qualified employee or public official or by a customer, all portions of the system (including those listed above) which are the subject of the report.

(f) Appropriate records shall be kept by each utility to identify the inspections made, deficiencies found and action taken to correct such deficiencies.

(5) (a) Each water utility shall make systematic inspections of its system in the manner set out below for the purpose of insuring that the commission's safety requirements are being met. Such inspections shall be made as often as necessary but in no event less frequently than is set forth below for various classes of facilities and types of inspection.

1. Source of supply:

a. Dams, physical and structural, annually.

b. Intake structures, physical and structural, annually.

c. Traveling screens, physical and structural and safety of operation, annually.

2. Purification:

a. Sedimentation basins filters and clear wells, physical and structural and safety of operation, annually.

b. Chemical feed equipment, for proper and safe operation, annually.

c. Pumping equipment including electric power wiring and controls, for proper and safe operation, annually.

d. Hydrants, for proper and safe operation, annually.

e. Utility buildings, inspection for compliance with safety codes, annually.

f. Construction equipment, inspection for defects, wear and operational hazards, quarterly.

g. Mains and valves, leaks, annually.

(b) On the receipt of a report of a potentially hazardous condition made by a

qualified employee or public official or by a customer, all portions of the system (including those listed above) which are the subject of the report.

(c) Appropriate records shall be kept by each utility to identify the inspections made, deficiencies found and action taken to correct such deficiencies.

(6) (a) Each telephone utility shall make systematic inspections of its system in the manner set out below for the purpose of insuring that the commission's safety requirements are being met. Such inspections shall be made as often as necessary but in no event less frequently than is set forth below for various classes of facilities and types of inspection.

1. Aerial plant: Inspection for electrical hazards, proper clearance for electric facilities and climbing safety - Every two (2) years.

2. Underground plant: Inspection for presence of gas, proper clearance from electric facilities and safe working conditions - At least annually.

3. Utility-provided station equipment and connections: Inspection for external electrical hazards, damaged instruments or wiring, appropriate protection from lightning and safe location of equipment and wiring - When on customer's premises.

4. Utility buildings: Inspection for compliance with safety codes - At least annually.

5. Construction equipment: Inspection for defects, wear and operational hazards - At least quarterly.

(b) On the receipt of a report of a potentially hazardous condition made by a qualified employee or public official or by a customer, all portions of the system (including those listed above) which are the subject of the report.

(c) Appropriate records shall be kept by each utility to identify the inspections made, deficiencies found and action taken to correct such deficiencies.

Section 24. [23.] Reporting of Accidents, Property Damage or Loss of Service. Each utility shall notify the commission of any utility related accident which results in death or serious injury to any person or any other incident which has or may result in substantial property damage or loss of service. Prompt notice of fatal accidents shall be given to the commission by telephone or telegraph. A detailed written report shall be submitted to the commission within seven (7) days. Natural gas utilities shall report accidents in accordance with the provisions of 807 KAR 5:027.

Section 25. [24.] Deviations from Rules. In special cases, for good cause shown, the commission may permit deviations from these rules.

RICHARD D. HEMAN, JR., Chairman  
MELVIN H. WILSON, Secretary

APPROVED BY AGENCY: September 12, 1985

FILED WITH AGENCY: September 13, 1985 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 22, 1985, at 9 a.m., EDT, in the Public Service Commission Hearing Room No. 1 on Schenkel Lane in Frankfort, Kentucky. Those interested in attending this hearing shall contact: Forest M.

Skaggs, Secretary, Kentucky Public Service Commission, P.O. Box 615, Frankfort, Kentucky 40602..

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ellyn Elise Crutcher

(1) Type and number of entities affected: All utilities subject to PSC jurisdiction.

(a) Direct and indirect costs or savings to those affected:

1. First year: \$25,000 (annual meter read), \$50,000 (keeping records of 2 meter tests), \$500 (reporting loss of service/accidents). SAVINGS: \$100,000 (elimination of manual records).

2. Continuing costs or savings: All costs discussed above.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: Detailed report after accident, loss of service or property damage.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$500 (elimination of PSC fee for meter tests).

2. Continuing costs or savings: Same as above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Minimal

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Proposed amendments are designed to improve regulatory efficiency while maintaining public protection. Alternatives considered were contrary to this goal.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: N/A

Tiering:

Was tiering applied? Yes. Section 11(2) distinguishes major and minor utilities for purposes of having an employee available every day versus once a week to answer consumer questions and negotiate partial payment plans.

#### PUBLIC PROTECTION AND REGULATION CABINET Kentucky Harness Racing Commission (Proposed Amendment)

811 KAR 1:070. Licensing; owners, drivers, trainers, grooms and agents.

RELATES TO: KRS 230.630(1),(3), 230.640, 230.700, 230.710

PURSUANT TO: KRS 230.630(3),(4),(7)

NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this regulation is to set out the requirements of and to provide for the licensing of owners, trainers, drivers, grooms and agents.



Section 1. Owners. Every person owning a horse that is entered at a race meeting licensed by the commission shall be required to obtain a license from the commission and the United States Trotting Association. Said application shall be on forms provided by the commission and shall be filed at any commission office. Such license shall be presented to the clerk of the course at the time said horse is entered in a race.

Section 2. Leased Horses. Any horse under lease must race in the name of the lessee and a copy of such lease must be filed with the Kentucky Harness Racing Commission. No horse shall race under lease without an eligibility certificate issued by the United States Trotting Association in the name of the lessee and unless both lessor and lessee are current members of the commission in good standing. Persons violating this rule may be fined, suspended or expelled.

Section 3. Driver's Application for License. Every person desiring to drive a harness horse at a race meeting licensed by the commission shall be required to obtain a license from the commission and the United States Trotting Association. Such application shall be on forms provided by the commission. Applications may be filed at any commission office. Such license shall be presented to the clerk of course before driving. Pending a valid license by the United States Trotting Association, the commission may, at its discretion, issue a provisional or full driver's license to those who qualify as hereinafter set out.

Section 4. Qualification for a Provisional and/or Full Driver's License. (1) Every applicant for a provisional license to drive a harness horse at a race meeting licensed by the commission in addition to any other requirements mentioned herein shall:

- (a) Submit evidence of good moral character.
- (b) Submit evidence of his ability to drive in a race and, if he is a new applicant, this must include the equivalent of one (1) year's training experience.
- (c) Be at least eighteen (18) years of age.
- (d) Furnish a completed application form.
- (e) Submit satisfactory evidence of an eye examination indicating 20/40 corrected vision in both eyes, or if one (1) eye blind, at least 20/30 corrected vision in the other eye; and, when requested, submit evidence of physical and mental ability and/or submit to a physical examination.
- (f) No person sixty (60) years of age or older who has never held any type of driver's license previously shall be issued a driver's license.
- (g) When requested, submit a written examination at a designated time and place to determine his qualifications to drive and his knowledge of racing and the rules. In addition, any driver who presently holds a license and wishes to obtain a license in a higher category, who has not previously submitted to such written test, shall be required to take a written test before becoming eligible to obtain a license in a higher category.
- (h) No applicant who has previously held any type of driver's license shall be subsequently denied a driver's license solely on the basis of age.

(2) A full license will be granted to an applicant who qualifies for a provisional license and has acquired:

(a) At least one (1) year's driving experience while holding a provisional license from the United States Trotting Association.

(b) Twenty-five (25) satisfactory starts in the calendar year preceding the date of his application at an extended pari-mutuel meeting.

(3) In the event any person is involved in an accident on the track, the commission may order such person to submit to a physical examination and such examination must be completed within thirty (30) days from such request or his license may be suspended until compliance therewith.

(4) All penalties imposed on any driver may be recorded on the reverse side of his commission driver's license by the presiding judge.

(5) The Kentucky Harness Racing Commission reserves the right to require any driver to take a physical examination at any time.

Section 5. Trainers' Application for License. An applicant for a license as trainer shall be licensed by the United States Trotting Association and must be at least eighteen (18) years of age and satisfy the commission that he possesses the necessary qualifications both mental and physical, to perform the duties required. Elements to be considered, among others, shall be character, reputation, temperament, experience, knowledge of the rules of racing and of the duties of a trainer in the preparation, training, entering and managing of horses for racing.

Section 6. Absence of Trainers. When any licensed trainer is absent from a racing meet for more than six (6) days, it shall be the duty of the trainer to appoint and have properly licensed a new trainer of record.

Section 7. Grooms' Application for License. An applicant for a license as a groom must satisfy the commission that he possesses the necessary qualifications, both mental and physical to perform the duties required. Elements to be considered, among others, shall be character, reputation, temperament, experience, knowledge of the rules of racing and of the duties of a groom. No license shall be issued to applicants under sixteen (16) years of age.

Section 8. (1) The holder of a license issued by the United States Trotting Association or a holder of a license issued by the Kentucky Harness Racing Commission for the prior year, may be presumed to be qualified to receive a license, all others must be tested by the deputy commissioner (supervisor of racing), his assistant, or agent of the commission, at such locations as shall be designated by the commission as to the capability of said applicant for a license to perform the functions required of him. Said tests shall be either in writing or by demonstrations or both and shall be administered in a uniform manner. The cost of said testing shall be borne by the applicant.

(2) A holder of a current qualifying license issued by the United States Trotting Association may be allowed to drive a horse that is already qualified, however, if the horse does not meet the standards of the meeting, the horse shall be placed on the stewards list. If a race is held

solely for qualifying drivers, the race may not be charted. A race solely for qualifying drivers must have more than four (4) starters.

Section 9. The following shall constitute disorderly conduct and be reason for a fine, suspension, or revocation of an owner's, driver's, trainer's, or groom's license:

(1) Failure to obey the judges' or other officials' orders that are expressly authorized by the rules of this commission.

(2) Failure to drive when programmed unless excused by the judges.

(3) Drinking intoxicating beverages within four (4) hours of the first post time of the programs on which he is carded to drive.

(4) Appearing in the paddock in an unfit condition to drive.

(5) Fighting.

(6) Assaults.

(7) Offensive and profane language.

(8) Smoking on the track in colors during actual racing hours.

(9) Warming up a horse prior to racing without colors.

(10) Disturbing the peace.

(11) Refusing to take a breath analyzer test when directed by the presiding judge, deputy commissioner (supervisor of racing), or assistant deputy commissioner (assistant supervisor of racing).

Section 10. Colors and Helmet. Drivers must wear distinguishing colors, and clean white pants, and shall not be allowed to start in a race or other public performance unless in the opinion of the judges they are properly dressed. From the time it becomes necessary to wear colors before the races, anyone warming up a horse must wear a Snell-approved equestrian helmet with the chin strap fastened and in place. Every driver competing in a race shall be required to wear a Snell-approved equestrian helmet with the chin strap fastened and in place. [No one will be permitted to jog, train, warm-up or drive a horse at any time during a race meet licensed by the Kentucky Harness Racing Commission unless he or she is wearing a protective safety helmet, with the chin strap fastened and in place, that meets the standards and requirements as set forth in the Snell Memorial Foundation's 1984 Standard for Protective Headgear For Use in Harness Racing.] Any equestrian helmet bearing the Snell label shall be deemed to have met the performance requirements as set forth in the standards.

Section 11. Misconduct in Colors. Any driver wearing colors who shall appear at a betting window or at a bar or in a restaurant dispensing alcoholic beverages shall be fined not to exceed \$100 for each such offense.

Section 12. Driver Change. No driver can, without good and sufficient reasons, decline to be substituted by the judges. Any driver who refuses to be so substituted may be fined or suspended, or both by order of the judges.

Section 13. Amateur Definition. An amateur driver is one who has never accepted any valuable consideration by way of or in lieu of compensation for his services as a trainer or driver during the past ten (10) years.

Section 14. Registered Colors. Drivers holding an "A" license or drivers with a "V" license who formerly held an "A" license, shall register their colors with the United States Trotting Association. Registered stables or corporations may register their racing colors with the United States Trotting Association.

CARL B. LARSEN, Executive Director  
MELVIN WILSON, Secretary

APPROVED BY AGENCY: June 20, 1985

FILED WITH LRC: September 12, 1985 at 3:30 p.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on October 21, 1985 at 10 a.m. at the office of the Kentucky Harness Racing Commission. Anyone interested in attending this hearing, shall notify in writing Carl B. Larsen, Executive Director, Kentucky Harness Racing Commission, Suite 300, 535 West Second Street, Lexington, Kentucky 40508 at least five days before the hearing.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carl B. Larsen

(1) Type and number of entities affected: All horsemen

(a) Direct and indirect costs or savings to those affected:

1. First year: Cost of approved safety helmet

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not Applicable

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Regulation affects all horsemen.

#### PUBLIC PROTECTION AND REGULATION CABINET Kentucky Harness Racing Commission (Proposed Amendment)

811 KAR 1:075. Racing and track rules.

RELATES TO: KRS 230.630(1),(3), 230.640

PURSUANT TO: KRS 230.630(3),(4),(7)

NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this regulation is to regulate racing, track rules and proper conduct.

Section 1. Although a leading horse is

entitled to any part of the track, except after selecting his position in the home stretch, neither the driver of the first horse or any other driver in the race shall do any of the following things, which shall be considered violation of driving rules:

- (1) Change either to the right or left during any part of the race when another horse is so near him that in altering his position he compels the horse behind him to shorten his stride, or causes the driver of such other horse to pull him out of his stride.
- (2) Jostle, strike, hook wheels, or interfere with another horse or driver.
- (3) Cross sharply in front of a horse or cross over in front of a field of horses in a reckless manner, endangering other drivers.
- (4) Swerve in and out or pull up quickly.
- (5) Crowd a horse or driver by "putting a wheel under him."
- (6) "Carry a horse out" or "sit down in front of him," take up abruptly in front of other horses so as to cause confusion or interference among the trailing horses, or do any other act which constitutes what is popularly known as helping.
- (7) Let a horse pass inside needlessly.
- (8) Laying off a normal pace and leaving a hole when it is well within the horse's capacity to keep the hole closed.
- (9) Commit any act which shall impede the progress of another horse or cause him to "break."
- (10) Change course after selecting a position in the home stretch and swerve in or out, or bear in or out, in such manner as to interfere with another horse or cause him to change course or take back.
- (11) To drive in a careless or reckless manner.
- (12) Whipping under the arch of the sulky, the penalty for which shall be no more than ten (10) days suspension.
- (13) Drivers must set or maintain a pace comparable to the class in which they are racing. Failure to do so by going an excessively slow quarter or any other distance that changes the normal pattern, overall timing, or general outcome of the race will be considered a violation of this section and the judges may impose a penalty which can be a fine, suspension, or both.

Section 2. Complaints, Reports of Interference. (1) Complaints. All complaints by drivers of any foul driving or other misconduct during the heat must be made at the termination of the heat, unless the driver is prevented from doing so by an accident or injury. Any driver desiring to enter a claim of foul or other complaint of violation of the rules, must before dismounting indicate to the judges or barrier judge his desire to enter such claim or complaint and forthwith upon dismounting shall proceed to the telephone or judges' stand where and when such claim, objection, or complaint shall be immediately entered. The judges shall not cause the official sign to be displayed until such claim, objection, or complaint shall have been entered and considered.

(2) Report of interference. It is the duty of every driver to report to the official designated for such purpose as promptly after the conclusion of a race in which he has participated as possible, any material interference to himself or his horse by another

horse or driver during a race.

Section 3. If any of the above violations are committed by a person driving a horse coupled as an entry in the betting, the judges shall set both horses back, if, in their opinion, the violation may have affected the finish of the race. Otherwise, penalties may be applied individually to the drivers of any entry.

Section 4. In case of interference, collision, or violation of any of the above restrictions, the offending horse may be placed back one (1) or more positions in that heat or dash, and in the event such collision or interference prevents any horse from finishing the heat or dash, the offending horse may be disqualified from receiving any winnings; and the driver may be fined not to exceed the amount of the purse or stake contended for, or may be suspended or expelled. In the event a horse is set back, under the provisions hereof, he must be placed behind the horse with whom he interfered.

Section 5. Unsatisfactory Drive; Fraud. (1) Every heat in a race must be contested by every horse in the race and every horse must be driven to the finish. If the judges believe that a horse is being driven, or has been driven, with design to prevent his winning a heat or dash which he was evidently able to win, or is being raced in an inconsistent manner, or to perpetrate or to aid a fraud, they shall consider it a violation and the driver and anyone in concert with him, to so affect the outcome of the race or races, may be fined, suspended or expelled. The judges may substitute a competent and reliable driver at any time. The substitute driver shall be paid at the discretion of the judges and the fee retained from the purse money due the horse, if any.

(2) In the event a drive is unsatisfactory due to lack of effort or carelessness, and the judges believe that there is no fraud, gross carelessness, or a deliberate inconsistent drive they may impose a penalty under this subsection not to exceed ten (10) days suspension or a \$100 fine.

Section 6. If, in the opinion of the judges, a driver is for any reason unfit or incompetent to drive or refuses to comply with the directions of the judges, or is reckless in his conduct and endangers the safety of horses or other drivers in the race, he may be removed and another driver substituted at any time after the positions have been assigned in a race, and the offending driver shall be fined, suspended or expelled. The substitute driver shall be properly compensated.

Section 7. If, for any cause other than being interfered with or broken equipment, a horse fails to finish after starting in a heat, that horse shall be ruled out.

Section 8. Loud shouting or other improper conduct is forbidden in a race. After the word "go" is given, both feet must be kept in the stirrups until after the finish of the race.

Section 9. Drivers will be allowed whips not to exceed four (4) feet eight (8) inches, plus a snapper not longer than eight (8) inches.

Section 10. The use of any goading device, chain or mechanical devices or appliances, other than the ordinary whip or crop upon any horse in any race shall constitute a violation of this rule.

Section 11. The brutal use of a whip or crop or excessive or indiscriminate use of the whip or crop shall be considered a violation and shall be punished by a fine of not to exceed \$100 or suspension. A driver may use a whip only in the conventional manner. Welts, cuts, or whip marks on a horse resulting from whipping shall constitute a prima facie violation of this section. Drivers are prohibited from whipping under the arch of the sulky, kicking, punching or jabbing a horse, or using the whip so as to interfere with or cause disturbance to any other horse or driver in a race. Violation of this rule shall be punished by a fine not to exceed \$100 or suspension. The penalty for kicking a horse shall be a five (5) day suspension for the first offense and ten (10) days for each offense thereafter.

Section 12. No horse shall wear hobbles in a race unless he starts in the same in the first heat, and having so started, he shall continue to wear them to the finish of the race, and any person found guilty of removing or altering a horse's hobbles during a race, or between races, for the purpose of fraud, shall be suspended or expelled. Any horse habitually wearing hobbles shall not be permitted to start in a race without them except by permission of the judges. Any horse habitually racing free-legged shall not be permitted to wear hobbles in a race except with the permission of the judges. No horse shall be permitted to wear a head pole protruding more than ten (10) inches beyond its nose.

Section 13. Breaking. (1) When any horse or horses break from their gait in trotting or pacing, their drivers shall at once where clearance exists, take such horse to the outside and pull it to its gait.

(2) The following shall be considered violation of subsection (1) of this section:

(a) Failure to properly attempt to pull the horse to its gait.

(b) Failure to take to the outside where clearance exists.

(c) Failure to lose ground by the break.

(3) If there has been no failure on the part of the driver in complying with subsection (2) of this section, the horse shall not be set back unless a contending horse on his gait is lapped on the hind quarter of the breaking horse at the finish.

(4) The judges may set any horse back one (1) or more places if, in their judgment, any of the above violations have been committed.

Section 14. If, in the opinion of the judges, a driver allows his horse to break for the purpose of fraudulently losing a heat, he shall be liable to the penalties elsewhere provided for fraud and fouls.

Section 15. To assist in determining the matters contained in Sections 13 and 14 of this regulation, it shall be the duty of one (1) of the judges to call out every break made, and the clerk shall at once note the break and character

of it in writing.

Section 16. The time between separate heats of a single race shall be no less than forty (40) minutes. No heat shall be called after sunset where the track is not lighted for night racing. The time between races shall not exceed thirty (30) minutes.

Section 17. Horses called for a race shall have the exclusive right of the course, and all other horses shall vacate the track at once, unless permitted to remain by the judges.

Section 18. In the case of accidents, only so much time shall be allowed as the judges may deem necessary and proper.

Section 19. A driver must be mounted in his sulky at the finish of the race or the horse must be placed as not finishing.

Section 20. It shall be the responsibility of the owner and trainer to provide every sulky used in a race with unicolored or colorless wheel discs on the inside and outside of the wheel of a type approved by the commission. In his discretion, the presiding judge may order the use of mud guards.

Section 21. Sulky. Only sulkies of the conventional dual-shaft and dual-hitch type as hereinafter described shall be permitted to be used in any races. A conventional type sulky is one having two (2) shafts which must be parallel to, and securely hitched on each side of the horse. No point of hitch or any part of a shaft shall be above a horizontal level equal to the lowest point of the horse's back.

Section 22. Repeated Violations. Repeated rule violations shall be considered grounds for refusal to grant or grounds for revocation of any driver's license.

Section 23. Any violation of any sections of this regulation, unless otherwise provided, may be punished by a fine or suspension, or both, or by expulsion.

CARL B. LARSEN, Executive Director

MELVIN WILSON, Secretary

APPROVED BY AGENCY: June 20, 1985

FILED WITH LRC: September 12, 1985 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on October 21, 1985 at 10 a.m. at the office of the Kentucky Harness Racing Commission. Anyone interested in attending this hearing, shall notify in writing Carl B. Larsen, Executive Director, Kentucky Harness Racing Commission, Suite 300, 535 West Second Street, Lexington, Kentucky 40508 at least five days before the hearing.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carl B. Larsen

(1) Type and number of entities affected: All horsemen

(a) Direct and indirect costs or savings to those affected:

1. First year: None

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

- (b) Reporting and paperwork requirements: None
- (2) Effects on the promulgating administrative body: None
  - (a) Direct and indirect costs or savings: None
    - 1. First year:
    - 2. Continuing costs or savings:
    - 3. Additional factors increasing or decreasing costs:
  - (b) Reporting and paperwork requirements: None
  - (3) Assessment of anticipated effect on state and local revenues: None
  - (4) Assessment of alternative methods; reasons why alternatives were rejected: None
  - (5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
    - (a) Necessity of proposed regulation if in conflict: Not applicable
    - (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not Applicable
  - (6) Any additional information or comments:

Tiering:

Was tiering applied? No. Regulation affects all horsemen.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Department of Housing, Buildings**  
**and Construction**  
**(Proposed Amendment)**

**815 KAR 20:120. Water supply and distribution.**

RELATES TO: KRS Chapter 318

PURSUANT TO: KRS 318.130

NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to the types of piping, pipe sizes for a potable water supply system and the methods to be used to protect and control it.

Section 1. Quality. (1) The bacteriological and chemical quality of the water supply shall comply with the regulations of the department and other governing authorities.

(2) Potable water only shall be accessible to plumbing fixtures that supply water for drinking, bathing, culinary use or the processing of medicinal, pharmaceutical or food products.

Section 2. Water Required. (1) Every building equipped with plumbing fixtures and used for habitation or occupancy shall be equipped with a supply of potable water.

(2) In buildings used as residences or buildings in which people assemble or are employed, both hot and cold water shall be supplied.

Section 3. Water Service. (1) The water service piping to any building shall be not less than three-fourths (3/4) inch nominal pipe size but shall be of sufficient size to permit a continuous and ample flow of water to all fixtures on all floors at all times.

(2) The underground water service pipe from the main or water supply system to the water distribution system shall not be less than five (5) feet apart horizontally from the house sewer and shall be separated by undisturbed or

compacted earth except they can be placed in the same trench provided:

(a) The bottom of the water service pipe at all points shall be at least eighteen (18) inches above the top of the sewer at its highest point.

(b) The water service pipe shall be placed on a solid shelf excavated at one (1) side of the common trench.

(c) The number of joints in the water service pipe shall be kept to a minimum.

Section 4. Distribution. (1) The water supply shall be distributed through a piping system entirely independent of any other piping system.

(2) Piping which has been used for any other purpose than conveying potable water shall not be used for conveying potable water.

(3) Non-potable water may be used for flushing water closets and urinals, provided such water shall be piped in an independent system.

(a) When a dual water distribution system is used, the non-potable water supply shall be durably and adequately identified by color markings and metal tags, or other appropriate method as may be approved by the governing authority. Each outlet on the non-potable water distribution system which might be used for drinking or domestic purposes shall be permanently posted: DANGER - UNSAFE WATER. Each branch, fitting or valve shall be identified by the word - "NON-POTABLE WATER" either by signs or brass tags that are permanently affixed to the pipe, fittings, valves, etc. These identification markings shall not be concealed. Their maintenance shall be the responsibility of the owner.

(4) Any backflow device or cross-connection control device shall be approved by the department.

(5) Combination stop and waste valves, cocks, or hydrants shall not be installed in the underground water distribution system without the installation of an approved backflow preventor.

(6) No private water supply shall be interconnected with any public water supply.

Section 5. Water Supply to Fixtures. Plumbing fixtures shall be provided with a sufficient supply of water for flushing to keep them in a sanitary condition. Every water closet or pedestal urinal shall be flushed by means of an approved tank or flush valve. The tank or valves shall furnish at least a sufficient amount of water to thoroughly cleanse the surface area of water closets, urinals or similar fixtures. When a water closet, urinal, or similar fixture is supplied directly from the water supply system through a flushometer or other valve, such valves shall be set above the fixture in a manner so as to prevent any possibility of polluting the potable water supply by back siphonage. All such fixtures shall have a vacuum breaker. Plumbing fixtures, devices or appurtenances shall be installed in a manner that will prevent any possibility of a cross connection between the potable water supply system, drainage system or other water system.

Section 6. Water Supply to Drinking Fountains. The orifice of a drinking fountain shall be provided with a protective cowl to prevent any contamination of the potable water supply system.

Section 7. Sizing of Water Supply Piping. (1) The minimum size water service from the property line to the water heater shall be three-fourths (3/4) inch. The hot and cold water piping shall extend three-fourths (3/4) inch in size to the first fixture branch. No two (2) one-half (1/2) inch fixture branches are supplied from any one-half (1/2) inch pipe. (EXCEPTION: A combination of two (2) of the following fixtures may be connected utilizing the one-half (1/2) inch branch: a flush tank water closet, a lavatory and/or drinking fountain.)

(2) The following schedule shall be used for sizing the water supply piping to fixtures. The branch pipe to any fixture shall terminate not more than thirty (30) inches from the point of connection to the fixture and in every instance shall be brought to the floor or wall adjacent to the fixture. No concealed water branch pipe shall be less than one-half (1/2) inch nominal pipe size.

Fixture Branches	Nominal Pipe Size (Inches)
Bath tubs	1/2
Combination sink and tray	1/2
Cuspidor	1/2
Drinking fountain	1/2
Dishwasher (domestic)	1/2
Kitchen sink (res.)	1/2
Kitchen sink (com.)	1/2 or 3/4 as required
Lavatory	1/2
Laundry tray	1/2
Sinks (service, slop)	1/2
Sinks flushing rim	3/4
Urinal (flush tank)	1/2
Urinal (direct flush type)	1/2 or 3/4 as required
Water closet (tank type)	1/2
Water closet (flush valve type)	1
Hot water boilers	3/4
Hose bibs	1/2
Wall hydrant	1/2
Domestic clothes washer	1/2
Shower (single head)	3/4

(3) Water hammer. In all building supply systems in which devices or appurtenances are installed utilizing quick acting valves that cause noises due to water hammer, protective devices such as air chambers or approved mechanical shock absorbers shall be installed as close as possible to the quick acting valve causing the water hammer.

(a) Where mechanical shock absorbers are installed, they shall be in an accessible place.

(b) Where mechanical devices are used, the manufacturers specifications shall be followed as to location and method of installation.

(4) Inadequate Water Pressure. Whenever water pressure from the source of supply is insufficient, 15 lb. or less to provide adequate flow at the fixture outlets, a booster pump and pressure tank or other approved means shall be installed in the building water supply system.

(5) Variable Street Pressures. When the source of water supply has a fluctuation, the water distribution system shall be designed for the minimum pressure.

Section 8. Water Supply Pipes and Fittings, Materials. Water supply piping for a potable

water system shall be of galvanized wrought iron, galvanized steel, brass, Types K, L, and M copper, cast iron, Types R-K, R-L, and R-M brass tubing, standard high frequency welded tubing conforming to ASTM B-586-73, fusion welded copper tubing conforming to ASTM B-447-72 and ASTM B-251, DWV welded brass tubing conforming to B-587-73, seamless stainless steel tubing, Grade H conforming to CS A-268-68, reinforced thermosetting resin pipe conforming to ASTM D-2996 (red thread for cold water use and silver and green thread for hot and cold). Polyethylene plastic pipe conforming to ASTM D-2239-69, PVC plastic pipe conforming to ASTM 1785, and CPVC plastic pipe conforming to CS D-2846-70, PVC SDR 21 and SDR 26 conforming to ASTM D-2241, polybutylene pipe conforming to ASTM D-3309 with brass, copper or celcon fittings, Quikcite connection using a celcon asetal copolymer, polybutylene cone and stainless steel ring, plastic pipe and fittings shall bear the NSF seal of approval. (EXCEPTION: Polybutylene pipe utilizing insert fittings of brass, copper or celcon shall use only copper clamping rings. Its use between the diverter spout of a tub and the shower nozzle is prohibited.) Polybutylene hot and cold water connectors to lavatories, sinks and water closets shall conform to ASTM 3309, and polybutylene plastic pipe conforming to ASTM 2662 for cold water applications only. Fittings shall be brass, copper or approved plastic or galvanized cast iron or galvanized malleable iron. Piping or fittings that have been used for other purposes shall not be used for the water distribution system. All joints in the water supply system shall be made of screw, solder, or plastic joints. Cast iron water pipe joints may be caulked, screwed, or machine drawn. When Type M copper pipe, Type R-M brass tubing, standard high frequency welded tubing or stainless steel tubing is placed within a concrete floor or when it passes through a concrete floor it shall be wrapped with an approved material that will permit expansion or contraction. In no instance shall Polyethylene, PVC or CPVC be used below ground under any house or building.

Section 9. Temperature and Pressure Control Devices for Shower Installations. Temperature and pressure control devices shall be installed on all shower installations that will maintain an even temperature and pressure and will provide non-scald protection. Such devices shall be installed on all installations other than in homes or apartment complexes.

Section 10. Water Supply Control. (1) A main shut-off valve shall be provided near the curb, in or near the meter box or property line on the water service pipe. In addition, a main supply control valve shall be placed inside a foundation wall. The main supply control valve shall be accessible and provided with a drip or drain valve. A pit or similar type installation is prohibited for a potable water supply shut-off valve.

(2) Pressure on gravity tanks shall have their supply lines valved at or near their source.

(3) Each family unit in a two-family or multi-family dwelling shall have each family unit controlled by an arrangement of shut-off valves which will permit each unit to be shut-off without interfering with the cold water supply to any other family unit or portion of the building.

(4) In all buildings other than dwellings, shut-off valves shall be installed which permit the water supply to each piece of equipment to be isolated without interference with the supply to other equipment.

(5) Each fixture or group of bath fixtures shall be valved and each lawn sprinkler opening shall be valved. In residential construction all fixtures except bathtub and showers shall be valved individually or in lieu each group of fixtures shall be valved.

(6) A group of fixtures or fixture group shall mean two (2) or more fixtures adjacent to or near each other in the same room or back to back on a common wall.

(7) The cold water branch to each hot water storage tank or water heater shall be provided with a shut-off valve located near the equipment and only serving this equipment.

Section 11. Water Supply Protection. All concealed water pipes, storage tanks, cisterns, and all exposed pipes or tanks subject to freezing temperatures shall be protected against freezing. Water services shall be installed at least thirty (30) inches in depth.

Section 12. Temperature and Pressure Relief Devices for Water Heaters. Temperature and pressure relief devices shall be installed on all water heaters on the hot water side not more than three (3) inches from the top of the heater. Temperature and pressure relief devices shall be of a type approved by the department. When a water heater is installed in a location that has a floor drain, the discharge from the relief device shall be piped to within two (2) inches of the floor; when a water heater is installed in a location that does not have a floor drain, the discharge from the relief device shall be piped to the outside of the building with an ell turned down and piped to within four (4) inches of the surface of the ground. Relief devices shall be installed on a pneumatic water system.

Section 13. Protection of a Private Water Supply or Source. Private water supplies or sources shall be protected from pollution in a manner approved by the department. Such approval shall be obtained before an installation is made.

Section 14. Domestic Solar Water Heaters. Domestic solar water heaters may have a "single wall heat exchanger" provided the solar panel and the water heater exchanger use a nontoxic liquid such as propylene glycol or equal, and that the heat exchanger is pretested by the manufacturer to 450 PSI and that the water heater has a warning label advising that a nontoxic heat exchanger fluid must be used at all times and that a pressure relief valve is installed at the highest point in the solar panel.

Section 15. Domestic Water Heater Preheating Device. A domestic water heater preheating device may be used and connected with the high pressure line from the compressor of a domestic home air-conditioner or heat pump water heater. These heat exchangers that transfer heat to potable water shall be double wall. This device must be equipped with a temperature limit control that would actuate a pump that would circulate hot water from the water heater

through the preheater device. Condensate drain water shall be piped in accordance to the plumbing code and in no instance shall it be permitted to drain into crawl space, or into a sewer or vent stack, or be installed in areas subject to freezing. If a drain is not available or if a drain is located above the vent, a condensate pump must be utilized.

Section 16. Water Distribution for Fan Coil Units. When a domestic water heater is used for heating purposes through a fan coil medium, its temperature must not exceed 150 degrees Fahrenheit. It must utilize not less than three-fourth (3/4) inch Type M copper in its piping and its run shall not exceed 140 feet between the water heater and the heating unit. (Relates to 815 KAR 20:070.)

Section 17. Water Distribution and Connections to Mobile Homes. (1) An adequate and safe water supply shall be provided to each mobile home conforming to the regulations of the department.

(2) All materials, including pipes and fittings used for connections shall conform with the other sections of this code.

(3) An individual water connection shall be provided at an appropriate location for each mobile home space. The connection shall consist of a riser terminating at least four (4) inches above the ground with two (2) three-fourths (3/4) inch valve outlets with screw connection, one (1) for the mobile home water system and the other for lawn watering and fire control. The ground surface around the riser pipe shall be graded so as to divert surface drainage. The riser pipe shall be encased in an eight (8) inch vitrified clay pipe or equal with the intervening space filled with an insulating material to protect it from freezing. An insulated cover shall be provided which will encase both valve outlets but not prevent connection to the mobile home during freezing weather. A shut-off valve may be placed below the frost depth on the water service line, but in no instance shall this valve be a stop-and-waste cock.

CHARLES A. COTTON, Commissioner

MELVIN H. WILSON, Secretary

APPROVED BY THE AGENCY: August 17, 1985

FILED WITH LRC: August 27, 1985 at 1:30 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 24, 1985, at 10 a.m. in the offices of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by October 19, 1985, the hearing may be cancelled.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carl VanCleve

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected:

1. First year: Minimal, less than \$10.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing



costs (note any effects upon competition): None  
 (b) Reporting and paperwork requirements: None  
 (2) Effects on the promulgating administrative body:

- (a) Direct and indirect costs or savings:
  - 1. First year: Minimal cost due to time required to complete regulatory impact analysis.
  - 2. Continuing costs or savings: None
  - 3. Additional factors increasing or decreasing costs: None
- (b) Reporting and paperwork requirements: See item 2(a) 1 above.
- (3) Assessment of anticipated effect on state and local revenues: None
- (4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
- (5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:
  - (a) Necessity of proposed regulation if in conflict: N/A
  - (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
- (6) Any additional information or comments: None

Tiering:  
 Was tiering applied? No. N/A

**CABINET FOR HUMAN RESOURCES**  
**Department for Health Services**  
**(Proposed Amendment)**

**902 KAR 8:020. Policies and procedures for local health department operations.**

RELATES TO: KRS Chapter 212  
 PURSUANT TO: KRS 194.050, 211.090, 211.170, 211.180, 213.410

NECESSITY AND FUNCTION: KRS 211.170 directs the Cabinet for Human Resources to establish policies governing the activities of local health departments. This regulation adopts various manuals setting policies and standards for health departments.

Section 1. Local Health Policy Manual. The policies set forth in the September 15, [April 15,] 1985, edition of the "Local Health Policy Manual" governing the maintenance and operation of local health departments are hereby adopted by reference.

Section 2. Financial Management Manual. The policies set forth in the April 15, 1984, edition of the "Financial Management Manual" governing the operation of the financial management systems used by local health departments are hereby adopted by reference.

Section 3. Patient Services Reporting System Manual. The policies set forth in the May 1, 1984, edition of the "Patient Services Reporting System Manual" governing the collection of patient health/medical services delivered by local health departments are hereby adopted by reference.

Section 4. Medical Records System Policy and Procedure Manual for Local Health Departments in Kentucky. The policies and procedures set forth in the May 1, 1984, edition of the "Medical Records System Policy and Procedure Manual for

Local Health Departments in Kentucky" governing the development and maintenance of medical records in local health departments are hereby adopted by reference.

Section 5. Planning Manual for Local Health Departments. The policies set forth in the March, 1985, edition of the "Planning Manual for Local Health Departments" governing the annual program planning process and procedures of local health departments are hereby adopted by reference.

Section 6. Standards Manual for Local Health Departments. The policies set forth in the March, 1985, edition of the "Standards Manual for Local Health Departments" governing the programmatic operations of local health departments are hereby adopted by reference.

Section 7. Local Health Department Environmental Data System Operational Procedures for Weekly Environmental Activity Report, Sanitation Programs Information Formulator, and Local Health Annual Data Report. The policies set forth in the September, 1982, edition of the "Local Health Department Environmental Data System Operational Procedures for Weekly Environmental Activity Report, Sanitation Programs Information Formulator, and Local Health Annual Data Report" are hereby adopted by reference.

Section 8. On-Line Environmental Health Management Information System. The policies set forth in the February 14, 1984, edition of the "On-Line Environmental Health Management Information System" manual are hereby adopted by reference.

Section 9. Consumer Product Safety Commission's Hazardous Substances Labeling Guide. The policies set forth in the May 25, 1979, edition of the "Consumer Product Safety Commission's Hazardous Substances Labeling Guide" are hereby adopted by reference.

Section 10. Consumer Product Safety Commission's In-Depth Investigations Manual. The policies set forth in the January 28, 1983, edition of the "Consumer Product Safety Commission's In-Depth Investigations Manual" are hereby adopted by reference.

Section 11. MCH Maternity Manual. The policies set forth in the July 1, 1985, edition of the "MCH Maternity Manual" governing the operation of the prenatal program conducted by local health departments are hereby adopted by reference.

Section 12. Sudden Infant Death Syndrome Program. The policies set forth in the January 1, 1985, edition of the "Sudden Infant Death Syndrome Program" manual governing the operation of the Sudden Infant Death Syndrome Program conducted by local health departments are hereby adopted by reference.

Section 13. Standards for Genetic Disease Testing, Counseling and Education Services Program. The policies set forth in the May 11, 1984, edition of the "Standards for Genetic Disease Testing, Counseling and Education Services Program" manual governing the operation

of genetic disease testing and counseling clinics conducted by local health departments are hereby adopted by reference.

Section 14. Standards for Regional Pediatric Clinics. The policies set forth in the May 11, 1984, edition of the "Standards for Regional Pediatric Clinics" manual governing the operation of regional pediatric programs conducted by local health departments are hereby adopted by reference.

Section 15. Standards for Preventive Health Care in Children. The policies set forth in the May 11, 1984, edition of the "Standards for Preventive Health Care in Children" manual governing the operation of well child programs conducted by local health departments are hereby adopted by reference.

Section 16. Location of Manuals Referenced in This Regulation. A copy of each manual referenced in this regulation is on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky, and is open to public inspection.

Section 17. Summary of Amendment. [(1)] In relation to Section 1 of this regulation relating to the Local Health Policy Manual, revise LHP 500-1 "Overtime" to permit payment, at an employee's regular salary rate, for any accumulated compensatory leave in thirty (30) hour increments [revise LHP 300-1 "Meetings of Local Boards of Health" to clarify the frequency of meetings for boards of health, the nature and extent of delegation to an executive committee, the definition of a quorum, the requirements of open meetings legislation to executive committees, and proxy representation and voting].

[(2)] In relation to Section 2 of this regulation relating to the Financial Management Manual, delete Pages 65-74 (undated) and substitute new Pages 65-74 dated 4-15-85 which fully define the contractual standards and the specific forms to be used, and require that all contracts be reviewed by the Department for Health Services. Delete Pages 75-78, the requirement for a contractual arrangement between District Boards of Health and the individuals who serve as District and Medical Directors.]

[(3)] In relation to Section 5 of this regulation relating to the Planning Manual for Local Health Departments, this manual has been revised for FY 86. Revisions are limited to those for the purpose of clarity and to add or delete current guidelines of practice. Significant revisions are as follows:]

[(a)] The Table of Contents was placed ahead of the Foreword following state publications standards of placement.]

[(b)] Pages 5 and 6 were titled Priority Setting creating a new section.]

[(c)] The service code example in Section IV is now the Cancer Program since it more accurately represents coding for the majority of program plans.]

[(d)] In Section V, specific budget form numbers have been deleted as they are subject to change.]

[(e)] The Planning Schedule has been revised as the significant activities in the planning process have been rescheduled.]

[(f)] Under Categories of Medical Plans,

reporting areas 712, 872, and 898 have received name changes, 878 has been deleted, and Preventive Block Grant 874 and Special Project Reporting Areas 4-7 have been added to create the opportunity for additional planning and reporting.]

[(g)] Local health departments are now required to submit only two (2) sets of program plans instead of three (3).]

[(h)] The line-item budget sheet has been revised in accordance with financial management guidelines.]

[(i)] Several definitions have been rewritten or expanded throughout the manual for greater understanding of planning procedures.]

[(4)] In relation to Section 6 of this regulation relating to the Standards Manual for Local Health Departments, this manual has been revised for FY 86. Revisions are limited to those for clarity and to add or delete content to accurately reflect current guidelines of acceptable practice in the conduct of medical and environmental programs. Significant revisions are as follows:]

[(a)] Standards for Consumer Product Safety and Radiation Control have been removed because these programs are now administered by the Department for Health Services.]

[(b)] The Venereal Disease Program Standards have been changed as follows:]

[1. The program name has been changed to Sexually Transmitted Disease Control;]

[2. Under performance criteria:]

[a. Minimum scope of services was revised according to Centers for Disease Control recommendations;]

[b. A section on Integration with Other Health Services was added;]

[3. The allocation of restricted funds to selected local health departments has been deleted since investigative personnel are now the responsibility of the Department for Health Services;]

[4. Revisions have been made in the Sample Plan to be consistent with the planning standard format.]

[(c)] Regional Pediatric Standards - Local health departments will be required to use ICD codes in reporting services.]

[(d)] The program plan outline included in the Prenatal Program Standards has been revised for the following reasons:]

[1. To allow for utilization of most recent target population figures, "Medicaid paid" figures and unmet need figures (provided to local staff) in establishing the in-need population to be served in each service area;]

[2. To provide clarification of the assessment process for determining what specific maternity care, prenatal clinical care, delivery and hospitalization should be provided within each service area.]

[(e)] The Glaucoma Program Standards received very minor revisions including the following deletions relating to reporting which are no longer required:]

[1. Under Section III, B, 1, delete Number 15 (check if referred for medical supervision) will be checked if the patient is referred for diagnostic or treatment service outside the health department; and]

[2. Under Sample Plan Section IV, 2, delete (check Number 15 on the Patient Services Document for each individual referred for diagnostic or treatment services outside the

health department).]

[(f) Standards for the Immunization Program have been revised for clarity without any changes in intent.]

[(g) Women, Infants and Children - The Additional Nutrition Education Problem Identification Section has been rewritten for clarity without any change in intent and the Records Section has been revised to include that documentation shall be made in the record for scheduled and missed appointments and food instrument pickup.]

[(h) Within the Cancer Program Standards the following changes were made:]

[1. "Women receiving services for sexually transmitted diseases" was added as a specific category targeted for cancer services;]

[2. All referrals will be reported using the ICD (Professional Diagnosis) codes; and]

[3. State allocations to local health departments will be increased from sixteen (16) dollars to twenty (20) dollars for each woman screened for cervical cancer in the forty-five (45) and over age group, and from eight (8) dollars to twelve (12) dollars for each screening in the under forty-five (45) age group.]

[(i) The Well Child and Early and Periodic Screening, Diagnosis and Treatment Standards have received very minor revisions for clarity without any change in intent except that the Clinic Plan will also include those children enrolled in an MCH Regional Pediatric Program.]

[(j) The major changes in the Hypertension Standards are as follows: some details relative to screening activities have been deleted since emphasis has been redirected from patient screening to patient monitoring; and monitoring personnel are now required to attend at least four (4) hours training annually.]

[(5) In relation to Section 11 of this regulation relating to the MCH Maternity Manual, the manual is being revised and republished on July 1, 1985, in its entirety. All page numbers have been changed so that each page under a specific tab is numbered consecutively. This will make it easier for local health department staff to add or delete pages when revisions are made. MCH Federal Objectives, as a Tab, has been deleted in that since the inception of Block Grant allocations, there are not MCH Federal Objectives as such. The Division of Maternal and Child Health is directed toward achieving the Objectives for the Nation, as stated under that Tab. Kentucky statistics have been updated to provide the latest figures for 1983. Also provided are figures for utilization in program planning for target populations. The most current Guidelines for Perinatal Care, written by the American Academy of Pediatrics and American College of Obstetrics and Gynecologists, has been cited as reference for Standards of Practice in Maternity Care, under that Tab. Clarification of "at risk population" having repeat lab tests, VDRL and GC at thirty-six (36) weeks, is provided in Minimum Standards of Practice, under that Tab. Addition of optional administration of antepartum RhoGam is provided in Minimum Standards of Practice, under that Tab. Throughout the manual, reference to tracking abnormal laboratory findings has been revised:]

[(a) To delete use of roman numerals in delineating Pap Smear results indicative of need for Obstetrician referral; revision to reflect

"any degree of dysplasia" to be referred to Obstetrician within six (6) weeks.]

[(b) To delete utilization of Rubella titer less than 1:8 for indication of need for vaccine; revision to reflect: patients who lack Rubella immunity. This is defined in Laboratory Tests Tab, Rubella Guidelines to be documentation of vaccine given or any detectable antibody in a properly controlled test. Changes also are being made for the purpose of clarification (in response to numerous inquiries from local health department staff members). To provide the most up-to-date technical information which is in accordance with current guidelines for medical/clinical practice.]

C. HERNANDEZ, M.D., M.P.H., Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: September 3, 1985

FILED WITH LRC: September 13, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 21, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by October 16, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 E. Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Phillip R. Spangler

(1) Type and number of entities affected: 47 Local Health Departments.

(a) Direct and indirect costs or savings to those affected: Could lead to payment of some current payroll expenses that were being deferred to future fiscal year, but will allow for more accurate reimbursement under some programs, i.e., Home Health. Costs should remain manageable.

1. First year: Costs are controllable by local administrators.

2. Continuing costs or savings: More compensatory time expenses can be prorated to year occurring, instead of accruing as a future liability. Contributes to an over-all more manageable financial impact.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None  
(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: This change was weighed against many alternatives and determined to allow necessary local authority for better management of overtime needs.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to

harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments: Change proposed in response to problems identified by local administrators.

Tiering:

Was tiering applied? No.

**CABINET FOR HUMAN RESOURCES**  
**Department for Mental Health and Mental**  
**Retardation Services**  
**(Proposed Amendment)**

902 KAR 12:080. Policies and procedures for mental health/mental retardation facilities.

RELATES TO: KRS Chapter 210

PURSUANT TO: KRS 210.010

NECESSITY AND FUNCTION: KRS 210.010 directs the Secretary of the Cabinet for Human Resources to prescribe regulations for the institutions under the control of the cabinet. The function of this regulation is to adopt policies and procedures for such institutions.

Section 1. Oakwood Policy Manual. The policies set forth in the September [August] 1, 1985, edition of the "Oakwood Policy Manual" consisting of three (3) volumes relating to the operation of Oakwood ICF-MR Facility are hereby adopted by reference.

Section 2. Hazelwood Policy Manual. The policies and procedures set forth in the September [May] 1, 1985, edition of the "Hazelwood Policy Manual" consisting of two (2) volumes relating to the operation of Hazelwood ICF-MR Facility are hereby adopted by reference.

Section 3. Central State Hospital ICF-MR Policy Manual. The policies and procedures set forth in the September [May] 1, 1985, edition of the "Central State Hospital ICF-MR Policy Manual" consisting of two (2) volumes relating to the operation of Central State Hospital ICF-MR Facility are hereby adopted by reference.

Section 4. Eastern State Hospital Policy Manual. The policies and procedures set forth in the September [August] 1, 1985, edition of the "Eastern State Hospital Policy Manual" consisting of twenty-one (21) volumes relating to the operation of Eastern State Hospital Facility are hereby adopted by reference.

Section 5. Central State Hospital Policy Manual. The policies and procedures set forth in the September [August] 1, 1985, edition of the "Central State Hospital Policy Manual" consisting of nineteen (19) volumes relating to the operation of Central State Hospital Facility are hereby adopted by reference.

Section 6. Western State Hospital Policy Manual. The policies and procedures set forth in the September [August] 1, 1985, edition of the "Western State Hospital Policy Manual" consisting of thirty-two (32) volumes relating to the operation of Western State Hospital Facility are hereby adopted by reference.

Section 7. Glasgow ICF Policy Manual. The policies and procedures set forth in the

September [May] 1, 1985, edition of the "Glasgow ICF Policy Manual" consisting of twelve (12) volumes relating to the operation of Glasgow ICF Facility are hereby adopted by reference.

Section 8. Western State Hospital ICF Policy Manual. The policies and procedures set forth in the September [May] 1, 1985, edition of the "Western State Hospital ICF Policy Manual" consisting of nine (9) volumes relating to the operation of Western State Hospital ICF Facility are hereby adopted by reference.

Section 9. Volta Policy Manual. The policies and procedures set forth in the September [May] 1, 1985, edition of the "Volta Policy Manual" consisting of one (1) volume relating to the operation of Volta Facility are hereby adopted by reference.

Section 10. Kentucky Correctional Psychiatric Center Policy Manual. The policies and procedures set forth in the September [May] 1, 1985, edition of the "Kentucky Correctional Psychiatric Center Policy Manual" consisting of thirteen (13) volumes relating to the operation of Kentucky Correctional Psychiatric Center Facility are hereby adopted by reference.

Section 11. Location of Manuals Referenced in This Regulation. A copy of each manual referenced in this regulation is on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky, and is open to public inspection.

Section 12. Summary of Amendment.

Section 1 is revised as follows:

OAKWOOD POLICY MANUAL

DST-0-7 18D New policy on sick leave - a progressive disciplinary measure on sick leave to provide greater uniformity for all employees is added to existing policy in the manual.

Section 2 is revised as follows:

HAZELWOOD POLICY MANUAL

BII 87-9-2 18B New policy on sick leave - a progressive disciplinary measure on sick leave to provide greater uniformity for all employees is added to existing policy in the manual.

Section 3 is revised as follows:

CENTRAL STATE HOSPITAL ICF-MR POLICY MANUAL

C1 4-17 #7 New policy on sick leave - a progressive disciplinary measure on sick leave to provide greater uniformity for all employees is added to existing policy in the manual.

Section 4 is revised as follows:

EASTERN STATE HOSPITAL POLICY MANUAL

- D1 Section I #31 New Policy on alcohol abuse by employees to replace former policy.
- D2 Section II #6 New policy on sick leave to provide greater uniformity for all employees is added to existing policy in the manual.

Section 5 is revised as follows:

CENTRAL STATE HOSPITAL POLICY MANUAL

- E1 HH-6.40 Prevention of Violence & Destructive Behavior. Revised to include more in-depth information as to prevention of violence.
- E1 HH-6.60 Restraint - Procedure for the Use of Neuroleptics in Controlling Violent Patients. Revised to clarify procedures when restraints are deemed necessary.
- E1 HH-6.70 Procedure for Mechanical Restraint Revised to clarify procedures when restraints are deemed necessary.
- E1 HH-6.80 Seclusion. Revised to clarify procedure when seclusion is deemed necessary.
- E1 Section X #7 New policy on sick leave to provide greater uniformity for all employees is added to existing policy in the manual.

Section 6 is revised as follows:

WESTERN STATE HOSPITAL POLICY MANUAL

- E14 #12 New policy on sick leave to provide greater uniformity for all employees is added to existing policy in the manual.

Section 7 is revised as follows:

GLASGOW ICF POLICY MANUAL

- G12 Page 15 New policy on sick leave to provide greater uniformity for all employees is added to existing policy in the manual.

Section 8 is revised as follows:

WESTERN STATE HOSPITAL ICF POLICY MANUAL

- H1 #IX New policy on sick leave to provide greater uniformity for all employees is added to existing policy in the manual.

Section 9 is revised as follows:

VOLTA POLICY MANUAL

- I1. Personnel New policy on sick leave to provide greater uniformity for all employees is added to existing policy in the manual.

Section 10 is revised as follows:

KENTUCKY CORRECTIONAL PSYCHIATRIC CENTER POLICY MANUAL

- J1. Section 1 Personnel New policy on sick leave to provide greater uniformity for all employees is added to existing policy in the manual.

[Section 1 is revised as follows:

OAKWOOD POLICY MANUAL

- DST-0-1 #3 Updated organizational chart to replace existing chart.]

[Section 4 is revised as follows:

EASTERN STATE HOSPITAL POLICY MANUAL

- D1 Table of contents is updated.
- D1 Section I, Page 65 - new policy is added to specify the availability of the hospital management committee.
- D3 Pharmacy and Central Supply Manual is revised.
- D1 Section II, Page 40 - Emergency Transfers from State Mental Retardation Facilities to State Psychiatric Facilities - new policy to outline procedures for accepting emergency transfers.

Section II, Page 41 - Transfer or Placement of Patients with Primary Diagnosis of Mental Retardation - New policy on placing patients out of the hospital.

Section II, Page 33-33a - Speech, Language and Hearing Services - revised policy to reflect new audiometric screening procedure.

Section II, Page 12 - Absent Without Leave - revised policy to require notifying police.

Section II, Page 1 and 1A - Patients Rights - policy revised to add "right to receive visitors unless clinically contraindicated" and the "right to receive compensation for work performed."

[Section 5 is revised as follows:

CENTRAL STATE HOSPITAL POLICY MANUAL

- E3 Activities Therapy Department Manual

Four new policies are added to establish guidelines for the operation of the Beauty Shop.

- R-1 - how to order supplies.
- R-2 - monthly reports are submitted to the supervisor.
- R-3 - the beauty shop is to be open from 7 a.m. to 3:30 p.m.
- R-4 - appointments are made one day in advance.]

[Section 6 is revised as follows:

WESTERN STATE HOSPITAL POLICY MANUAL

- F1 #2 Abuse policy is changed to require suspected abuse to be reported to the Facility Director.]

DENNIS D. BOYD, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: September 5, 1985

FILED WITH LRC: September 13, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 21, 1985, at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by October 16, 1985, of their desire to appear and testify at the hearing: Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Verna Fairchild

(1) Type and number of entities affected: This regulation with the attached reference material is the on-going policy and procedure manual of the state facilities for the treatment of patients with mental illness and mental retardation. These facilities function with 2,880 staff members serving 1,850 residents.

(a) Direct and indirect costs or savings to those affected:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: This regulation usually does not affect the fiscal operation of these state facilities significantly. It affects the care and treatment of patients, compliance with JCAH standards, and Kentucky licensure regulations. The work environment of the staff is frequently the subject of this regulation also, along with the orderly management of the various programs.

(a) Direct and indirect costs or savings: See attached

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: Present procedure not previously adopted by regulation.

(5) Identify any statute, administrative

regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? Yes

CABINET FOR HUMAN RESOURCES  
Department for Health Services  
(Proposed Amendment)

902 KAR 13:020. Applicants' requirements; priority for training.

RELATES TO: KRS 211.960 to 211.968, 211.990(5)  
PURSUANT TO: KRS 211.964

NECESSITY AND FUNCTION: KRS 211.964 directs the Cabinet for Human Resources to adopt rules and regulations relating to Emergency Medical Technicians. The function of this regulation is to establish requirements for applicants and priority of applicants for training.

Section 1. Requirements for Applicants. Each applicant shall:

(1) Be eighteen (18) years of age or older;

[(2)] Hold a valid motor vehicle operator's license;

[(2)] [(3)] Be of good moral character;

[(3)] [(4)] Not be habitually addicted to or an abuser of alcoholic beverages, drugs, or controlled substances;

[(4)] [(5)] Understand and be able to read, speak, and write the English language;

[(5)] [(6)] Submit a signed application on a form prescribed by the cabinet.

Section 2. Priority of Applicants for Training. (1) The priority of applicants for training in courses offered to the public by implementing agencies which are open to the public and not otherwise exempted by the cabinet shall be according to the following priorities:

(a) First priority: Ambulance personnel;

(b) Second priority: Emergency room personnel and related emergency medical service personnel, including, but not limited to, public safety agencies, rescue and extrication, industrial safety, nursing personnel, and certified public school teachers designated as first aid personnel;

(c) Third priority: All others. [Related emergency medical service personnel, including but not limited to, public safety agencies, rescue and extrication, industrial safety, nursing personnel, and certified public school teachers designated as first aid personnel;]

[(d)] Fourth priority: All others.]

(2) Applications shall be filed with the implementing agency ten (10) working days prior to the beginning of the course. The final selection of applicants for each course shall be made by the implementing agency [regional emergency medical service coordinator.]

C HERNANDEZ, M.D., M.P.H., Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: September 5, 1985

FILED WITH LRC: September 13, 1985 at 11 a.m.  
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 21, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by October 16, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 E. Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Thomas A. Thompson

(1) Type and number of entities affected: 8,500 Emergency Medical Technicians.

(a) Direct and indirect costs or savings to those affected:

1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A
- (b) Reporting and paperwork requirements: N/A
- (2) Effects on the promulgating administrative body:

- (a) Direct and indirect costs or savings: None
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: No effect

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:  
Was tiering applied? No.

#### CABINET FOR HUMAN RESOURCES Department for Health Services (Proposed Amendment)

##### 902 KAR 13:030. Fees.

RELATES TO: KRS 211.960 to 211.968, 211.990(5)  
PURSUANT TO: KRS 211.964, 211.966

NECESSITY AND FUNCTION: KRS 211.964 directs the Cabinet for Human Resources to adopt rules and regulations relating to Emergency Medical Technicians and KRS 211.966 permits the Cabinet for Human Resources to prescribe a schedule of fees and charges for services to Emergency Medical Technicians. The function of this regulation is to establish a fee schedule.

Section 1. Fees. The following schedule of fees is established pursuant to KRS 211.966:

- (1) Examination fee: fifteen (15) dollars;
- (2) Re-examination fee: five (5) dollars;
- (3) Renewal fee: fifteen (15) dollars;
- (4) Fee for antishock trouser certification:

ten (10) dollars. [duplicate certificate: five (5) dollars.]

C. HERNANDEZ, MD, MPH, Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: September 5, 1985

FILED WITH LRC: September 13, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 21, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing may be cancelled unless interested persons notify the following office in writing by October 16, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 E. Main Street, 4 West, Frankfort, Kentucky 40621.

Agency Contact Person: Thomas A. Thompson

(1) Type and number of entities affected: 8,500 Emergency Medical Technicians

(a) Direct and indirect costs or savings to those affected: None

1. First year: \$10 dollars one time cost for EMT's

2. Continuing costs or savings: One time cost only

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: Slightly higher costs

1. First year:

2. Continuing costs or savings: Same as #1

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Slightly higher

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:  
Was tiering applied? No.

#### CABINET FOR HUMAN RESOURCES Department for Health Services (Proposed Amendment)

##### 902 KAR 13:050. Training, examination and certification.

RELATES TO: KRS 211.960 to 211.968, 211.990(5)  
PURSUANT TO: KRS 211.964

NECESSITY AND FUNCTION: KRS 211.964 directs the Cabinet for Human Resources to adopt rules and regulations relating to Emergency Medical Technicians. The function of this regulation is to establish requirements for training; examinations, certifications; and renewal and



recertification of Emergency Medical Technicians.

Section 1. EMT Training Course Requirements. The training course shall:

(1) Include the Basic Emergency Medical Technician; National Standard Curriculum (Third Edition, 1984) of the U.S. Department of Transportation [curriculum] and such additions, deletions or changes to the curriculum as prescribed by the cabinet and the accompanying text entitled "Emergency Care," Third Edition, published by the Robert J. Brady Co., Bowie, Maryland 20715;

(2) Be at least 103 [ninety-nine (99)] hours in duration;

(3) Not be started until completed course inventory form is received by the cabinet verifying that all equipment, texts, television tapes, and other materials specified are available, in proper quantities, in proper working condition, and placed in secure storage;

(4) Not share equipment between courses unless such equipment is housed in the same building and is available equally to all EMT classes;

(5) Utilize equipment, texts, television tapes and other materials approved by the cabinet;

(6) Be taught by an EMT instructor certified by the Cabinet for Human Resources;

(7) Have at least one (1) EMT instructor-trainee; or one (1) additional EMT instructor;

(8) Have a class certification number assigned by the cabinet;

(9) Be limited to thirty (30) students; and

(10) Not permit more than one (1) lesson absence per student, unless made up at the discretion of the instructor, or made up in a subsequent EMT training course. The lesson made up shall be the same lesson that was missed.

(11) Require each student to sign in for each lesson on attendance sheets provided by the cabinet.

(12) Require the instructor at the end of each course to provide the cabinet the following: master grade sheet, answer sheets for all written exams, final practical exams, application for certification with prescribed fee, master attendance form and attendance sheets for each lesson.

Section 2. EMT Certification Examination. The cabinet shall prescribe the format and content of the EMT's certification examinations which shall consist of two (2) parts:

(1) Written. The written examination shall be in four (4) parts. An overall passing grade of seventy-five (75) percent, shall be required. In the event an applicant's overall average is less than seventy-five (75) percent, but is seventy (70) percent or more, the applicant may, upon proper application, re-take the part in which he made the lowest score. However, should the applicant again fail, he shall be required to re-take the entire EMT training course before being eligible for re-examination.

(2) Practical. The applicant shall successfully pass all parts of the final practical examination. In the event he fails to successfully pass all portions of the final practical examination, he shall be permitted one (1) opportunity to re-take the part which he failed to pass. However, should the applicant again fail to pass the particular part of the examination, he shall be required to re-take the entire EMT training course before being eligible

for re-examination. An instructor who is employed by the organization for whom the EMT class is conducted shall not evaluate in the practical examination of that class.

Section 3. Certification of EMTs and EMT-A. The cabinet shall certify EMTs based upon the type of service to be rendered. An EMT engaged in ambulance service shall be issued certification as an "Emergency Medical Technician-Ambulance (EMT-A)."

Section 4. Expiration of Certification. All EMT certificates shall expire two (2) years from the date of issuance.

Section 5. Renewal of Certification; Inservice Training or Continuing Education Requirements. In order to renew a certificate, the emergency medical technician shall, during his period of certification, attain at least sixteen (16) hours of inservice training or continuing education, or a combination thereof, and show evidence of certification in cardiopulmonary resuscitation as required by the American Heart Association or the American National Red Cross.

(1) Subject matter requirements for EMT inservice training or continuing education.

(a) To receive credit for inservice training or continuing education, the applicant for recertification may take inservice training or continuing education on any subject covered by the United States Department of Transportation Emergency Medical Technician curriculum, 3rd edition, or any subject for which instruction is authorized by the Cabinet for Human Resources for the Emergency Medical Technician Program in Kentucky.

(b) The applicant for recertification shall submit evidence of successful completion of instruction in at least four (4) different areas of emergency medical technician course subject matter instruction or skills instruction, in addition to cardiopulmonary resuscitation.

(c) The following are not eligible for credit as inservice training or continuing education:

1. Ambulance runs, rescues, firefighting, emergency responses, or similar actual emergency activities.

2. Instruction in material, techniques, or procedures not authorized to be performed by emergency medical technicians.

(d) Evidence of training and CPR certification shall be submitted to the cabinet not less than thirty (30) days before the expiration of the EMT's certification on forms supplied by the cabinet.

(e) The form provided by the cabinet shall contain a certification as to the truth of the information supplied and a statement that all training claimed conforms to the requirements of this regulation and a warning that submission of false information constitutes a violation of law.

(f) Each subject or training course claimed shall be countersigned by the instructor of the subject or course.

(g) Training received as a requirement for continuing education in medicine, nursing, paramedic, or as an EMT in a coal mining situation required by KRS 351.127 is eligible for inservice training or continuing education credit if it meets the criteria of paragraph (a) of this subsection.

(2) Instructors for EMT inservice training and continuing education. The following persons are

considered as qualified to conduct inservice training and continuing education courses for emergency medical technicians:

(a) A physician licensed pursuant to KRS Chapter 311.

(b) A registered nurse licensed pursuant to KRS Chapter 314.

(c) A paramedic certified by the State Board of Medical Licensure.

(d) An emergency medical technician instructor or instructor trainer certified by the Cabinet for Human Resources.

(e) An instructor certified by a state or federal agency who is teaching within the area authorized by his certification a course which will qualify for emergency medical technician inservice training or continuing education.

(f) Physicians, registered nurses, paramedics or emergency medical technician instructors currently licensed or certified by another state of the United States of America shall be considered as meeting the requirements of paragraphs (a) through (e) of this subsection, as applicable.

(3) Cardiopulmonary resuscitation requirement. During the second year of the certification period the EMT shall obtain or renew certification in cardiopulmonary resuscitation and related techniques as follows:

(a) The course shall be conducted by the American Heart Association or the American National Red Cross or under its authority by an instructor certified by the American Heart Association or the American National Red Cross.

(b) The course shall be taught for record and shall be certified by the instructor to the American Heart Association or the American National Red Cross as meeting all applicable standards of the organization.

(c) The course shall provide instruction and testing in:

1. One (1) rescuer cardiopulmonary resuscitation;

2. Two (2) rescuer cardiopulmonary resuscitation;

3. Techniques of changing from one (1) rescuer to two (2) rescuers during the performance of cardiopulmonary resuscitation;

4. Techniques of changing rescuers during the performance of two (2) rescuer cardiopulmonary resuscitation;

5. Techniques for relief of obstruction of the airway;

6. Cardiopulmonary resuscitation of infants and small children;

7. Mouth to mouth/mouth to nose resuscitation for adults, small children, and infants.

(d) The course shall provide for individual skill testing of all adult and infant related skills in subsection (3) of this section.

(e) The applicant for renewal of certification shall forward to the Cabinet for Human Resources a copy of both sides of the certificate issued to him indicating successful completion of the CPR course.

(4) Inservice training and continuing education requirements for emergency medical technician instructors and instructor trainers.

(a) An emergency medical technician instructor or instructor trainer shall meet the inservice training or continuing education requirements for recertification in the following manner:

1. Conduct an emergency medical technician course; or

2. Teach one (1) or more lessons of an

emergency medical technician course; or

3. Teach one (1) or more lessons of an inservice training or continuing education course; or

4. Conduct a final practical examination or challenge examination for an emergency medical technician course; and

(b) If paragraph (a)2 through 4 of this subsection are claimed for recertification, the total number of hours spent in instruction or examinations shall not be less than sixteen (16) hours. Any combination of hours totalling sixteen (16) may be used; and

(c) An emergency medical technician instructor trainer may utilize time spent in conducting an emergency medical technician instructor course or evaluation in lieu of time required in paragraph (a) of this subsection; and

(d) An emergency medical technician instructor or instructor trainer shall attend either the annual emergency medical technician instructor conference or the annual training session for newly appointed instructors. Time spent at such conferences may be used as credit toward the time required in paragraph (a) or (b) of this subsection; and

(e) Additionally, each emergency medical technician instructor or instructor trainer shall meet the cardiopulmonary resuscitation requirement or shall teach a cardiopulmonary resuscitation course for record or shall teach the cardiopulmonary resuscitation portion of the emergency medical technician course to emergency medical technician students.

Section 6. Temporary Extension of Certificate. Upon a showing of undue hardship in obtaining the required inservice training or continuing education for renewal, the cabinet may extend a certificate for an additional six (6) months.

Section 7. Emergency Medical Technicians Certified in Other States and U.S. Military corpsmen. Upon proper application, a letter from an employer demonstrating need for certification, and upon payment of the prescribed fee, the following may take the Kentucky "Challenge Examination," consisting of both written and practical parts, for certification as an EMT:

(1) U.S. Military Corpsmen, within a period of one (1) year from the date of discharge, who have either a:

(a) U.S. Army MOS 91B or 91C; or

(b) Its equivalent for other services.

(2) Emergency medical technicians, currently certified in other states.

Section 8. The following regulation is hereby repealed: 902 KAR 13:060. Status of certification.

C. HERNANDEZ, MD, MPH, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: September 4, 1985

FILED WITH LRC: September 13, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 21, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing may be cancelled unless interested persons notify the following office in writing by October 16, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel,

Cabinet for Human Resources, 275 E. Main Street,  
4 West, Frankfort, Kentucky 40621.

Agency Contact Person: Thomas A. Thompson

(1) Type and number of entities affected:  
8,500 Emergency Medical Technicians

(a) Direct and indirect costs or savings to those affected:

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Slightly higher

2. Continuing costs or savings: Same as #1

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Slightly higher

(3) Assessment of anticipated effect on state and local revenues: No effect

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. N/A

**CABINET FOR HUMAN RESOURCES**  
**Department for Health Services**  
**(Proposed Amendment)**

902 KAR 13:070. Instructors and trainers.

RELATES TO: KRS 211.960 to 211.968, 211.990(5)

PURSUANT TO: KRS 211.964

NECESSITY AND FUNCTION: KRS 211.964 directs the Cabinet for Human Resources to adopt rules and regulations relating to Emergency Medical Technicians. The function of this regulation is to establish requirements for attaining certifications as an Emergency Medical Technician-Instructor and Emergency Medical Technician Instructor-Trainer.

Section 1. No person shall hold himself out as an EMT-instructor unless he has:

(1) Been certified as an EMT by the cabinet;

(2) Been recommended by a certified EMT-instructor as having outstanding ability in the EMT field;

(3) Attended an approved EMT-training seminar and successfully passed a written proficiency examination;

(4) Assisted an EMT-instructor for a minimum of one (1) complete EMT training course in which he:

(a) Participated in the conduct of each lesson;

(b) Conducted, under supervision, at least one (1) complete lesson during the course;

(c) Served as a small-group instructor during practical exercises;

(d) Conducted class demonstrations of manipulative skills;

(e) Performed other related duties as directed by the EMT-instructor;

(f) Been recommended, in writing, for final evaluation by the EMT-instructor, upon completion of the course; and

(5) Been evaluated by a panel of EMT-instructor-trainers, and received a score of eighty (80) percent or higher.

Section 2. Re-evaluation of Instructor-Trainees by Panel. In the event an EMT-instructor-trainee fails to score eighty (80) percent or higher on his initial evaluation, he shall be given another opportunity, upon application, to be re-evaluated. In the event he again fails to obtain a score of eighty (80) percent or higher, but scores at least seventy (70) percent or higher, he shall, upon application, be given an [a final] opportunity to be re-evaluated. [In no event, however, shall an applicant be evaluated more than three (3) times.]

Section 3. Certification of EMT-Instructor-Trainers. No person shall hold himself out as an EMT-instructor-trainer unless he has:

(1) Complied with all requirements of Section 1 of this regulation; and

(2) Been evaluated by the EMT Advisory Committee and recommended to the cabinet for certification as an EMT-instructor-trainer.

Section 4. Renewal of EMT-Instructor Certification. An EMT-instructor's certification shall become invalid two (2) years from the date of issue unless renewed. In order to obtain renewal, the EMT-instructor shall meet all requirements of 902 KAR 13:050, Section 5(4). [:(1) Annually attend an instructor's seminar approved by the cabinet, unless excused by the cabinet for justifiable cause; and]

[(2) Teach an EMT course during the preceding two (2) year period; or]

[(3) Conduct a renewal, challenge, or final practical examination in relation to an EMT course.]

Section 5. EMTs-Instructors Certified in Other States. Upon proper application, EMTs-instructors certified in other states may take the Kentucky "Challenge Examination" consisting of both written and practical parts for certification as an EMT. In addition, such persons shall meet the requirements of Sections 1 and 2 of this regulation.

C. HERNANDEZ, M.D., M.P.H., Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: September 5, 1985

FILED WITH LRC: September 13, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 21, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by October 16, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 E. Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Thomas A. Thompson

(1) Type and number of entities affected: 145  
Emergency Medical Technician-Instructors, all  
new instructor candidates.

(a) Direct and indirect costs or savings to  
those affected:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing  
costs (note any effects upon competition): None

(b) Reporting and paperwork requirements:  
Slightly higher

(2) Effects on the promulgating administrative  
body:

(a) Direct and indirect costs or savings:

1. First year: N/A

2. Continuing costs or savings: Same as #1.

3. Additional factors increasing or decreasing  
costs: None

(b) Reporting and paperwork requirements:  
Slightly higher

(3) Assessment of anticipated effect on state  
and local revenues: No effect

(4) Assessment of alternative methods; reasons  
why alternatives were rejected: N/A

(5) Identify any statute, administrative  
regulation or government policy which may be in  
conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in  
conflict:

(b) If in conflict, was effort made to  
harmonize the proposed administrative regulation  
with conflicting provisions:

(6) Any additional information or comments:  
None

Tiering:

Was tiering applied? No.

CABINET FOR HUMAN RESOURCES  
Department for Health Services  
(Proposed Amendment)

902 KAR 13:080. Authorized procedures.

RELATES TO: KRS 211.960 to 211.968, 211.990(5)  
PURSUANT TO: KRS 211.964

NECESSITY AND FUNCTION: KRS 211.964 directs  
the Cabinet for Human Resources to adopt rules  
and regulations relating to Emergency Medical  
Technicians. The function of this regulation is  
to establish procedures which EMTs are  
authorized to perform.

Section 1. Authorized Certified EMT  
Procedures. (1) Except as otherwise provided in  
subsections (2) and (3) of this section,  
certified EMTs may perform any of the procedures  
as set forth in the "Basic Emergency Medical  
Technician: National Standard Curriculum," Third  
Edition, 1984 ["Basic Training Course for  
Emergency Medical Technicians," August 1976  
Edition], published by the United States Cabinet  
of Transportation, National Highway and Traffic  
Safety Administration, Washington, D. C. 20590,  
and in the accompanying text entitled "Emergency  
Care," Third Edition, published by the Robert J.  
Brady Co., Bowie, Maryland 20715 ["Emergency  
Care and Transportation of the Sick and  
Injured," 1977 Edition, published by the  
American Academy of Orthopedic Surgeons, 430  
North Michigan Avenue, Chicago, Illinois 60611].

A copy of both publications shall be on file in  
the office of the Emergency Medical Services  
Branch, Department for Health Services, Cabinet  
for Human Resources, 275 East Main Street,  
Frankfort, Kentucky 40602, and shall be  
available for public inspection.

(2) EMTs shall not perform any of the  
following procedures:

(a) The administration of intravenous fluids  
or plasma expanders, or both;

(b) Perform a cricothyrotomy  
[circo-thyroidotomies];

(c) Relieve a tension pneumothorax  
[pneumothorax] through the use of needles; [.]

(d) Insert an esophageal obturator airway or  
esophageal gastric tube airway.

(3) An EMT shall not use medical antishock  
trousers unless:

(a) He has completed a Kentucky emergency  
medical technician course during which the use  
of medical antishock trousers was taught after  
July 1, 1985; or

(b) He is currently certified as an emergency  
medical technician and completes the four (4)  
hour training session on the medical antishock  
trousers and successfully passes an examination  
administered by the cabinet consisting of both  
written and practical application examinations.  
The standards for such examinations shall be the  
same as for an EMT course. The training and  
examination shall be conducted by an EMT  
instructor or instructor trainer in accordance  
with the criteria set forth in the "Basic  
Emergency Medical Technician: National Standard  
Curriculum," Third Edition, 1984 and the  
standards and protocols of the Cabinet for Human  
Resources; or

(c) He is currently certified as an emergency  
medical technician and, prior to the effective  
date of this regulation, has received training  
in the use of medical antishock trousers  
conducted under the authorization of a licensed  
physician. An EMT so trained may continue to use  
medical antishock trousers until September 1,  
1986. The EMT must submit on or before April 1,  
1986, satisfactory evidence of such training to  
the cabinet and must successfully pass both  
written and practical application examinations  
administered by the cabinet. The standards for  
such examinations shall be the same as for an  
EMT course. If the EMT does not successfully  
pass the examinations by September 1, 1986,  
authorization to use medical antishock trousers  
shall lapse and he must then comply with  
subsection (b) of this section; or

(d) He has completed an emergency medical  
technician course in another state which  
included the use of medical antishock trousers  
and has taken and passed, as a part of his  
Kentucky challenge examination, an examination  
in the use of medical antishock trousers; and

(e) He uses medical antishock trousers in  
accordance with the standards and the protocol  
of the cabinet.

Section 2. All EMTs to be Certified in Use of  
Medical Antishock Trousers Prior to January 1,  
1988. Any EMT who is not certified in the use of  
medical antishock trousers as provided in this  
regulation shall obtain such certification by a  
method provided herein no later than January 1,  
1988 in order to qualify for renewal of his  
certification as an EMT in Kentucky.

C. HERNANDEZ, M.D., M.P.H., Commissioner  
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: September 4, 1985

FILED WITH LRC: September 13, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 21, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by October 16, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 E. Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Thomas A. Thompson

(1) Type and number of entities affected:  
8,500 Emergency Medical Technicians

(a) Direct and indirect costs or savings to those affected:

1. First year: One time cost of \$10 for MAST training.

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Slightly higher costs.

2. Continuing costs or savings: Same as #1.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Slightly higher

(3) Assessment of anticipated effect on state and local revenues: No effect

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. N/A

#### CABINET FOR HUMAN RESOURCES Department for Health Services (Proposed Amendment)

902 KAR 17:010. State health plan.

RELATES TO: KRS Chapters 194, 216B

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Health Planning and Resources Development Act, 42 USC 300 M-3 requires participating states to adopt by procedures set out in the United States Code, a state health plan. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for the proper administration of the cabinet and its programs. The Kentucky Health

Facilities and Health Services Certificate of Need and Licensure Board utilizes the state health plan in review of applications for certificates of need to establish and modify health services and health facilities in the Commonwealth. The function of this regulation is to assist in the inventory of existing health resources and to set planning goals and guidelines.

Section 1. The Proposed Kentucky State Health Plan 1986-1988 [1983-1986], was approved for public review [adopted] by the State Health Planning Council on September 11, 1985 and will be considered [approved] by Governor Martha Layne Collins [on November 5, 1984] as the document that sets out planning policies and guidelines for use by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board. A copy of the Proposed Kentucky State Health Plan 1986-1988 is on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621 and is open and available for public inspection during normal business hours.

Section 2. The Review Criteria and Standards Section, pages 165 through 188, [following portions] of the Proposed Kentucky State Health Plan 1986-1988 is [are] hereby adopted by reference as regulations of the Cabinet for Human Resources as if fully set out herein. [:]

[(1) Acute care policies p. 25-32, with the exception of the following:]

[(a) Policies relating to excess capacity and utilization, p. 28.]

[(b) Policies relating to the containment of capital expenditures, p. 30.]

[(c) Policies relating to regionalization, p. 30.]

[(2) Long term care policies, p. 32-35.]

[(3) Planning criteria and review standards, p. 42-62 with the exception of the following:]

[(a) Acute care review standards numbers 8, 9, 10, and 14, page 43.]

[(b) Delicensure of excess capacity, p. 47.]

[(c) Hospital capital expenditure limit, p. 48.]

[(d) Tertiary and medical service centers designation, p. 49.]

[(4) Glossary.]

C. HERNANDEZ, M.D., M.P.H., Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: September 13, 1985

FILED WITH LRC: September 13, 1985 at Noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for Tuesday, October 29, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by October 24, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 E. Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Greg Lawther

(1) Type and number of entities affected: This proposed amendment to the state health plan regulation updates the regulation so it

correctly refers to the 1986-1988 Plan. The proposed amendments incorporate by reference those portions of the Plan which are considered by the Certificate of Need and Licensure Board in reviewing applications for certificates of need. The state health plan affects the entire Commonwealth.

(a) Direct and indirect costs or savings to those affected: The state health plan will assist in the containment of health care costs in the Commonwealth.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: The proposed amendments will have no effect on reporting or paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: The proposed amendments will not result in any increased costs to the cabinet.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: The proposed amendments will not result in any new reporting or paperwork requirements for the cabinet.

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: KRS Chapter 13 necessitates incorporation by reference of portions of the Plan.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: None

Tiering:

Was tiering applied? No. N/A

**CABINET FOR HUMAN RESOURCES**  
Department for Social Insurance  
Division of Management & Development  
(Proposed Amendment)

904 KAR 1:022. Skilled nursing facility services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the provisions relating to skilled nursing facility services for which payment shall be made by the medical assistance program in behalf of both the categorically needy and medically

needy.

Section 1. Participation Requirements. Each facility desiring to participate as a skilled nursing facility must meet the following requirements:

(1) An application for participation shall be made to the cabinet using the procedures specified by the Commissioner, Department for Social Insurance, Cabinet for Human Resources. A vendor number shall be assigned to the facility by the cabinet when participation status is achieved.

(2) Each skilled nursing facility shall be required to have participatory status in the program of health care known as Title XVIII, Medicare, before the conditions of participation for Title XIX shall be deemed met.

Section 2. Provision of Service. Payment for services shall be limited to those services provided to eligible individuals meeting the criteria of patient status in that they require skilled nursing care on a continuous basis following an acute illness or as a result of a chronic disease and/or disability and are receiving such care in a participating facility.

Section 3. Determining Patient Status. Professional staff of the cabinet, or the Kentucky Peer Review Organization operating under its lawful authority pursuant to the terms of its agreement with the cabinet, shall review and evaluate the health status and care needs of the recipient in need of institutional care giving consideration to the medical diagnosis, care needs, services and health personnel required to meet these needs and the feasibility of meeting the needs through alternative institutional or non-institutional services. Patients qualify for skilled nursing care when their needs mandate skilled nursing and/or skilled rehabilitation services on a daily basis and when, as a practical matter, the care can only be provided on an inpatient basis. Where the inherent complexity of a service prescribed for a patient is such that it can be safely and/or effectively performed only by or under the supervision of technical or professional personnel, the patient would qualify for skilled nursing care. A patient with an unstable medical condition manifesting a combination of care needs in the following areas may qualify for skilled nursing care:

(1) Intravenous, intramuscular, or subcutaneous injections and hypodermoclysis or intravenous feeding;

(2) Naso-gastric or gastrostomy tube feedings;

(3) Nasopharyngeal and tracheotomy aspiration;

(4) Recent and/or complicated ostomy requiring extensive care and self-help training;

(5) In-dwelling catheter for therapeutic management of a urinary tract condition;

(6) Bladder irrigations in relation to previously indicated stipulation;

(7) Special vital signs evaluation necessary in the management of related conditions;

(8) Sterile dressings;

(9) Changes in bed position to maintain proper body alignment;

(10) Treatment of extensive decubitus ulcers or other widespread skin disorders;

(11) Receiving medication recently initiated, which requires skilled observation to determine desired or adverse effects and/or frequent

adjustment of dosage;

(12) Initial phases of a regimen involving administration of medical gases;

(13) Receiving services which would qualify as skilled rehabilitation services when provided by or under the supervision of a qualified therapist(s), such as: on-going assessment of rehabilitation needs and potential; therapeutic exercises which must be performed by or under the supervision of a qualified physical therapist; gait evaluation and training; range of motion exercises which are part of the active treatment of a specific disease state which has resulted in a loss of, or restriction of, mobility; maintenance therapy when the specialized knowledge and judgment of a qualified therapist is required to design and establish a maintenance program based on an initial evaluation and periodic reassessment of the patient's needs, and consistent with the patient's capacity and tolerance; ultra-sound, short-wave, and microwave therapy treatments; hot pack, hydrocollator infra-red treatments, paraffin baths, and whirlpool (in cases where the patient's condition is complicated by circulatory deficiency, areas of desensitization, open wounds, fractures or other complications, and the skills, knowledge, and judgment of a qualified physical therapist are required); and services by or under the supervision of a speech pathologist or audiologist when necessary for the restoration of function in speech or hearing.

Section 4. Re-evaluation of Need for Service. Skilled nursing service shall be provided for as long as the health status and care needs are within the scope of program benefits as described in Sections 2 and 3 of this regulation. Patient status shall be re-evaluated at least once every six (6) months. If a re-evaluation of care needs reveals that the patient no longer requires skilled care, payment shall continue for ten (10) days to permit orderly transfer to a lesser level of care. Patients who met patient status criteria as of August 31, 1985 on the basis that they would have been reclassified to intermediate care patient status except for the unavailability of such a bed, and had continued to receive care in the facility while on the waiting list of suitable facilities, will be considered to meet patient status criteria through January 31, 1986 so long as the pre-existing conditions for such patient status criteria continue to be met. [Patients in skilled facilities who would be reclassified to intermediate care patient status except for the unavailability of an intermediate care bed, may be considered to meet patient status criteria for skilled care, so long as the patient continues to reside in that facility and providing the patient's name is placed on the waiting list of suitable facilities.]

Section 5. Evaluation of Patient Status for Persons with Mental Disorders. A person with a mental disorder meeting the health status and care needs specified in Sections 2 and 3 of this regulation shall generally be considered to meet patient status. However, these individuals are specifically excluded from coverage in the following situations:

(1) When the cabinet determines that in the individual case the combination of care needs is beyond the capability of the facility, and that

placement in the skilled nursing facility is inappropriate due to potential danger to the health and welfare of the patient, other patients in the facility and/or staff of the facility; and

(2) When the skilled nursing care needs result directly and specifically from the mental disorder; i.e., are essentially symptoms of the mental disorder.

Section 6. Reserved Bed Days. The cabinet will cover reserved bed days (effective December 1, 1984) in accordance with the following specified upper limits and criteria.

(1) Reserved bed days will be covered for a maximum of fourteen (14) days per absence for a hospital stay with an overall maximum of forty-five (45) days per provider during the calendar year.

(2) Reserved bed days will be covered for a maximum of fifteen (15) days per provider during the calendar year for leaves of absence other than for hospitalization.

(3) Coverage during a recipient's absence for hospitalization or leave of absence is contingent on the following conditions being met:

(a) The person is in Title XIX payment status in the level of care he/she is authorized to receive and has been a resident of the facility at least overnight. Persons for whom Title XIX is making Title XVIII co-insurance payments are not considered to be in Title XIX payment status for purposes of this policy;

(b) The person can be reasonably expected to return to the same level of care;

(c) Due to demand at the facility for beds at that level, there is a likelihood that the bed would be occupied by some other patient were it not reserved;

(d) The hospitalization is for treatment of an acute condition, and not for testing, brace-fitting, etc.; and

(e) In the case of leaves of absence other than for hospitalization, the patient's physician orders and plan of care provide for such leaves. Leaves of absence include visits with relatives and friends, and leaves to participate in state-approved therapeutic or rehabilitative programs.

Section 7. The provisions of this regulation as amended shall be effective on September 1, 1985.

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 30, 1985

FILED WITH LRC: August 30, 1985 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 21, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by October 16, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected:  
Approximately 1,200 current recipients;



potentially, anyone Medicaid eligible.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$4,200,000 (savings)\*

2. Continuing costs or savings: \$5,100,000

3. Additional factors increasing or decreasing costs: Decreased costs after complete phase-in of policy.

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

\*Assumes \$6,500,000 in annual savings; with first year phase-in costs of \$2,300,000 and continuing costs of \$1,400,000.

Tiering:

Was tiering applied? No. Not applicable for Medicaid regulations.

**CABINET FOR HUMAN RESOURCES**  
Department for Social Insurance  
Division of Management & Development  
(Proposed Amendment)

904 KAR 2:006. Technical requirements; AFDC.

RELATES TO: KRS 205.010, 205.200(2),(3)

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has the responsibility under the provisions of KRS Chapter 205 to administer the assistance program of Aid to Families with Dependent Children, hereinafter referred to as AFDC, in accordance with Title IV-A of the Social Security Act. KRS 205.200(2) requires that the conditions of eligibility to receive AFDC money grants be prescribed by regulations in conformity with the Social Security Act and federal regulations. This regulation sets forth the technical requirements of residence, deprivation, living with a relative, age, one (1) category of assistance, work registration, cooperation in child support activities and potential entitlement for other programs for eligibility for AFDC.

Section 1. Residence and Citizenship. Residence is determined in accordance with 45 CFR 233.40 which, in summary, provides that a resident is anyone who is living in the state, entered the state with a job commitment or seeking employment, and is not receiving AFDC benefits from another state. Citizenship is determined in accordance with 45 CFR 233.50 which states that AFDC can be provided only to

citizens or aliens lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

Section 2. Deprivation. (1) To be eligible for AFDC, a child must be in need and must be deprived of parental support or care due to the death, continued absence from the home or physical or mental incapacity of a natural or adoptive parent. A married child living with her/his spouse in the home of her/his parents is not deprived of parental support or care. A married child living in the home of her/his parents but divorced or legally separated from her/his spouse is deprived of parental support if she/he is dependent on the parent and a parent is dead, incapacitated or continually absent from the home.

(2) Continued absence from the home. To be eligible for AFDC, a needy child must be physically separated from the parent and the nature of the absence of the parent is such as either to interrupt or terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child, and the known or indefinite duration of absence precludes counting on the parent's performance of his/her function in planning for the present support or care of the child. Absence may be voluntary or involuntary. Voluntary absence includes divorce, legal separation, marriage annulment, desertion of thirty (30) days or more, forced separation of seven (7) days or more, or birth out-of-wedlock. Involuntary absence includes commitment to a penal institution for thirty (30) days or more, long term hospitalization, deportation or single parent adoption. A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.

(3) Incapacity defined. Incapacity is any condition of mind or body which makes a parent physically or mentally unable to provide the necessities of life for his/her needy child. Incapacity exists when the following criteria are met:

(a) One (1) of the parents has a medically established physical or mental defect, illness or impairment.

(b) This condition substantially reduces or eliminates the parent's ability to support or care for the otherwise eligible child(ren). Ability to support and care requires consideration of the parent's age, education, training and work experience.

(c) This condition was present at the time of application and has continued or is expected to continue for at least thirty (30) days and may be presumed to continue during a period in which the parent is undergoing planned diagnostic studies and/or evaluation of rehabilitation potential.

(d) There is a causal relationship between the parent's incapacity and the child's deprivation of parental support or care.

(e) In considering a parent's ability to provide support or care, employment opportunities must be accessible in the county or community where that parent resides.

Section 3. Living with a Specified Relative. To be eligible for AFDC a needy child must be

living in the home of a relative as specified in the Social Security Act and interpreted as follows:

(1) A blood relative, including father, mother, grandfather, grandmother, brother, sister, uncle, aunt, nephew, niece, first cousin.

(2) Also relatives of the half-blood and preceding generations as denoted by prefixes of grand, great or great-great; a stepfather, stepmother, stepbrother, stepsister.

(3) Any person listed above if parent has acknowledged paternity in a written affidavit.

(4) Adoptive parents as well as the natural and other legally adopted children and other relatives of such parents.

(5) Husband or wife of any persons listed above even if the marriage may have terminated, providing termination occurred after the birth of the child.

(6) A child is considered as living in the home even when temporarily absent for medical care, attendance at boarding school, college or vocational school, emergency foster care or short visits with friends or relatives, if the parent continues to exercise control over the child.

Section 4. Age and School Attendance. A child may be eligible for AFDC from birth to age eighteen (18), or to age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program prior to or during the month of their nineteenth birthday. Full and part-time is defined in 904 KAR 2:016, standards for need and amount; AFDC. A child is considered in regular attendance in months in which he/she is not attending because of official school or training program vacation, illness, convalescence or family emergency unless he/she has indicated an intention not to re-enter school.

Section 5. One Category of Assistance. A child or adult relative shall not be eligible for AFDC if receiving supplemental security income.

Section 6. Strikers. (1) A family shall be ineligible for benefits for any month in which the natural or adoptive parent, with whom the child is living is, on the last day of such month, participating in a strike; and

(2) No individual shall be considered eligible for benefits for any month if, on the last day of such month, such individual is participating in a strike.

(3) Strike shall be defined to include a strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees.

Section 7. Work Registration. (1) Unless exempt under the criteria specified in Title IV of the Social Security Act and 45 CFR Section 224.20(b), an individual who has applied for or is receiving AFDC shall be ineligible for benefits if he/she refuses to register for the Work Incentive Program, (WIN) or if registered, refuses to participate without good cause. Participation in a strike shall not constitute good cause.

(2) Individuals exempt from WIN registration pursuant to 45 CFR 224.20(b) are as follows:

(a) An individual under age sixteen (16);

(b) A child age sixteen (16) to age eighteen (18), if enrolled as a full-time student; or to age nineteen (19), if a full-time student who meets the requirements set forth in Section 4 of this regulation;

(c) An individual who has a medically determined temporary illness or injury with recovery anticipated within ninety (90) days;

(d) An individual who has a medically determined physical or mental incapacity which is expected to exist longer than ninety (90) days;

(e) An individual age sixty-five (65) or over;

(f) An individual whose presence is required in the home to care for another member of the household who has been medically determined to be precluded from self-care and for whom alternate care arrangements are not feasible;

(g) A parent or other relative who cares for a child under six (6), and who personally provides full-time care of the child with only very brief and infrequent absences from the child. Brief and infrequent absences are defined as:

1. Employment by the caretaker relative of less than thirty (30) hours per week;

2. Less than full-time school attendance as specified in 904 KAR 2:016 by the caretaker relative;

3. Less than full-time attendance as specified in 904 KAR 2:016 and less than fifteen (15) hours per week employment by the caretaker relative;

4. Less than full-time attendance by the under six (6) year old child in a school or pre-school;

5. Attendance by the under six (6) year old child in kindergarten;

6. Additionally, brief and infrequent absences include:

a. Visits by the under six (6) year old child with relatives, friends, the absent parent, neighbors, etc.;

b. Visits by the caretaker relative with relatives, friends, neighbors, etc.;

c. Routine shopping and errands;

d. Doctor's visits; and

e. Short-term hospitalization (less than thirty (30) days).

7. If a parent or other caretaker relative is absent from the child for reasons other than these listed, the absence is not considered brief and infrequent.

(h) A person so far remote from a work incentive project that his/her effective participation is precluded;

(i) An individual who is employed not less than thirty (30) hours per week, in unsubsidized employment expected to last a minimum of thirty (30) days, except when there is a temporary break in such employment expected to last longer than ten (10) days;

(j) A woman who has been medically verified to be in the third trimester of pregnancy.

Section 8. Cooperation in Child Support Activities. (1) Inclusion of a specified relative in the AFDC budget is dependent upon his/her cooperation in child support activities pursuant to 45 CFR 232.12 and refusal, except for "good cause," results in ineligibility of the relative with AFDC payments on behalf of the child(ren) made to a protective payee.

(2) If, after exclusion from the grant for failure to cooperate, the individual states that he/she is willing to cooperate and wishes to be

reinstated, a supplemental application must be completed. If eligibility criteria are met, the individual will be added to the grant effective with the month of application and the protective payee will be removed.

(3) Pursuant to 45 CFR Part 232.40, the Cabinet for Human Resources will provide written notice to the applicant or recipient that he/she may claim good cause for refusing to cooperate.

(4) The applicant or recipient will be determined to have "good cause" for failing to cooperate only when one (1) or more of the following criteria is met:

(a) The applicant or recipient's cooperation is reasonably anticipated to result in physical or emotional harm of a serious nature to the child; or

(b) The applicant or recipient's cooperation is reasonably anticipated to result in physical or emotional harm of a serious nature to himself/herself to such an extent that it would reduce his/her capacity to care for the child(ren) adequately; or

(c) The child was conceived as a result of incest or forcible rape and the department believes it would be detrimental to the child to require the applicant's/recipient's cooperation; or

(d) Legal proceedings for adoption of the child by a specific family are pending before a court of competent jurisdiction; and the department believes it would be detrimental to the child to require the applicant's/recipient's cooperation; or

(e) The applicant/recipient is being assisted by a public or licensed private social agency to resolve whether to keep the child or release him/her for adoption and discussion has not gone on for more than three (3) months and the cabinet believes it would be detrimental to the child to require the applicant's/recipient's cooperation.

(5) Specific requirements in determining the existence of good cause and the time limits for providing substantiation of claims are made pursuant to the regulation at 45 CFR 232.42 and 45 CFR 232.43.

Section 9. Potential Entitlement for Other Programs. All applicants/recipients must apply for any statutory benefit(s) if potential entitlement exists. Failure to apply results in ineligibility for AFDC.

Section 10. Furnishing of Social Security Account Numbers. All applicants/recipients must furnish social security account numbers pursuant to 45 CFR 232.10.

Section 11. Assignment of Rights to Support. Pursuant to KRS 205.720, by accepting assistance for or on behalf of a child, a recipient is deemed to have made an assignment to the Cabinet for Human Resources of any child support owed for the child not to exceed the amount of AFDC payments made to the recipient.

Section 12. Assignment of Rights to Medical Support. By accepting assistance for or on behalf of a child, a recipient is deemed to have made an assignment to the Cabinet for Human Resources of any medical support owed for the child not to exceed the amount of medical assistance payments made on behalf of the recipient.

[Section 13. Provisions of this regulation shall be effective May 15, 1985.]

JACK F. WADDELL, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 27, 1985

FILED WITH LRC: September 13, 1985 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 21, 1985 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by October 16, 1985 of their desire to appear and testify at the hearing: R. Hughes Walker, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: Caretaker relatives who are required to register for WIN.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: The change in the regulation gives the criteria in defining "brief and infrequent" absences.

Tiering:

Was tiering applied? No. No applicable to AFDC regulations.

## PROPOSED REGULATIONS RECEIVED THROUGH SEPTEMBER 15

## LEGISLATIVE RESEARCH COMMISSION

1 KAR 5:010. Accession of public records by means of electronic data processing procedures.

RELATES TO: KRS Chapters 7 and 48, KRS 61.870 to 61.884.

PURSUANT TO: KRS 7.110, 7.320, 48.800, 61.870, 61.872, 61.874, 61.876, 61.878, 61.880, 61.882, 61.884.

NECESSITY AND FUNCTION: KRS 7.110(1) requires the Legislative Research Commission (LRC) to promulgate necessary regulations relating to the accession of those public records in machine readable form that LRC is empowered to inspect. KRS 48.800(5) requires each branch of government to make available public records relating to budgeting in machine readable form, to facilitate their accession by means of electronic data processing procedures employed by the LRC. KRS 61.870 to 61.884 authorizes the inspection of public records, and provides exceptions. This regulation defines essential terms and sets forth general provisions which apply to all public agencies, and their respective budget units that produce machine readable public records subject to inspection by LRC.

Section 1. Applicability. Public records accession regulations shall apply to all public agencies of government and budget units thereof, which utilize electronic data processing equipment and procedures to process public records.

Section 2. Definitions. (1) "Agency contact" means computer programming and operations personnel designated by the official custodian to work with the Legislative Research Commission to expedite a request.

(2) "Budget unit" means any subdivision of any branch of government, however designated, for which appropriations are requested.

(3) "Computer" means a device capable of accepting information, applying prescribed processes to the information, and supplying the results of these processes. It usually consists of input and output devices, storage, arithmetic, and logical units, and a control unit.

(4) "Custodian" means the official custodian or any authorized person having personal custody and control of public records.

(5) "Data" means any or all facts, numbers, letters, and symbols, or facts that refer to or describe an object, idea, condition or situation, which can be processed or produced by a computer.

(6) "Data processing" means the preparation of source media which contain data or basic elements of information, and the handling of such data according to precise rules of procedure to accomplish such operations as classifying, sorting, calculating, summarizing, and recording.

(7) "Electronic data processing" means data processing performed by a system of electronic or electrical machines so interconnected and interacting as to reduce to a minimum the need

for human assistance or intervention.

(8) "Documentation" means the historical reference and group of techniques necessary to detail the structure, organization, and presentation of recorded specialized knowledge in machine readable form.

(9) "Electronic data processing equipment" means a machine, or group of interconnected machines, consisting of input, storage, computing, control, and output devices, which uses electronic circuitry in the main computing element to perform arithmetic and/or logical operations automatically by means of internally stored or externally controlled programmed instructions.

(10) "File" means an organized collection of information directed toward some purpose.

(11) "Legislative Research Commission" means the Legislative Research Commission, its co-chairmen or director, any other member of the General Assembly authorized by the director, or any employee authorized by the director.

(12) "Machine readable" means information in the form of magnetic code or optical image that can be processed directly by computers and other related machines.

(13) "Official custodian" means the chief administrative officer or any other officer or employee of a public agency who is responsible for the maintenance, care and keeping of public records, regardless of whether such records are in his actual personal custody and control.

(14) "Public agency" means every state or local office, state department, division, bureau, board, commission and authority; every legislative board commission, committee and officer; every county and city governing body, council, school district board, special district board, municipal corporation, and any board, department, committee, subcommittee, ad hoc committee, council or agency thereof; and other body which is created by state or local authority and which derives at least twenty-five (25) percent of its funds from state or local authority.

(15) "Public record" means all official books, papers, exhibits, cards, tapes, discs, diskettes, readings, electronic images, electronic optical images or documentary materials regardless of physical form or characteristics, which are prepared, owned, used, in the possession of, received or retained by a public agency.

(16) "Read only access" means the ability to enter and make use of data stored in machine readable files, without altering its contents or form, or the file structure.

Section 3. Right to Inspection. (1) All public records in machine readable form not subject to restrictions provided in KRS 61.870 to 61.884 shall be made available by each public agency for inspection by the Legislative Research Commission. The official custodian of each public agency shall maintain and make available for copying a list, updated annually, detailing all computerized record systems and describing the machine readable records therein. This list shall be developed using records management standards established by the Department of Libraries and Archives pursuant to KRS 171.520 and 171.530.

(2) The Legislative Research Commission shall

have the right to inspect public records in machine readable form. The Legislative Research Commission shall notify the official custodian of its intention to inspect records and shall describe the records to be inspected. Within three (3) days of receiving the request, the official custodian shall instruct public agency personnel responsible for computer programming and operations to meet with Legislative Research Commission personnel at the earliest mutually agreeable time. When the assistance of the Department of Information Systems is necessary in order to comply with the Legislative Research Commission's request, Department of Information System personnel shall attend the meeting at the direction of the agency contact.

(3) All meetings pursuant to this regulation shall be for the purpose of defining the scope of the intended record inspection. Accordingly, meeting discussions shall include, but shall not be limited to, the following considerations:

- (a) The feasibility of read only access;
- (b) The manner in which the Legislative Research Commission plans to access the desired records;
- (c) The manner in which the public agency will make access available;
- (d) The characteristics and validity of the data to be accessed;
- (e) The format and structure of records files;
- (f) The time period access is to be valid, if access is feasible;
- (g) The security requirements for file access;
- (h) The level of effort, cost and time required to expedite the request.

(4) If the person to whom the application for inspection is directed does not have custody or control of the public record requested, he shall notify the Legislative Research Commission and shall furnish the name and location of the custodian of the public record.

(5) If the public record is in active use, in storage or not otherwise available, the official custodian shall immediately notify the Legislative Research Commission and shall designate a place, time and date for inspection of the public records, not to exceed three (3) days from the receipt of the request or the application, unless a detailed explanation of the cause is given for further delay and the place, time and earliest date on which the public record will be available for inspection is indicated. If the official custodian refuses to comply or determines the public agency cannot comply with the Legislative Research Commission's request to inspect records pursuant to meeting with Legislative Research Commission personnel, then he shall, within three (3) days following the meeting, provide a detailed explanation of the cause for noncompliance to the Legislative Research Commission personnel initiating the request.

Section 4. Copies of Records. Upon inspection, the Legislative Research Commission shall have the right to make copies of any machine readable public records and related documentation. If electronic data processing equipment utilized by LRC at the time of the request cannot provide such copies, the custodian shall make available to the Legislative Research Commission duplicates of the records inspected.

Section 5. Agency Procedures. In order to insure efficient and timely action in response

to a request for inspection, each public agency shall provide the following information to the Legislative Research Commission:

- (1) The principal office of the public agency and its regular office hours;
- (2) The title and address of the official custodian of the public agency's records;
- (3) The procedures, consistent with this regulation, to be followed in requesting access to public records in machine readable form. The cabinet for finance and administration may promulgate uniform administrative regulations governing these procedures.

VIC HELLARD, Director

APPROVED BY AGENCY: September 6, 1985

FILED WITH LRC: September 6, 1985 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 24, 1985, at 1 p.m. in Room 107 of the Capitol Annex. Those interested in attending this hearing shall contact: Jim Monsour, Systems Analyst, Legislative Research Commission, Room 37, Capitol Annex, Frankfort, Kentucky 40601.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Jim Monsour

(1) Type and number of entities affected: All entities defined as a "Public Agency" as provided in KRS 7.107(1) whose records are subject to inspection by LRC.

(a) Direct and indirect costs or savings to those affected: Agencies having computerized (machine readable) public records in their possession, or in the custody of the Dept. of Information Systems, will incur costs to make this information available to LRC. Depending on the form these records are in and how access to them is to be provided, costs could be incurred for tape mounting, copying, processing time, print-outs, and computer operator services.

1. First year: Total costs for all public agencies to comply with requests for inspection of machine readable records is estimated to be \$2,500 to \$5,000 per annum.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs (Note any effects upon competition): Costs would increase or decrease commensurate with an increase or decrease in the number of LRC's requests to inspect public records in machine readable form.

(b) Reporting and paperwork requirements: Agencies unable to comply with LRC's request to access public records in machine readable form must supply LRC a detailed explanation within 3 days of receiving the request.

(2) Effects on the promulgating administrative body: None.

(a) Direct and indirect costs or savings: None.

1. First year: None.

2. Continuing costs or savings: None.

3. Additional factors increasing or decreasing costs: None.

(b) Reporting and paperwork requirements: None.

(3) Assessment of anticipated effect on state and local revenues: None.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Does not apply.

(5) Identify any statute, administrative regulation or governmental policy which may be in conflict, overlapping, or duplication: None.

(a) Necessity of proposed regulation if in conflict: Does not apply.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Does not apply.

(6) Any additional information or comments: None.

Tiering:

Was Tiering applied? No. Requirements are the same for all agencies.

#### KENTUCKY HIGHER EDUCATION STUDENT LOAN CORPORATION

15 KAR 1:021. Repeal of 15 KAR 1:020.

RELATES TO: KRS 164A.060(2),(8)

PURSUANT TO: KRS 13A.100, 164A.060(8)

NECESSITY AND FUNCTION: 15 KAR 1:020 established policies for the purchase of Guaranteed Student Loans. The Kentucky Higher Education Student Loan Corporation (corporation) is authorized by statute to finance, make and purchase Guaranteed Student Loans. A 1983 amendment to the Higher Education Act of 1965, codified at 20 USC §1087-1(d)(2), would prohibit the corporation from engaging in "a pattern or practice which results in a denial of a borrower's access to loans...because of a borrower's...attendance at a particular eligible institution." The foregoing prohibition becomes applicable to the corporation in August, 1985, necessitating repeal of the corporation's purchasing policies under 15 KAR 1:020.

Section 1. 15 KAR 1:020 is hereby repealed.

PAUL P. BORDEN, Executive Director

APPROVED BY AGENCY: August 9, 1985

FILED WITH LRC: September 4, 1985 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing regarding this regulation is scheduled to be held at 1050 U.S. 127 South, Frankfort, Kentucky, on Monday, October 28, 1985, at 10 a.m. Any interested persons wishing to comment or attend the hearing pursuant to KRS Chapter 13A must submit their written comments or statement of intent to attend to: The Executive Director, Kentucky Higher Education Student Loan Corporation, 1050 U.S. 127 South, Frankfort, Kentucky 40601, no later than Wednesday, October 23, 1985. Absent such response from the public, the hearing may be cancelled.

Agency Contact Person: Richard Casey

(1) Type and number of entities affected: 268 financial institutions

(a) Direct and indirect costs or savings to those affected: None

1. First year: Proposed repeal of this regulation has no associated costs imposed on participating lenders. Likewise, no costs were imposed by the regulation, so no savings result from repeal. Repeal merely expands eligibility for student loans to be purchased. Therefore, repeal may result in increase in loan volume.

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Repeal of the regulation will result in some administrative cost savings by eliminating requirement for agency to send monthly reports, monitor default rates, and handle appeals of enforcement.

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Elimination of reporting requirement results from repeal.

(3) Assessment of anticipated effect on state and local revenues: Possible increase in agency revenue resulting from potential increase in loan volume.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Regulation must be repealed to comply with federal law.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: 20 USC §1087-1(d) requires repeal of regulation.

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: 15 KAR 1:020 set forth limitations on the eligibility of certain groups of student loans. Essentially, under the regulation, portfolios of student loans characterized by excessive default rates would not qualify for purchase by the Student Loan Corporation from originating lenders. The regulation established a system of monitoring default rates and attributing defaults to the lender and the school attended by the borrower. Federal Law 20 USC §1087-1(d) prohibits denial of loan purchase because of the borrower's attendance at a particular school. This law became applicable to the Student Loan Corporation in August, 1985. In order to demonstrate compliance with this federal law, it is necessary for the Student Loan Corporation to repeal 15 KAR 1:020.

Tiering:

Was tiering applied? No. Regulation is being repealed.

#### REVENUE CABINET

103 KAR 28:051. Leases and rentals.

RELATES TO: KRS 139.050, 139.090, 139.100, 139.110, 139.120, 139.210, 139.290, 139.310, 139.320, 139.330, 139.340, 139.430, 139.490, 139.600, 139.620

PURSUANT TO: KRS Chapter 13A

NECESSITY AND FUNCTION: To interpret the sales and use tax law as it relates to leases and rentals of tangible personal property.

Section 1. (1) General rules. On and after August 1, 1985, the lease or rental of tangible personal property for a consideration in Kentucky is treated as a sale or purchase the receipts of which are subject to the sales or use tax. The term "lease or rental" means the grant to another of the right to use or possess tangible personal property for a period of time

for a consideration. The term includes financing transactions by a financial institution or leasing affiliate of a financial institution although title is transferred principally for the purpose of securing the lessor's financial interest. The term does not include the lease or rental of real property or agreements which represent contracts for providing services. A service contract is any agreement which provides both services and tangible personal property for consideration where the performance of a service is the essence of the transaction. Persons engaged in leasing or renting tangible personal property for use in Kentucky are retailers who must register with the Revenue Cabinet to obtain a retail sales and use tax permit and report and pay the applicable tax derived from the gross lease or rental receipts. Lessors not registered with the Revenue Cabinet for sales and use tax purposes as of August 1, 1985, or who enter into business subsequent to this date, must register by filing a Kentucky Tax Registration Application, Revenue Form 10A100.

(2) Transitional rules. Lease or rental agreements involving tangible personal property executed on and after August 1, 1985 are subject to the sales and use tax. Receipts from lease or rental agreements for tangible personal property entered into prior to August 1, 1985 are subject to the tax effective August 1, 1985 unless the appropriate amount of tax was paid on the property on or before August 20, 1985, the due date of the July sales and use tax return. Persons claiming that receipts from lease or rental agreements are not taxable must retain documentary evidence to substantiate their exclusion from the measure of the tax. Receipts from lease or rental agreements entered into prior to August 1, 1985 which have qualified for this exclusion will become taxable when it is necessary to acquire tangible personal property after August 1, 1985 to replace the original leased or rented property to fulfill the terms of the agreement. Renewals or new lease or rental agreements executed subsequent to July 31, 1985 that involve property which was the subject of a lease or rental agreement executed prior to August 1, 1985 are subject to the tax regardless of whether or not tax was paid on the purchase price of the property on or before August 20, 1985. Lease or rental receipts based upon unwritten agreements are considered renewals or new lease or rental agreements subject to tax effective August 1, 1985. Lease or rental agreements which become effective on or after August 1, 1985 because of the exercise of a continuation option contained in a lease or rental agreement executed prior to August 1, 1985 are subject to tax. The tax applicable to the purchase price of tangible personal property, which is the subject of a lease or rental agreement entered into prior to August 1, 1985, that has not been remitted to the Commonwealth remains the liability of the lessor under prior law. This debt will not be relieved until payment of the tax and related charges or expiration of the period provided by law for timely assessment of unpaid liabilities.

(3) Resale. Tangible personal property purchased exclusively for lease or rental may be purchased for resale without payment of the tax at the time of purchase. Lessors must execute Revenue Form 51A105, Resale Certificate, to their suppliers. The purchase by lessors of parts and accessories which become part of the

leased or rented property may also be purchased under a resale certificate. However, property purchased by a lessee to maintain leased or rented property of a lessor is subject to the tax. Tangible personal property purchased for resale without payment of the tax and to be utilized exclusively for lease or rental, and so used, but subsequently used by the retailer/lessor for some purpose other than lease or rental becomes subject to tax upon such use. The tax is the responsibility of the retailer/lessor and is measured by the purchase price of the property and is in addition to the tax due on the lease or rental receipts. When tangible personal property is purchased in part for lease or rental and in part for use, such property may not be purchased from a vendor under a resale certificate and is subject to tax. Receipts from the lease or rental of such property by the purchaser are also taxable. Retailers who purchase tangible personal property for outright sale, but, while holding such property in their inventory, make use of the property in their business through lease or rental, are responsible for the tax applicable to such lease or rental receipts. When tangible personal property is purchased by a person for use in conducting a retail activity and has not been acquired for resale, the tax applies at the time of purchase. If during the course of ownership of the property, lease or rental of the property occurs, such leases or rentals are subject to tax. The amount charged for any rooms, lodgings or accommodations furnished to transients by the operator of any apartment house, hotel, inn, motel, tourist camp or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration is subject to the sales tax. However, persons who rent such accommodations to transients for a consideration may not issue a resale certificate for the lease or rental of items such as beds, bedding, other furniture and equipment. Business enterprises which furnish accommodations to transients are the consumers of such leased or rented tangible personal property. When tangible personal property has been purchased on or after August 1, 1985, by a retailer engaged exclusively in leasing or renting such property and the retailer has paid the sales or use tax applicable to the purchase price of the property, a deduction may be taken from the retailer's gross lease or rental receipts for an amount equal to the purchase price of the property. The deduction is contingent upon the retailer using the property exclusively for lease or rental.

(4) Gross receipts. Gross receipts from the lease or rental of tangible personal property shall include the total amount of payment or payments received by the lessor from the lessee as well as payments paid by the lessee to a third party for the benefit of the lessor which are required by the terms of the agreement. For example, gross receipts paid to third parties may include insurance charges paid to insure the property of the lessor or to insure the lessor against liability for damages to the property or person of others and amounts paid for property taxes of the lessor. However, charges by a lessor to a lessee for a separately executed maintenance agreement which is not a part of the lease or rental agreement are not subject to tax. Each period for which a lease or rental is payable shall be considered a complete



transaction in determining a "retailer" responsible for the tax in accordance with KRS 139.110(1)(c).

(5) Tax responsibility. Every retailer leasing or renting tangible personal property within this state is responsible for the sales tax applicable to gross lease or rental receipts. The retailer/lessor is permitted, but not required, to collect the sales tax from the customer/lessee. Every out-of-state retailer leasing or renting tangible personal property for storage, use or other consumption in this state is required to collect the use tax from the purchaser and remit the tax on gross lease or rental receipts to the Revenue Cabinet. The lessee's responsibility for the use tax is not relieved until payment of the amount due has been made to the Revenue Cabinet or to a retailer/lessor authorized to collect the Kentucky tax.

Section 2. Taxable Leases or Rentals. Leases and rentals of all kinds of tangible personal property, except motor vehicles and that property qualifying for exemptions provided in the sales and use tax law, are subject to the sales and use tax measured by the gross receipts derived from the lease or rental charge.

(1) Taxable leases or rentals include the following types of tangible personal property:

- (a) Aircraft;
- (b) Audio visual equipment;
- (c) Beverage and food dispensing equipment;
- (d) Bicycles;
- (e) Boats, canoes, houseboats and sailboats;
- (f) Bowling pinsetting equipment;
- (g) Campers that are not registered motor vehicles;
- (h) Camping equipment;
- (i) Carpet and rug cleaning equipment;
- (j) Construction equipment;
- (k) Communications equipment;
- (l) Computer hardware and software (includes timesharing);
- (m) Costumes;
- (n) Formal wear;
- (o) Garden and lawn equipment;
- (p) Golf carts and clubs;
- (q) Hospital equipment;
- (r) Household appliances and furniture;
- (s) Industrial equipment;
- (t) Microphone and stage equipment;
- (u) Musical instruments;
- (v) Office machinery and equipment;
- (w) Office trailers;
- (x) Oxygen equipment;
- (y) Party supplies;
- (z) Physical therapy equipment;
- (aa) Plants;
- (bb) Portable buildings and sheds;
- (cc) Portable toilets;
- (dd) Riding horses, apparel and equipment;
- (ee) Scaffolding;
- (ff) Ski equipment;
- (gg) Spraying equipment;
- (hh) Tanning beds;
- (ii) Telephones;
- (jj) Televisions;
- (kk) Tents;
- (ll) Tools;
- (mm) Video recorders and players;
- (nn) Video tapes, cassettes and related items.

(2) The foregoing examples are for illustration and are not intended to be all inclusive. When lease or rental activity

involves the lease or rental of real, tangible and intangible personal property, such as the lease or rental of a business operation or establishment, the total amount of the lease or rental receipts is subject to tax unless the amount applicable to the tangible personal property is separately stated. The amount separately stated for the tangible personal property cannot be less than the fair market lease or rental value for similar property for a similar rental or lease period. The lease or rental of tangible personal property between separate entities owned by the same or similar stockholders is subject to the tax unless otherwise exempted by the sales and use tax law. The tax is to be levied on the lease or rental amount charged or the fair market lease or rental amount, whichever is greater.

Section 3. Nontaxable Rentals or Leases. (1) The lease or rental of real property and the performance of a service do not represent the lease or rental of tangible personal property. Nontaxable receipts include but are not limited to the following:

- (a) Charges made for the use of a miniature golf course or golf driving range;
- (b) Charges made for the rental of safety deposit boxes;
- (c) Charges made for laundering or dry cleaning of apparel owned by customers;
- (d) Charges made for the use by individuals of coin operated laundry equipment;
- (e) Charges made for the use of docks and docking facilities furnished for boats;
- (f) Charges made for storage space in mini-warehouses;
- (g) Charges made for the rental of parking spaces in parking lots or garages;
- (h) Charges made for the lease or rental of office space or an office building;
- (i) Charges made for the lease or rental for a continuous period of ninety (90) days or more of furnished and unfurnished apartments;
- (j) Charges made for the rental of linens, uniforms, towels and diapers where recurring cleaning is the essence of the rental agreement;
- (k) Charges made for the cleaning of wall-to-wall carpet;
- (l) Charges made for lawn care service;
- (m) Charges made for a construction contract for erecting, remodeling, or repairing a building or other structure;
- (n) Charges made for equipment and an operator to perform certain work specified by the customer where the customer does not take possession or have any direction or control over the physical operation of the work to be performed;
- (o) Charges made for aircraft charters available to the general public;
- (p) Charges made for use by individuals of amusement machines such as video games, pinball machines, etc.;
- (q) Charges made for the use of lockers.

(2) The foregoing partial list of nontaxable receipts must not be construed to have application beyond the circumstances presented. For example, if an individual enters a business establishment and makes use of a video game machine by inserting twenty-five (25) cents, the receipts from the charge are not taxable. However, the person who is utilizing the video machine in the business operation may lease or rent outright the machine from another person

engaged in the business of leasing or renting such property. In this example, the amount or amounts paid to the video game machine owner/lessor by the business enterprise which made the machine available for use by the individual would represent taxable receipts from the lease or rental of tangible personal property.

**Section 4. Exemptions.** A lessor of tangible personal property should not include within the measure of the tax gross receipts from a lease or rental if the lessor takes from the purchaser a certificate of exemption as evidence that the property purchased will be used in an exempt manner under the sales and use tax law. Sales and use tax exemptions for which the lessee may qualify include, for example, machinery for new and expanded industry, farm machinery, and tangible personal property leased for use by certain religious, charitable, and educational institutions, historical sites, and units of the federal government, Kentucky state government and local governments within this state. When an out-of-state lessee leases tangible personal property from a Kentucky lessor for the purpose of using such property outside this state, and the property is, in fact, used outside this state, the initial lease payment will be subject to the Kentucky sales tax if the property is delivered to the lessee in this state and immediately taken outside this state for use. The initial lease payment may not be for an amount that is less than a proportionate amount of the total lease or rental payments to be made during the term of the agreement. In such cases, the lessor's records must clearly reflect the nature of the transaction. Should the property be returned to Kentucky, the receipts from use of the property in Kentucky are taxable. In the event the total amount of the lease is paid in a lump sum, the total amount would be subject to the Kentucky sales tax. The sales tax does not apply to gross receipts from leases or rentals in which the Kentucky lessor is obligated under the terms of the agreement with the lessee to make physical delivery of the property leased or rented from a point in this state to a point outside this state not to be returned to a point within this state for use provided that such delivery is actually made. The delivery may be made by the lessor's facilities or by common carrier.

**Section 5. Motor Vehicles.** The lease or rental of motor vehicles which are registered for use on the public highways and upon which any applicable tax levied under KRS 138.460 has been paid, is not subject to the sales or use tax. The applicable tax is the motor vehicle usage tax administered by the Motor Vehicle Usage Tax Section of the Revenue Cabinet. Motor vehicles which are not subject to the motor vehicle usage tax are subject to the sales and use tax.

**Section 6. Reciprocity.** The sales and use tax law provides for credit against the five (5) percent Kentucky use tax for state sales tax paid in another state which imposes a sales tax substantially identical to Kentucky's, provided the other state has a sales and use tax reciprocity statute similar to Kentucky's. In the past, credit for sales and use tax paid in a state having a reciprocity statute similar to Kentucky's has been allowable when evidence was

presented that the state sales or use tax was actually paid. In addition to this requirement, the taxing of lease and rental receipts necessitates additional requirements which have application only to lease and rental receipts. Reciprocity will apply to use tax due Kentucky on lease or rental receipts only if the reciprocal state has levied and is legally due the sales or use tax paid on lease or rental receipts derived from the storage, use of other consumption of property in Kentucky.

**Section 7. Construction Machinery and Equipment.** Persons engaged in the business of leasing or renting construction machinery and equipment are retailers responsible for reporting and remitting the sales and use tax. However, should the lessor's receipts from the lease or rental of construction machinery and equipment be nontaxable, the provisions of KRS 139.320 will apply to lessees of construction machinery and equipment brought into Kentucky for use. KRS 139.320 levies a use tax on construction machinery and equipment brought into Kentucky for use in construction projects. This use tax, which is separate and distinct from the normal use tax (KRS 139.310), is levied, in the case of leased and rented machinery and equipment, upon the lessee based upon the lease or rental payments made to an out-of-town lessor. While the law change effective August 1, 1985 provides for an exemption for gross receipts from lease or rental agreements entered into prior to August 1, 1985 when the applicable sales or use tax was paid on the purchase price of the property on or before August 20, 1985, the provisions of KRS 139.320 will still apply to any lease or rental of construction machinery and equipment and is the responsibility of the lessee. When reciprocity requires the recognition of a tax credit against the tax levied under KRS 139.310 as set forth in Section 6 of this regulation, the provisions of KRS 139.320 will apply to rental or lease payments made for construction machinery and equipment and is the responsibility of the lessee. Kentucky law does not permit reciprocity against the use tax levied under KRS 139.320.

**Section 8. 103 KAR 28:050, Rentals and leases,** is hereby repealed.

GARY W. GILLIS, Secretary

APPROVED BY AGENCY: September 13, 1985

FILED WITH LRC: September 13, 1985 at Noon

**PUBLIC HEARING SCHEDULED:** A public hearing on this regulation will be held on October 23, 1985, at 10 a.m. in Room 406 of the Capitol Annex, Frankfort, Kentucky. If no written notice of intent to attend the public hearing is received within five days before the scheduled hearing, the hearing will be cancelled. Those interested in attending shall notify in writing: Scott Akers, Revenue Cabinet, Division of Tax Policy and Legal Services, New Capitol Annex, Frankfort, Kentucky 40620.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Scott Akers

(1) Type and number of entities affected: This regulation results from the 1985 special session of the General Assembly which enacted sales and use tax legislation which affects the manner in

which persons engaged in renting and leasing of tangible personal property must report and pay the applicable tax. The amended law, effective August 1, 1985, treats each rental or lease payment made by a lessee to a lessor as a sale or purchase subject to tax. Therefore, persons renting or leasing tangible personal property for use in Kentucky must register with the Revenue Cabinet to report and pay the applicable tax derived from the gross rental or lease receipts.

(a) Direct and indirect costs or savings to those affected:

1. First year: While the lessor of tangible personal property in Kentucky is now a retailer for sales and use tax purposes, the tax burden applicable to such lease or rental receipts is one which will generally be borne by the lessee. The sales tax law permits the lessor of tangible personal property to pass the tax on to the lessee. In the case of the use tax, the lessor is required to collect from the lessee the appropriate amount of use tax.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: All persons engaged in leasing or renting tangible personal property the gross receipts from which are required to be included in the measure of the Kentucky sales and use tax will be required to file monthly returns to report and remit the appropriate tax.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Increase of administrative costs will arise because of printing expense attributable to an increased number of taxpayers, additional office audit personnel required because of problems associated with the implementation of a new law, additional enforcement personnel necessary to assist taxpayers in meeting their new responsibilities and training or public relations efforts required to inform the public.

2. Continuing costs or savings: In addition to the cost anticipated in the first year, the expense of bringing the new lease or rental taxpayers within the framework of the Cabinet's audit program will be incurred annually. This expense, however, will be small.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The normal reporting and paperwork attributable to routine maintenance of taxpayer records will be required.

(3) Assessment of anticipated effect on state and local revenues: An annual increase in general fund receipts of approximately \$5,000,000 per fiscal year. There will be no effect on local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: None. This regulation results because of sales and use tax legislation enacted by the 1985 special session of the Kentucky General Assembly.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None. However, it should be noted that regulations currently existing are being amended to eliminate any potential conflicts that might

exist because of this new legislation.

(a) Necessity of proposed regulation if in conflict: N/A

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Tiering is not applicable to this regulation since the terms and conditions of the regulation apply equally to all persons who are engaged in leasing or renting tangible property for use in Kentucky.

#### EDUCATION AND HUMANITIES CABINET Department of Education Office of Local Services

#### 702 KAR 5:140. Reimbursement for mid-day transportation of kindergarten pupils.

RELATES TO: KRS 157.370 and House Concurrent Resolution No. 5 (1985 Extraordinary Session)

PURSUANT TO: KRS 156.070, 157.320, 157.370

NECESSITY AND FUNCTION: KRS 157.370 sets forth the funding mechanism under the state Foundation Program for reimbursing school districts for transportation costs; and HCR No. 5 (1985 Extraordinary Session) evidences an intent to appropriate additional funds for the mid-day transportation of kindergarten pupils enrolled in one-half (1/2) day programs. This regulation is necessary in order to establish the method and steps by which reimbursement will be made to those districts which provide such transportation.

Section 1. The Superintendent of Public Instruction shall determine each district's mid-day kindergarten transportation tentative cost by applying the district's current net kindergarten density to the previous year's county district transportation graph and multiplying one-half (1/2) of the resulting graph adjusted cost per pupil per day by the aggregate number of days attendance kindergarten pupils will be transported one (1) mile or more to or from school at mid-day up to 175 days. A maximum graph adjusted cost per pupil per day will be established if the total tentative cost calculation for districts providing mid-day kindergarten transportation exceeds the budget appropriation, provided that no district shall receive more than the state average kindergarten graph adjusted cost per pupil per day.

Section 2. A district's current net kindergarten density shall be determined by dividing the district's net ADA for kindergarten pupils transported at mid-day one (1) mile or more to or from school by the number of square miles in the district's primarily served area. A district's primarily served area shall be determined as provided in 702 KAR 5:020, Sections 3 and 7.

Section 3. For the 1985-86 school year, the net ADA for a district's kindergarten pupils transported at mid-day shall be reported by the local superintendent for the first two (2) months of the current school year.

Section 4. The aggregate number of days a

district's kindergarten pupils are transported at mid-day shall be determined by multiplying the average daily attendance of those pupils for the first two (2) months of the current school year by .175 days.

Section 5. In the event a school district transports kindergarten pupils less than 175 days, the number of days less than 175 shall be multiplied by the net average daily attendance of transported kindergarten pupils and the resulting aggregate number of days shall be multiplied by the district's kindergarten graph adjusted cost per pupil per day to determine the amount to be deducted from the district's calculated tentative allotment. This adjustment shall be made in the final reimbursement payment to the district for mid-day kindergarten transportation.

ALICE MCDONALD, Superintendent

APPROVED BY AGENCY: September 10, 1985

FILED WITH LRC: September 13, 1985 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 23, 1985 at 9 a.m., EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Laurel True, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 18, 1985. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: William W. Ramsey

(1) Type and number of entities affected: Local school districts which provide mid-day kindergarten transportation.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: Reporting of mid-day transported pupils.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Calculating and reporting reimbursement

(3) Assessment of anticipated effect on state and local revenues: None.

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:

Tiering:

Was tiering applied? No. Need for uniformity in distribution of state funds.

#### PUBLIC PROTECTION AND REGULATION CABINET Department of Housing, Buildings and Construction Division of Building Codes Enforcement

815 KAR 7:031. Repeal of 815 KAR 7:030.

RELATES TO: KRS Chapter 198B, 227.480

PURSUANT TO: KRS 198B.040(7), 198B.050

NECESSITY AND FUNCTION: This regulation repeals 815 KAR 7:030 dealing with energy standards for new construction. That regulation is no longer necessary because the model energy code is directly referenced in the Kentucky Building Code, 815 KAR 7:020.

Section 1. 815 KAR 7:030 is hereby repealed.

CHARLES A. COTTON, Commissioner

MELVIN H. WILSON, Secretary

APPROVED BY THE AGENCY: August 15, 1985

FILED WITH LRC: September 4, 1985 at 2:30 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 24, 1985, at 10 a.m. in the offices of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by October 19, 1985, the hearing may be cancelled.

#### REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

(1) Type and number of entities affected: N/A

(a) Direct and indirect costs or savings to those affected:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: N/A

Tiering:

Was tiering applied? No. N/A

## REPRINT

COMPILER'S NOTE: As printed in the August Register, Section 2(3) of this regulation was not included in its entirety. Therefore, we are printing this amended regulation, which became effective on September 10, 1985.

**CABINET FOR HUMAN RESOURCES**  
**Department for Social Insurance**  
**Division of Management and Development**

904 KAR 1:150. Payments for alternative home and community based services for the mentally retarded.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the payment provisions relating to home and community based services provided to the mentally retarded as an alternative to intermediate care facility services for the mentally retarded.

Section 1. Coverage. The Cabinet for Human Resources shall reimburse participating providers of alternative intermediate services for the mentally retarded (AIS/MR) for services rendered to eligible medical assistance recipients who meet patient status criteria for intermediate care for the mentally retarded, and who are authorized for the AIS/MR service by the cabinet. The covered service elements are described and defined in 904 KAR 1:140, Alternative home and community based services for the mentally retarded, and services must be provided in accordance with the terms and conditions described therein. Payments may not exceed the limits specified in Section 3 of this regulation.

Section 2. Payment Amounts. (1) Residential services, including residential (home) training, personal care, and homemaker/home health aide, shall be paid for at the rate of forty (40) dollars per day.

(2) Case management services shall be paid for at the rate of forty (40) dollars per hour.

(3) Habilitation services shall be paid for at the rate of forty (40) dollars per hour; however, medical services and/or items (e.g., dentures, eyeglasses, hearing aids, etc.) prescribed for a recipient by an appropriate specialist as necessary to the client's habilitation but not otherwise covered by the medical assistance programs shall be paid for on the basis of reasonable cost. Minor home physical adaptations shall be paid for on the basis of reasonable cost not to exceed \$1,500 per client per patient year. The "patient year" for a client begins on the first day of admittance of the client to the AIS/MR program, with a new patient year beginning for that

client on that same day in each succeeding calendar year.

(4) Adult day habilitation services shall be paid for at the rate of five (5) dollars per hour.

(5) In-home support services shall be paid for at the following rates:

(a) In-home training services shall be paid for at the rate of forty (40) dollars per hour.

(b) Homemaker/home health aide support services shall be paid for at the rate of twenty (20) dollars per hour.

(c) Personal care services shall be paid for at the rate of twenty (20) dollars per hour.

(6) Respite care (twenty-four (24) hours or more) shall be paid for at the rate of thirty-two (32) dollars per day. Respite care (less than twenty-four (24) hours) shall be paid for at the rate of three (3) dollars and fifty (50) cents per hour, with the total not to exceed the upper limit of thirty-two (32) dollars for one (1) full day of care.

Section 3. Payment limits. (1) Payments shall be made on the above stated rate basis not to exceed the AIS/MR cluster annualized upper limit on payment.

(2) Under this system, an AIS/MR cluster will receive a total of Title XIX payments during the year in the amount of the established rates for services rendered Title XIX eligible recipients, so long as such payments (on a cumulative basis) do not exceed the annualized upper limits (total payment amount) which has been set for the cluster. Each cluster will also be required to maintain average expenditures per recipient (on a cumulative basis) as described by the Health Care Financing Administration, 42 CFR 441.303(d)(1), and interpreted for the AIS/MR cluster by the Cabinet for Human Resources.

(3) Utilizing the formula described in 42 CFR 441.303(d)(1) as a guideline and applying accumulated statistical data, the cabinet will set effective April [July] 1 each year the annualized upper limits and averages to be applied to the AIS/MR cluster services for the waiver year April 1 through March 31, applicable for waiver years beginning April 1, 1985 and thereafter [from July 1 to June 30 each year].

(4) The cabinet may reduce payment by the percentage amount which will assure that the payments to the cluster do not exceed the annualized upper limit or average expenditures. Reduction factors shall (to the extent possible) be applied in such a manner as to ensure as even flow of reimbursement to the AIS/MR cluster through the year, i.e., generally so as to ensure that the payments for any one (1) month do not exceed by a substantial amount the prorated annual amount.

(5) Any overpayment due the program at the end of the period as a result of exceeding the upper limit shall be recouped by settlement or by withholding payment. (9 Ky.R. 1084; eff. 6-1-83; Am. 10 Ky.R. 687; 1080; eff. 4-1-84; 12 Ky.R. 283; eff. 9-10-85.)

**ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE**  
**Minutes of the September 9-10, 1985 Meeting**

The September meeting of the Administrative Regulation Review Subcommittee was held on Monday, September 9, 1985 at 2 p.m. and on Tuesday, September 10, 1985 at 10 a.m. in Room 103. Representative Bill Brinkley, Chairman, called the meeting to order, and the secretary called the roll. On motion of Representative Bruce, seconded by Senator Quinlan, the minutes of the August 12-13, 1985 meeting were approved.

Present were:

**Members:** Representative Bill Brinkley, Chairman; Senators Harold Haering, Pat McCuiston and Bill Quinlan; Representatives James Bruce, Ed Holloway, and Joe Meyer.

**Guests:** Representative Woody Allen; Representative Pat Friebert; Betty Hurt, Rod Smith, 10/40 Club; Bruce Bailey, Don Dixon, Tenure Club; Julian Jackson, Rick Preston, Charles Buffin, Wanda Wilson-Hulette, Personnel Advisory Committee; George Parsons, David Routledge, Janice Parsons, Bill Stevens, Kentucky Association of State Employees; Buddy Johnson, Ky. IAPES; Arthur Hatterick, Jr., Personnel Board; Lewis N. Melton, Larry Perkins, Board of Professional Engineers and Land Surveyors; Thomas E. Dowler, Bob Arnold, Thomas M. Troth, J. D. Wolf, Department of Agriculture; Janet Rodgers, Nancy Brinly, Board of Physical Therapy; Michael Bradley, Corrections Cabinet; Karen Powell, Sandra G. Pullen, Mel Jenkins, Transportation Cabinet; John Carr, Ky. Association of Transportation Engineers; Gary Bale, Dorothy Archer, Margaret McClain, Department of Education; Rose Ashcraft, Guy Schoolfield, Tom Edwards, Labor Cabinet; Don Hogan, Barbara Coleman, Ked R. Fitzpatrick, Vic Gausepohl, Cliff Howard, Angie Scott, Mark Yancey, Hugh Spalding, Ken Jackson, Odella Furnish, Ishmael Preston, Edward E. Crews, Fred James, Patrick Bishop, Dorman Harrod, Cabinet for Human Resources; John W. Combs.

**LRC Staff:** Susan Wunderlich, Joe Hood, Gregory Karambellas, June Mabry, Donna Valencia, Chris Lilly, Gerard Donovan, and Carla Arnold.

**Press:** Paul Long, Billy Mallard, State Journal; Susan Warren, UPI.

The Administrative Regulation Review Subcommittee met on September 9-10, 1985, and submits the following report:

The Subcommittee had no objections to the following regulations, but makes the following recommendations or attachments:

**Personnel Board: Personnel Rules**

101 KAR 1:120 (Separations and disciplinary actions.) The subcommittee had no objection to the intention of the proposed amendment. However, it recognized the questions raised over authority to promulgate regulations governing the personnel system. The subcommittee referred the question of regulatory authority to the Personnel Subcommittee of the Interim Joint Committee on State Government for recommended legislation during the 1986 General Assembly.

**General Government Cabinet: Board of Registration for Professional Engineers and Land Surveyors**

201 KAR 18:150 (Standards of practice.) The subcommittee discussed a resolution forwarded by the Interim Joint Committee on State Government objecting to this proposed administrative regulation. It also reviewed the minutes of the August 14, 1985 meeting of the Interim Joint Committee on State Government in which that committee's objections were stated in detail. Subcommittee members listened to testimony presented by the representatives of State Board and by Rep. Pat Friebert. The subcommittee approved the following attachment to this proposed administrative regulation: "Because of serious questions raised indicating the possibility of adverse impact on the consumer, general public, and loan closings, the subcommittee approved a motion to request that the Interim Joint Committee on State Government again review this subject matter and propose legislation for the 1986 General Assembly."

The subcommittee took no action on the following regulation:

**Cabinet for Human Resources: Department for Health Services: Hospitalization of Mentally Ill and Mentally Retarded**

902 KAR 12:030 (Care and treatment of inmates of penal institutions.) The subcommittee directed that the following statement be attached to this regulation: "KRS 13A.290 requires that a representative of the promulgating administrative body knowledgeable of the proposed administrative regulation be present at the subcommittee meeting to respond to questions. There was no representative of the administrative body present. While the subcommittee recognizes that KRS Chapter 13A does not permit it to defer a proposed administrative regulation, in order for the subcommittee to perform the review mandated by KRS Chapter 13A, promulgating administrative bodies should insure compliance with KRS 13A.290."

The Subcommittee determined that the following regulations complied with KRS Chapter 13A:

**General Government Cabinet: Board of Physical Therapy**

201 KAR 22:031 (Therapist's licensing procedure.)

201 KAR 22:052 (Refusal, revocation, suspension or probation of license or certificate; administrative warning to licensee or certificent.)

201 KAR 22:106 (Assistant's certification procedure.)

**Department of Agriculture: Referendums**

302 KAR 1:030 (Bovine animals.)

**Livestock Sanitation**

302 KAR 20:010 (Definitions.)

302 KAR 20:065 (Sale and exhibition of livestock in Kentucky.)

Kentucky Grain Insurance and Grain Dealers  
302 KAR 34:040 (Receivership of grain  
 involunt dealers and warehousemen.)

Corrections: Office of Secretary  
501 KAR 6:010 (Corrections policies and  
 procedures.)

Transportation Cabinet: Administration  
600 KAR 1:045 (Disciplinary and separation  
 procedures.)

Traffic  
603 KAR 5:070 (Truck dimension limits.)

Education and Humanities Cabinet: Department of  
 Education: Office of Instruction: Instructional  
 Services

704 KAR 3:025 (Classroom units.)  
704 KAR 3:175 (Criteria for the unit of school  
 psychologist.)

Teacher Certification  
704 KAR 20:045 (Testing prerequisites for  
 teacher certification; certificate application;  
 beginning teacher internship program.)

Labor Cabinet: Occupational Safety and Health  
803 KAR 2:015 (General industry standards.)  
803 KAR 2:020 (Adoption of 29 CFR Part 1910.)

Cabinet for Human Resources: Department for  
 Health Services: Regional Mental Health-Mental  
 Retardation Boards

902 KAR 6:060 (MH/MR manuals for plan and  
 budget instructions, billing instructions and  
 reimbursement guidelines.)

Hospitalization of Mentally Ill and Mentally  
 Retarded

902 KAR 12:080 (Policies and procedures for  
 mental health/mental retardation facilities.)

Controlled Substances  
902 KAR 55:015 (Schedule I substances.)

Department for Employment Services:  
 Unemployment Insurance

903 KAR 5:130 (Appeals.)  
903 KAR 5:260 (Unemployment insurance  
 procedures.)

903 KAR 5:270 (Maximum weekly benefit rates.)

Employment Services  
903 KAR 6:020 (Weatherization assistance for  
 low income persons.)

Department for Social Insurance: Medical  
 Assistance

904 KAR 1:055 (Payments for primary care  
 center services.)

904 KAR 1:150 (Payments for alternative home  
 and community based services for the mentally  
 retarded.)

904 KAR 1:250 (Incorporation by reference of  
 materials relating to the Medical Assistance  
 Program.)

Public Assistance

904 KAR 2:140 (Supplementary policies for  
 programs administered by the Department for  
 Social Insurance.)

904 KAR 2:150 (Incorporation by reference of  
 materials relating to the Aid to Families with  
 Dependent Children Program.)

904 KAR 2:170 (Incorporation by reference of  
 materials relating to the Child Support Program.)

Food Stamp Program

904 KAR 3:090 (Incorporation by reference of  
 materials relating to the Food Stamp Program.)

Department for Social Services: Child Welfare

905 KAR 1:180 (DSS policy and procedures  
 manual.)

Children's Residential Services

905 KAR 7:110 (Northern Kentucky Treatment  
 Center policy and procedures manual.)

905 KAR 7:120 (Lake Cumberland Boys' Camp  
 policy and procedural manual.)

905 KAR 7:130 (Morehead Treatment Center  
 policy manual.)

905 KAR 7:140 (Central Kentucky Treatment  
 Center policy manual.)

905 KAR 7:150 (Green River Boys' Camp policy  
 manual.)

905 KAR 7:160 (Woodsbend Boys' Camp policies  
 and procedures manual.)

905 KAR 7:170 (Cardinal Treatment Center  
 policy and procedural manual.)

905 KAR 7:180 (Rice-Audobon policy and  
 procedural manual.)

905 KAR 7:190 (Lincoln Village policy and  
 procedural manual.)

905 KAR 7:200 (Re-Ed Treatment  
 policy/procedural manuals.)

905 KAR 7:210 (Central Kentucky Re-Ed Center  
 policy and procedural manual.)

The following regulation was deferred at the  
 agency's request:

Public Protection and Regulation Cabinet:  
 Harness Racing Commission: Quarter Horse,  
 Appaloosa, and Arabian Commission  
812 KAR 1:050 (Jockeys.)

The Subcommittee had no objections to  
 emergency regulations which had been filed.

The Subcommittee adjourned at 10:30 a.m. until  
 October 7, 1985.



CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates.....	D2
KRS Index.....	D5
Subject Index to Volume 12.....	D8

## LOCATOR INDEX -- EFFECTIVE DATES

NOTE: Emergency regulations expire 90 days from publication or upon replacement or repeal.

## VOLUME 11

Regulation	11 Ky.R. Page No.	Effective Date	Regulation	11 Ky.R. Page No.	Effective Date
1 KAR 1:010			405 KAR 18:050		
Amended	169		Amended	1851	8-13-85
405 KAR 7:020			405 KAR 18:170		
Amended	228	10-9-84	Amended	1864	8-13-85
Amended	1791	8-13-85	405 KAR 20:030		
405 KAR 7:080			Amended	1865	8-13-85
Amended	1800	8-13-85	804 KAR 4:250	360	9-11-84
405 KAR 12:010			Amended	1893	8-13-85
Amended	1831	8-13-85	804 KAR 11:030	1968	8-13-85
405 KAR 16:050			812 KAR 1:050		
Amended	1837	8-13-85	Amended	1505	
405 KAR 16:170			902 KAR 20:132		
Amended	1850	8-13-85	Amended	78	10-9-84
			Amended	1933	8-13-85

## VOLUME 12

Emergency Regulation	12 Ky.R. Page No.	Effective Date	Emergency Regulation	12 Ky.R. Page No.	Effective Date
301 KAR 2:044E	313	8-2-85	904 KAR 2:006E		
302 KAR 1:030E	99	7-2-85	Replaced	6	5-17-85
Replaced	345	9-10-85	Resubmitted	6	5-17-85
302 KAR 20:010E	101	7-2-85	Replaced		7-9-85
Replaced	220	9-10-85	904 KAR 2:140E	121	7-10-85
302 KAR 20:065E	102	7-2-85	Replaced	286	9-10-85
Replaced	221	9-10-85	904 KAR 2:150E	122	7-10-85
600 KAR 1:045E	315	7-26-85	Replaced	287	9-10-85
Replaced	293	9-10-85	904 KAR 2:170E	123	7-10-85
603 KAR 5:070E	104	7-8-85	Replaced	288	9-10-85
Replaced	231	9-10-85	904 KAR 2:200E	9	6-11-85
704 KAR 3:355E	391	7-13-85	Replaced	73	8-13-85
704 KAR 20:045E	107	6-26-85	904 KAR 3:090E	124	7-10-85
Replaced	239	9-10-85	Replaced	289	9-10-85
902 KAR 6:060E	109	7-10-85	905 KAR 1:180E	327	7-17-85
Replaced	258	9-10-85	Replaced	290	9-10-85
902 KAR 12:030E	110	6-27-85	905 KAR 6:020E	396	8-23-85
Replaced	260	9-10-85	905 KAR 7:030E	9	6-6-85
903 KAR 2:010E	1	6-11-85	Replaced	75	8-13-85
Expired		6-28-85	905 KAR 7:060E	14	6-11-85
903 KAR 5:270E	110	6-28-85	Replaced	79	8-13-85
Replaced	272	9-10-85	905 KAR 7:080E	14	6-6-85
903 KAR 6:020E	111	6-28-85	Replaced	80	8-13-85
Replaced	273	9-10-85			
904 KAR 1:010E	316	8-2-85			
904 KAR 1:011E	2	5-17-85			
Replaced	1938	7-9-85			
904 KAR 1:013E	317	8-2-85			
904 KAR 1:015E	319	8-2-85			
904 KAR 1:022E	394	8-30-85			
904 KAR 1:031E	319	8-2-85			
904 KAR 1:036E	112	6-28-85			
Expired		8-2-85			
Resubmitted	320	8-2-85			
904 KAR 1:045E	118	6-28-85			
Expired		8-2-85			
Resubmitted	326	8-2-85			
904 KAR 1:055E	119	6-28-85			
Replaced	282	9-10-85			
904 KAR 1:250E	120	7-10-85			
Replaced	284	9-10-85			
904 KAR 1:310E	327	8-2-85			

Regulation	12 Ky.R. Page No.	Effective Date
1 KAR 4:005		
Amended	22	8-13-85
1 KAR 5:010	456	
11 KAR 5:010		
Amended	408	
11 KAR 6:010		
Amended	408	
15 KAR 1:021	458	
101 KAR 1:120		
Amended	213	9-10-85
103 KAR 28:051	458	
200 KAR 14:080	83	8-13-85
201 KAR 1:062	84	
Withdrawn		6-28-85



# ADMINISTRATIVE REGISTER -- D3

Regulation	12 Ky.R. Page No.	Effective Date	Regulation	12 Ky.R. Page No.	Effective Date
201 KAR 3:065	86	8-13-85	603 KAR 3:030		
201 KAR 16:010			Amended	357	
Amended	409		603 KAR 5:070		
201 KAR 18:150	291	9-10-85	Amended	231	9-10-85
201 KAR 20:030			603 KAR 5:096		
Repealed	17	7-9-85	Amended	206	8-13-85
201 KAR 20:050			603 KAR 7:040		
Repealed	17	7-9-85	Amended	40	8-13-85
201 KAR 20:162	87		702 KAR 1:010		
Amended	328	8-13-85	Amended	410	
201 KAR 20:310			702 KAR 3:020		
Amended	17	7-9-85	Amended	412	
201 KAR 22:031			702 KAR 3:100		
Amended	215	9-10-85	Amended	413	
201 KAR 22:052			702 KAR 5:140	462	
Amended	217	9-10-85	702 KAR 7:090		
201 KAR 22:106			Amended	208	8-13-85
Amended	218	9-10-85	704 KAR 3:005		
301 KAR 2:044			Amended	414	
Amended	347		704 KAR 3:025		
301 KAR 2:045			Amended	234	9-10-85
Amended	18	7-9-85	704 KAR 3:175		
301 KAR 2:111			Amended	237	9-10-85
Amended	25	8-13-85	704 KAR 3:304		
301 KAR 2:210	89	8-13-85	Amended	209	8-13-85
301 KAR 3:030			704 KAR 3:355		
Amended	29	8-13-85	Amended	417	
302 KAR 1:030			704 KAR 7:020		
Amended	30		Amended	238	
Amended	345	9-10-85	Amended	396	
302 KAR 20:010			704 KAR 10:022		
Amended	220	9-10-85	Amended	420	
302 KAR 20:055			704 KAR 15:080		
Amended	19	8-13-85	Amended	209	8-13-85
302 KAR 20:065			704 KAR 20:005		
Amended	221	9-10-85	Amended	421	
302 KAR 34:040	293	9-10-85	704 KAR 20:045		
401 KAR 5:026			Amended	239	9-10-85
Reprint	303	4-9-85	704 KAR 20:290		
401 KAR 6:300			Amended	422	
Amended	143	8-13-85	705 KAR 4:210	295	
401 KAR 6:310			Amended	397	
Amended	144	8-13-85	706 KAR 1:010		
405 KAR 8:030			Amended	241	
Amended	158	8-13-85	Amended	398	
405 KAR 8:040			706 KAR 1:020		
Amended	170		Amended	210	8-13-85
Amended	330	8-13-85	707 KAR 1:051		
405 KAR 12:020			Amended	242	
Amended	184	8-13-85	Amended	398	
405 KAR 16:110			803 KAR 2:015		
Amended	187	8-13-85	Amended	252	9-10-85
405 KAR 16:130			803 KAR 2:020		
Amended	189	8-13-85	Amended	254	9-10-85
405 KAR 18:110			803 KAR 7:030		
Amended	197	8-13-85	Amended	210	8-13-85
405 KAR 18:130			805 KAR 7:040		
Amended	198	8-13-85	Amended	211	8-13-85
501 KAR 6:010			805 KAR 7:050		
Amended	32	8-13-85	Amended	211	8-13-85
Amended	223	9-10-85	805 KAR 7:070		
Amended	348		Amended	212	8-13-85
502 KAR 35:010	91	8-13-85	806 KAR 39:070		
502 KAR 35:020	92	8-13-85	Amended	19	
502 KAR 35:030	92	8-13-85	Amended	125	7-9-85
502 KAR 35:040	94	8-13-85	807 KAR 5:001		
502 KAR 35:050	95	8-13-85	Amended	127	7-9-85
600 KAR 1:040			807 KAR 5:006		
Repealed	315	7-26-85	Amended	423	
600 KAR 1:045	293	9-10-85	808 KAR 1:060		
601 KAR 1:020			Amended	40	8-13-85
Amended	356				

## ADMINISTRATIVE REGISTER - D4

Regulation	12 Ky.R. Page No.	Effective Date	Regulation	12 Ky.R. Page No.	Effective Date
808 KAR 1:070			904 KAR 1:010		
Amended	42	8-13-85	Amended	365	
808 KAR 1:080			904 KAR 1:012		
Amended	44	8-13-85	Amended	366	
808 KAR 10:210			904 KAR 1:013		
Amended	358		Amended	368	
808 KAR 11:010			904 KAR 1:015		
Amended	45	8-13-85	Amended	370	
808 KAR 11:020			904 KAR 1:018		
Amended	46	8-13-85	Repealed	327	8-2-85
811 KAR 1:070			904 KAR 1:022		
Amended	431		Amended	451	
811 KAR 1:075			904 KAR 1:031		
Amended	433		Amended	370	
815 KAR 7:010			904 KAR 1:036		
Amended	134	7-9-85	Amended	274	
815 KAR 7:031	463		Withdrawn		8-2-85
815 KAR 20:110			Amended	371	
Amended	47	8-13-85	904 KAR 1:045		
815 KAR 20:120			Amended	280	
Amended	436		Withdrawn		8-2-85
815 KAR 20:191			Amended	378	
Amended	49	8-13-85	904 KAR 1:055		
902 KAR 2:080			Amended	282	9-10-85
Amended	343	8-13-85	904 KAR 1:150		
902 KAR 2:090			Amended	283	
Amended	55	8-13-85	Reprint	464	9-10-85
902 KAR 6:060			904 KAR 1:250		
Amended	258	9-10-85	Amended	284	9-10-85
902 KAR 8:020			904 KAR 1:300	384	
Amended	439		904 KAR 1:310	386	
902 KAR 12:030			904 KAR 2:006		
Amended	260	9-10-85	Amended	453	
902 KAR 12:080			904 KAR 2:140		
Amended	56	8-13-85	Amended	286	9-10-85
Amended	260	9-10-85	904 KAR 2:150		
Amended	360		Amended	287	9-10-85
Amended	442		904 KAR 2:170		
902 KAR 13:020			Amended	288	9-10-85
Amended	444		904 KAR 2:200		
902 KAR 13:030			Amended	73	8-13-85
Amended	445		904 KAR 3:090		
902 KAR 13:050			Amended	289	9-10-85
Amended	445		905 KAR 1:150		
902 KAR 13:070			Amended	74	8-13-85
Amended	448		905 KAR 1:180		
902 KAR 13:080			Amended	290	9-10-85
Amended	449		905 KAR 3:040		
902 KAR 17:010			Amended	379	
Amended	450		905 KAR 7:030		
902 KAR 20:018			Amended	75	8-13-85
Amended	62	8-13-85	Repealed	302	9-10-85
902 KAR 20:200			905 KAR 7:060		
Amended	65	8-13-85	Amended	79	8-13-85
902 KAR 55:015			905 KAR 7:080		
Amended	266	9-10-85	Amended	80	8-13-85
903 KAR 2:010			Amended	379	
Amended	67		905 KAR 7:110		
Withdrawn		6-28-85	Amended	296	9-10-85
Repealed	111	6-28-85	905 KAR 7:120	297	9-10-85
903 KAR 5:130			905 KAR 7:130	297	9-10-85
Amended	267	9-10-85	905 KAR 7:140	298	9-10-85
903 KAR 5:260			905 KAR 7:150	299	9-10-85
Amended	70	8-13-85	905 KAR 7:160	299	9-10-85
Amended	270	9-10-85	905 KAR 7:170	300	9-10-85
Amended	363		Amended	382	
903 KAR 5:270			905 KAR 7:180	301	9-10-85
Amended	272	9-10-85	905 KAR 7:190	301	9-10-85
903 KAR 6:020			905 KAR 7:200	302	9-10-85
Amended	72		Amended	383	
Withdrawn		6-28-85	905 KAR 7:210	302	9-10-85
Amended	273	9-10-85	Amended	384	
			905 KAR 8:000	386	



## ADMINISTRATIVE REGISTER - D5

## KRS INDEX

KRS Section	Regulation	KRS Section	Regulation
Chapter 7	1 KAR 5:010	150.330	301 KAR 2:044
Chapter 13A	600 KAR 1:045		301 KAR 2:045
17.450	502 KAR 35:010		301 KAR 2:111
	502 KAR 35:020		301 KAR 2:210
	502 KAR 35:030		301 KAR 3:030
	502 KAR 35:040	150.340	301 KAR 2:044
	502 KAR 35:050		301 KAR 2:045
17.460	502 KAR 35:010		301 KAR 2:111
	502 KAR 35:020		301 KAR 2:210
	502 KAR 35:030	150.360	301 KAR 2:044
	502 KAR 35:040		301 KAR 2:045
	502 KAR 35:050		301 KAR 2:111
Chapter 18A	600 KAR 1:045		301 KAR 2:210
18A.005	101 KAR 1:120		301 KAR 3:030
18A.075	101 KAR 1:120	150.365	301 KAR 2:045
18A.095	101 KAR 1:120	150.370	301 KAR 2:045
18A.110	101 KAR 1:120		301 KAR 2:111
18A.165	101 KAR 1:120		301 KAR 2:210
Chapter 41	200 KAR 14:080	150.390	301 KAR 2:045
Chapter 42	200 KAR 14:080		301 KAR 2:111
45.350-45.359	1 KAR 4:005		301 KAR 2:210
Chapter 48	1 KAR 5:010	150.400	301 KAR 2:045
58.150	702 KAR 3:020		301 KAR 2:210
61.870-61.884	1 KAR 5:010	150.415	301 KAR 2:210
96A.010-96A.370	603 KAR 7:040	150.416	301 KAR 2:210
139.050	103 KAR 28:051	150.603	301 KAR 2:044
139.090	103 KAR 28:051	156.010	706 KAR 1:010
139.100	103 KAR 28:051		706 KAR 1:020
139.110	103 KAR 28:051	156.031	706 KAR 1:010
139.120	103 KAR 28:051	156.035	706 KAR 1:020
139.210	103 KAR 28:051	156.070	702 KAR 3:020
139.290	103 KAR 28:051		702 KAR 7:090
139.310	103 KAR 28:051		704 KAR 3:355
139.320	103 KAR 28:051	156.160	704 KAR 3:304
139.330	103 KAR 28:051		704 KAR 10:022
139.340	103 KAR 28:051	157.200-157.290	707 KAR 1:051
139.430	103 KAR 28:051	157.320	704 KAR 3:025
139.490	103 KAR 28:051		704 KAR 3:175
139.600	103 KAR 28:051	157.360	704 KAR 3:025
139.620	103 KAR 28:051		704 KAR 3:175
150.010	301 KAR 2:044		704 KAR 7:020
	301 KAR 2:045		707 KAR 1:051
	301 KAR 2:111	157.370	702 KAR 5:140
	301 KAR 2:210	157.390	702 KAR 3:100
	301 KAR 3:030	157.420	702 KAR 1:010
150.015	301 KAR 2:044		702 KAR 3:100
150.025	301 KAR 2:044		702 KAR 1:010
	301 KAR 2:045	157.622	702 KAR 1:010
	301 KAR 2:111	158.036	902 KAR 2:090
	301 KAR 2:210	158.037	902 KAR 2:090
	301 KAR 3:030	158.650-158.740	704 KAR 3:005
150.105	301 KAR 2:210	158.750	704 KAR 3:355
150.170	301 KAR 2:044	161.020	704 KAR 20:005
	301 KAR 2:045		704 KAR 20:045
	301 KAR 2:111	161.025	704 KAR 20:290
	301 KAR 2:210		704 KAR 20:005
	301 KAR 3:030		704 KAR 20:045
150.175	301 KAR 2:111		704 KAR 20:290
	301 KAR 2:210	161.030	704 KAR 15:080
150.300	301 KAR 2:044		704 KAR 20:005
	301 KAR 2:045		704 KAR 20:045
150.305	301 KAR 2:044		704 KAR 20:290
	301 KAR 2:045	161.044	704 KAR 15:080
	301 KAR 2:111	162.080-162.100	702 KAR 3:020
	301 KAR 2:210	162.120-162.290	702 KAR 3:020
150.320	301 KAR 2:044	162.300	702 KAR 3:020
		163.030	705 KAR 4:210

# ADMINISTRATIVE REGISTER - D6

KRS Section	Regulation	KRS Section	Regulation
163.140	706 KAR 1:010	Chapter 208 (cont'd)	905 KAR 7:140
	706 KAR 1:020		905 KAR 7:150
163.160	706 KAR 1:010		905 KAR 7:160
	706 KAR 1:020		905 KAR 7:170
164.740-164.764	11 KAR 5:010		905 KAR 7:180
164.744	11 KAR 6:010		905 KAR 7:190
164.748	11 KAR 6:010		905 KAR 7:200
164.753	11 KAR 6:010		905 KAR 7:210
164.780	11 KAR 5:010	Chapter 209	905 KAR 1:180
164.785	11 KAR 5:010	Chapter 210	902 KAR 12:080
174.080	600 KAR 1:045	210.370-210.460	902 KAR 6:060
177.020	603 KAR 3:030	211.180	902 KAR 2:090
186.021	806 KAR 39:070	211.960-211.968	902 KAR 13:020
186A.040	806 KAR 39:070		902 KAR 13:030
189.221	601 KAR 1:020		902 KAR 13:050
189.222	601 KAR 1:020		902 KAR 13:070
	603 KAR 5:070		902 KAR 13:080
	603 KAR 5:096		902 KAR 13:020
189.271	601 KAR 1:020	211.990	902 KAR 13:030
Chapter 194	902 KAR 17:010		902 KAR 13:050
194.030	903 KAR 6:020		902 KAR 13:070
	904 KAR 1:250		902 KAR 13:080
	904 KAR 2:140	Chapter 212	902 KAR 8:020
	904 KAR 2:150	214.034	902 KAR 2:090
	904 KAR 2:200	215.520	902 KAR 2:090
	904 KAR 3:090	215.520-215.600	902 KAR 20:200
	905 KAR 1:180	Chapter 216B	902 KAR 17:010
194.050	903 KAR 2:010	216B.010-216B.130	902 KAR 20:018
194.060	905 KAR 1:180	216B.010-216B.131	902 KAR 20:200
Chapter 196	501 KAR 6:010	216B.990	902 KAR 20:018
Chapter 197	501 KAR 6:010		902 KAR 20:200
199.011	905 KAR 1:150	Chapter 218A	902 KAR 55:015
199.011-199.375	905 KAR 1:180	223.400-223.460	401 KAR 6:300
199.335	905 KAR 1:150		401 KAR 6:310
199.420-199.990	905 KAR 1:180	223.991	401 KAR 6:300
200.080-200.120	905 KAR 1:180		401 KAR 6:310
Chapter 202A	905 KAR 7:030	230.630	811 KAR 1:070
	905 KAR 7:080		811 KAR 1:075
	905 KAR 7:110	230.640	811 KAR 1:070
	905 KAR 7:200		811 KAR 1:075
	905 KAR 7:210	230.700	811 KAR 1:070
202A.201	902 KAR 12:030	230.710	811 KAR 1:070
Chapter 205	904 KAR 2:140	Chapter 246	302 KAR 20:010
205.010	904 KAR 2:006	247.610-247.685	302 KAR 1:030
205.200	904 KAR 2:006	251.680	302 KAR 34:040
	904 KAR 2:150	251.700	302 KAR 34:040
205.201-205.204	905 KAR 1:180	Chapter 257	302 KAR 20:010
205.220	904 KAR 2:150		302 KAR 20:055
205.231	904 KAR 2:150		302 KAR 20:065
205.455-205.465	905 KAR 1:180	257.020	302 KAR 20:055
205.520	904 KAR 1:012	257.030	302 KAR 20:055
	904 KAR 1:013	257.040	302 KAR 20:055
	904 KAR 1:015	257.060	302 KAR 20:055
	904 KAR 1:022	257.070	302 KAR 20:055
	904 KAR 1:031	257.115	302 KAR 20:055
	904 KAR 1:036	273.446	1 KAR 4:005
	904 KAR 1:045		905 KAR 3:040
	904 KAR 1:055	273.453	1 KAR 4:005
	904 KAR 1:150	Chapter 278	807 KAR 5:006
	904 KAR 1:250	287.061	808 KAR 1:070
	904 KAR 1:300	287.095	808 KAR 11:020
205.550	904 KAR 1:010	287.100	808 KAR 1:080
205.560	904 KAR 1:010	287.103	808 KAR 1:080
205.900-205.920	905 KAR 8:090	287.180	808 KAR 1:060
205.795	904 KAR 2:170	287.900	808 KAR 11:010
Chapter 208	905 KAR 1:180	287.905	808 KAR 11:020
	905 KAR 7:030	288.450	808 KAR 1:070
	905 KAR 7:060	289.031	808 KAR 1:070
	905 KAR 7:080	289.061	808 KAR 1:060
	905 KAR 7:110	290.015	808 KAR 1:070
	905 KAR 7:120	290.055	808 KAR 1:060
	905 KAR 7:130	291.440	808 KAR 1:070



## ADMINISTRATIVE REGISTER - D7

KRS Section	Regulation
292.410	808 KAR 10:210
304.12-020	806 KAR 39:070
304.39-080	806 KAR 39:070
304.39-085	806 KAR 39:070
314.011	201 KAR 20:162
	201 KAR 20:310
314.031	201 KAR 20:162
314.071	201 KAR 20:162
314.091	201 KAR 20:162
314.111	201 KAR 20:310
314.161	201 KAR 20:162
314.991	201 KAR 20:162
Chapter 318	815 KAR 20:110
	815 KAR 20:120
	815 KAR 20:191
321.350	201 KAR 16:010
322.020	201 KAR 18:150
322.290	201 KAR 18:150
327.040	201 KAR 22:106
327.050	201 KAR 22:031
327.060	201 KAR 22:031
327.070	201 KAR 22:052
327.080	201 KAR 22:031
327.090	201 KAR 22:052
330.060	201 KAR 3:065
Chapter 338	803 KAR 2:015
	803 KAR 2:020
341.005-341.990	903 KAR 5:260
341.380	903 KAR 5:270
341.440	903 KAR 5:130
341.450	903 KAR 5:130
350.020	405 KAR 12:020
350.028	405 KAR 12:020
350.050	405 KAR 12:020
350.060	405 KAR 8:030
	405 KAR 8:040
350.085	405 KAR 12:020
350.090	405 KAR 16:130
	405 KAR 18:130
350.100	405 KAR 16:110
	405 KAR 18:110
350.113	405 KAR 12:020
350.130	405 KAR 12:020
350.151	405 KAR 8:040
	405 KAR 12:020
	405 KAR 18:110
	405 KAR 18:130
350.405	405 KAR 16:110
	405 KAR 18:110
350.410	405 KAR 16:130
	405 KAR 18:130
350.420	405 KAR 16:110
	405 KAR 18:110
350.440	405 KAR 16:130
	405 KAR 18:130
350.465	405 KAR 8:030
	405 KAR 12:020
	405 KAR 16:110
	405 KAR 16:130
	405 KAR 18:110
	405 KAR 18:130
350.990	405 KAR 12:020
351.102	805 KAR 7:070
351.105	805 KAR 7:030
	805 KAR 7:040
	805 KAR 7:050
	805 KAR 7:070
Chapter 439	501 KAR 6:010
HCR 5 (1985 S. Session)	702 KAR 5:140



## SUBJECT INDEX

### ACCOUNTANCY

Certification standards; 201 KAR 1:062

### AGRICULTURE

Grain Insurance, Grain Dealers  
 Receivership; 302 KAR 34:040  
 Livestock Sanitation  
 Brucellosis vaccination; 302 KAR 20:055  
 Definitions; 302 KAR 20:010 and E  
 Sale, exhibition; 302 KAR 20:065 and E  
 Referendums  
 Bovine animals; 302 KAR 1:030 and E

### AUCTIONEERS

License, active military duty; 201 KAR 3:065

### BLOCK GRANTS

Oversight procedures; 1 KAR 4:005

### CORRECTIONS

Policies and procedures; 501 KAR 6:010

### COMPUTER INFORMATION ACCESS

(See Legislative Research Commission)

### EDUCATION

Exceptional Children  
 Programs; 707 KAR Chapter 1  
 Instruction  
 Elementary, secondary; 704 KAR Chapter 10  
 Instructional services; 704 KAR Chapter 3  
 Student services; 704 KAR Chapter 7  
 Teacher certification; 704 KAR Chapter 20  
 Teacher education; 704 KAR Chapter 15  
 Local Services  
 Administration, general; 702 KAR Chapter 1  
 Pupil transportation; 702 KAR Chapter 5  
 School district finance; 702 KAR Chapter 3  
 School terms, attendance, operation; 702 KAR Chapter 7

### EMPLOYEES, STATE

Personnel Rules  
 Separations, disciplinary actions; 101 KAR 1:120

### EMPLOYMENT SERVICES

Employment Services  
 Weatherization; 903 KAR 6:020 and E  
 Human Services  
 Weatherization; 903 KAR 2:010 and E  
 Unemployment Insurance  
 Appeals; 903 KAR 5:130  
 Benefit rates, maximum weekly; 903 KAR 5:270 and E  
 Procedures; 903 KAR 5:260

### ENGINEERS, LAND SURVEYORS

Standards of practice; 201 KAR 18:150

### EXCEPTIONAL CHILDREN EDUCATION)

Programs; 707 KAR 1:051

### FINANCE, ADMINISTRATION

State Investment Commission; 200 KAR Chapter 14

### FINANCIAL INSTITUTIONS

Administration  
 Application, hearing procedure; 808 KAR 1:070  
 Investments by state-chartered banks; 808 KAR 1:080  
 Remote service units; 808 KAR 1:060

### FINANCIAL INSTITUTIONS (cont'd)

Multi-bank Companies  
 Acquisitions; 808 KAR 11:010  
 Procedures; 808 KAR 11:020  
 Securities  
 Federal regulation D; 808 KAR 10:210

### FISH, WILDLIFE RESOURCES

Game  
 Antlerless deer permits; 301 KAR 2:210  
 Deer, turkey hunting; special areas; 301 KAR 2:111  
 Migratory wildlife; 301 KAR 2:044 and E  
 Upland game birds; seasons, limits; 301 KAR 2:045  
 Hunting, Fishing  
 Year-round season; 301 KAR 3:030

### HARNESS RACING

(See Racing)

### HEALTH SERVICES

Certificate of Need and Licensure  
 Renal dialysis facilities; 902 KAR 20:018  
 Tuberculosis testing, long term care; 902 KAR 20:200  
 Communicable Diseases  
 Tuberculosis testing; 902 KAR 2:090  
 Controlled Substances  
 Schedule I; 902 KAR 55:015  
 Emergency Medical Technicians  
 Applicant requirements, training; 902 KAR 13:020  
 Fees; 902 KAR 13:030  
 Instructors, trainers; 902 KAR 13:070  
 Procedures; 902 KAR 13:080  
 Training, examination, certification; 902 KAR 13:050  
 Local Boards of Health  
 Policies, procedures; 902 KAR 8:020  
 Mental Health-Mental Retardation Boards  
 Budget manuals; 902 KAR 6:060 and E  
 Mentally Ill/Mentally Retarded  
 Facilities' policies, procedures; 902 KAR 12:080  
 Inmates of penal institutions; 902 KAR 12:030 and E  
 State Health Plan  
 Plan; 902 KAR 17:010

### HIGHER EDUCATION ASSISTANCE AUTHORITY

Grant Programs  
 Name of programs, purpose; 11 KAR 5:010  
 Work study program; 11 KAR 6:010

### HIGHER EDUCATION STUDENT LOAN CORPORATION

Guaranteed Student Loans, Loans to Parents  
 Repealer; 15 KAR 1:021

### HIGHWAYS

Maintenance  
 Road classification, primary; 603 KAR 3:030  
 Mass Transportation  
 Public transportation capital assistance program; 603 KAR 7:040  
 Traffic  
 Highway classifications; 603 KAR 5:096  
 Truck dimension limits; 603 KAR 5:070 and E



ADMINISTRATIVE REGISTER - D9

**HOUSING, BUILDINGS AND CONSTRUCTION**

**Building Code**

Repealer; 815 KAR 7:031

**Plumbing**

Minimum fixture requirements; 815 KAR 20:191

Traps, clean-outs; 815 KAR 20:110

Water supply, distribution; 815 KAR 20:120

**HUMAN RESOURCES**

**Employment Services**

Employment services; 903 KAR Chapter 6

Human services; 903 KAR Chapter 2

Unemployment insurance; 903 KAR Chapter 5

**Health Services**

Communicable diseases; 902 KAR Chapter 2

Controlled substances; 902 KAR Chapter 55

Emergency medical technicians; 902 KAR Chapter 13

Local Boards of Health; 902 KAR Chapter 8

Mentally ill/mentally retarded; 902 KAR

Chapter 12

Certificate of need and licensure; 902 KAR

Chapter 20

Mental health-mental retardation boards; 902

KAR Chapter 6

State health plan; 902 KAR Chapter 17

**Social Insurance**

Food stamp program; 904 KAR Chapter 3

Medical assistance; 904 KAR Chapter 1

Public Assistance; 904 KAR Chapter 2

**Social Services**

Aging services; 905 KAR Chapter 8

Child welfare; 905 KAR Chapter 1

Children's residential services; 905 KAR

Chapter 7

Community action agencies; 905 KAR Chapter 6

Program Management; 905 KAR Chapter 3

**INSTRUCTION**

**Elementary, Secondary**

School standards; 704 KAR 10:022

**Instructional Services**

Classroom units; 704 KAR 3:025

Educational Improvement Act; 704 KAR 3:005

Essential skills remediation; 704 KAR 3:355

Required program of studies; 704 KAR 3:304

School psychologist; 704 KAR 3:175

**Student Services**

Counselor; 704 KAR 7:020

**Teacher certification**

Early elementary level; 704 KAR 20:290

Preparation program approval; 704 KAR 20:005

Testing prerequisites, certificate, internship program; 704 KAR 20:045

**Teacher education**

Paraprofessional employees, volunteers; 704 KAR 15:080

**INSURANCE**

Motor Vehicle Repairation (No-Fault)

Proof of insurance; 806 KAR 39:070

**INVESTMENT COMMISSION (STATE)**

Repurchase agreement; 200 KAR 14:080

**JUSTICE**

**State Police**

Services Division; 502 KAR Chapter 35

**LABOR**

Occupational safety, health; 803 KAR Chapter 2

**LEGISLATIVE RESEARCH COMMISSION**

Block Grants; 1 KAR Chapter 4

Computer information access; 1 KAR Chapter 5

**LOCAL SERVICES, EDUCATION**

**Administration, General**

Facilities surveys, plans; 702 KAR 1:010

**Pupil Transportation**

Midday reimbursement; 702 KAR 5:140

**School District Finance**

Bond issue approval; 702 KAR 3:020

Data form; 702 KAR 3:100

**School Terms, Attendance, Operation**

Athletic program staff; 702 KAR 7:090

**MINES, MINERALS**

**Training, Education, Certification**

Annual retraining program; 805 KAR 7:030

Newly hired miners; 805 KAR 7:040

New work assignments; 805 KAR 7:050

Reporting procedures, record maintenance; 805 KAR 7:070

**NATURAL RESOURCES, ENVIRONMENTAL PROTECTION**

**Natural Resources**

Water; 401 KAR Chapter 6

**Reclamation**

Inspection, enforcement; 405 KAR Chapter 12

Permits; 405 KAR Chapter 8

Surface mining, standards for; 405 KAR Chapter 16

Underground mining, standards for; 405 KAR Chapter 18

**NURSING**

Disciplinary hearings; 201 KAR 20:162

Faculty; 201 KAR 20:310

**OCCUPATIONAL SAFETY, HEALTH**

General industry standards; 803 KAR 2:015

29 CFR Part 1910; 803 KAR 2:020

**OCCUPATIONS AND PROFESSIONS**

Accountancy; 201 KAR Chapter 1

Auctioneers; 201 KAR Chapter 3

Engineers, land surveyors; 201 KAR Chapter 18

Nursing; 201 KAR Chapter 20

Physical therapists; 201 KAR Chapter 22

Veterinary examiners; 201 KAR Chapter 16

**PERSONNEL**

(See also Employees, State)

Personnel rules; 101 KAR Chapter 1

**PHYSICAL THERAPISTS**

Assistant certification; 201 KAR 22:106

License refusal, revocation, suspension, probation; 201 KAR 22:052

Licensing procedure; 201 KAR 22:031

**PLUMBING**

(See Housing, Buildings & Construction)

**PUBLIC PROTECTION, REGULATION**

**Financial Institutions**

Administration; 808 KAR Chapter 1

Multibank companies; 808 KAR Chapter 11

Securities; 808 KAR Chapter 10

**Housing, Buildings and Construction**

Building code; 815 KAR Chapter 7

Plumbing; 815 KAR Chapter 20

**Insurance**

Motor vehicle reparations; 806 KAR Chapter 39

**Mines and Minerals**

Training, education, certification; 805 KAR Chapter 7

**Racing**

Harness racing rules; 811 KAR Chapter 1



ADMINISTRATIVE REGISTER - D10

**PUBLIC RECORDS**

LRC access; 1 KAR 5:010

**PUBLIC SERVICE COMMISSION**

General rules; 807 KAR 5:006

**RACING**

Harness Racing Rules

Licensing; 811 KAR 1:070

Racing, track rules; 811 KAR 1:075

**RECLAMATION, ENFORCEMENT**

Inspection, Enforcement

Enforcement; 405 KAR 12:020

Permits

Surface coal mining; 405 KAR 8:030

Underground coal mining; 405 KAR 8:040

Surface Mining Standards

Excess spoil, disposal; 405 KAR 16:130

Surface, ground water monitoring; 405 KAR 16:110

Underground Mining Standards

Excess spoil, disposal; 405 KAR 18:130

Surface, ground water monitoring; 405 KAR 18:110

**REVENUE**

Sales and Use Tax

Retail transactions; 103 KAR Chapter 28

**SOCIAL INSURANCE**

Food Stamp Program

Reference materials; 904 KAR 3:090 and E

Management and Development

Withholding federal share of payments; 904 KAR 1:300

Medical Assistance

Acute care, mental hospitals; 904 KAR 1:013 and E

Alternative home, community based services; mentally retarded; 904 KAR 1:150

Home health services; 904 KAR 1:031 and E

Inpatient hospital services; 904 KAR 1:012

Medical assistance reference materials; 904 KAR 1:250 and E

Mental health center services; 904 KAR 1:045 and E

Outpatient services, hospital; 904 KAR 1:015 and E

Physicians' services; 904 KAR 1:010 and E

Primary care center services; 904 KAR 1:055 and E

Repeal; 904 KAR 1:310 and E

Skilled nursing facility services; 904 KAR 1:022 and E

Skilled nursing, intermediate care; 904 KAR 1:036 and E

Technical eligibility requirements; 904 KAR 1:011E

Public Assistance

AFDC, reference material; 904 KAR 2:150 and E

AFDC, technical requirements; 904 KAR 2:006 and E

Child support program reference materials; 904 KAR 2:170 and E

Collections program; 904 KAR 2:200 and E

Supplementary policies; 904 KAR 2:140 and E

**SOCIAL SERVICES**

Aging Services

Personal care; 905 KAR 8:090

Child Welfare

"Baby Doe" regulation; 905 KAR 1:150 and E

DSS policy, procedures manual; 905 KAR 1:180

**SOCIAL SERVICES (cont'd)**

Children's Residential Services

Cardinal Treatment Center; policy, procedure manual; 905 KAR 7:170

Central Kentucky Re-Ed Center; policy, procedure manual; 905 KAR 7:210

Central Kentucky Treatment Center, policy manual; 905 KAR 7:140

Facilities capacities; 905 KAR 7:060 and E

Facilities manuals; 905 KAR 7:030 and E; 905 KAR 7:080 and E

Green River Boys' Camp, policy manual; 905 KAR 7:150

Lake Cumberland Boys' Camp; policy, procedure manual; 905 KAR 7:120

Lincoln Village; policy, procedure manual; 905 KAR 7:190

Morehead Treatment Center, policy manual; 905 KAR 7:130

Northern Kentucky Treatment Center; policy, procedures manual; 905 KAR 7:110

Re-Ed Treatment; policy, procedure manual; 905 KAR 7:200

Rice-Audubon; policy, procedure manual; 905 KAR 7:180

Woodsbend Boys' Camp; policy, procedure manual; 905 KAR 7:160

Community Action Agencies

CSBG program, state plan; 905 KAR 6:020E

Program Management

Allocation formula; 905 KAR 3:040

**STATE POLICE**

Services Division

Definitions; 502 KAR 35:010

Missing child information center; 502 KAR 35:020; 502 KAR 35:030

Reporting of missing children; 502 KAR 35:040

Statistical analysis; 502 KAR 35:050

**TAXATION**

Sales and Use; Retail Transactions

Leases, rentals; 103 KAR 28:051

**TOURISM**

Fish, Wildlife Resources

Game; 301 KAR Chapter 2

Hunting, fishing; 301 KAR Chapter 3

**TRANSPORTATION**

Administration

Disciplinary, separation procedures; 600 KAR 1:045 and E

Highways

Maintenance; 603 KAR Chapter 3

Mass transportation; 603 KAR Chapter 7

Traffic; 603 KAR Chapter 5

Vehicle Regulation

Motor carriers; 601 KAR Chapter 1

**VEHICLE REGULATION**

Motor Carriers

Industrial materials hauling, fee, bond; 601 KAR 1:020

**VETERINARY EXAMINERS**

Code of conduct; 201 KAR 16:010

**VOCATIONAL EDUCATION**

Instructional programs

Diploma requirements; 705 KAR 4:210

ADMINISTRATIVE REGISTER - D11

VOCATIONAL REHABILITATION

Administration

Independent living plan; 706 KAR 1:020

Three-year plan; 706 KAR 1:010

WATER

Sanitary Engineering

Water well construction; 401 KAR 6:310

Water well drillers; 401 KAR 6:300

