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This is an official publication of the Commonwealth of Kentucky, Legislative Research Commission, giving public notice of all proposed regulations filed by administrative agencies of the Commonwealth pursuant to the authority of Kentucky Revised Statutes Chapter 13.

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

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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 Hearing Scheduled

ENERGY REGULATORY COMMISSION

A public hearing will be held at 1 p.m. EDT September 4, 1980 in the Hearing Room of the Energy Regulatory Commission, 730 Schenkel Lane, Frankfort, Kentucky on the following regulation:

807 KAR 50:067. Electric consumer information. [7 Ky.R. 72]

Emergency Regulations Now In Effect

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 80-476
June 19, 1980

EMERGENCY REGULATION Department of Personnel Personnel Board

WHEREAS, due to budgetary considerations, reorganizations, and other circumstances, it has been necessary for various cabinets, departments and agencies in the executive branch of state government to lay off employees covered by the Merit System law, KRS Chapter 18; and

WHEREAS, there has been widespread concern regarding the procedures for notifying such employees of their lay-offs and the reemployment rights to which they may be entitled under Personnel Regulations promulgated pursuant to KRS Chapter 18; and

WHEREAS, the Personnel Board has recommended a regulation to address these areas of concern, and the Commissioner of the Department of Personnel and the Personnel Board have drafted, approved and submitted such a regulation; and

WHEREAS, the need for such a regulation is immediate to insure that employees who are laid off receive adequate notice of their lay-off and of their rights under the Merit System;

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

JOHN Y. BROWN, JR., Governor
FRANCES JONES MILLS, Secretary of State

SECRETARY OF THE CABINET
Department of Personnel

101 KAR 1:120E. Separations and disciplinary actions.

RELATES TO: KRS 18.110, 18.170, 18.210, 18.240, 18.270

PURSUANT TO: KRS 13.082, 18.170, 18.190, 18.210

EFFECTIVE: June 26, 1980

EXPIRES: October 24, 1980

NECESSITY AND FUNCTION: KRS 18.170 requires the Personnel Board to adopt comprehensive rules consistent with KRS Chapter 18. KRS 18.190 requires the Commissioner of Personnel to prepare and recommend to the board rules which provide for layoffs and for separation of employees deemed unsatisfactory or excessive by agency or department heads. KRS 18.210 requires the commissioner to prepare and submit to the board rules which provide for layoffs, imposition of fines of not more than ten (10) days' pay, suspension without pay for not longer than thirty (30) days, and for discharge or reduction in rank. This rule is necessary to comply with these statutory requirements.

Section 1. General Provisions. Except as otherwise provided in these rules, the tenure of an employee with status shall be during good behavior and the satisfactory performance of his duties.

Section 2. Layoffs. (1) An appointing authority may layoff an employee in the classified service whenever he deems it necessary by reason of shortage of funds or work, abolishment of a position, or other material change in duties or organization. An employee with status may appeal his lay-off in accordance with 101 KAR 1:130. The employee shall be notified of the effective date at least fourteen (14) calendar days prior to such effective date and shall be given written notice of the reasons for the layoff and of his right to appeal. The appointing authority shall conduct a personal interview with each laid-off employee to explain the re-employment rights available to that employee under the merit system regulations, unless cir-

cumstances prevent such an interview; such circumstances must be detailed in writing to the Commissioner of Personnel.

(2) Seniority, performance appraisals, conduct, qualifications and type of appointment shall be considered in determining the order of layoffs in a manner prescribed or approved by the commissioner. No status employee is to be separated by layoff while there are provisional, temporary, emergency, or probationary employees serving in the agency in the same class in the same locality.

(3) The appointing authority and the department shall attempt to place the employee in another position for which the employee is qualified.

Section 3. Dismissals. (1) The appointing authority may remove any employee with status only for cause after furnishing the employee and the commissioner with a written statement of the specific reasons for dismissal. Such reasons shall be specific as to the statutory and/or rule violation, the time, place, and persons by name involved in the alleged violation, and a specific description of the alleged unlawful activity. Notifications of dismissal that do not properly specify the reasons shall be considered invalid and the employee shall remain on the payroll until such time as proper charges are affected.

(2) Notifications of dismissal shall inform the employee that he has ten (10) working days, not including the date the notice is received, to reply thereto in writing, or upon request, to appear personally with counsel and reply to the appointing authority or his deputy.

(3) An employee with status may appeal his dismissal as set forth in 101 KAR 1:130.

(4) A dismissed employee may be required to forfeit all accrued leave.

(5) Any employee who has been dismissed for cause or who has resigned while charges for dismissal for cause were pending and who seeks further employment with the state shall not be certified to the agency from which separated unless the agency requests such certification.

Section 4. Separation During Probationary Period. An employee may be separated without the right of appeal at any time during the probationary period as set forth in 101 KAR 1:100, Section 3.

Section 5. Resignations. An employee who desires to terminate his service with the state shall submit a written resignation to the appointing authority. Resignations shall be submitted at least fourteen (14) calendar days before the final working day. A copy of an employee's resignation shall be attached to the advice effecting the separation and be filed in the employee's service record in the department. Failure of an employee to give fourteen (14) calendar days notice with his resignation may result in forfeiture of accrued annual leave.

Section 6. Retirement. If an employee with status is retired, he is considered as separated without prejudice and does not have the right of appeal.

Section 7. Suspensions. An appointing authority, upon written notice stating the reasons therefor, a copy of which shall be sent to the commissioner, may suspend an employee without pay or other compensation as punishment for disciplinary cause. In the case of an employee with status, such reasons shall be specific as to the statutory and/or rule violation, the time, place, and persons by name involved in the alleged violation, and a

specific description of the alleged unlawful activity. Such a suspension shall not exceed thirty (30) working days during any twelve (12) month period. The twelve (12) month period begins with the first day of the suspension. An employee with status may appeal his suspension as set forth in 101 KAR 1:130.

Section 8. Disciplinary Fines. An appointing authority may impose as a disciplinary measure, a fine of not more than ten (10) days pay to be computed on the basis of the employee's current salary. Disciplinary fines may not exceed ten (10) days pay for each occurrence, and may not exceed a total of thirty (30) days pay in any twelve (12) month period. The twelve (12) month period begins with the first day of the disciplinary fine. The employee shall be notified in writing by the appointing authority of the reasons for the action, a copy of which shall be sent to the commissioner. In the case of an employee with status, such reasons shall be specific as to the statutory and/or rule violation, the time, place, and persons by name involved in the alleged violation, and a specific description of the alleged unlawful activity. An employee with status may appeal the action in accordance with the provisions of 101 KAR 1:130. For purposes of 101 KAR 1:130, the effective date of a disciplinary fine shall be deemed to be the date the employee receives the notification required by this section.

Section 9. Written Reprimands. An appointing authority may give an employee a written reprimand as a preliminary disciplinary measure. A copy of the written reprimand shall be placed in the employee's personnel file in the agency and a copy shall be given to the employee. The employee shall be given the opportunity to reply in writing to the written reprimand and to include this reply in his personnel file with the written reprimand. The employee shall be informed of his right to reply at the time the written reprimand is given. A written reprimand, in and of itself, is not an appealable penalization and is not a basis for appeal.

DICK ROBINSON, Commissioner
PHILIP TALIAFERRO, Chairman

ADOPTED: June 17, 1980

RECEIVED BY LRC: June 26, 1980 at 3:30 p.m.

JOHN Y. BROWN, JR., Governor
Executive Order 80-1
July 14, 1980

EMERGENCY REGULATIONS Department of Agriculture

WHEREAS, the temperatures throughout the Southwestern part of the United States have become so egregious that livestock from said region are being moved in ever-increasing numbers into the Commonwealth of Kentucky to avoid the aforesaid terrible weather conditions; and

WHEREAS, it is imperative that said livestock entering on a tube or card test within thirty days before entry be retested thereafter and be quarantined pending negative retest results; and

WHEREAS, the need for such regulations are immediate to insure that said entering livestock neither carry nor spread brucellosis to the livestock presently located in the Commonwealth of Kentucky:

NOW, THEREFORE, I, Joseph W. Prather, Acting Governor of the Commonwealth of Kentucky, by the authority vested in me by KRS 13.085(2), do hereby acknowledge the finding of the Department of Agriculture that an emergency exists and direct that the attached regulations become effective immediately upon being filed with the Legislative Research Commission.

JOSEPH W. PRATHER, Acting Governor
FRANCES JONES MILLS, Secretary of State

CABINET FOR DEVELOPMENT
Department of Agriculture
(Proposed Amendment)

302 KAR 20:040E. Entry into state.

RELATES TO: KRS Chapter 257

PURSUANT TO: KRS 13.082, Chapter 257

EFFECTIVE: July 15, 1980

EXPIRES: Sine Die adjournment of 1982 regular session of the General Assembly, or upon being replaced through regular procedure.

NECESSITY AND FUNCTION: To specify health requirements for admission of all livestock and animals into Kentucky.

Section 1. General Provisions. (1) All animals, except as noted, shall be accompanied by an approved health certificate. Health certificates shall be void thirty (30) days after issuance. A health certificate means a legible record covering the requirements of the state of destination accomplished on an official form of a standard size from the state of origin or an equivalent form of the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture, that is prepared and issued by a licensed, accredited veterinarian. An approved health certificate means an official health certificate approved by the chief livestock sanitary official of the state of origin.

(2) If animals are from tuberculosis accredited or brucellosis certified herds, health certificates shall show accreditation and certification number with date of last herd test for tuberculosis and brucellosis.

Section 2. Cattle. (1) Brucellosis:

(a) No titer resulting from the standard tube test shall be accepted unless the animal or animals to be imported are negative to an official card test. Titer of 1-50 is accepted provided it is negative to the card test.

(b) Official vaccinate: A female bovine animal vaccinated with an approved Brucella vaccine while three (3) through eight (8) months of age permanently identified as a vaccinate. Date of birth and date of vaccination shall be recorded on the health certificate.

(c) Modified certified state: Thirty (30) day tube or card test of individual. Cattle six (6) months of age or older for dairy and breeding purposes, except official vaccinates of the beef breeds under twenty-four (24) months of age and dairy breeds under twenty (20) months of age may be imported into the Commonwealth of Kentucky provided they

have passed a negative brucellosis tube or card test within thirty (30) days of date of entry, or originate directly and immediately from a certified herd provided the animals to be imported have qualified as negative members of the certified herd on the last annual certification test. *All cattle entering on a tube or card test within thirty (30) days before entry shall be retested within forty-five (45) to 120 days after entry into the Commonwealth and shall be placed under quarantine pending negative retest results.*

(d) Bison six (6) months of age or older except official vaccinates twenty-four (24) months and under shall be negative to tube or card test within thirty (30) days of date of entry.

(e) State not modified certified: Permit shall be obtained prior to movement for all cattle for breeding and dairy purposes. These cattle must comply with federal regulations.

(2) Tuberculosis:

(a) Cattle six (6) months of age or older for dairy and breeding purposes shall be negative to an official tuberculin test within thirty (30) days of date of entry, or originate directly and immediately from:

1. Accredited herd, or
2. Eradicated free state.

(b) Cattle classified as suspects or cattle originating from a quarantined herd shall not be imported.

(c) Reciprocal agreements with adjoining states may be effective in lieu of specific requirements.

(d) Bison six (6) months of age or older negative within thirty (30) days of entry.

(3) Other disease requirements:

(a) Scabies: No cattle affected with or exposed to scabies or from an area quarantined because of scabies shall be imported, shipped, driven or otherwise moved into Kentucky except in accordance with regulations of the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture, and only then after first securing written permit from the chief livestock sanitary official or his authorized representative.

(b) Ticks: No cattle infested with ticks (*Margarophus Annulatus*) or exposed to tick infestation shall be shipped, trailed, driven or otherwise moved into Kentucky for any purpose.

(c) No cattle from a state-federal tick quarantined area shall be shipped, trailed, driven or otherwise moved into Kentucky except in accordance with regulations of the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture, and only then after first securing written permit from the chief livestock sanitary official or his authorized representative.

(d) Cattle infected with warts, ringworm or any infectious or communicable disease are not eligible for entry.

(4) Other Movements:

(a) Feeder Cattle: Feeder cattle as defined (non-pregnant heifers, steers and bulls under two (2) years of age) may be imported without brucellosis and tuberculosis tests from herds or areas not under quarantine if accompanied by approved health certificate or written permit or both for movement to a feed lot with valid feeding permit or to a state-federal approved stockyard or public stockyard for reconsignment to a valid feeding permit where they shall be maintained separately and apart from all dairy and breeding cattle. Feeder cattle from non-modified certified areas are not eligible for entry except from qualified herds.

(b) Slaughter cattle: Cattle consigned for immediate slaughter may be imported without official test for brucellosis or tuberculosis provided such cattle are consigned for immediate slaughter to a recognized slaughtering center under state, federal or municipal inspection or to

an approved state-federal stockyard or federal stockyard for reconsignment directly to a recognized slaughtering center. Any animal or animals diverted enroute will be in violation of this regulation.

(c) Calves six (6) months of age and under: No restriction if accompanied by an approved health certificate provided such imports are in compliance to general provisions as specified. Exception: Calves from non-modified certified area must originate from a herd known not to be infected with brucellosis.

(5) Exhibition:

(a) Brucellosis:

1. Breeding cattle six (6) months of age or older, except official female brucellosis vaccinates of the beef breeds under twenty-four (24) months of age and dairy breeds under twenty (20) months of age, shall be negative to an official tube or card test for brucellosis within thirty (30) days of entry or originate directly and immediately from a certified herd, provided cattle for exhibition have qualified as negative members of certified herd on last annual certification test.

2. Steers and heifers for carcass classes shall be positively identified but shall not be required to be brucellosis tested if accompanied by an approved health certificate.

(b) Tuberculosis:

1. Cattle six (6) months of age or older shall be negative to an official tuberculin test within thirty (30) days of entry or originate directly and immediately from an accredited herd or a tuberculosis eradicated free state.

2. Reciprocal agreements with adjoining states may be effective in lieu of specific requirements.

3. Steers and heifers for carcass classes shall be positively identified but shall not be required to be tuberculosis tested if accompanied by approved health certificate.

Section 3. Horses. (1) All horses entering Kentucky, except unweaned foals, and other equidae, for any purpose other than for immediate slaughter shall be accompanied by an official health certificate of state of origin issued by a state, federal or licensed accredited veterinarian and such certificate shall include:

(a) Veterinarian's statement that examination was made within the past thirty (30) days and revealed the animal to be free from symptoms of any infectious disease or exposure thereto, and

(b) Have attached thereto a copy of certificate of report from a laboratory approved by the USDA showing the animal(s) to be negative to AGID test for equine infectious anemia within the past six (6) months.

(2) All horses past six (6) months of age and other equidae offered for public sale shall be negative to AGID test within past six (6) months. Only horses offered for sale for slaughter only shall be exempt from this requirement.

(3) All horses and other equidae offered for entry into fairgrounds, livestock showgrounds, public boarding stables and for trail rides or racing shall be negative to test for AGID within twelve (12) months and shall be accompanied by certificate of report from a laboratory approved by the USDA.

(4) All reactors to AGID test for equine infectious anemia shall be officially, permanently identified using numbers and letter 61A with a brand on left neck region.

(5) All reactors not slaughtered or euthanized shall be isolated and quarantined. This isolation shall include stabling in a stall that is screened to preclude entry and exit of mosquitoes, stable flies and horse flies during those seasons of the year when such insects are prevalent. These

animals will also be kept at least two hundred (200) yards from all other horses.

(6) The movement of any quarantined reactor shall be done only on permission of representative of the Department of Agriculture.

(7) All horses in a herd in which a reactor is found shall be quarantined pending a negative test of all horses.

Section 4. Swine. (1) Specific diseases:

(a) Garbage fed swine: Swine fed raw garbage shall not be imported for any purpose. Swine fed properly cooked garbage are eligible for import directly to a state or federal inspected slaughtering establishment only.

(b) Brucellosis: All swine for breeding purposes six (6) months of age or older shall be negative to an official test for brucellosis within thirty (30) days of date of entry or originate directly and immediately from a validated herd provided animals to be imported were tested on last validation herd test. No agglutination in dilution of 1-50 shall be accepted unless the individual or individuals to be imported are negative to an official card test.

(c) Hog cholera:

1. No treatment required or allowed.

2. Permit: A permit is required from the state veterinarian's office before entry on breeding and feeding swine in the event of an emergency disease outbreak.

3. All feeding and breeding swine to be held in isolation and under quarantine for a minimum of thirty (30) days.

4. All swine for feeding and breeding purposes must be identified by ear tag or ear notch to the farm of origin.

(d) Pseudorabies: All swine imported for feeding and breeding purposes six (6) months of age or older shall be negative to the serum neutralization test within thirty (30) days of date of entry and originate from a farm free of pseudorabies for the past six (6) months as evidenced on the health certificate.

(2) Other movements:

(a) Registered feedlots: Not applicable.

(b) Salesyards and markets: No vaccination or treatment if consigned to recognized slaughtering center or to public stockyard or approved stockyard for reconsignment to recognized slaughtering center within ten (10) days of date of entry.

(c) Farm premises: Identity to the farm of origin must be maintained on all breeding and feeding swine imported from farm premises to an approved stockyard or farm of destination.

(d) Exhibition: Approved health certificate in last thirty (30) days of entry. See Section 4(1)(b), (c), (d).

Section 5. Sheep. (1) Specific diseases:

(a) Scrapie: No sheep or lambs shall be imported that originated from or are known to be exposed to flocks under surveillance for scrapie.

(b) Scabies: All sheep or lambs for breeding or feeding purposes imported from a farm, ranch or like premises shall be accompanied by an approved health certificate indicating such sheep and lambs originated directly and immediately from an official scabies eradicated free area.

(c) Sore mouth: Any sheep or lambs showing lesions of contagious exythma shall not be imported.

(2) Other movements:

(a) Apparently healthy sheep and lambs may be imported into Kentucky for immediate slaughter when consigned directly to a recognized slaughtering center approved by the chief livestock sanitary official of Kentucky or to a public stockyards, a state-federal approved stockyard,

concentration point or public stockyard when reconsigned from that point direct to immediate slaughter.

(b) Exhibitions and shows: All sheep and lambs for exhibition shall be in compliance to requirements noted above as specified for sheep and in addition shall be identified individually by ear tattoo or ear tag. Such identification shall be entered on an approved health certificate.

Section 6. Goats. (1) Specific diseases:

(a) Scabies: All goats must originate from a scab free area.

(b) Scrapie: No goats from a herd under surveillance for scrapie or those that are known to have been exposed to or that are progeny shall be imported.

(2) Exhibition and sale:

(a) Brucellosis: Animals six (6) months of age or older shall have negative tube or card test in last thirty (30) days or originate directly and immediately from a certified herd.

(b) Tuberculosis: Animals six (6) months of age or older shall have negative tuberculin test in last thirty (30) days or originate directly and immediately from accredited herd.

Section 7. Poultry. (1) Specific Diseases:

(a) Poultry five (5) months of age or older for breeding purposes must have standard intradermic tuberculin test within thirty (30) days of entry.

(b) Pullorum: Negative agglutination test within thirty (30) days of date of entry.

(c) Chicks and hatching eggs shall originate from a flock under the National Poultry and/or National Turkey Improvement Plan.

(2) Exhibition: Approved health certificate stating compliance with above requirements and in addition thereto all poultry shall be inspected prior to exhibition for evidence of any infectious, contagious or communicable disease of poultry. Any evidence of any communicable, infectious or contagious disease shall be justification for the elimination of said poultry from exhibition and/or sale at no expense to the Commonwealth of Kentucky.

Section 8. Psittacine Birds. As regulated by Title 9, Part 82, Code of Federal Regulations, filed herein by reference.

Section 9. Dogs and Cats. (1) Dogs: All dogs to be imported into the Commonwealth of Kentucky for any purpose shall be admitted only when accompanied by health certificate signed by a licensed, accredited veterinarian stating that they are free from all infectious diseases, did not originate within an area under quarantine for rabies or from an area where rabies is known to exist and has not been exposed to rabies. All dogs over four (4) months of age shall be vaccinated against rabies not more than twelve (12) months prior to date of entry if killed virus vaccine is used, not more than two (2) years prior to date of entry if modified live virus vaccine is used or any vaccine approved for three (3) years immunity by the "Compendium of Animal Rabies Vaccines" prepared by the Association of State Public Health Veterinarians, (Inc.); provided, show or performing dogs to be within the state temporarily for a period of ten (10) days shall not be required to furnish a health certificate.

(2) Cats: All cats shall be in compliance to above requirements for dogs provided the animals are vaccinated for rabies if four (4) months of age or older not more than twelve (12) months prior to date of entry with a vaccine approved by the state veterinarian and the Bureau for Health Services, Kentucky Department for Human Resources.

Section 10. Furbearing Animals, Domesticated Wild Animals and Zoo Animals: Wild and semi-wild animals under domestication or in custody may be imported into the state if accompanied by a permit and health certificate and provided that a report of the number of animals is made to the chief livestock sanitary official of Kentucky within ten (10) days and that immediate opportunity for examination is afforded a representative of the Division of Livestock Sanitation, Kentucky Department of Agriculture, to determine the health status of such animal or animals and the imports are presented for the administration of all laboratory procedures and tests deemed necessary by the chief livestock sanitary official of Kentucky. Transportation permit required on wild, game animals, birds and fish. Permit to be obtained from Department of Fish and Wildlife Resources, Capital Plaza Tower, Frankfort, Kentucky 40601 (telephone 502-564-4406).

ALBEN W. BARKLEY, II, Commissioner

ADOPTED: November 15, 1979

APPROVED: LARRY TOWNSEND, Secretary

RECEIVED BY LRC: July 15, 1980 at 9:30 a.m.

**CABINET FOR DEVELOPMENT
Department of Agriculture
(Proposed Amendment)**

302 KAR 20:070E. Stockyards.

RELATES TO: KRS Chapter 257

PURSUANT TO: KRS 13.082, Chapter 257

EFFECTIVE: July 15, 1980

EXPIRES: Sine Die adjournment of 1982 regular session of the General Assembly, or upon being replaced through regular procedure.

NECESSITY AND FUNCTION: To designate sanitary requirements, and operational procedures in all stockyards relative to disease control.

Section 1. Operating Sale Requirements. (1) The owner or manager operating a stockyard shall arrange for an accredited, licensed veterinarian approved by the Department of Agriculture to be present in said sales point to carry out the provisions of this regulation.

(2) The person operating a stockyard shall provide separate pens or a yarded division for isolating animals classed as reactors to brucellosis or any communicable disease.

(3) The owner operating a stockyard shall provide adequate space, utilities, hot water and assistance for the accredited, licensed veterinarian to officially carry out the provisions of this regulation.

(4) The owner or operator shall furnish and maintain one or more cattle chutes suitable for restraining animals for inspection of any infectious, contagious or parasitic condition, testing, tagging, branding and other procedures routinely required in providing livestock sanitary services and identification for movement at stockyards.

(5) The owner or operator shall maintain records of the seller and purchaser of all livestock for one (1) year. These records to be made available to Department of Agriculture representatives for inspection upon request during regular business hours.

(6) The owner or operator shall provide adequate facilities and service at a reasonable cost, if not available at or near the yards, for cleaning and disinfecting cars, trucks or other vehicles which have transported to the stockyards animals known to be infected with or exposed to a contagious, infectious, communicable or parasitic disease with a disinfectant approved by the chief livestock sanitary official.

Section 2. General Requirements. (1) All stockyards shall be maintained in a workable and sanitary condition. Stockyards shall be inspected as required by a representative of the board.

(2) After an occurrence of any infectious, contagious, parasitic or communicable disease of livestock in a stockyard, exposed facilities capable of transmitting disease shall be cleaned and disinfected with approved disinfectants in a manner approved by the chief livestock sanitary official.

(3) Livestock found to be infected and showing clinical or diagnostic symptoms of an infectious, contagious, parasitic or communicable disease shall upon recommendation of stockyard veterinarian or authorized representative of the chief livestock sanitary official be quarantined in an isolated portion of the yards for treatment, additional diagnostic laboratory procedures, disposition to slaughter or other disposition pursuant to accepted methods of disease prevention and control.

(4) All livestock originating from a quarantined herd or premises shall be sold under permit for immediate slaughter.

(5) The card test shall be the official test for brucellosis at stockyards. All animals showing positive reaction must be identified and sold for immediate slaughter only. Indemnity will be paid for reactors disclosed by stockyard test as long as state-federal funds are available.

(6) Upon disclosure of a reactor(s) by the stockyard veterinarian, all cattle in the consignment from the same herd are exposed cattle and must be returned to the farm of origin under quarantine for retesting or sold for slaughter with proper identification. Assembled cattle are considered to be a herd.

(7) Exposed animals and reactor animals will be identified as described in Title 9, CFR, 78.7 and 78.8, herein filed by reference.

Section 3. Veterinary Compensation. Accredited veterinarians shall receive for any services rendered a fee that has been agreed on by the stockyard operators and the accredited veterinarians. Such fees shall be deducted from the seller's or buyer's check, depending upon conditions of sale and shall be paid to the accredited veterinarian, except for those services reimbursed pursuant to a state-federal cooperative program.

Section 4. Veterinary Duties. The stockyard veterinarian shall in cooperation with representative(s) of the department: (1) Examine, validate and issue certificates pertinent to the movement of livestock to be sold.

(2) Conduct required test of livestock.

(3) Inspect all livestock for clinical evidence of infectious, contagious, or parasitic diseases.

(4) Obtain blood samples. Aid and assist in conducting of associated laboratory tests. Submit such specimens to state-federal laboratory for confirmation. Such specimens shall be posted by mail or delivered directly to state-federal laboratory within twenty-four (24) hours.

(5) Compile and present such reports as are routinely required to the chief livestock sanitary official.

(6) Report the presence of any communicable disease condition to chief livestock sanitary official.

Section 5. Cattle Requirements. (1) Tuberculosis:

(a) Imports: Cattle six (6) months of age or older for dairy and breeding purposes shall be negative to an official tuberculin test within thirty (30) days of date of entry or originate directly and immediately from an accredited herd or eradicated free state.

(b) Cattle classified as suspects or those originating from a quarantined herd shall not be imported.

(c) Reciprocal agreements with adjoining states may be effective in lieu of specific requirements.

(d) Kentucky cattle: No tuberculosis requirements if to a Kentucky destination.

(2) Brucellosis:

(a) All cattle six (6) months of age or older offered for sale at the stockyard for breeding and dairy purposes, except for the following, shall be negative to an official brucellosis test within the last eight (8) days of sale:

1. Official vaccinates identified by official tattoo twenty-four (24) months of age and under if a beef animal and twenty (20) months of age and under if a dairy animal, provided heavy springers and females post partum shall be negative regardless of age at time of sale.

2. Cattle from a certified herd.

3. All test-eligible cattle arriving directly from a modified certified state that are moved to a farm in the Commonwealth shall be retested within forty-five (45) to 120 days and shall be placed under quarantine with no commingling pending negative results on all involved animals on retest.

(b) Backtagged cattle:

1. All mature cattle eighteen (18) months or older, as indicated by the presence of the first pair of permanent incisor teeth, except steers and spayed heifers, consigned to any stockyard, or purchased direct by any slaughtering establishment shall be backtagged in a routine manner prescribed by the department.

2. All backtagged cattle shall be negative to a brucellosis test within eight (8) days of sale.

3. Backtags placed on slaughter cattle shall not be removed at any time or by any person only under specific instructions from the chief livestock sanitary official.

4. Backtagged cattle shall proceed directly to a recognized slaughtering center with no diversion whatever enroute except to another approved stockyard for reconsignment to slaughter.

5. Materials for the backtagging program shall be furnished by the department and/or Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture.

(c) All breeding, dairy and backtagged cattle requiring testing shall be tested at the first point of assembly or concentration.

(d) Cattle of beef breeds between the ages of six (6) and eighteen (18) months sold for feeding and grazing shall be exempt from brucellosis test unless they are heavy springers or female post partum.

Section 6. Swine requirements. (1) As prescribed in 302 KAR 20:080.

(2) Effective January 1, 1971, all serum requirements for swine moving into or through the State of Kentucky were rescinded.

(3) Breeding swine: All swine six (6) months of age or older shall be negative to both an official blood test for brucellosis and the serum neutralization test for pseudorabies at time of sale. Swine shall be deemed negative at the time of sale to an official test if accompanied by proof of a negative test result within thirty (30) days of sale. Swine originating from a validated brucellosis free herd shall be exempt from a stockyard test for brucellosis.

(4) Livestock markets, buying stations, and concentration points handling all classes of swine:

(a) All swine, including slaughter swine, to be inspected by an accredited veterinarian prior to leaving market.

(b) Swine moving interstate from markets to be in compliance with Title 9, Part 76, CFR, herein filed by reference, including health certification by the accredited veterinarian authorized by the state to furnish such services.

(c) Slaughter swine leaving premises to be consigned only for immediate slaughter to a recognized slaughtering establishment approved for this purpose in accordance with federal and state regulations.

(d) Markets to maintain well-constructed pens and swine-handling facilities that are clean and in good repair.

(e) Markets to provide pens surfaced with impervious material for holding and handling feeder pigs and breeding swine.

(f) Markets to provide satisfactory, well-lighted facilities for inspection and proper restraint.

(g) Clean and disinfect holding and handling pens, alleys and other facilities used in selling swine after use by each lot of swine under procedures specified by state and federal agencies to guard against spread of disease.

(h) Maintain records of origin and destination for all swine entering market and grant federal and state inspectors access to such records. Identification as to farm where farrowed shall be maintained for all feeder pigs and breeding stock and all slaughter swine which may be diverted for purposes other than slaughter. Records shall be maintained for one (1) year.

(i) Feeding and breeding swine must be placed in pens separate and apart from slaughter swine. All swine designated for slaughter must be delivered directly to an approved slaughter establishment with no diversion enroute.

(j) Permit no cull pigs to enter market unless provisions are made to pen such pigs separate and apart from all other swine so contact with healthy swine does not occur. Facilities used by these swine will not be used by other swine until cleaning and disinfecting have been accomplished. Further, cull swine to be permanently identified by an ear tag in the right ear, quarantined to the purchaser, and released from said quarantine by consignment to slaughter only. A cull pig is defined as one which does not pass veterinary inspection for health.

(k) Permit no garbage fed swine to enter market unless provisions are made to handle and pen such swine separate and apart from all other swine to avoid contact with other marketable swine.

(l) Permit no swine to be moved into or from the market unless a state or federal inspector releases such swine.

(m) Require all buyers of swine to determine the purpose of their movement. If for slaughter and there is any

reason to believe the swine might be diverted (under-weight swine, thin sows, etc.) the inspector may require that such swine be identified by ear tag and consigned to slaughter on a special permit. Further, any swine with which these swine mingle shall cause the entire lot to be ineligible for movement except to slaughter.

(n) Permit no feeder pigs or breeding swine to remain in the market more than seventy-two (72) hours.

(o) No feeding or breeding swine are to be allowed in any market for resale within thirty (30) days from prior sale date.

(5) Livestock markets, buying stations and concentration points handling slaughter swine only.

(a) Swine moving interstate to be in compliance with Title 9, Part 76, CFR, herein filed by reference, and applicable state regulations.

(b) Accept swine only for slaughter and to permit no swine to leave market except for slaughter only.

(c) Markets to maintain well-constructed pens and swine-handling facilities that are clean and in good repair.

(d) Maintain records of origin and destination for all swine entering market and grant federal and state inspectors access to such records. Records shall be maintained one (1) year.

(e) Isolate all swine suspected of being affected with or exposed to infectious disease, promptly notify the state or federal agency, and hold such swine in isolation pending instructions on disposition.

(f) Clean and disinfect holding and handling pens, alleys, and other facilities used in selling swine under procedures specified by state and federal agencies to guard against spread of disease.

Section 7. Sheep and Goat Requirements. (1) As prescribed in 302 KAR 20:040.

(2) Before the beginning of a sale all sheep and goats to be sold for breeding purposes that are free from evidence of infectious, contagious or parasitic disease shall be separated from all other sheep and goats in a part of the yard provided for this purpose.

(3) All sheep and goats that as individuals or any part of an assembled group show evidence of any infectious, contagious, communicable or parasitic disease must be sold for immediate slaughter or otherwise disposed of under permit issued by the chief livestock sanitary official.

(4) Goats for dairy or breeding purposes if free from evidences of any infectious, contagious, or parasitic disease shall originate directly and immediately from a brucellosis certified free herd or if six (6) months of age or over be negative to an official brucellosis test within thirty (30) days of date of sale.

ALBEN W. BARKLEY, II, Commissioner

ADOPTED: November 15, 1979

APPROVED: LARRY TOWNSEND, Secretary

RECEIVED BY LRC: July 15, 1980 at 9:30 a.m.

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 80-501
June 30, 1980

EMERGENCY REGULATIONS
Department for Human Resources
Bureau for Social Insurance

WHEREAS, the Secretary of the Department for Human Resources is responsible for promulgating, by regulation, the policies of the Department with respect to the provision of assistance under the following programs administered by the Department: Aid to Families with Dependent Children, Supplemental Programs for the Aged, Blind and Disabled, Medical Assistance, Emergency Assistance, and Crisis Oriented Program for Emergencies; and

WHEREAS, the Secretary has found that constant increases in the cost of living may result in some citizens of the Commonwealth being unable to meet their needs in the absence of additional funds allocated by the Legislature for their assistance; and

WHEREAS, the Secretary has promulgated regulations providing for implementation of the increased income and payment standards effective July 1, 1980, in the program of Aid to Families with Dependent Children, Supplemental Programs for the Aged, Blind and Disabled, Medical Assistance, Emergency Assistance, and Crisis Oriented Program for Emergencies; and

WHEREAS, the Secretary has found that an emergency exists with respect to the proposed regulations, and that, therefore, such regulations should, pursuant to the provision of law, be effective immediately upon filing with the Legislative Research Commission:

NOW, THEREFORE, I, John Y. Brown, Jr., Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by KRS 13.085(2), do hereby acknowledge the finding of emergency by the Secretary of the Department for Human Resources with respect to the filing of said regulations and direct that the following regulations shall be effective upon filing with the Legislative Research Commission:

1. Medical Assistance—904 KAR 1:004, Resource and Income Standard of Medically Needy.
2. Aid to Families with Dependent Children—904 KAR 2:010, AFDC; Standards for Need and Amount.
3. Emergency Assistance—904 KAR 2:008, Program for Emergency Assistance.
4. Blind and Disabled—904 KAR 2:015, Supplemental Programs.
5. Crisis Oriented Program for Emergencies—904 KAR 2:081, COPE.

JOHN Y. BROWN, JR., Governor
FRANCES JONES MILLS, Secretary of State

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 1:004E. Resource and income standard of medically needy.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: July 1, 1980

EXPIRES: October 28, 1980

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with requirements of Title XIX of the Social Security Act. KRS 205.520(3) empowers the department, 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 resource and income standards by which eligibility of the medically needy is determined.

Section 1. Resource Limitations of the Medically Needy: An applicant for or recipient of medical assistance is permitted to retain:

- (1) A homestead, occupied or abandoned, household equipment, motor vehicles and farm equipment without limitation on value;
- (2) Equity of \$6,000 [\$5,000] in income-producing, non-homestead property;
- (3) Equity of \$3,000 in non-income producing, non-homestead property;
- (4) Savings, stocks, bonds, totaling no more than \$1,500 for family size of one (1); \$3,000 for family size of two (2); and fifty dollars (\$50) for each additional member.
- (5) Burial reserves in the form of pre-paid burial, trust fund or life insurance policies are exempt from consideration if the reserve does not exceed \$1,500 per individual [adult or blind or disabled child or \$500 per dependent child]. If burial reserves have [a life insurance policy has] a face value in excess of the above amount, the cash surrender value is determined and any excess of the allowable reserve added to total liquid assets in determining eligibility.

Section 2. Income and Resource Exemptions: Income and resources which are exempted from consideration for purposes of computing eligibility for the comparable money payment program (Aid to Families With Dependent Children and Supplemental Security Income) shall be exempted from consideration by the department.

Section 3. [2.] Income Limitations of the Medically Needy: Eligibility from the standpoint of income is determined by comparing adjusted income as defined in Section 4 [3], of the applicant, [;] applicant and spouse, [;] or applicant, spouse and minor dependent children with the following scale of income protected for basic maintenance:

Size of Family	Annual	Monthly
1	2,200 [1,800]	183 [150]
2	2,600 [2,200]	217 [183]
3	3,100 [3,000]	258 [250]
4	3,800	317
5	4,400	367
6	5,000	417

For each additional member, \$600 annually or fifty dollars (\$50) monthly is added to the scale.

Section 4. [3.] Additional Income Considerations: In comparing income with the scale as contained in Section 3 [2], gross income is adjusted as follows in all cases with exceptions as contained in Section 5 [4]:

(1) In cases of adults and children, actual work related expenses of adult members and out-of-school youth are deducted from gross earnings. All earnings of an in-school child are disregarded plus any amount of a statutory benefit received by an eighteen (18) to twenty-one (21) year old youth contingent upon school attendance actually used for school expenses.

[(2) In cases of aged, blind or disabled persons, the first twenty dollars (\$20) of income of the individual or couple is disregarded. If the income is earned by the applicant or recipient, the first sixty-five dollars (\$65) and one-half (½) of the remainder is also disregarded.]

(2) [(3)] In all cases, verified fixed and measurable medical costs, including cost of health insurance premiums and expenses for medical services, recognized under state law but outside the scope of the medical assistance program, are deducted from income before comparison with the scale.

Section 5. [4.] *Individuals* [Persons] in Chronic Care Institutions: For aged, blind or disabled *individual* [persons] in skilled nursing or intermediate care facilities, income protected for basic maintenance is twenty-five dollars (\$25) monthly in lieu of the figure shown in Section 3 [2]. All income in excess of twenty-five dollars (\$25) is applied to the cost of care unless conserved for dependents as follows:

(1) Income of the patient is conserved as needed to provide needs of the spouse and minor children up to the appropriate family size amount from the scale as shown in Section 3 [2].

(2) Any additional amount needed to cover the verified fixed and measurable medical expenses of the ineligible spouse or minor children.

Section 6. [5.] Spend-Down Provisions: No technically eligible individual or family is required to utilize protected income for medical expenses before qualifying for medical assistance. *Individuals* [Persons] with income in excess of the basic maintenance scale as contained in Section 3 [2] may qualify for any part of a three (3) month period in which medical expenses incurred during the period have utilized all excess income anticipated to be in hand during that period.

Section 7. *The provisions of this regulation, as amended, shall be effective July 1, 1980.*

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: May 27, 1980
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: July 1, 1980 at 2 p.m.

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 80-505
June 30, 1980

EMERGENCY REGULATION
Department for Human Resources
Bureau for Social Insurance

WHEREAS, the Secretary of the Department for Human Resources is responsible for promulgating, by regulation, the policies of the Department with respect to the provision of medical assistance; and

WHEREAS, the Secretary has found that some citizens of the Commonwealth may be unable to have their vision needs provided for due to constantly increasing inflationary pressures; and

WHEREAS, the Secretary has promulgated a regulation expanding coverage of optometrists' services to medical assistance eligible individuals over the age of twenty-one; and

WHEREAS, the Secretary has found that an emergency exists with respect to said proposed regulation, and that, therefore, such proposed regulation should, pursuant to the provision of law, be effective immediately upon filing with the Legislative Research Commission:

NOW, THEREFORE, I, John Y. Brown, Jr., Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by KRS 13.085(2), do hereby acknowledge the finding of emergency by the Secretary of the Department for Human Resources with respect to the filing of said regulation of the Department for Human Resources providing for Hearing and Vision Services (904 KAR 1:038) and direct that said regulation shall be effective (in accordance with the date provided for therein) upon filing with the Legislative Research Commission as provided in Chapter 13 of Kentucky Revised Statutes.

JOHN Y. BROWN, JR., Governor
Frances Jones Mills, Secretary of State

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance
(Proposed Amendment)

904 KAR 1:038E. Hearing and vision services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: July 1, 1980

EXPIRES: October 28, 1980

NECESSITY AND FUNCTION: The Department 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(3) empowers the department, 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 the hearing services and vision care services for which payment shall be made by the medical assistance program in behalf of both categorically needy and medically needy [children under age twenty-one (21)].

Section 1. Hearing Services: (1) Audiological benefits: Coverage shall be limited to the following services provid-

ed to children under age twenty-one (21) by certified audiologists:

- (a) Complete hearing evaluation;
- (b) Hearing aid evaluation;
- (c) A maximum of three (3) follow-up visits within the six (6) month period immediately following fitting of a hearing aid, such visits to be related to the proper fit and adjustment of that hearing aid;
- (d) One (1) follow-up visit six (6) months following fitting of a hearing aid, to assure patient's successful use of the aid.

(2) Hearing aid benefits: Coverage shall be provided to children under age twenty-one (21) on a pre-authorized basis for any hearing aid model recommended by a certified audiologist so long as that model is available through a participating hearing aid dealer.

Section 2. Vision Care Services: Coverage for all age groups shall be limited to [diagnostic services,] prescription services, [and] services to frames and lenses, and diagnostic services provided by ophthalmologists and optometrists, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. [All eyeglasses other than those prescribed for amblyopic or post-surgical patients, and certain replacement of frames and lenses, shall be pre-authorized by the Division for Medical Assistance.] Eyeglasses are provided only to children under age twenty-one (21).

Section 3. If the funds allocated in the budget for eye examinations, prescriptions (for glasses), and other services are exhausted for the over age twenty-one (21) group, vision care services provided by ophthalmologists and optometrists will be terminated for that age group; this limitation shall not be interpreted to limit treatment of diseases of the eye by ophthalmologists. Vision care services for the over age twenty-one (21) group if terminated, shall be reinstituted at such time as funds again become available.

Section 4. The provisions of this regulation, as amended, shall become effective July 1, 1980.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: June 9, 1980

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: July 1, 1980 at 2 p.m.

DEPARTMENT FOR HUMAN RESOURCES Bureau for Social Insurance

904 KAR 2:008E. Program for emergency assistance.

RELATES TO: KRS 205.215

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: July 1, 1980

EXPIRES: October 28, 1980

NECESSITY AND FUNCTION: The Department for Human Resources is authorized by KRS 205.215 to provide short term assistance to families with children in crisis situations as provided for in Title IV-A of the Social Security Act. This regulation sets forth the criteria for eligibility and type and amounts of assistance granted

under the Emergency Assistance Program, hereinafter referred to as EAP, as administered in accordance with 45 CFR § 233.120.

Section 1. Eligibility Conditions for Receipt of Emergency Assistance. (1) The Emergency Assistance Program provides assistance to families with dependent children who are destitute or facing destitution if such destitution did not arise because:

(a) Such child who is eighteen (18) years or older or the specified relative of such child refused to accept employment, or training for employment, or terminated such without good cause;

(b) The family voluntarily created the situation for the purpose of receiving emergency assistance;

(c) The situation is related solely to lack of employment due to normal vacation or layoff periods if there is a job to which to return, and return can be anticipated at the end of the normal vacation or layoff period; or the destitute situation is related solely to lack of work due to weather conditions, if return can be anticipated within thirty (30) days.

(2) Assistance may be provided only after a signed application has been made on behalf of an eligible group as specified in Section 3. Such application may be made by the specified relative, child or an interested party acting on behalf of a child. In the event the application is made by other than the specified relative, and the specified relative states prior to processing of the application that he/she does not wish assistance to be provided at that time in order to conserve family eligibility, the application shall be denied due to lack of proper authority by the applicant.

Section 2. Definitions. Terms used in the EAP program are defined as follows:

(1) [Destitution shall be considered to exist when a child is deprived of adequate shelter including utilities, necessary clothing, sufficient food, child care, or in the case of a migrant or transient family, transportation, and the liquid assets, plus continuing monthly income of the family, are less than limitations prescribed by the department. Effective September 1, 1979,] D[estitution shall be considered to exist when a child is deprived of adequate shelter including utilities, necessary clothing, sufficient food, child care, or in the case of a migrant or transient family, transportation, and neither the continuing income nor the liquid resources of the family exceeds the limitations prescribed by the department.

(2) A natural disaster is a fire, flood, storm or earthquake or other occurrences designated as such by the department.

(3) Good cause must always be established in regard to an applicant for emergency assistance if lack of employment has caused the destitution and the responsible relative or child (if age eighteen (18) or over) refused to accept employment or training for employment or terminated employment within the prior six (6) months. An applicant for EAP who has terminated or refused employment without good cause shall be ineligible for thirty (30) days from the date of refusal. If the employment is no longer available following the thirty (30) day period, the application shall be approved if all other eligibility criteria are met; however, if the employment is still available at the end of the thirty (30) day period, the applicant shall remain ineligible as long as the employment remains available except that ineligibility shall not continue for a period longer than six (6) months from the date of termination or initial refusal of the employment. Good cause shall not exist if destitution is due solely to direct participation in a labor

dispute. ("Direct participation" exists if the individual is: on strike, whether or not such strike is legal; or not working as a result of honoring or refusing to cross picket lines set up by those who are on strike; or not working due to lack of work resulting from a strike situation if employed in a managerial or supervisory position by the firm/organization whose workers are on strike.) Good cause for refusal to accept or continue in an employment situation or training for employment exists only when:

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

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

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

(d) Working conditions at such job or training would be a risk to the health or safety of the child or responsible relative.

(4) Gross income is income from all sources before any deductions. Self-employed persons' and farmers' gross income is to be considered as gross profit less business expenses. Any special allowance made in an AFDC case is to be disregarded in computing gross income. In determining destitution of an applicant for AFDC, the AFDC payment is not to be considered as income until actually received by the client and the EAP application is to be processed independently of the AFDC application.

(5) Liquid assets include, but are not limited to, cash on hand, checking accounts, savings accounts, stocks, bonds, certificates of deposit, and similar assets readily convertible to cash. Excluded for purposes of this program are prepaid burial contracts or burial policies, the cash surrender value of life insurance policies, equity in real or personal property, or home insurance settlements received or to be received.

(6) Net income is gross income less mandatory deductions and work related expenses, which include transportation and child care; any special allowance made in an AFDC case is to be disregarded in determining net income.

(7) Specified relative is any relative acting as the person responsible for the child and who is within the degree of relationship shown in Section 406(a)(1) of the Social Security Act.

Section 3. Eligible Groups. Any family which includes a child under twenty-one (21) or an unborn child may qualify for EAP if all other eligibility conditions are met. In addition, a child who, within six (6) months, did reside with a specified relative as defined in Section 406(a)(1) of the Social Security Act may qualify. Specifically excluded is any family who voluntarily creates the destitution for the purpose of receiving emergency assistance or whose need resulted because of refusal without good cause of the child or responsible relative to accept employment or training for employment or termination of such without good cause as specified above.

Section 4. Limitations for Receipt of Emergency Assistance. (1) Any family which is potentially eligible for any federal assistance program (such as disaster relief, emergency assistance, etc., but not including income transfer programs such as Supplemental Security Income, Social Security benefits, etc.) must apply for those benefits and provide verification of application.

(2) Emergency assistance is limited to one (1) period of thirty (30) consecutive days in any twelve (12) consecutive months.

(3) [The limitation shown in paragraph (a) of this subsection shall be applicable until replaced by the limitation in paragraph (b) of this subsection.]

[(a) All liquid assets and gross monthly income will be totaled and compared to the financial eligibility scale for the family size. If the amount exceeds that specified, the family is ineligible. If the amount is less than that specified, financial eligibility exists.]

[Financial Eligibility Scale]

Family Size	Income Limitation
1	\$150
2	183
3	250
4	317
5	367
6	417
7 or more	467]

[(b) Effective September 1, 1979 the following limitation shall substitute for that shown in paragraph (a), above.] All gross monthly income and total liquid resources will be compared to the following scales on gross monthly income and liquid resources. If either amount exceeds that specified, the family is ineligible. If each amount is equal to or less than that specified, financial eligibility exists.

Gross Income Scale

Family Size	Income Limitation
1	\$183 [150]
2	217 [183]
3	258 [250]
4	317
5	367
6	417
7 or more	467

Liquid Resources Scale

Family Size	Resources Limitation
1	\$500
2 or more	750

(4) When an application is made by or on behalf of a child who voluntarily establishes a living arrangement independent from his family group, the parent's income and liquid assets must be considered in determining financial eligibility. If a child has not lived with his/her parents during the prior six (6) months, but meets the criteria for inclusion as shown in Section 3, only that amount of income available to the child is to be considered. A child absent from the home for the purpose of attending a school or training course is considered to be a member of the family group remaining in the home, and when application is made under proper authority the income, resources and needs of all family members must be taken into consideration.

Section 5. Needs Which Can Be Met. The emergency assistance program provides for the following needs: food, clothing, shelter, utilities and/or heating fuel, home repairs, home furnishings, transportation, and child care; the stranded or destitute transient or migrant family is assisted to reach its destination through provisions of the

following as needed: voucher for groceries or prepared meals, overnight lodging, public transportation, car repairs, gas, oil, and information and referral services. Community resource may be utilized to supplement payments provided by the program.

Section 6. Method and Amount of Payment. Emergency assistance payments are made indirectly to vendors by means of locally authorized voucher or by check drawn in favor of the recipient or recipient and vendor, not to exceed the amounts payable in accordance with Section 7.

Section 7. Payment limitations in the Emergency Assistance Program: (1) [The payment limitation shown in paragraph (a) of this subsection shall be applicable until replaced by the limitation in paragraph (b):]

[(a) To determine whether there is an unmet need, all liquid assets and net monthly income are first totaled and compared to needs covered by the Emergency Assistance Program (as shown in Section 5). If there is an unmet need, a payment may be authorized. The totaled liquid assets and net monthly income will then be compared to the protected amount on the payment limitation scale for the family size. Any amount in excess of the protected amount will be applied as a deductible to the total amount of the family's needs to alleviate or avoid destitution. A home insurance settlement is to be applied to the need which it is intended to cover. The total amount paid the eligible family group is not to exceed the amount specified in the payment maximum for the family size, except for the separate maximum amounts set forth in subsections (2), (3), (4)(d) and (6) below, for those items.]

[Payment Limitation Scale

Protected Amount	Family Size	Payment Maximum
\$ 75	1	\$ 75
135	2	135
185	3	185
235	4	235
275	5	275
310	6	310
345	7 or more	345]

[(b) Effective September 1, 1979, the following limitation shall replace that shown in paragraph (a).] To determine whether there is an unmet need, the net monthly income is compared to total current needs covered by the emergency assistance program (as shown in Section 5). If there is an unmet need, a payment may be authorized. The net monthly income will then be compared to the protected amount on the payment limitation scale for the family size. Any amount in excess of the protected amount will be applied as a deductible to the total amount of the family's needs to alleviate or avoid destitution. A home insurance settlement is to be applied as a deductible to the need which it is intended to cover. The total amount paid the eligible family group is not to exceed the amount specified in the payment maximum for the family size, except for the amounts set forth in subsections (2), (3), (4)(d) and (6) below, for these items.

Payment Limitation Scale

Protected Amount	Family Size	Payment Maximum
\$133 [75]	1	\$133 [75]
162 [135]	2	162 [135]
188 [185]	3	188 [185]
235	4	235
275	5	275
310	6	310
345	7 or more	345

(2) Payment for limited repairs necessary to make a home owned by the family habitable may in no instance exceed \$1,500, and the need for such repairs must be the result of a natural disaster.

(3) Payment for the repair or replacement of minimum home furnishings determined necessary by the department may in no instance exceed \$1,500, and such need for repair or replacement must be the result of a natural disaster.

(4) A stranded or destitute family (transient or migrant) may be assisted to reach its destination through provision of:

- (a) Voucher for groceries or prepared meals;
- (b) Overnight lodging;
- (c) Public transportation; or
- (d) Car repairs, if needed, not to exceed \$300, and/or voucher for gas/oil.

(5) Food may be provided up to the value of one (1) month's equivalent food stamp allotment for the eligible family members. *In no instance shall payments be authorized for food if the family meets food stamp eligibility requirements and the food need is the result of lack of funding by the United States Department of Agriculture to issue food stamps.*

(6) Clothing may be provided to eligible family members to ensure a minimum supply of basic apparel in quantities determined necessary by the department, and such need for clothing must be the result of a natural disaster. The total maximum payment amounts for clothing needs may not exceed the payment maximums shown in subsection (1) above, and these amounts shall be in addition to any other needs (such as food and shelter) met pursuant to that payment limitation scale.

(7) Shelter needs may be met as necessary to obtain or retain a home or to secure temporary lodging for the destitute family. The department shall make payments for shelter costs in excess of one (1) month's rent or mortgage payment only when such is determined necessary.

(8) Payment for utilities and heating fuels may be authorized as necessary to obtain or retain service. Payment for installation and the base service cost of a telephone may be reimbursed when medically necessary as verified by a physician or a nurse practitioner.

(9) Child care may be provided on a temporary basis if required due to the imprisonment or hospitalization of the specified relative. Payment for such must be reasonable and may not exceed eight (8) weeks of care.

Section 8. *Payment shall not be authorized if more than thirty (30) days have elapsed from the date the agency mailed the voucher to the vendor until the date the completed voucher is either mailed or delivered to the agency.*

Section 9. The provisions of this regulation, as amended, shall be effective July 1, 1980.

WILLIAM L. HUFFMAN, Commissioner
ADOPTED: May 27, 1980
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: July 1, 1980 at 2 p.m.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 2:010E. AFDC; standards for need and amount.

RELATES TO: KRS 205.200(2), 205.210(1)

PURSUANT TO: KRS 13.082, 205.200(2)

EFFECTIVE: July 1, 1980

EXPIRES: October 28, 1980

NECESSITY AND FUNCTION: The Department for Human Resources is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Aid to Families with Dependent Children Program, hereinafter referred to as AFDC, in accordance with federal regulations and Title IV-A of the Social Security Act. This regulation sets forth the standards by which the need for and the amount of an AFDC assistance payment is established.

Section 1. Resource Limitations: An applicant for or recipient of AFDC is permitted to retain:

(1) A homestead, household equipment, motor vehicles and farm equipment without limitation on value;

(2) Equity in non-homestead, income producing property, not to exceed \$5,000;

(3) Equity in non-income producing non-homestead property not to exceed \$1,000;

(4) Other assets are limited to:

(a) Savings, stocks or bonds: \$500 for child living with relative other than parent; \$1,000 for one (1) child and one (1) parent; \$1,500 for two (2) or more children and one (1) or two (2) parents or one (1) child and two (2) parents.

(b) Cash surrender value of life insurance not to exceed \$1,000 for each parent or \$500 for each child.

(5) Non-continuing income which, whenever added to other resources, does not exceed resource maximums.

Section 2. Countable Income: To determine if a specified relative may be included in the AFDC grant when a stepparent is also in the home, a test budget is completed. Gross income of the stepparent and any of his/her minor children in the home is adjusted by deducting work expenses, child care and fixed and measurable medical expenses. The adjusted income is compared to the income allowed for that family size (the stepparent and his/her children) in accordance with the medical assistance income scale contained in 904 KAR 1:004. Any excess is then applied to the needs of the specified relative. If the specified relative's needs are met, the specified relative may not be included in the AFDC grant and none of the stepparent's income is included in the budget unless it is actually made available to the children included in the grant. If the specified relative's needs are not met, the specified relative may be included in the AFDC grant and the excess income

of the stepparent is counted in the grant determination. In determining initial eligibility for AFDC and the amount of the assistance payment, all continuing income of persons for whom application is made or assistance received is deducted from the assistance standard except those amounts or from those sources for which a disregard is required by 45 CFR 233.20 as follows:

(1) Standard work expense deductions in accordance with the following scale or verified actual work expenses if verification is provided by the client. This scale covers all work expenses except child care.

Work Expense Standard Deduction Scale
(Excluded Work-Related Child Care)

Gross Monthly Earned Income	Standard Monthly Deduction
\$ 2.00- 49.99	\$ 6.00
50.00- 99.99	19.00
100.00-149.99	31.00
150.00-199.99	44.00
200.00-249.99	56.00
250.00-299.99	69.00
300.00-349.99	81.00
350.00-399.99	94.00
400.00-449.99	106.00
450.00-499.99	119.00
500.00-549.99	131.00
550.00-599.99	144.00
600.00-649.99	156.00
650.00-699.99	169.00
700.00-749.99	181.00
750.00-799.99	194.00

(2) Earnings of a child under age fourteen (14).

(3) Work Incentive Program (WIN) and Comprehensive Employment and Training Act Program (CETA) incentive payments.

(4) Reimbursement for training-related expenses made by a manpower agency to applicants in institutional and work experience training.

(5) Value of food coupons.

(6) Emergency assistance program payments pursuant to 904 KAR 2:008.

(7) Non-emergency medical transportation payments.

(8) Principal of loans obtained to meet needs not included in the assistance plan, e.g., home repair, farm expansion.

(9) Educational grants, loans, scholarships, including payments for actual educational costs made under the GI Bill, obtained and used under conditions that preclude their use for current living costs and all education grants and loans administered by the United States Commissioner of Education.

(10) The amount of statutory benefits, paid to or for a minor child and with the condition that the child be in regular school attendance, which is used for tuition, registration fees, and other school-related expenses. *Except that RSDI benefits based on school attendance are totally disregarded.*

(11) Highway relocation assistance.

(12) Urban renewal assistance.

(13) Federal disaster assistance and state disaster grants.

(14) Home produce for household consumption.

(15) Proceeds from the sale of homestead property provided the family intends to reinvest in another homestead within six (6) months.

(16) Income/resources of a step-parent are considered only in relation to the eligibility of the parent as specified relative.

(17) Earnings received by a person employed by CETA under the Youth Incentive Entitlement Pilot Projects (YIEPP), the Youth Community Conversation and Improvement Project (YCCIP), and the Youth Employment and Training Program (YETP).

(18) Earnings received from participation in Job Corps.

(19) Experimental housing allowance program payment made under annual contributions contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937, as amended; and HUD Section 8 payments for existing housing under Title 24 part 882.

(20) Receipts distributed to members of certain Indian tribes which are referred to in Section 5 of Public Law 94-114 that became effective October 17, 1975.

(21) Compensation provided to volunteers under Vista/Action or other programs established under Title VI of the Older American's Act of 1965, as amended.

(22) Earned income credit provided under the Revenue Act of 1978.

(23) First thirty dollars (\$30) and one-third ($\frac{1}{3}$) of the remainder of the total combined earned income of all the members of the assistance group if the family's needs were met in whole or in part by an AFDC payment for any one (1) of the four (4) months preceding month of application.

Section 3. Additional disregards: After initial eligibility is established, the following income is also disregarded:

(1) First thirty dollars (\$30) and one-third ($\frac{1}{3}$) of the remainder of the total combined earned income of all the members of the assistance group.

(2) Earnings of a child in full-time school attendance or in half-time school attendance, if working full-time.

Section 4. Members of Assistance Group: (1) The assistance group is composed of one (1) or more children and may include as specified relative any person specified in 904 KAR 2:005, Section 3. The incapacitated natural or adoptive parent of the child(ren) who is living in the home and legally married to the specified relative may be included as second parent if the technical eligibility factors are met.

(2) The decision regarding application for or continued inclusion of an individual child rests with the parent or other specified relative.

Section 5. Assistance Standard. The AFDC assistance standard including amounts for food, clothing, shelter, utilities and non-medical transportation from which countable income is deducted in determining eligibility for and the amount of the AFDC assistance payment is as follows:

Number of Eligible Persons	Monthly Standard
1 Child	\$133 [75]
2 Persons	\$162 [135]
3 Persons	\$188 [185]
4 Persons	\$235
5 Persons	\$275
6 Persons	\$310
7 or more Persons	\$345

(1) The actual cost of child care shall be added to the standard if the relative with whom the child lives requests a

child care payment and is in a training program for which no wage or allowance is received.

(2) A special requirement shall be added to the standard of assistance for child care or to include special needs related to participation in the Community Work Experience Program (CWEP) under the following conditions:

(a) The specified relative, included in the grant is pursuing a course of training and the children require purchased care during the absence of the relative.

(b) The payee, other than the parent, is not included in the budget but must pay child care in order to retain employment.

(c) A specified relative or child is participating in CWEP.

Section 6. Payment Rates for Foster Care. Payment rates are based on the Department for Human Resources per diem payment rates. The department's rates are based on the age and needs of the child.

(1) A child in foster family care who is eligible for aid to families with dependent children foster care payments receives payment in one (1) of the following monthly amounts according to the child's age and needs assessment (as determined by the Bureau for Social Services):

904 KAR 2:010E-4

Age	Regular	Special	Extraordinary
0-5	\$144	\$167	\$228
6-12	160	183	228
13-over	175	198	228

(2) A child in a private child caring institution who is eligible for aid to families with dependent children foster care payments receives payment in one (1) of the following monthly amounts according to the child's age and needs assessment as (determined by the Bureau for Social Services):

Age	Regular	Special
0-5	\$151	\$212
6-12	175	212
13-over	192	212

Section 7. The provisions of this regulation, as amended, shall be effective July 1, 1980.

WILLIAM L. HUFFMAN, Commissioner
 ADOPTED: May 27, 1980
 APPROVED: W. GRADY STUMBO, Secretary
 RECEIVED BY LRC: July 1, 1980 at 2 p.m.

**DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance**

904 KAR 2:015E. Supplemental programs for the aged, blind and disabled.

RELATES TO: KRS 205.245
PURSUANT TO: KRS 13.082, 194.050
EFFECTIVE: July 1, 1980
EXPIRES: October 28, 1980

NECESSITY AND FUNCTION: The Department for Human Resources is responsible under Title XVI of the Social Security Act as amended by Public Law 92-603 to administer a state funded program of supplementation to all December, 1973 recipients of aid to the aged, blind and disabled, hereinafter referred to as AABD, disadvantaged by the implementation of the Supplemental Security Income Program, hereinafter referred to as SSI. KRS 205.245 provides not only for the mandatory supplementation program but also for supplementation to other needy aged, blind and disabled persons. This regulation sets forth the provisions of the supplementation program.

Section 1. Mandatory State Supplementation: Mandatory state supplementation payments must be equal to the difference between the AABD payment for the month of December, 1973, plus any other income available to the recipient as of that month and the total of the SSI payment and other income. Also included are those former aged, blind or disabled recipients ineligible for SSI due to income but whose special needs entitled them to an AABD payment as of December, 1973. Mandatory payments must continue until such time as the needs of the recipient as recognized in December, 1973, have decreased or income has increased to the December level.

(1) The mandatory payment is increased only when income as recognized in December, 1973, decreases, the SSI payment is reduced but the recipient's circumstances are unchanged, or the standard of need utilized by the bureau in determining optional supplementation payments for a class of recipients is increased.

(2) In cases of man and wife, living together, income changes after September, 1974, will result in increased mandatory payment only if total income of the couple is less than December, 1973, total income.

Section 2. Optional State Supplementation: Optional state supplementation is available to those persons meeting technical requirements and resource limitations of the aged, blind or disabled medically needy program as contained in 904 KAR 1:003 and 904 KAR 1:004 who require special living arrangements and who have insufficient income to meet their need for care. Special living arrangements include residence in a personal care home as defined in 902 KAR 20:030 or family care home as defined in 902 KAR 20:040 or situations in which a caretaker must be hired to provide care other than room and board. A supplemental payment is not made to or on behalf of an otherwise eligible individual when the caretaker service is provided by the spouse, parent (of an adult disabled child or a minor child), or adult child (of an aged or disabled parent) who is living with the otherwise eligible individual. When this circumstance exists and a person living outside the home is hired to provide caretaker services, the supplemental payment may be made. Application for SSI, if potential eligibility exists, is mandatory.

Section 3. Income Considerations: In determining the amount of optional supplementation payment, total net in-

come of the applicant or recipient, or applicant or recipient and spouse, including payments made to a third party in behalf of an applicant or recipient, is deducted from the standard of need with the following exceptions:

(1) Income is conserved for an ineligible, non-SSI spouse and/or minor dependent children in the amount of the medical assistance program basic maintenance scale for family size adjusted by deduction of sixty-five dollars (\$65) from monthly earnings of spouse.

(2) If one (1) member of a couple is institutionalized and the SSI spouse maintains a home, income in the amount of the SSI standard for one (1) is conserved for the spouse.

Section 4. Standard of Need: (1) The standard, based on living arrangement, from which income as computed in Section 3 is deducted to determine the amount of optional payment is as follows:

(a) Personal care home: [\$320, effective 7/1/77; \$335, effective 1/1/78; not less than \$350, effective 7/1/78; not less than \$360, effective 1/1/79;] not less than \$379, effective 7/1/79; *not less than \$409, effective 7/1/80;*

(b) Family care home: [\$258, effective 7/1/77; not less than \$273, effective 7/1/78;] not less than \$292, effective 7/1/79; *not less than \$322, effective 7/1/80;*

(c) Caretaker:

1. Single individual: [\$216, effective 7/1/77; not less than \$227, effective 7/1/78;] not less than \$246, effective 7/1/79; *not less than \$276, effective 7/1/80;*

2. Married couple, one (1) requiring care: [\$300, effective 7/1/77; not less than \$322, effective 7/1/78;] not less than \$350, effective 7/1/79; *not less than \$395, effective 7/1/80;*

3. Married couple, both requiring care: [\$328, effective 7/1/77; not less than \$350, effective 7/1/78;] not less than \$388, effective 7/1/79; *not less than \$433, effective 7/1/80.*

(2) In couple cases, both requiring a caretaker, and both eligible, one-half (½) of the deficit is payable to each. If one (1) is ineligible (neither aged, blind nor disabled) one-half (½) of the deficit is payable to the eligible member.

Section 5. Institutional Status: No aged, blind or disabled person shall be eligible for state supplementation while residing in a personal care home or family care home unless such home is licensed under the Health Licensure Act, KRS 216.425.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: May 27, 1980

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: July 1, 1980 at 2 p.m.

**DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance**

904 KAR 2:081E. Crises oriented program for emergencies (COPE).

RELATES TO: KRS 205.810
PURSUANT TO: KRS 13.082, 194.050
EFFECTIVE: July 1, 1980
EXPIRES: October 28, 1980

NECESSITY AND FUNCTION: The Department for Human Resources is authorized by KRS 205.810 to provide

short term assistance to single or married adults in crisis situations (i.e., facing destitution) or in financial need. This regulation sets forth the criteria for eligibility and type and amounts of assistance available under the Crisis Oriented Program for Emergencies, hereinafter referred to as COPE.

Section 1. Application: Each individual or couple requesting assistance will be required to complete an application and provide such information as may be deemed necessary to determine eligibility, in accordance with the procedural requirements prescribed by the department.

Section 2. Definitions: Terms used in the COPE program are defined as follows:

(1) "Destitution," or "facing destitution," is that situation in which an individual or couple is deprived or being threatened by deprivation of the basic necessities of shelter, utilities, food, or clothing when clothing is needed due to a loss in a natural disaster.

(a) "Lack of shelter" is the inability to pay rent or mortgage and/or lack of both sleeping and cooking facilities due to financial need (and destitution is established).

(b) "Lack of utilities" is the inability to pay or secure utilities or lack of heat during cold weather due to financial need (and destitution is established). It is also the inability to secure or maintain phone service that has been determined medically necessary.

(c) "Lack of food" is the inability to purchase or obtain sufficient food due to financial need and/or ineligibility for food stamps.

(d) "Lack of clothing" must be the result of a natural disaster. It is the inability to obtain or purchase appropriate garments in order to protect the individual's or couple's health and welfare. A natural disaster is defined as a fire, flood, storm, tornado, or earthquake.

(2) "Financial need" is defined as a situation in which an individual's or couple's income and resources are below the standards prescribed by the department.

(3) "A single individual" is any person age eighteen (18) or over and not married, or if married, not residing with his/her spouse.

(4) "A couple" is any man and woman legally married (or holding out to the community as married) at least one (1) of whom is age eighteen (18) or over.

(5) "Other family" is any of the following: mother, father, daughter, son, brother, or sister (including relatives of the half blood) whose spouse also resides in the same household.

(6) "Needs" are defined as those items identified in Section 2(1)(a), (b), (c) and (d).

Section 3. Eligible Groups: Any single individual or couple (as defined above), who are destitute or in financial need, whose children (if there are any and they are residing with the applicant), are not under twenty-one (21) years of age, may qualify for COPE unless excluded in accordance with Section 4, below.

Section 4. Exclusion of Specified Groups: The following are excluded from eligibility:

(1) An individual or couple who creates the situation of destitution or financial need by refusal to accept or continue employment, or training for employment without "good cause" in accordance with 45 CFR 233.100(a)(3)(ii) is ineligible for thirty (30) days from the date of refusal. Good cause shall not exist if destitution is due solely to direct participation in a labor dispute. ("Direct participa-

tion" exists if the individual is: on strike, whether or not such strike is legal; or not working as a result of honoring or refusing to cross picket lines set up by those who are on strike; or not working due to lack of work resulting from a strike situation if employed in a managerial or supervisory position by the firm/organization whose workers are on strike.)

(a) If employment is no longer available following the thirty (30) day period, the application shall be approved if all other eligibility criteria are met. If employment still remains available at the end of the thirty (30) day period, the applicant is ineligible for as long as the employment remains available for a period of time not to exceed six (6) months.

(b) Any individual/couple fired from a job shall not be automatically precluded from participation in the program.

(2) Any single individual under age twenty-one (21) who has been claimed as a tax dependent within the past year, unless it can be substantiated that he/she will not be claimed as a tax dependent in the current year.

(3) Any individual living with both parents.

(4) Any individual or couple living with other family as defined in Section 2(5). (For example, if a man and his wife were living with his brother and the brother's wife, both couples would be ineligible.)

Section 5. Work Registration: A condition for eligibility shall be work registration unless exempt as specified below:

(1) Any individual over age sixty-five (65).

(2) Students who are enrolled at least half-time (as defined by the institution or program in which they are enrolled) in any accredited school or recognized training program. The exemption continues during regularly scheduled school vacations if attendance will be resumed immediately following such break.

(3) Disabled/incapacitated persons who are physically or mentally unable to engage in gainful employment. Recipients of the following benefits will be considered exempt under this criteria: Supplemental Security Income (SSI); or Retirement Services Disability Insurance (RSDI); or MA only as a blind or disabled individual. In addition those persons who are obviously disabled/incapacitated are exempt, e.g., accident victims in casts and/or bandages, those using wheel chairs or crutches, etc. Other persons claiming exemption due to disability/incapacity are exempt if written documentation from medical sources is provided to or made available to the department.

(4) Persons employed at least thirty (30) hours a week.

(5) Self employed persons, if the self-employment requires activity of at least thirty (30) hours per week on an annual basis. Verification of income received establishes the exemption if it appears consistent with employment of at least thirty (30) hours per week on an annual basis.

(6) Narcotic addicts or alcoholics if regularly participating in a nonresidential treatment or rehabilitation program.

Section 6. Recoupment of Payments: Any recipient who subsequently receives retroactive benefits for the same period that a COPE payment has been made shall be responsible for reimbursing the department the full benefit amount up to the amount of the COPE payment.

Section 7. Duration of Assistance: Assistance shall be limited to one (1) period of thirty (30) consecutive days in

any twelve (12) consecutive months. The secretary may waive this limitation as deemed necessary.

Section 8. Income and Resources Limitations: Income and resources of the individual or couple shall be considered in accordance with the following:

(1) All continuing earned and unearned income and non-continuing income anticipated to be received during the month of approval, shall be considered available to the applicant. Any federal, state, or local benefit which is specifically designated for a special need shall not be considered in computing gross income.

(2) An individual or couple shall be determined ineligible for assistance if monthly gross income determined in accordance with Section 8(1) exceeds \$283 [265] for the individual or \$375 [350] for the couple.

(3) Liquid assets of the individual or couple shall be considered in determining eligibility. Liquid assets include, but are not limited to, cash on hand, checking account(s), savings account(s), stocks, bonds, and certificates of deposit. Total liquid assets in excess of \$500 for the individual or \$750 for the couple shall result in a determination of ineligibility.

Section 9. Treatment of Income: If net income exceeds needs (see Section 2(1)(a), (b), (c) and (d)), the applicant is determined ineligible for needs payments. For any otherwise eligible individual or couple the first \$100 [130] or \$125 [160], as applicable, of net income shall be protected (disregarded) in determining benefit amounts payable under the program. Income in excess of the protected amounts shall be applied to the needs of the applicant or recipient. In no instance shall excess income reduce the payment maximum for needs.

Section 10. Cash Payment Maximum: An otherwise eligible individual or couple shall be entitled to receive such cash payment as may be necessary to bring the total net monthly income up to the respective protected income amounts specified in Section 9 (\$100 [130] for an individual or \$125 [160] for a couple).

Section 11. Needs Payment Maximums: The department shall pay reasonable amounts for food, clothing, and shelter/utilities not to exceed \$190 [160] or \$245 [210] for an individual or couple respectively, in accordance with the following:

(1) Food may be provided up to the value of one (1) month's equivalent maximum food stamp coupon allotment for the appropriate household size. *In no instance shall payment be authorized for food if the couple/individual meets food stamp eligibility requirements and the food need is the result of lack of funding by the United*

States Department of Agriculture to issue food stamps.

(2) Clothing, the need for which was the direct result of a natural disaster, may be provided to an eligible individual or couple to ensure a minimum supply of basic apparel in amounts determined necessary by the department.

(3) Shelter needs may be met as necessary to obtain or retain a home or to secure temporary lodging for the destitute individual or couple. The department shall pay more than one (1) month's rent or mortgage payment only if such is determined necessary by the department.

(4) Utility needs including deposits may be met as necessary to obtain or maintain electricity, natural gas, and water. Payments for kerosene and/or bottle gas and coal may be authorized if the living situation requires it.

(5) Payments for phone service deemed medically necessary may include deposit and/or installation charges. Payments for the base rate may not exceed the rate utilized for food stamp households.

Section 12. Right to a Fair Hearing: Any applicant for or recipient of COPE has the right to request and receive a fair hearing in accordance with 904 KAR 2:055.

Section 13. Agency Determination: Any individual or couple not meeting all eligibility criteria or who do not provide sufficient information necessary to make an eligibility determination shall be found ineligible for benefits under the program. Any individual or couple found to meet all eligibility requirements shall be provided assistance in a timely manner.

Section 14. Effective Dates: The COPE program shall continue throughout each fiscal year after implementation until such time as funds allotted for the program by the legislature have been expended. In the event the Governor, or the Secretary of the Department for Human Resources, makes additional funds available for the continuation or reactivation of the COPE program, the program shall continue or be reactivated under the same terms and conditions as previously set forth.

Section 15. Payment shall not be authorized if more than thirty (30) days have elapsed from the date the agency mailed the voucher to the vendor until the date the completed voucher is either mailed or delivered to the agency.

Section 16. The provisions of this regulation, as amended, shall be effective July 1, 1980.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: May 27, 1980

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: July 1, 1980 at 2 p.m.

Proposed Amendments

LEGISLATIVE RESEARCH COMMISSION Personal Service Contracts (Proposed Amendment)

1 KAR 2:010. Personal Service Contract Review Subcommittee; procedure; records.

RELATES TO: KRS 45.700, 45.705, 45.710, 45.715, 45.720

PURSUANT TO: KRS 7.320(2), 45.720

NECESSITY AND FUNCTION: KRS 45.720 requires the Legislative Research Commission to prescribe rules governing the manner and form which personal service contracts are to be reviewed.

Section 1. A permanent subcommittee of the Legislative Research Commission, to be known as the Personal Service Contract Review Subcommittee, shall be composed of seven (7) members which shall include members of the minority party as nearly proportioned to their membership in the general assembly as mathematically possible.

(1) The Legislative Research Commission shall appoint from the membership of the general assembly as follows:

(a) Four (4) members from the House of Representatives; and

(b) Three (3) members from the Senate.

(2) The personal service contract review subcommittee shall meet monthly at such time and place as selected by the chairman.

(3) A quorum shall require at least *four (4)* [five (5)] members present and the vote shall be by majority.

(4) The members of the subcommittee shall serve for a term of two (2) years, with the chairman being appointed by the subcommittee.

(5) Vacancies which may occur in the membership of the subcommittee shall be filled by the Legislative Research Commission at its next regularly scheduled meeting after the occurrence of the vacancy.

(6) The subcommittee shall act on a personal service contract properly submitted to the Legislative Research Commission within thirty (30) days of its submission, except as provided in Section 2(2) of this regulation.

Section 2. No personal service contract made by any contracting body after *March 12, 1980*, [July 1, 1978,] shall become effective until after *three (3)* [seven (7)] copies of the personal service contract are forwarded to the office of the Legislative Research Commission.

(1) The Legislative Research Commission shall cause to be endorsed on the copies of each personal service contract submitted the time and date of the filing thereof and shall maintain a file of such personal service contracts for public inspection, indexed as follows:

(a) By vendor name (alphabetically);

(b) By state agency (organization); and

(c) By type of service provided.

(2) For a contract to be reviewed by the subcommittee at its next regularly scheduled meeting, it must be submitted to the Legislative Research Commission on or before the *last day [fifteenth (15th)] of the month preceeding the meeting*. All documents received after the *end [fifteenth (15th)] of the month* will be deferred to the next regularly scheduled meeting.

(3) Each personal service contract and each copy thereof submitted for review will have attached a completed contract review form which at a minimum will include the following information:

(a) A statement which describes, in detail, the need for such services;

(b) A statement which justifies, in detail, the purchase of service as opposed to the provision of service, i.e., unavailability/non-feasibility;

(c) A statement which justifies the total projected cost and explains, in detail how the cost was derived;

(d) A statement which justifies the stated duration and explains in detail how the duration was derived;

(e) An affirmative statement attesting to the existence of a thirty (30) day cancellation clause;

(f) *A copy of the purchase contract indicating maximum amount of the contract.*

(4) Notification of approval will be transmitted back to the contracting body in the form of a stamped contract attesting to such approval, within thirty (30) days of such action.

Section 3. Payment on a personal service contract shall not be made until after the contract has been approved by the subcommittee except as provided for in Section 4.

[Section 3. If the subcommittee believes that the contract service, except for emergency contracts approved by the governor, is not needed, the service could and should be performed by state personnel, the cost is excessive, or the duration is excessive, the subcommittee shall:]

[(1) Attach to the personal service contract a written notation of its objection, including a statement of the reasons therefore, and shall return the personal service contract to the contracting body.]

[(2) Notice of such objection shall be given by the subcommittee to the Director of the Legislative Research Commission.]

[(3) The contracting body shall file a written report with the subcommittee, within sixty (60) days, in any case where objections were made, stating the contracting bodies position and whether a cancellation or amendment is proposed. A copy of any proposed amendment shall accompany the report.]

Section 4. If the Secretary of Finance determines that the time involved with the normal review procedure would cause a detrimental effect upon the Commonwealth's ability to act or procure services, he may approve an emergency payment. The Secretary of Finance shall, within thirty (30) days, notify the Personal Service Contract Review Subcommittee of his action and his reasons for authorizing the emergency payment.

[Section 4. In the event a contracting body reports to the subcommittee and does not propose action to comply with the objections, the personal service contract shall:]

[(1) Be referred by the Director of the Legislative Research Commission to the appropriations and revenue committees of the House of Representatives and Senate or to the interim committee on appropriations and revenue for review. If during a session of the General Assembly, a personal service contract is referred to the appropriations

and revenue committees of the House of Representatives and Senate, each such committee shall act on the contract within fourteen (14) days. If the contract is referred to the interim committee for review, that committee shall act on the contract within sixty (60) days.]

[(a) In the event the standing committees of the House and Senate or the interim committee determines that the contract is acceptable, notice will be forwarded to the contracting body and no further action will be required.]

[(b) In the event the standing committees of the House and Senate or the interim committee determines that the contract service is not needed, the service could and should be performed by state personnel, the cost is excessive, or the duration is excessive, the standing committee or the interim committee shall attach to the personal service contract a written notation of its objection, including a statement of the reasons therefore, and the director shall send a copy of the objections to the contracting body and to the governor.]

[(2) The contracting body shall file a written report with the standing committees or the interim committee, within thirty (30) days in any case where objections were made, stating the contracting bodies position and whether a cancellation or amendment is proposed. A copy of any proposed amendment shall accompany the report.]

Section 5. (1) Personal service contracts objected to or disapproved by the subcommittee shall be forwarded to the Department of Finance. The secretary of the Department of Finance shall determine whether a personal service contract:

(a) Shall be revised to comply with the objections of the subcommittee; or

(b) Shall be cancelled if disapproved by the subcommittee; or

(c) Shall remain effective as originally approved by the Department of Finance.

(2) The Department of Finance shall notify the subcommittee of the action taken on personal service contracts referred to the department by the subcommittee within thirty (30) days from the date the contracts were reviewed by the subcommittee.

(3) The subcommittee shall report monthly to the Legislative Research Commission all action taken on personal service contracts by the Department of Finance and the subcommittee.

[Section 5. In the event a contracting body reports to the standing committees or the interim committee and does not propose action to comply with the objections, the personal service contract shall:]

[(1) Be transmitted by the director to the Clerk of the Senate and the Clerk of the House of Representatives on or before the first day of each regular session of the general assembly.]

[(2) Each personal service contract submitted shall be accompanied by notice of objections from:]

[(a) The personal service contract review subcommittee;]

[(b) The standing committees or interim committee; and]

[(c) All other documentation as deemed appropriate by the director.]

[(3) The Clerk of the Senate and the Clerk of the House of Representatives shall lay all such disputed personal service contracts before the Senate and the House of Representatives, respectively, for such action, as the

respective legislative bodies may determine to be appropriate.]

VIC HELLARD, JR., Director

ADOPTED: June 10, 1980

RECEIVED BY LRC: July 15, 1980 at 10:45 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Director, Legislative Research Commission, Capitol Building, Frankfort, Kentucky 40601.

CABINET FOR DEVELOPMENT Department of Agriculture (Proposed Amendment)

302 KAR 20:040. Entry into state.

RELATES TO: KRS Chapter 257

PURSUANT TO: KRS 13.082, Chapter 257

NECESSITY AND FUNCTION: To specify health requirements for admission of all livestock and animals into Kentucky.

Section 1. General Provisions. (1) All animals, except as noted, shall be accompanied by an approved health certificate. Health certificates shall be void thirty (30) days after issuance. A health certificate means a legible record covering the requirements of the state of destination accomplished on an official form of a standard size from the state of origin or an equivalent form of the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture, that is prepared and issued by a licensed, accredited veterinarian. An approved health certificate means an official health certificate approved by the chief livestock sanitary official of the state of origin.

(2) If animals are from tuberculosis accredited or brucellosis certified herds, health certificates shall show accreditation and certification number with date of last herd test for tuberculosis and brucellosis.

Section 2. Cattle. (1) Brucellosis:

(a) No titer resulting from the standard tube test shall be accepted unless the animal or animals to be imported are negative to an official card test. Titer of 1-50 is accepted provided it is negative to the card test.

(b) Official vaccinate: A female bovine animal vaccinated with an approved Brucella vaccine while three (3) through eight (8) months of age permanently identified as a vaccinate. Date of birth and date of vaccination shall be recorded on the health certificate.

(c) Modified certified state: Thirty (30) day tube or card test of individual. Cattle six (6) months of age or older for dairy and breeding purposes, except official vaccinates of the beef breeds under twenty-four (24) months of age and dairy breeds under twenty (20) months of age may be imported into the Commonwealth of Kentucky provided they have passed a negative brucellosis tube or card test within thirty (30) days of date of entry, or originate directly and immediately from a certified herd provided the animals to be imported have qualified as negative members of the certified herd on the last annual certification test. *All cattle entering on a tube or card test within thirty (30) days before entry shall be retested within forty-five (45) to 120*

days after entry into the Commonwealth and shall be placed under quarantine pending negative retest results.

(d) Bison six (6) months of age or older except official vaccinates twenty-four (24) months and under shall be negative to tube or card test within thirty (30) days of date of entry.

(e) State not modified certified: Permit shall be obtained prior to movement for all cattle for breeding and dairy purposes. These cattle must comply with federal regulations.

(2) Tuberculosis:

(a) Cattle six (6) months of age or older for dairy and breeding purposes shall be negative to an official tuberculin test within thirty (30) days of date of entry, or originate directly and immediately from:

1. Accredited herd, or
2. Eradicated free state.

(b) Cattle classified as suspects or cattle originating from a quarantined herd shall not be imported.

(c) Reciprocal agreements with adjoining states may be effective in lieu of specific requirements.

(d) Bison six (6) months of age or older negative within thirty (30) days of entry.

(3) Other disease requirements:

(a) Scabies: No cattle affected with or exposed to scabies or from an area quarantined because of scabies shall be imported, shipped, driven or otherwise moved into Kentucky except in accordance with regulations of the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture, and only then after first securing written permit from the chief livestock sanitary official or his authorized representative.

(b) Ticks: No cattle infested with ticks (*Margarophus Annulatus*) or exposed to tick infestation shall be shipped, trailed, driven or otherwise moved into Kentucky for any purpose.

(c) No cattle from a state-federal tick quarantined area shall be shipped, trailed, driven or otherwise moved into Kentucky except in accordance with regulations of the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture, and only then after first securing written permit from the chief livestock sanitary official or his authorized representative.

(d) Cattle infected with warts, ringworm or any infectious or communicable disease are not eligible for entry.

(4) Other Movements:

(a) Feeder Cattle: Feeder cattle as defined (non-pregnant heifers, steers and bulls under two (2) years of age) may be imported without brucellosis and tuberculosis tests from herds or areas not under quarantine if accompanied by approved health certificate or written permit or both for movement to a feed lot with valid feeding permit or to a state-federal approved stockyard or public stockyard for reconsignment to a valid feeding permit where they shall be maintained separately and apart from all dairy and breeding cattle. Feeder cattle from non-modified certified areas are not eligible for entry except from qualified herds.

(b) Slaughter cattle: Cattle consigned for immediate slaughter may be imported without official test for brucellosis or tuberculosis provided such cattle are consigned for immediate slaughter to a recognized slaughtering center under state, federal or municipal inspection or to an approved state-federal stockyard or federal stockyard for reconsignment directly to a recognized slaughtering center. Any animal or animals diverted enroute will be in violation of this regulation.

(c) Calves six (6) months of age and under: No restriction if accompanied by an approved health certificate pro-

vided such imports are in compliance to general provisions as specified. Exception: Calves from non-modified certified area must originate from a herd known not to be infected with brucellosis.

(5) Exhibition:

(a) Brucellosis:

1. Breeding cattle six (6) months of age or older, except official female brucellosis vaccinates of the beef breeds under twenty-four (24) months of age and dairy breeds under twenty (20) months of age, shall be negative to an official tube or card test for brucellosis within thirty (30) days of entry or originate directly and immediately from a certified herd, provided cattle for exhibition have qualified as negative members of certified herd on last annual certification test.

2. Steers and heifers for carcass classes shall be positively identified but shall not be required to be brucellosis tested if accompanied by an approved health certificate.

(b) Tuberculosis:

1. Cattle six (6) months of age or older shall be negative to an official tuberculin test within thirty (30) days of entry or originate directly and immediately from an accredited herd or a tuberculosis eradicated free state.

2. Reciprocal agreements with adjoining states may be effective in lieu of specific requirements.

3. Steers and heifers for carcass classes shall be positively identified but shall not be required to be tuberculosis tested if accompanied by approved health certificate.

Section 3. Horses. (1) All horses entering Kentucky, except unweaned foals, and other equidae, for any purpose other than for immediate slaughter shall be accompanied by an official health certificate of state of origin issued by a state, federal or licensed accredited veterinarian and such certificate shall include:

(a) Veterinarian's statement that examination was made within the past thirty (30) days and revealed the animal to be free from symptoms of any infectious disease or exposure thereto, and

(b) Have attached thereto a copy of certificate of report from a laboratory approved by the USDA showing the animal(s) to be negative to AGID test for equine infectious anemia within the past six (6) months.

(2) All horses past six (6) months of age and other equidae offered for public sale shall be negative to AGID test within past six (6) months. Only horses offered for sale for slaughter only shall be exempt from this requirement.

(3) All horses and other equidae offered for entry into fairgrounds, livestock showgrounds, public boarding stables and for trail rides or racing shall be negative to test for AGID within twelve (12) months and shall be accompanied by certificate of report from a laboratory approved by the USDA.

(4) All reactors to AGID test for equine infectious anemia shall be officially, permanently identified using numbers and letter 61A with a brand on left neck region.

(5) All reactors not slaughtered or euthanized shall be isolated and quarantined. This isolation shall include stabling in a stall that is screened to preclude entry and exit of mosquitoes, stable flies and horse flies during those seasons of the year when such insects are prevalent. These animals will also be kept at least two hundred (200) yards from all other horses.

(6) The movement of any quarantined reactor shall be done only on permission of representative of the Department of Agriculture.

(7) All horses in a herd in which a reactor is found shall be quarantined pending a negative test of all horses.

Section 4. Swine. (1) Specific diseases:

(a) Garbage fed swine: Swine fed raw garbage shall not be imported for any purpose. Swine fed properly cooked garbage are eligible for import directly to a state or federal inspected slaughtering establishment only.

(b) Brucellosis: All swine for breeding purposes six (6) months of age or older shall be negative to an official test for brucellosis within thirty (30) days of date of entry or originate directly and immediately from a validated herd provided animals to be imported were tested on last validation herd test. No agglutination in dilution of 1-50 shall be accepted unless the individual or individuals to be imported are negative to an official card test.

(c) Hog cholera:

1. No treatment required or allowed.

2. Permit: A permit is required from the state veterinarian's office before entry on breeding and feeding swine in the event of an emergency disease outbreak.

3. All feeding and breeding swine to be held in isolation and under quarantine for a minimum of thirty (30) days.

4. All swine for feeding and breeding purposes must be identified by ear tag or ear notch to the farm of origin.

(d) Pseudorabies: All swine imported for feeding and breeding purposes six (6) months of age or older shall be negative to the serum neutralization test within thirty (30) days of date of entry and originate from a farm free of pseudorabies for the past six (6) months as evidenced on the health certificate.

(2) Other movements:

(a) Registered feedlots: Not applicable.

(b) Salesyards and markets: No vaccination or treatment if consigned to recognized slaughtering center or to public stockyard or approved stockyard for reconsignment to recognized slaughtering center within ten (10) days of date of entry.

(c) Farm premises: Identity to the farm of origin must be maintained on all breeding and feeding swine imported from farm premises to an approved stockyard or farm of destination.

(d) Exhibition: Approved health certificate in last thirty (30) days of entry. See Section 4(1)(b), (c), (d).

Section 5. Sheep. (1) Specific diseases:

(a) Scrapie: No sheep or lambs shall be imported that originated from or are known to be exposed to flocks under surveillance for scrapie.

(b) Scabies: All sheep or lambs for breeding or feeding purposes imported from a farm, ranch or like premises shall be accompanied by an approved health certificate indicating such sheep and lambs originated directly and immediately from an official scabies eradicated free area.

(c) Sore mouth: Any sheep or lambs showing lesions of contagious exanthema shall not be imported.

(2) Other movements:

(a) Apparently healthy sheep and lambs may be imported into Kentucky for immediate slaughter when consigned directly to a recognized slaughtering center approved by the chief livestock sanitary official of Kentucky or to a public stockyards, a state-federal approved stockyard, concentration point or public stockyard when reconsigned from that point direct to immediate slaughter.

(b) Exhibitions and shows: All sheep and lambs for exhibition shall be in compliance to requirements noted above as specified for sheep and in addition shall be identified individually by ear tattoo or ear tag. Such identification shall be entered on an approved health certificate.

Section 6. Goats. (1) Specific diseases:

(a) Scabies: All goats must originate from a scab free area.

(b) Scrapie: No goats from a herd under surveillance for scrapie or those that are known to have been exposed to or that are progeny shall be imported.

(2) Exhibition and sale:

(a) Brucellosis: Animals six (6) months of age or older shall have negative tube or card test in last thirty (30) days or originate directly and immediately from a certified herd.

(b) Tuberculosis: Animals six (6) months of age or older shall have negative tuberculin test in last thirty (30) days or originate directly and immediately from accredited herd.

Section 7. Poultry. (1) Specific Diseases:

(a) Poultry five (5) months of age or older for breeding purposes must have standard intradermic tuberculin test within thirty (30) days of entry.

(b) Pullorum: Negative agglutination test within thirty (30) days of date of entry.

(c) Chicks and hatching eggs shall originate from a flock under the National Poultry and/or National Turkey Improvement Plan.

(2) Exhibition: Approved health certificate stating compliance with above requirements and in addition thereto all poultry shall be inspected prior to exhibition for evidence of any infectious, contagious or communicable disease of poultry. Any evidence of any communicable, infectious or contagious disease shall be justification for the elimination of said poultry from exhibition and/or sale at no expense to the Commonwealth of Kentucky.

Section 8. Psittacine Birds. As regulated by Title 9, Part 82, Code of Federal Regulations, filed herein by reference.

Section 9. Dogs and Cats. (1) Dogs: All dogs to be imported into the Commonwealth of Kentucky for any purpose shall be admitted only when accompanied by health certificate signed by a licensed, accredited veterinarian stating that they are free from all infectious diseases, did not originate within an area under quarantine for rabies or from an area where rabies is known to exist and has not been exposed to rabies. All dogs over four (4) months of age shall be vaccinated against rabies not more than twelve (12) months prior to date of entry if killed virus vaccine is used, not more than two (2) years prior to date of entry if modified live virus vaccine is used or any vaccine approved for three (3) years immunity by the "Compendium of Animal Rabies Vaccines" prepared by the Association of State Public Health Veterinarians, (Inc.); provided, show or performing dogs to be within the state temporarily for a period of ten (10) days shall not be required to furnish a health certificate.

(2) Cats: All cats shall be in compliance to above requirements for dogs provided the animals are vaccinated for rabies if four (4) months of age or older not more than twelve (12) months prior to date of entry with a vaccine approved by the state veterinarian and the Bureau for Health Services, Kentucky Department for Human Resources.

Section 10. Furbearing Animals, Domesticated Wild Animals and Zoo Animals: Wild and semi-wild animals under domestication or in custody may be imported into the state if accompanied by a permit and health certificate and provided that a report of the number of animals is made to the chief livestock sanitary official of Kentucky within ten (10) days and that immediate opportunity for examination is afforded a representative of the Division of

Livestock Sanitation, Kentucky Department of Agriculture, to determine the health status of such animal or animals and the imports are presented for the administration of all laboratory procedures and tests deemed necessary by the chief livestock sanitary official of Kentucky. Transportation permit required on wild, game animals, birds and fish. Permit to be obtained from Department of Fish and Wildlife Resources, Capital Plaza Tower, Frankfort, Kentucky 40601 (telephone 502-564-4406).

ALBEN W. BARKLEY, II, Commissioner

ADOPTED: November 15, 1979

APPROVED: LARRY TOWNSEND, Secretary

RECEIVED BY LRC: July 14, 1980 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Dr. Tom S. Maddox, State Veterinarian, Division of Livestock Sanitation, 635 Comanche Trail, Frankfort, Kentucky 40601.

CABINET FOR DEVELOPMENT Department of Agriculture (Proposed Amendment)

302 KAR 20:070. Stockyards.

RELATES TO: KRS Chapter 257

PURSUANT TO: KRS 13.082, Chapter 257

NECESSITY AND FUNCTION: To designate sanitary requirements, and operational procedures in all stockyards relative to disease control.

Section 1. Operating Sale Requirements. (1) The owner or manager operating a stockyard shall arrange for an accredited, licensed veterinarian approved by the Department of Agriculture to be present in said sales point to carry out the provisions of this regulation.

(2) The person operating a stockyard shall provide separate pens or a yarded division for isolating animals classed as reactors to brucellosis or any communicable disease.

(3) The owner operating a stockyard shall provide adequate space, utilities, hot water and assistance for the accredited, licensed veterinarian to officially carry out the provisions of this regulation.

(4) The owner or operator shall furnish and maintain one or more cattle chutes suitable for restraining animals for inspection of any infectious, contagious or parastic condition, testing, tagging, branding and other procedures routinely required in providing livestock sanitary services and identification for movement at stockyards.

(5) The owner or operator shall maintain records of the seller and purchaser of all livestock for one (1) year. These records to be made available to Department of Agriculture representatives for inspection upon request during regular business hours.

(6) The owner or operator shall provide adequate facilities and service at a reasonable cost, if not available at or near the yards, for cleaning and disinfecting cars, trucks or other vehicles which have transported to the stockyards animals known to be infected with or exposed to a contagious, infectious, communicable or parasitic disease with a disinfectant approved by the chief livestock sanitary official.

Section 2. General Requirements. (1) All stockyards shall be maintained in a workable and sanitary condition. Stockyards shall be inspected as required by a representative of the board.

(2) After an occurrence of any infectious, contagious, parasitic or communicable disease of livestock in a stockyard, exposed facilities capable of transmitting disease shall be cleaned and disinfected with approved disinfectants in a manner approved by the chief livestock sanitary official.

(3) Livestock found to be infected and showing clinical or diagnostic symptoms of an infectious, contagious, parasitic or communicable disease shall upon recommendation of stockyard veterinarian or authorized representative of the chief livestock sanitary official be quarantined in an isolated portion of the yards for treatment, additional diagnostic laboratory procedures, disposition to slaughter or other disposition pursuant to accepted methods of disease prevention and control.

(4) All livestock originating from a quarantined herd or premises shall be sold under permit for immediate slaughter.

(5) The card test shall be the official test for brucellosis at stockyards. All animals showing positive reaction must be identified and sold for immediate slaughter only. Indemnity will be paid for reactors disclosed by stockyard test as long as state-federal funds are available.

(6) Upon disclosure of a reactor(s) by the stockyard veterinarian, all cattle in the consignment from the same herd are exposed cattle and must be returned to the farm of origin under quarantine for retesting or sold for slaughter with proper identification. Assembled cattle are considered to be a herd.

(7) Exposed animals and reactor animals will be identified as described in Title 9, CFR, 78.7 and 78.8, herein filed by reference.

Section 3. Veterinary Compensation. Accredited veterinarians shall receive for any services rendered a fee that has been agreed on by the stockyard operators and the accredited veterinarians. Such fees shall be deducted from the seller's or buyer's check, depending upon conditions of sale and shall be paid to the accredited veterinarian, except for those services reimbursed pursuant to a state-federal cooperative program.

Section 4. Veterinary Duties. The stockyard veterinarian shall in cooperation with representative(s) of the department: (1) Examine, validate and issue certificates pertinent to the movement of livestock to be sold.

(2) Conduct required test of livestock.

(3) Inspect all livestock for clinical evidence of infectious, contagious, or parasitic diseases.

(4) Obtain blood samples. Aid and assist in conducting of associated laboratory tests. Submit such specimens to state-federal laboratory for confirmation. Such specimens shall be posted by mail or delivered directly to state-federal laboratory within twenty-four (24) hours.

(5) Compile and present such reports as are routinely required to the chief livestock sanitary official.

(6) Report the presence of any communicable disease condition to chief livestock sanitary official.

Section 5. Cattle Requirements. (1) Tuberculosis:

(a) Imports: Cattle six (6) months of age or older for dairy and breeding purposes shall be negative to an official tuberculin test within thirty (30) days of date of entry or

originate directly and immediately from an accredited herd or eradicated free state.

(b) Cattle classified as suspects or those originating from a quarantined herd shall not be imported.

(c) Reciprocal agreements with adjoining states may be effective in lieu of specific requirements.

(d) Kentucky cattle: No tuberculosis requirements if to a Kentucky destination.

(2) Brucellosis:

(a) All cattle six (6) months of age or older offered for sale at the stockyard for breeding and dairy purposes, except for the following, shall be negative to an official brucellosis test within the last eight (8) days of sale:

1. Official vaccinates identified by official tattoo twenty-four (24) months of age and under if a beef animal and twenty (20) months of age and under if a dairy animal, provided heavy springers and females post partum shall be negative regardless of age at time of sale.

2. Cattle from a certified herd.

3. *All test-eligible cattle arriving directly from a modified certified state that are moved to a farm in the Commonwealth shall be retested within forty-five (45) to 120 days and shall be placed under quarantine with no commingling pending negative results on all involved animals on retest.*

(b) Backtagged cattle:

1. All mature cattle eighteen (18) months or older, as indicated by the presence of the first pair of permanent incisor teeth, except steers and spayed heifers, consigned to any stockyard, or purchased direct by any slaughtering establishment shall be backtagged in a routine manner prescribed by the department.

2. All backtagged cattle shall be negative to a brucellosis test within eight (8) days of sale.

3. Backtags placed on slaughter cattle shall not be removed at any time or by any person only under specific instructions from the chief livestock sanitary official.

4. Backtagged cattle shall proceed directly to a recognized slaughtering center with no diversion whatever enroute except to another approved stockyard for reconsignment to slaughter.

5. Materials for the backtagging program shall be furnished by the department and/or Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture.

(c) All breeding, dairy and backtagged cattle requiring testing shall be tested at the first point of assembly or concentration.

(d) Cattle of beef breeds between the ages of six (6) and eighteen (18) months sold for feeding and grazing shall be exempt from brucellosis test unless they are heavy springers or female post partum.

Section 6. Swine requirements. (1) As prescribed in 302 KAR 20:080.

(2) Effective January 1, 1971, all serum requirements for swine moving into or through the State of Kentucky were rescinded.

(3) Breeding swine: All swine six (6) months of age or older shall be negative to both an official blood test for brucellosis and the serum neutralization test for pseudorabies at time of sale. Swine shall be deemed negative at the time of sale to an official test if accompanied by proof of a negative test result within thirty (30) days of sale. Swine originating from a validated brucellosis free herd shall be exempt from a stockyard test for brucellosis.

(4) Livestock markets, buying stations, and concentration points handling all classes of swine:

(a) All swine, including slaughter swine, to be inspected by an accredited veterinarian prior to leaving market.

(b) Swine moving interstate from markets to be in compliance with Title 9, Part 76, CFR, herein filed by reference, including health certification by the accredited veterinarian authorized by the state to furnish such services.

(c) Slaughter swine leaving premises to be consigned only for immediate slaughter to a recognized slaughtering establishment approved for this purpose in accordance with federal and state regulations.

(d) Markets to maintain well-constructed pens and swine-handling facilities that are clean and in good repair.

(e) Markets to provide pens surfaced with impervious material for holding and handling feeder pigs and breeding swine.

(f) Markets to provide satisfactory, well-lighted facilities for inspection and proper restraint.

(g) Clean and disinfect holding and handling pens, alleys and other facilities used in selling swine after use by each lot of swine under procedures specified by state and federal agencies to guard against spread of disease.

(h) Maintain records of margin and destination for all swine entering market and grant federal and state inspectors access to such records. Identification as to farm where farrowed shall be maintained for all feeder pigs and breeding stock and all slaughter swine which may be diverted for purposes other than slaughter. Records shall be maintained for one (1) year.

(i) Feeding and breeding swine must be placed in pens separate and apart from slaughter swine. All swine designated for slaughter must be delivered directly to an approved slaughter establishment with no diversion enroute.

(j) Permit no cull pigs to enter market unless provisions are made to pen such pigs separate and apart from all other swine so contact with healthy swine does not occur. Facilities used by these swine will not be used by other swine until cleaning and disinfecting have been accomplished. Further, cull swine to be permanently identified by an ear tag in the right ear, quarantined to the purchaser, and released from said quarantine by consignment to slaughter only. A cull pig is defined as one which does not pass veterinary inspection for health.

(k) Permit no garbage fed swine to enter market unless provisions are made to handle and pen such swine separate and apart from all other swine to avoid contact with other marketable swine.

(l) Permit no swine to be moved into or from the market unless a state or federal inspector releases such swine.

(m) Require all buyers of swine to determine the purpose of their movement. If for slaughter and there is any reason to believe the swine might be diverted (under-weight swine, thin sows, etc.) the inspector may require that such swine be identified by ear tag and consigned to slaughter on a special permit. Further, any swine with which these swine mingle shall cause the entire lot to be ineligible for movement except to slaughter.

(n) Permit no feeder pigs or breeding swine to remain in the market more than seventy-two (72) hours.

(o) No feeding or breeding swine are to be allowed in any market for resale within thirty (30) days from prior sale date.

(5) Livestock markets, buying stations and concentration points handling slaughter swine only.

(a) Swine moving interstate to be in compliance with Title 9, Part 76, CFR, herein filed by reference, and applicable state regulations.

(b) Accept swine only for slaughter and to permit no swine to leave market except for slaughter only.

(c) Markets to maintain well-constructed pens and swine-handling facilities that are clean and in good repair.

(d) Maintain records of origin and destination for all swine entering market and grant federal and state inspectors access to such records. Records shall be maintained one (1) year.

(e) Isolate all swine suspected of being affected with or exposed to infectious disease, promptly notify the state or federal agency, and hold such swine in isolation pending instructions on disposition.

(f) Clean and disinfect holding and handling pens, alleys, and other facilities used in selling swine under procedures specified by state and federal agencies to guard against spread of disease.

Section 7. Sheep and Goat Requirements. (1) As prescribed in 302 KAR 20:040.

(2) Before the beginning of a sale all sheep and goats to be sold for breeding purposes that are free from evidence of infectious, contagious or parasitic disease shall be separated from all other sheep and goats in a part of the yard provided for this purpose.

(3) All sheep and goats that as individuals or any part of an assembled group show evidence of any infectious, contagious, communicable or parasitic disease must be sold for immediate slaughter or otherwise disposed of under permit issued by the chief livestock sanitary official.

(4) Goats for dairy or breeding purposes if free from evidences of any infectious, contagious, or parasitic disease shall originate directly and immediately from a brucellosis certified free herd or if six (6) months of age or over be negative to an official brucellosis test within thirty (30) days of date of sale.

ALBEN W. BARKLEY, II, Commissioner

ADOPTED: November 15, 1979

APPROVED: LARRY TOWNSEND, Secretary

RECEIVED BY LRC: July 14, 1980 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Dr. Tom S. Maddox, State Veterinarian, Division of Livestock Sanitation, 635 Comanche Trail, Frankfort, Kentucky 40601.

DEPARTMENT OF TRANSPORTATION
Bureau of Vehicle Regulation
(Proposed Amendment)

601 KAR 1:090. Exempted commodities.

RELATES TO: KRS Chapter 281

PURSUANT TO: KRS 13.082, 281.625(6)

NECESSITY AND FUNCTION: KRS 281.625(6) requires the Bureau of Vehicle Regulation to promulgate regulations designating exempted commodities which are normally and usually not transported by common carriers by motor vehicle. *The purpose of this amendment is to include, as an exempted commodity, license plates and decals issued by the Bureau of Vehicle Regulation in order that these commodities may be shipped from the point of origin*

to their destination in the most economical, adequate and efficient manner possible while preserving to the Commonwealth the advantages of low-cost motor transportation; and the reinstatement of certain text in Section 2 inadvertently omitted when DMT-13 was refilled for inclusion in the Kentucky Administrative Regulations.

Section 1. In General. The following commodities are hereby specifically designated as exempted commodities pursuant to KRS 281.625:

(1) Airplanes; automobiles and trucks; barrels, used, empty; barrel staves; beer; bituminous concrete or bituminous asphalt surface; blocks, concrete and cinder; blood, human; boats, used and assembled, owned by individuals and transported for personal purposes; buildings, used, intact or in section; and brick.

(2) Cement in bags and sacks and other containers in lots, the aggregate weight of which does not exceed 10,000 pounds; chrome ore in bulk in its crude state; clay; coal; coke; commercial papers and documents not normally and ordinarily used in banks and banking institutions, written instruments and inter-office communications ordinarily used in business houses other than banks, not including delivery of newly manufactured items; concrete products, pre-stressed or pre-cast, weighing more than 2,000 pounds; cotton, in bales; cottonseed hulls; crossties; culvert, sewer pipe or gas line pipe, together with couplings and other items necessary for installing, including culvert, sewer pipe or gas line pipe, knocked down or nesting; and currency, coinage and other forms of legal tender, together with negotiable securities, transported by armored cars.

(3) Distillery swill (slop); feed, both in bulk and in bags; fertilizer; fluorspar; fly ash, in bags and sacks and other containers, the aggregate weight of which does not exceed 10,000 pounds; fresh meat, including smoked meats, frozen fish, lard and cheese for peddler route distribution only; fruits and vegetables, in bulk; garbage; grain; grass sod; and gravel.

(4) Hauling or towing of wrecked or disabled motor vehicles; heavy steel items and metal products, each item weighing more than 2,000 pounds or exceeding ten (10) feet in length or four (4) feet in width but including no item exceeding 10,000 pounds in weight; hides, green; highway markers (concrete); industrial alcohol, in bulk, transportation of which is licensed by the Alcoholic Beverage Control Board under the provisions of KRS 243.030(17); license tags and decals to be issued pursuant to KRS Chapter 186; lime, in bags and sacks and other containers, the aggregate weight of which does not exceed 10,000 pounds; livestock; logs; and lumber, rough.

(5) Magazines; magnesite in bulk in its crude state; materials, supplies and equipment used exclusively for the construction, reconstruction or maintenance of any public highway, road or street; milk and cream, in bulk, or in five (5) gallon cans or greater, or in bottles, but excluding cases of canned milk or cream; newspapers; peat moss; piling; posts (wood); and poultry (live).

(6) Race horses; rock, salt, rock, crushed and screened, not farther processed or refined, unfit for human consumption; sand; sawdust; scrap metal and scrap paper, loose or in bundles; seed, in bulk; stove bolts; and stone.

(7) Tanks and boilers, over 500 gallons capacity; telegraph poles; telephone poles; tobacco, unmanufactured; tobacco hogsheads, new and used, empty; trees and shrubs; United States Mail and Parcel Post; voting machines; water; well rigs, including machinery and equipment; and wool, unprocessed.

Section 2. Limited Exempted Commodities. The following commodities are hereby specifically designated as exempted commodities pursuant to KRS 281.625 and limited by the definition contained in 601 KAR 1:035: *emigrant movables, materials used in handling unmanufactured tobacco.*

JAMES F. RUNKE, Acting Commissioner

ADOPTED: June 5, 1980

APPROVED: FRANK R. METTS, Secretary

RECEIVED BY LRC: June 20, 1980 at 9 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Commissioner, Bureau of Vehicle Regulation, Department of Transportation, State Office Building, Frankfort, Kentucky 40622.

DEPARTMENT OF TRANSPORTATION
Bureau of Vehicle Regulation
(Proposed Amendment)

601 KAR 9:070. Motor carrier fuel use tax.

RELATES TO: KRS Chapter 138

PURSUANT TO: KRS 13.082, 138.725

NECESSITY AND FUNCTION: KRS 138.725 makes the Bureau of Vehicle Regulation responsible for the application of the Kentucky motor carrier fuel use tax to motor carriers covered by KRS 138.655 to 138.725. This regulation provides procedures for *licensees* [motor carriers] to follow in order to comply with the statutes.

Section 1. Motor Carrier Fuel Use Permit. Every motor carrier as defined in KRS 138.655(5) shall apply for and obtain a license from the Bureau of Vehicle Regulation before using or continuing to use gasoline or special fuels on the public highways of this state. The bureau shall assign a license number to each motor carrier, and every such carrier shall cause said license number to be displayed on a motor vehicle identification card issued by the department, which card shall be carried in each vehicle operated by the carrier at all times.

Section 2. Display of Permit Number. Before any motor carrier as defined in KRS 138.655(5) may operate a motor vehicle on the public highways of Kentucky, the motor carrier operating such vehicle shall make application to the Bureau of Vehicle Regulation, Frankfort, Kentucky, for a motor vehicle identification card. Such application shall be made on forms prescribed and furnished by the Bureau of Vehicle Regulation and shall be completed by the motor carrier and returned to the bureau for validation. The motor carrier identification card shall contain the name and address of the owner or operator, identification of the vehicle, such other information as may be shown thereon and the KYU license number issued to the licensee for the use of gasoline or special fuels on the public highways. This identification card shall be carried in the cab of the vehicle at all times and failure to so carry shall constitute a violation of KRS 138.665(8).

Section 3. Authorized Deductions on Quarterly Returns. Every person licensed as a motor carrier may deduct on his quarterly tax return the amount of tax paid on fuel at the time of purchase, provided the purchase is

made in Kentucky and the Kentucky motor fuel tax has been paid. A valid receipt must be obtained as evidence of purchase from the person making the sale or delivery.

(1) The valid receipt is one in which:

(a) The purchase receipt is the original prepared by a station or vendor located in the state of Kentucky. Receipts that do not have an imprinted Kentucky address, but include other station locations outside of Kentucky, are invalid.

(b) The following is included:

1. Name and station location of the vendor;
2. Date of purchase;
3. Number of gallons;
4. Type of fuel purchased;
5. Company unit number of vehicle or license number of unit;
6. Licensee's name.

(c) The name and address of the vendor shall be pre-printed or imprinted, which includes, but is not restricted to, credit card machines. Station receipts that are identified only by impressed rubber stamp markers are not valid.

(2) Bulk or storage purchasers of fuel shall maintain a withdrawal or disbursement record when such fuel is used in taxable highway or road units. This record shall be kept on all units fueling from this tank showing the unit fueled, gallons withdrawn, and the date of withdrawal. Credit for fuel purchase receipts other than for taxable units shall not be allowed.

(3) In instances where fuel is purchased by trip leased units and the lessee is responsible for the Kentucky fuel tax, all receipts should be made to the lessee. Receipts made out in the name other than the person or company responsible for the fuel tax shall be invalid.

(4) All receipts shall be kept in the possession of the carrier for a period of at least two (2) years, subject to examination by representatives of the Bureau of Vehicle Regulation or Department of Revenue.

Section 4. Trip Permits in Lieu of License. (1) The Bureau of Vehicle Regulation may issue a trip permit to any otherwise qualified motor carrier or heavy equipment motor carrier upon the payment of a ten dollar (\$10) fee for each vehicle, which shall entitle the holder thereof to operate for a ten (10) day consecutive period whenever the motor carrier or heavy equipment motor carrier does not have a motor fuel use tax (KYU) license for any of the following reasons:

(a) The carrier does not have sufficient time to submit to the department an application form and corporate surety bond as a requirement for a license before beginning operations in this state; or

(b) The carrier does not regularly operate in this state.

(2) Trip permits may be issued during the regular office hours, Monday through Friday, by the Bureau of Vehicle Regulation, Division of Motor Carriers [Vehicle Tax], *Fuel Tax Section*, Frankfort, Kentucky, in the following manner:

(a) Purchase by mail:

1. The application for a permit with a ten dollar (\$10) remittance attached will be *accepted* [received] by the bureau. Personal checks are not acceptable in payment for a permit. Remittance shall be in the form of a certified or cashier's check, money order, or cash. Personal checks, together with the application, may be returned to the applicant.

2. The permit may be issued in the name of the carrier and mailed to the mailing address shown on the application, or as directed by the applicant. The effective date of

the permit will be the effective date requested by the applicant. If no effective date is requested, the effective date will be fixed by the bureau.

(b) Purchase by telegram: The department will accept [receive] applications and may issue trip permits via Western Union Telegram. Applicants desiring a permit when time will not allow the processing by mail, should wire ten dollars (\$10) to the Bureau of Vehicle Regulation, Division of Motor Carriers [Vehicle Tax], *Fuel Tax Section*, Frankfort, Kentucky, by Western Union money order, giving the name and address of the carrier which the permit is to be issued to, and instructions for the delivery of the permit. Upon receipt of the ten dollar (\$10) fee and the necessary instructions, the bureau may wire the permit via Western Union collect.

(c) Purchase in person:

1. The Bureau of Vehicle Regulation may issue trip permits to persons making application and paying the proper fee in person in Frankfort, Kentucky. These permits must be obtained before the vehicle is operated on the public highways in Kentucky.

2. Trip permits issued by the department shall be carried in the cab of the vehicle at all times, and failure to so carry shall constitute a violation of KRS 138.665(8).

Section 5. Issuance of Permanent License. Application for a permanent license shall be made to the Motor Carrier [Vehicle Tax] Division of the Bureau of Vehicle Regulation in Frankfort, Kentucky. No charge is made by the Bureau of Vehicle Regulation for issuing a permanent license.

Section 6. Highway Motor Fuel User's License for Leased Vehicles. Any person leasing or renting a commercial motor vehicle to a lessee, where the operator of such vehicle is required to have a highway motor fuel user's license, may obtain such a license by making application to the Bureau of Vehicle Regulation and complying with the appropriate rules and regulations. Such license shall entitle the lessee of such person to operate the leased or rented vehicle under the lessor's license provided the lessee is engaged in private carriage [and the lease agreement is for a period of not longer than thirty (30) days]. The lease shall be carried in the vehicle and the required cab card shall be in the lessor's name and the lessor shall make the required quarterly reports and shall pay all taxes which may become due under said operation. In the event any motor vehicle is leased to a certificated carrier, the lessee shall have a highway motor fuel user's license and shall be responsible for the payment of any tax which may become due. [If the lessee is a private carrier and the lease is for a period of time longer than thirty (30) days then he shall have a highway motor fuel user's license and shall pay any taxes which may become due.] Any lessor of motor vehicle equipment *who makes an application for a license under this section* [, the operation of which requires a highway motor fuel user's license], shall furnish the bureau with a copy of his standard lease or rental agreement, [and] the address of the place of business where his records are maintained, *and a current list of all lessees who lease equipment from such lessor, and who will use such lessor's motor fuel user's license. Such list shall contain the name of the lessee, the lessee's address, number of vehicles leased to each lessee, and other pertinent information which the bureau may require. Each list shall be updated and kept current on a semi-annual basis by such lessor.*

Section 7. Fuel Use Permit Issued to Shipper in Lieu of Carrier. (1) In order to encourage the free flow of com-

merce to and from points in Kentucky without imposing unnecessary burdens or inconvenience, applications to act as agent for one or more carriers, for motor carrier fuel use tax purposes, will be accepted from business organizations with shipping facilities domiciled within the commercial area of a city located within ten (10) miles of the borders of the Commonwealth.

(2) Upon application and approval by the Bureau of Vehicle Regulation, applicants may be authorized to secure a motor carrier fuel use permit as agent for one or more carriers. Such carriers must be exclusively engaged in Kentucky in the business of transporting merchandise to or from applicant's place of business in Kentucky. The permit will be issued, along with cab cards for the motor vehicles owned by the carriers. The applicant will be designated on said cab cards as agent for a particular carrier.

(3) Any applicant so licensed shall be responsible for filing quarterly returns with the bureau, and returns shall evidence the entire mileage operation of each such carrier in Kentucky and be accompanied by payment. Bond shall be required as in other cases.

Section 8. Procedure Upon Cancellation of Permit. (1) Upon cancellation of a motor fuel user's permit, in accordance with the terms of KRS 138.675, and notice to the carrier by mailing same to the address on file in the bureau, the carrier shall immediately return to the bureau the license permit and every cab card issued to such carrier.

(2) Failure to return the cards and licenses, or the operation of a motor vehicle displaying a cab card after notice of revocation of the fuel use permit shown thereon shall be a violation of this regulation.

(3) Cancellation of the fuel permit shall also constitute a revocation of the grant of reciprocal privileges for an interstate motor vehicle.

(4) Any intrastate carrier operating a motor vehicle displaying a cab card with a cancelled fuel use permit shown thereon shall be subject to citation before the bureau to show cause why such carrier's operating authority, if any, should not be revoked and in every case the motor vehicle shall be subjected to seizure in accordance with KRS 138.990(18).

JAMES F. RUNKE, Acting Commissioner

ADOPTED: July 10, 1980

APPROVED: FRANK R. METTS, Secretary

RECEIVED BY LRC: July 14, 1980 at 1:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Director, Division of Motor Carriers, 308 State Office Building, Frankfort, Kentucky 40622.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Administration and Finance
(Proposed Amendment)

702 KAR 5:080. Bus drivers' qualifications; responsibilities.

RELATES TO: KRS 156.160, 189.540

PURSUANT TO: KRS 13.082, 156.070, 156.160

NECESSITY AND FUNCTION: To set out the qualifications and responsibilities of the school bus driver

in order to assist in carrying out the responsibilities of this important function in pupil transportation.

Section 1. No person shall drive a school bus unless he or she is physically or mentally able to operate a school bus safely and satisfactorily. If there is limitation of motion in joints, neck, back, arms, legs, etc., due to injury or disease that would limit the driver's ability to safely perform the task of safely driving a school bus, the driver shall be rejected. Any driver taking medication either by prescription or without prescription, shall not be permitted to drive if that medication would affect, in any way, the driver's ability to safely drive a school bus.

Section 2. (1) No person shall drive a school bus unless he or she has:

(a) Visual acuity of at least 20/40 (Snellen) in each eye either without glasses or by correction with glasses;

(b) Form field vision of not less than a total of 140 degrees;

(c) The ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

(2) Drivers requiring correction by glasses shall wear properly prescribed glasses at all times while driving.

Section 3. No person shall drive a school bus whose hearing is less than 7/15 in the better ear, or hearing loss is greater than forty (40) decibels if audiogram is used, for conversational tones, with or without a hearing aid. Drivers requiring a hearing aid shall wear such properly operating aids at all times while driving.

[Section 1. No person shall drive a school bus who does not possess both of these natural body parts: feet, legs, hands, arms, eyes, and ears. The driver shall have normal use of the above named body parts. Eyes may be corrected to normal by the use of eyeglasses. The driver shall not have any physical or mental handicap that would affect the driver's ability to operate the school bus in a safe manner.]

Section 4. [2.] The driver of any school bus, whether board owned or contractor owned, shall satisfactorily pass at least an annual physical examination by a physician or physicians designated by the district board of education. The board, at its discretion, may require a school bus driver to pass a routine physical examination or a special type physical examination more often than annually. The school bus driver shall have a current physical fitness certificate on file in the district superintendent's office.

Section 5. [3.] Drivers of school buses shall be between eighteen (18) and sixty-five (65) years of age. A driver shall not start driving a school bus until the eighteenth birthday. A driver whose sixty-fifth birthday occurs during the second half of the school year may continue to drive to the end of the school year.

Section 6. [4.] The school bus driver shall have a current driver's license that is valid in Kentucky.

Section 7. [5.] Substitute school bus drivers shall meet the same requirements as regular school bus drivers.

Section 8. [6.] In case of an emergency that would make it necessary for the driver to leave the bus while pupils are on board, the driver shall stop the motor, shift the bus to low gear, set the parking brake, remove the ignition key, and place one (1) of the older responsible pupils in charge during the driver's absence.

Section 9. [7.] The driver shall operate the school bus at all times in a manner that provides the maximum amount of safety and comfort for the pupils under the circumstances.

Section 10. [8.] The driver shall supervise the seating of the pupils on the bus. The driver shall make certain the seating capability of the bus has been fully utilized before any pupil is permitted to stand in the bus aisle.

Section 11. [9.] The driver shall not, at any time, permit pupils to stand in the stepwell or landing area or where the pupil would likely fall out of the bus if the rear emergency door was opened, or where the driver's view directly in front of the bus or to either side of the front of the bus would be obscured.

Section 12. [10.] The driver shall report to the superintendent any overcrowded conditions on the bus.

Section 13. [11.] The driver shall transport only those pupils officially assigned to a particular bus trip unless an unassigned pupil presents the driver with a written permit to ride the bus trip that has been signed by the school principal or his designate. The driver shall not permit an assigned pupil to leave the bus at a stop other than where the pupil regularly leaves the bus unless a written permit signed by the school principal or his designate is presented to the driver.

Section 14. [12.] The driver shall not transport adult employees of the board or any person not employed by the board unless he receives written permission of the district superintendent to do so.

Section 15. [13.] The driver shall not permit any firearms or weapons, either operative or ceremonial, to be transported on the bus. The driver shall not permit any fireworks of any type to be transported.

Section 16. [14.] The driver shall not permit any live animals, fowls, or reptiles to be transported on the bus. The driver shall not permit any preserved specimen to be transported that would likely frighten any pupil or cause a commotion on the bus.

Section 17. [15.] The driver shall not permit the transportation of any object that would likely block the bus aisle or exits in case of a collision.

Section 18. [16.] The driver shall not permit a pupil to operate the entrance door handle or any other bus control except in case of an emergency.

Section 19. [17.] The driver shall not open the entrance door to permit pupils to enter the bus or leave the bus until both following and meeting traffic has stopped as required by law.

Section 20. [18.] The driver shall signal pupils that must cross the roadway to board the bus or when leaving the bus when it appears to be safe for the pupils to cross the road.

Section 21. [19.] The driver shall activate the flashing stop warning lights and/or the stop signal arm a sufficient distance from a bus stop that would permit any prudent motorist to stop short of striking or passing the stopped bus.

Section 22. [20.] For safety reasons, the driver shall not permit gasoline to be put into the bus gasoline tank while pupils are on board the bus.

Section 23. [21.] If a pupil's conduct on the bus is such that it endangers the lives and morals of the other people on the bus and makes it unsafe for the bus to continue on its route, and when requested by the driver to desist from such conduct and the pupil does not comply, it shall be the duty of the driver to order the pupil to leave the bus, and if this order is refused, to eject the pupil from the bus or send for assistance, whichever the circumstances dictate. Ejecting a pupil from the bus shall be done only in the most extreme circumstances. When ejection from the bus is required, the driver shall notify the principal of the school where the pupil attends, the district superintendent or some other school authority of the action taken as soon as it is possible to do so.

Section 24. [22.] In the interest of safety, the driver shall stop the bus at all places where the roadway crosses a railroad track or tracks at the grade level. The driver shall open the bus entrance door, listen, and look for the approach of a train from both directions. When the driver has ascertained that it is safe for the bus to cross the railroad tracks, he shall close the bus entrance door, shift the bus gears into the range that will provide adequate power and proceed immediately to cross the railroad tracks. In cases of severe weather or restricted visibility, the driver shall request assistance from the oldest pupils on the bus in determining whether or not it is safe for the bus to cross the railroad tracks. Under these circumstances, the stop signal arm and flashing warning lights shall be used only if these pupils get off the bus before it is driven across the tracks and board the bus after it has crossed the tracks.

Section 25. [23.] The driver shall have the authority to assign a pupil to a specific seat on the school bus.

Section 26. [24.] The driver shall make a pre-trip inspection of the bus safety and operating equipment each time that the bus is taken out for the transportation of pupils.

Section 27. [25.] The school bus driver shall not operate the school bus at a speed in excess of the current posted truck speed on the sections of highways over which the bus travels, nor at any time in excess of fifty-five (55) miles per hour. The driver shall not drive the school bus on any roadway at any time at a speed where the conditions of the roadway, weather conditions, or other extenuating circumstances would likely make it unsafe for the bus to travel at that speed.

Section 28. [26.] The driver shall wear the driver's seat belt at all times that the bus is being used to transport pupils.

Section 29. [27.] The stop signal arm and flashing warning lights shall be used only at stops where pupils are boarding or leaving the bus.

RAYMOND BARBER
Superintendent of Public Instruction

ADOPTED: June 11, 1980

RECEIVED BY LRC: June 26, 1980 at 2:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Fred Schultz, Secretary, Kentucky State Board for
Elementary and Secondary Education, 17th Floor, Capital
Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 4:020. *Comprehensive school health.*

RELATES TO: KRS 156.160

PURSUANT TO: KRS 13.082, 156.070, 156.160,
161.145

NECESSITY AND FUNCTION: KRS 156.160 requires the Superintendent of Public Instruction to prepare regulations governing medical inspection, physical education and recreation, and other rules and regulations deemed necessary or advisable for the protection of the physical welfare and safety of the public school children.

Section 1. School employee medical examinations shall be required for the protection of the physical welfare and safety of the public school children:

(1) All local boards of education shall require a medical examination of each teacher upon initial employment which shall include a tuberculin skin test. All positive reactors shall obtain an immediate chest x-ray for evidence of tuberculosis, followed by the currently accepted practice of the Preventive Services Section, Bureau of Health Services, Kentucky Department for Human Resources, for treatment of tuberculosis infection or disease. No further tuberculin skin test or x-rays for tuberculosis shall be required following completion of treatment, unless symptoms occur. *Following the required medical examinations and subsequent medical examinations, each teacher shall submit to the local school superintendent a statement clarifying his/her medical status.*

(a) A yearly chest x-ray shall be required if the above recommended preventive treatment for infection is not completed.

(b) Local school authorities shall require each year thereafter a repeat tuberculin skin test for all tuberculin nonreactors, with the above procedure followed when a teacher becomes a tuberculin reactor. Additional tests and examinations may be required as deemed necessary by the local boards of education.

(2) All local boards of education shall require a medical examination of each school bus driver in accordance with the requirements of the State Board for Elementary and Secondary Education's regulations pertaining to pupil transportation upon initial employment and each year thereafter. The medical examination shall include test for tuberculosis, hearing and vision disorders, emotional instability, and for serious medical diseases including diabetes, epilepsy, heart disease, and other chronic or communicable diseases if indicated in the opinion of the examining physician. All medical examinations of the school bus drivers shall be reported on the special form approved by the State Department of Education and submitted to the local school superintendent.

(a) All positive reactors to the tuberculin skin test shall obtain an immediate chest x-ray for evidence of tuberculosis, followed by the currently acceptable treatment for tuberculosis infection or disease. No further tuberculin skin test or x-rays for tuberculosis shall be required following completion of treatment, unless symptoms occur.

(b) A yearly chest x-ray shall be required if the above recommended preventive treatment for infection is not completed.

(3) All local boards of education shall require a medical examination of each custodian, cafeteria worker, and other school employees upon initial employment which

shall include a tuberculin skin test. All positive reactors shall obtain an immediate chest x-ray for evidence of tuberculosis, followed by the currently acceptable treatment for tuberculosis infection or disease. No further tuberculin skin test or x-rays for tuberculosis shall be required following completion of treatment, unless symptoms occur. *Following the required medical examinations and subsequent medical examinations, each employee shall submit to the local school superintendent a statement clarifying his/her medical status.*

(a) A yearly chest x-ray shall be required if the above recommended preventive treatment for infection is not completed.

(b) Local school authorities shall require each year thereafter a repeat tuberculin skin test for all tuberculin nonreactors, with the above procedure followed when a custodian, cafeteria worker, and other school employee becomes a tuberculin reactor. Additional tests and examinations may be required as deemed necessary by the local boards of education.

(4) The physical examination required of classified personnel, excluding bus drivers, required by this section shall be conducted prior to August 1 of the employable year and shall be at no cost to the employee unless the employee elects to be examined by a private physician.

Section 2. All local boards of education shall require a medical examination [including tuberculin skin test] of each child within a period of six (6) months prior to, or one (1) month following his/her initial admission to school regardless of grade. All local boards of education shall adopt a [have an approved] program of continuous health supervision for all school enrollees; such supervision shall include scheduled screening tests for vision, hearing and dental problems. *The need for a tuberculin skin test will depend on the risk of exposure of the child and prevalence of tuberculosis in the community.* [The frequency of repeated tuberculin skin tests depends on the risk of exposure of the child and prevalence of tuberculosis in the community; however, at a minimum, repeat tuberculin skin tests shall be performed on all sixth grade students.]

(1) An effective mechanism for referral and appropriate follow-up of any apparent abnormality noted by screening examination or teacher observation shall be recorded on school health records within nine (9) weeks of screening program or detection of abnormality.

(2) Each school shall have emergency care procedures. The emergency care procedures shall include first aid facilities, personnel with first aid training, parents' telephone number, name of family physician, and means of transportation.

(3) Local boards of education shall require all vaccinations and immunizations as required by law or regulations:

(a) Except as otherwise provided by law, all children shall be required to present a valid immunization certificate upon enrollment in school, and a valid up-to-date immunization certificate shall be on file for all children at all times. The governing body of private and public schools shall enforce the provisions of this subsection in accordance with the established laws.

(b) Children transferring into any school district shall comply with the above requirements.

Section 3. (1) Each elementary and secondary school shall initiate a cumulative health record for each pupil entering school. Such record shall be maintained throughout the pupil's attendance. Such record shall be uniform and shall be on forms prescribed by the

Superintendent of Public Instruction. Such record shall include health data of the pupil including screening test, teacher observation, and physician's and dentist's recommendations. A follow-up by the proper health or school authorities shall be made on each defect noted and the result recorded.

(2) Local school authorities shall report all known or suspected cases of communicable disease immediately to the local health department.

Section 4. All boards of education shall, in relation to each school under its jurisdiction, provide and maintain a physical environment that is conducive to the health and safety of school children. It shall be the responsibility of all local boards of education to comply with current laws and regulations applicable to all public buildings pertinent to health, sanitation, and safety. In accordance with current regulations and standards by authorities having jurisdiction, it shall be the responsibility of all local boards of education to establish:

(1) An adequate supply of water of safe, potable, sanitary quality.

(2) A sanitary disposal of sewage, other water carried waste, and solid waste.

(3) Adequate toilet and lavatory facilities and other sanitary fixtures.

(4) Adequate heating, lighting, and ventilation in all school buildings.

(5) Adequate facilities and equipment for cafeterias and lunchrooms.

(6) Supervision of general sanitation and safety of the school buildings, grounds, and playground equipment.

(7) Adequate first aid facilities.

(8) Adequate control of air pollutants.

Section 5. Each board of education[, based on needs,] shall designate a person to serve as school health coordinator. Such person shall meet the minimum qualifications required of this position. The school health coordinator shall work in cooperation with all school personnel, the local board of education, the State Department of Education, and the local health department in planning, promoting, and implementing a school health services program that meets the regulations adopted by the State Board for Elementary and Secondary Education.

Section 6. Each local board of education shall require a medical examination of each child as a prerequisite for eligibility in inter-scholastic athletics. A local board of education may require such examination to be paid by the parent of the child.

Section 7. Each local board of education shall require its curriculum to include health instruction, stressing timely and local health issues [problems] such as alcoholism, drug abuse, personal hygiene, accident prevention, family living, sex education, environmental health, nutrition, venereal disease, and consumer health.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: June 11, 1980

RECEIVED BY LRC: June 26, 1980 at 2:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Mr. Fred Schultz, Secretary, Kentucky State Board
for Elementary and Secondary Education, 17th Floor,
Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department for Occupational Education
Bureau of Vocational Education
(Proposed Amendment)

705 KAR 1:010. Annual program plan.

RELATES TO: KRS 156.112, 163.020, 163.030

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: The 1981 Kentucky Annual Program Plan and 1979 Accountability Report for Vocational Education is necessary in order to be eligible to receive federal funds under P.L. 94-482.

Section 1. Pursuant to the authority vested in the Kentucky State Board for Occupational Education, the 1981 Kentucky Annual Program Plan and 1979 Accountability Report for Vocational Education shall be prepared and approved by the State Board for Occupational Education, in accordance with the appropriate federal guidelines, and submitted annually to the U. S. Commissioner of Education by June 30, 1980, for his approval. This document is incorporated by reference and hereinafter shall be referred to as the 1981 Kentucky Annual Program Plan and 1979 Accountability Report for Vocational Education. Copies of the document may be obtained from the Bureau of Vocational Education, State Department for Occupational Education.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: June 3, 1980

RECEIVED BY LRC: July 1, 1980 at 9:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, State Board for Occupational Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Education for Exceptional Children
(Proposed Amendment)

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

RELATES TO: KRS 157.200 to 157.285[305]

PURSUANT TO: KRS 13.082, 156.070, 156.160

NECESSITY AND FUNCTION: To promulgate State Board for Elementary and Secondary Education regulations for programs for exceptional children. This regulation 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 157.285[305] inclusive, and the criteria listed in this chapter [and "Standards for Programs for Exceptional Children." Copies may be obtained from the Bureau of Education for Exceptional Children, Kentucky Department of Education, Capital Plaza Tower, Frankfort, Kentucky 40601].

(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 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 Bureau of Education for Exceptional Children.

(a) In order to receive tentative allotment of minimum foundation classroom units local school districts shall assure that [Classroom units for exceptional children are allocated to local school districts provided] the following criteria are met:

1. [(a)] Approved teacher;
2. [(b)] Approved housing;
3. [(c)] Approved program plan; and
4. [(d)] Minimum number of children [meeting eligibility criteria] for type of unit requested.

(b) 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 Bureau of Education for Exceptional Children and shall be made pursuant to established schedules.

(2) Fractional classroom unit. A fractional classroom unit is a unit having fewer pupils than the prescribed pupil-teacher ratio as indicated in regulations [standards] 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) Approved teacher, personnel. Appropriate state certification shall be as required and provided in Title 704, KAR Chapter 20[205].

(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 based 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 based plan shall utilize a classroom-based teacher or an itinerant 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.

(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. [Housing: (a) The resource room and special class programs for exceptional children shall be housed in an elementary or secondary school dependent upon the age range of the pupils, unless exceptions are provided in the sections of the standards which pertain to specific areas of exceptionality. Classroom location shall be made consistent with the least restrictive environment concept. Classrooms shall meet the standards for regular classrooms pursuant to 702 KAR 4:010 to 702 KAR 4:100.]

[(b)Housing for the itinerant teacher plan 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.]

[(5)Classroom plan. The appropriate classroom plan for exceptional pupils in the local school district shall be determined by the needs of the pupils as specified on this individual education program (IEP). 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)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 chronological age range for pupils enrolled in the special class shall be determined by the appropriate categorical standards.]

[(b)A resource room 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 go to the resource room for special instruction as specified on their individual education programs. The number of pupils in the resource room for instructional purposes at any one time shall be determined by the appropriate categorical standards.]

[(c)An itinerant teacher plan shall be a program in which the teacher 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. Services by the itinerant teacher shall be determined by the appropriate admissions and release committee and specified on the exceptional pupils' individual education program.]

[1. Teacher headquarters. For the itinerant teacher plan permanent work space, in addition to the area where personnel work with pupils, shall be provided.]

[2. Travel expenses. For the itinerant teacher plan, the local board of education shall defray travel expenses incurred by personnel in the execution of duties related to the program pursuant to 702 KAR 3:120.]

[3. Itinerant teacher in school. 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.]

[4. Itinerant teacher in home and/or hospital. The itinerant teacher providing instructional services in the home and/or hospital shall keep a regular Kentucky attendance register. A pupil receiving home and/or hospital services 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.]

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

components: [The following components shall be considered by the Bureau of Education for Exceptional Children in granting approval of such plan:]

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 [or certification in learning and behavior disorders]; and
4. Method of evaluation to be used to determine effectiveness of the plan.

(5) [(6)] 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 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. [Local school district personnel shall continue the identification of exceptional pupils residing in their school district including those who are otherwise eligible for attendance in public education systems but who are not attending a program of the local district; and, those pupils enrolled in the education system but who are not currently receiving an appropriate education.]*

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 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 [his] 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 [members] 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. W [Receive w]ritten 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. C [Review c]ases 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 [Discuss] 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 [(e)] m [M]ake recommendations as to appropriate services and/or programs for the identified child. [These recommendations shall be in the form of an individual education program (IEP).] 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) [(f)] 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, [and] 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) [teacher(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) [(g)] Other persons [members] providing input into the referred pupil's educational program as requested by any member of the SBARC; and

(g) [(f)] 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 [Discuss] 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 m [(e)] [M]ake recommendations as to appropriate services and/or programs for the identified child. [These recommendations shall be in the form of an individual education program (IEP).]

(g) [(f)] 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) [(g)] 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, [and] shall provide in writing recommended remedial actions, and shall provide written notice pursuant to 707 KAR 1:060.

(i) [(h)] 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. [(a)] 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[s] that the child's needs can *appropriately* be met in the *proposed* [a less restrictive] setting and the child's placement and educational program shall be changed and support services provided as necessary.

[(b)] When a review is requested for the purpose of securing a more restrictive educational placement for the child the appropriate admissions and release committee shall review that current educational program after it has been implemented for the minimum time of thirty (30) calendar days.]

(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), 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. [These groupings may be organized either by instructional level or school clusters.] Those local school districts wishing to establish sub-district ARCs shall submit a written request to and receive approval from the Bureau of Education for Exceptional Children prior to implementation of the plan and pursuant to provisions specified by the Bureau of Education for Exceptional Children. [The following components shall be considered by the Bureau of Education for Exceptional Children in granting approval for such plan: Rationale for need of the sub-district ARCs; and, detailed description of the plan, including organizational patterns, and specific functions of the committees.]

[(a)] The membership and [of sub-district ARCs shall consist of:]

[1. Local school district administrative staff member, designated by the superintendent, chairperson (permanent member);]

[2. Person(s) qualified to provide or supervise the provisions of special education programs;]

[3. Person(s) qualified to provide or supervise the provision of instruction for the age level of the referred child;]

[4. Referred child's principal and teacher;]

[5. Parent(s) of the referred child;]

[6. Referred child, where appropriate;]

[7. Personnel responsible for providing evaluation information;]

[8. Other members as requested by such committees.]

[(b)] The functions of sub-district committees shall be similar to the *membership* and the functions of the administrative admissions and release committee. [with the following exception: For those pupils recommended to receive services outside the area served by a sub-district ARC or outside the local school district's programs, the sub-district ARC shall be responsible for referring the child to the AARC.]

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 [, as appropriate, selected by the local school district to conduct evaluations]. 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 above in subsection (1) to (5).

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 measureable 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 [enrollment in a program for exceptional children]. *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.* [Placement shall be determined by the appropriate admissions and release committee pursuant to the following:]

(2) [(a)] 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.*

[(b)] The student recommended for placement in a specific categorical program for exceptional children shall meet the established standards (criteria) for eligibility for placement in that program. A written statement justifying placement shall be maintained in the pupil's file. This statement shall contain a description of each evaluation procedure, test, record or report the admissions and release committee used as a basis for the recommended placement.]

[(c)] Placement shall be based on the child's IEP.]

[(d)] Placement shall be determined at least annually, and shall be made consistent with the least restrictive environment concept as required and provided in Section 7 of this regulation.]

(4) [(e)] Temporary placement. [1.] Temporary placement may occur for thirty (30) school days, upon written request from the parent(s), for those exceptional pupils [students] who are new enrollees [to the school or] 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 preceeding 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 [appropriate] admissions and release committee shall convene to carry out its functions as specified in Section 3(4) [determine appropriate program and placement within*

thirty (30) calendar days of the pupil's entry into the school or school system].

(5) [2.] *Trial* [Temporary] placement. [(trial basis)] *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) [a.] The placement shall be for no longer than four (4) school [calendar] months and shall not be continued beyond this [specified] time as a *trial* placement.

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

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

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

(e) [e.] The appropriate admissions and release committee shall review the *trial* [temporary] 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[s].

(f) [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* [temporary] placement.

(6) [(2)] 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. [Such alterations may be admissions and release committee initiated or may be the result of extenuating circumstances (e.g., family moves).]

(a) *Change in placement shall mean, but not be limited to,* [The following actions shall be considered significant alteration or change in placement for an exceptional child.] a [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* [One (1) program plan to another] (e.g., special class to resource room). [;]

4. One instructional level to another (e.g., elementary to middle school);]

5. A special school or setting to or from a regular school;]

6. One school district to another school district.]

(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* [parental permission for change in placement].

(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) [(1)] 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) [(2)] 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) [(3)] Parent(s) shall receive written notification in English and the primary language of the home regarding identification, evaluation and placement procedures.

(d) [(4)] The local school district shall obtain written parental permission prior to *initial* individual evaluation[,] and *initial* placement in a program for exceptional children.

[(5) The parent(s) shall be notified annually that they have access to relevant school records consistent with the following:]

[(a) "Educational records" are open for inspection and review by the individual child's parent(s), as defined in Section 9(1).]

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

[(c) Copies of the records must be provided if failure to do so would prevent the parent from exercising their right to review and inspect the records. A nominal fee may be charged unless it would prevent such access rights.]

[(d) The parent may request a representative to inspect and review the child's records.]

[(e) The location, types and person responsible for education records shall be made public information by the agency.]

[(f) A record of access shall be maintained for those individuals obtaining access to such records, except the parents and authorized parties of the agency.]

[(g) Information from records containing data on more than one child shall be provided in such a way as to preserve the confidentiality of the other students.]

[(h) The parent(s) have the right to request an amendment of information in the education records, and have the right to a hearing if the agency refuses to amend the record.]

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

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

[(k) Parental consent must be obtained before disclosing personally identifiable information to individuals or agencies as delineated in the Family Educational Rights and Privacy Act, and P.L. 94-142.]

[(l) 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. The agency must inform the parents that such information could be needed later for social security benefits or other purposes. A permanent record of the students name, address, phone, grades, attendance record, classes attended, grade level completed and year completed may be maintained without time limitation.]

[(m) The public agency should develop and adopt policies and procedures consistent with the provisions of the Family Educational Rights and Privacy Act and confidentiality requirements of P.L. 94-142 for all exceptional pupils receiving educational services from that agency.]

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

(f) [(6)] 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) [(7)] 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) [(8)] 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. [(a)] 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, 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. [1.] Have no other vested interest that would conflict with their primary allegiance to the child they would represent;

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

c. [3.] Be familiar with the educational system within the state; and

d. [4.] Be readily accessible to the children they represent. [;]

2. [(b)] Assignment of a surrogate to a particular child shall be made according to the following procedures:

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

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

c. [3.] If the local school district determines need for a surrogate as provided in subsection (2)(a) of this section [Section 9(1)], the State Department of Education, Bureau of Education for Exceptional Children, shall be notified in writing of such need. The Bureau of Education for Exceptional Children shall assign a surrogate within seven (7) calendar days of the notification.

d. [4.] 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. [5.] Surrogates shall not be assigned to children who have reached the age of majority.

f. [6.] 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) [(9)] 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) [(10)] Decisions regarding the placement of exceptional children shall be made with regard to educating these pupils [students] 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.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: June 11, 1980

RECEIVED BY LRC: June 26, 1980 at 2:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET

Department of Education

Bureau of Education for Exceptional Children

(Proposed Amendment)

707 KAR 1:052. Programs for children with communication disorders.

RELATES TO: KRS 157.200 to 157.285[305]

PURSUANT TO: KRS 13.082, 156.070, 156.160

NECESSITY AND FUNCTION: To promulgate State Board for Elementary and Secondary Education regulations for programs for children with communication disorders. This regulation is necessary to assure uniformity in providing special education and related services to children with communication disorders and to conform with Public Law 94-142.

Section 1. General Provisions. Local school boards of education shall operate programs for children of school attendance age with communication disorders pursuant to KRS 157.200 to 157.285[305], inclusive, and the criteria listed in this section.

Section 2. Programs for pupils with communication disorders of speech and language shall be operated according to the following provisions:

(1) Eligibility criteria:

(a) An admissions and release committee shall determine that a child has a ["Children with] communication disorder[s]" shall be those children who] *provided there is evidence of a disorder[s] in language and/or speech, (i.e., dysfluency, impaired articulation or a voice impairment) which adversely affects the [a] child's educational performance [placement].*

(b) A child who meets the above criteria shall be eligible for special education and related services.

(2) Admissions and release committee. As required and provided in 707 KAR 1:051, Section 3, a committee process shall be followed for the identification, evaluation and placement of communication disordered children. The appropriate admissions and release committee shall assure that procedural safeguards as described in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060 shall be followed.

(3) Child evaluation. Appropriate child evaluation shall be assured by the appropriate admissions and release com-

mittee. Evaluation information shall be obtained pursuant to the requirements in 707 KAR 1:051, Section 4[.] and shall include procedures that are appropriate for the diagnosis of speech and language disorders. The assessment of the referred pupil for identification and placement purposes shall include, where appropriate [consist of]:

(a) The referring person's written assessment of the pupil's specific strengths and weaknesses in speech, language and/or hearing, when the child is referred by other than the speech/language pathologist;

[(b) A behavioral observation, to document behaviors exhibited in familiar surroundings, shall be written for pupils referred for the disorders of dysfluency, language or voice.]

[(c) Evaluations of each child with communication disorders shall include procedures that are appropriate for the diagnosis of speech and language disorders. As necessary, referrals shall be made for additional assessments required in order to make an appropriate placement decision. Evaluations shall include:]

(b) [1.] An evaluation of the receptive and expressive language skills;

(c) [2.] An appraisal of the structure and function of the speech mechanism;

(d) [3.] An evaluation of articulation proficiency;

(e) Written behavioral observations. The observations shall describe behaviors exhibited in familiar surroundings and shall be written for pupils with suspected disorders of fluency, voice, and/or language;

(f) [4.] An appraisal of voice quality and fluency; and

(g) [5.] An evaluation of auditory acuity and auditory processing.

(4) Individual education program (IEP). As required and provided in 707 KAR 1:051, Section 5, for each pupil identified, the appropriate admissions and release committee shall develop and assure the implementation and annual review of the individual education program.

(5) Placement. Placement in a program for communication disorders shall be determined by the appropriate admissions and release committee pursuant to procedures as described in 707 KAR 1:051, Section 6.

(6) Classroom plan. Classroom programs for communication disordered pupils shall operate pursuant to procedures as described in 707 KAR 1:051, Section 1. Classroom programs for communication disorders shall be established under the *resource* [itinerant] plan. [Membership and age range shall be consistent with provisions in "Standards for Programs for Exceptional Children."] Requests for approval of an alternative plan shall be made to the Bureau of Education for Exceptional Children. Approval shall be based on the following:

(a) Rationale for the proposed plan;

(b) A detailed description of the proposed plan; and

(c) The method of annual evaluation to be used to determine the effectiveness of the proposed plan.

(7) *Membership. Membership in programs for communication disorders of speech and language shall be:*

Minimum

Maximum

35

75 per week

Membership of the caseload for a speech/language pathologist providing services to severely handicapped pupils may be reduced to 20-35 by the Bureau of Education for Exceptional Children upon submission of written request and justification for such a reduction by the local school district.

(8) [(7)] Planning time. One-half ($\frac{1}{2}$) day, or the equivalent of one-half ($\frac{1}{2}$) day, per week shall be allotted for planning and conferences.

(9) [(8)] Mobile van. Local school districts shall have the authority to use a mobile van for the instructional program providing a written request has been submitted and approved by the Department of Education. Approval shall be made by the Bureau of Education for Exceptional Children in collaboration with the Division of Transportation.

Section 3. Programs for pupils with communication disorders of impaired hearing shall operate according to the following provisions:

(1) Eligibility criteria:

(a) *An admissions and release committee shall determine that a child [A pupil whose primary handicap] is hearing impaired provided the following eligibility criteria are met:*

1. *The child has a hearing loss ranging from mild to profound [shall be eligible for enrollment in a program for the hearing impaired].*

2. *The loss shall be to such a degree that he/she does not use, with or without amplification, normal communication skills effectively [and, which].*

3. *The loss shall be to such a degree that it adversely affects his/her educational performance.*

(b) *A child who meets the above criteria shall be eligible for special education and related services.*

(2) Admissions and release committee. As required and provided in 707 KAR 1:051, Section 3, a committee process shall be followed for the identification, evaluation and placement of hearing impaired children. The appropriate admissions and release committee shall assure that procedural safeguards as described in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060 shall be followed.

(3) Child evaluation. Appropriate evaluation of each child shall be assured by the appropriate admissions and release committee. Evaluation information shall be obtained pursuant to the requirements in 707 KAR 1:051, Section 4. The assessment of the referred pupil for identification and placement purposes shall consist of:

(a) A written behavioral observation of the referred pupil in familiar surroundings (i.e., classroom, playground, etc.); [.]

(b) The referring person's written assessment of the pupil's specific strengths and weaknesses in the basic skills area; [.]

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

(d) A developmental and social history; [.]

(e) An audiological evaluation including pure tone, air and bone conduction, speech reception threshold, and speech discrimination; [.]

1. When fitted with hearing aids, the evaluation should include free field measurements by tones and speech for threshold, and speech discrimination; and

2. Examination of the earmold, cord receiver, harness and other components of the hearing aid.

(f) Receptive and expressive language evaluation and an evaluation of articulation proficiency; [.] and

(g) Additional reports, information and assessments deemed necessary by the admissions and release committee for the appropriate placement of each child.

(4) Individual education program (IEP). As required and provided in 707 KAR 1:051, Section 5, for each pupil identified, the appropriate admissions and release committee shall develop and assure the implementation and annual review of the individual education program.

(5) Placement. Placement in a program for hearing impaired shall be determined by the appropriate admissions and release committee pursuant to procedures as described in 707 KAR 1:051, Section 6.

(6) Classroom plan [and membership]. Classrooms for hearing impaired pupils shall operate pursuant to procedures as described in 707 KAR 1:051, Section 1. Classroom plans for hearing impaired pupils shall be established under the resource [room], special class, [itinerant] or variation plan. [Membership and age range shall be consistent with provisions in "Standards for Programs for Exceptional Children."]

(7) Membership and age range:

(a) Classroom membership and age range in program for the communications disorders and hearing impaired shall be:

Classroom Plan (Units)	Membership	Age Range
Special Class Plan	3 to 6	4 years
Resource Plan (Classroom Teacher)	3 to 8	4 years
Resource Plan (Itinerant Teacher)	3 to 10	4 years

(b) No more than four (4) pupils may be in the resource room during any one (1) instructional period.

(c) Variations of the above shall be approved upon submission of written request and justification to the Bureau of Education for Exceptional Children. Factors for consideration of approval in determining pupil/teacher ratio and age range will include, but are not limited to, the following:

1. Age and grade level of the pupils;
2. Physical condition of the pupils; and
3. Support personnel. [Housing. Classes for hearing impaired pupils shall be housed in elementary and secondary schools commensurate with the age range of the pupils or in approved special schools/facilities.]

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: June 11, 1980

RECEIVED BY LRC: June 26, 1980 at 2:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Fred Schultz, Secretary, Kentucky State Board for
Elementary and Secondary Education, 17th Floor, Capital
Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Education for Exceptional Children
(Proposed Amendment)

707 KAR 1:053. Programs for crippled and other health impaired children.

RELATES TO: KRS 157.200 to 157.285[305]

PURSUANT TO: KRS 13.082, 156.070, 156.160

NECESSITY AND FUNCTION: To promulgate State Board for Elementary and Secondary Education regulations for crippled and other health impaired children. This regulation is necessary to assure uniformity in providing

special education and related services to crippled and other health impaired children and to conform with Public Law 94-142.

Section 1. General Provisions. Local school boards of education shall operate programs for crippled and other health impaired children of school attendance age pursuant to KRS 157.200 to 157.285[305], inclusive, and the criteria listed in this section.

Section 2. Eligibility Criteria. (1) *An admissions and release committee shall determine that a child is c["C"]ripped[""] provided the child has [shall mean] a severe orthopedic impairment which adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of hand, arm, leg, etc.), impairments caused by disease (e.g., polio-myelitis, bone tuberculosis, etc.) and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns which cause contractures).*

(2) *An admissions and release committee shall determine a child is o ["O"]ther health impaired[""] provided the following criteria are met:*

(a) *The child has [shall mean] limited strength, vitality or alertness, due to chronic or acute health problems such as a heart condition, tuberculosis, sickle cell anemia, hemophilia, epilepsy, rheumatic fever, nephritis, asthma, lead poisoning, leukemia, or diabetes.[.]*

(b) *The condition(s) of the child [which] adversely affects the [a]child's educational performance. [A pupil shall be eligible for enrollment in a program for crippled and other health impaired who is unable to attend regular class.]*

(3) *A child who meets the above criteria shall be eligible for special education and related services.*

Section 3. Admissions and Release Committee. As required [requested] and provided in 707 KAR 1:051, Section 3, a committee process shall be followed for the identification, evaluation and placement of crippled and other health impaired children. The appropriate admissions and release committee shall assure that procedural safeguards as described in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060 shall be followed.

Section 4. Child Evaluation. (1) Appropriate child evaluation shall be assured by the appropriate admissions and release committee. Evaluation information shall be obtained pursuant to the requirements in 707 KAR 1:051, Section 4. Evaluation for identification and placement shall include:

- (a) [(1)] An educationally relevant medical statement;
- (b) [(2)] A developmental and social history;
- (c) [(3)] An individual assessment of basic skills, (i.e., reading, math, language); and

(d) [(4)] A written behavioral observation.[.]

(2) [(5)] Additional reports, such as physical therapy and occupational therapy as deemed necessary by the admissions and release committee for the appropriate placement of each child.

Section 5. Individual Education Program (IEP). As required and provided in 707 KAR 1:051, Section 5, for each child identified, the appropriate admissions and release committee shall develop and assure the implementation and annual review of an individual education program.

Section 6. Placement. Placement in a program for crippled and other health impaired shall be determined by the appropriate admissions and release committee pursuant to procedures as described in 707 KAR 1:051, Section 6.

Section 7. Classroom Plan [and Membership]. Programs for crippled and other health impaired pupils shall be established under the special class, resource, [itinerant,] or variation plan as described in 707 KAR 1:051, Section 1. [Membership and age range shall be consistent with provisions in "Standards for Programs for Exceptional Children."]

Section 8. Membership and Age Range. (1) Classroom membership and age range in programs for the crippled and other health impaired shall be:

Classroom Plan (Units)	Membership	Age Range
Special Class Plan	8 to 16	6 years
Resource Plan	8 to 20	6 years

(2) No more than eight (8) pupils may be in the resource room during any one (1) instructional period.

(3) Variations of the above shall be approved upon submission of written request and justification to the Bureau of Education for Exceptional Children. Factors for consideration of approval in determining pupil/teacher ratio and age range will include, but are not limited to, the following:

(a) Age and grade level of the pupils;

(b) Physical condition of the pupils; and

(c) Support personnel. [Housing. Classes for crippled and other health impaired pupils shall be housed in elementary or secondary schools commensurate with the age of the pupils or in approved special schools/facilities.]

RAYMOND BARBER

Superintendent of Public Instruction

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EDUCATION AND ARTS CABINET

Department of Education

Bureau of Education for Exceptional Children
(Proposed Amendment)

707 KAR 1:054. Programs for the emotionally disturbed; behavior disordered.

RELATES TO: KRS 157.200 to 157.285[305]

PURSUANT TO: KRS 13.082, 156.070, 156.160

NECESSITY AND FUNCTION: To promulgate State Board for Elementary and Secondary Education regulations for programs for emotionally disturbed (behavior disordered) children. This regulation is necessary to assure uniformity in providing special education and related services to emotionally disturbed children and to conform with Public Law 94-142.

Section 1. General Provisions. Local school boards of education shall operate programs for the emotionally disturbed (behavior disordered) of school attendance age pursuant to KRS 157.200 to 157.285[305], inclusive, and the criteria listed in this section.

Section 2. Eligibility Criteria. (1) An admissions and release committee shall determine that a child is [Pupils shall be eligible for enrollment in a program for the] emotionally disturbed (behavior disordered) provided the following eligibility criteria are met:

(a) The child manifests symptoms characterized by diagnostic labels such as psychosis, schizophrenia and autism; and/or

(b) The child [who] demonstrates one or more of the following characteristics over a long period of time and to a marked degree, which adversely affects educational performance:

1. [(1)] An inability to learn at a rate commensurate with intellectual, sensory-motor and/or physical development [the measured functioning ability] because of emotional problems;

2. [(2)] An inability to build or maintain satisfactory interpersonal relationships with peers and adults;

3. [(3)] Behavior which is disruptive to the learning process of other students or himself [Inappropriate types of behavior under normal circumstances];

4. [(4)] A general pervasive mood of unhappiness or depression; and

5. [(5)] A tendency to develop physical symptoms or fears associated with personal or school problems;

(c) The criteria does not include those who are socially maladjusted, unless it is determined that they are seriously emotionally disturbed.

[(6)] The term emotionally disturbed (behavior disordered) includes pupils who manifest symptoms characterized by diagnostic labels such as psychosis, schizophrenia and autism. The term does not include pupils who are socially maladjusted, unless it is determined that they are seriously emotionally disturbed.]

(2) A child who meets the above criteria shall be eligible for special education and related services.

Section 3. Admissions and Release Committee. As required and provided in 707 KAR 1:051, Section 3, a committee process shall be followed for the identification, evaluation, and placement of emotionally disturbed (behavior disordered) pupils. The appropriate admissions and release committee shall assure that procedural safeguards as described in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060 shall be followed.

Section 4. Child Evaluation. Appropriate child evaluation shall be assured by the appropriate admissions and release committee. Evaluation information shall be obtained pursuant to the requirements in 707 KAR 1:051, Section 4. The assessment of the referred pupil for identification and placement purposes shall consist of:

(1) A health screening which would indicate there are no primary visual, auditory or physical handicapping conditions;

(2) A written account [compilation] of specific behavioral data collected over a period of time by the referral source describing the behavior(s) of concern;

(3) A written compilation of data from direct observations of the referred pupil in familiar surroundings by a person other than the referral source;

(4) An individual educational assessment of the referred pupil's specific strengths and weaknesses in basic skill areas;

(5) An individual psychological or psychiatric evaluation;

(6) A developmental and social history;

(7) A written record/evidence of previous educational and [] behavioral intervention strategies that have been utilized.

Section 5. Individual Education Program (IEP). As required and provided in 707 KAR 1:051, Section 5, for each pupil identified, the appropriate admissions and release committee shall develop and assure the implementation and annual review of an individual education program.

Section 6. Placement. Placement in a program for the emotionally disturbed (behavior disordered) pupils shall be determined by the appropriate admissions and release committee pursuant to procedures as described in 707 KAR 1:051, Section 6.

Section 7. Classroom Plan [and Membership]. Classroom plans for the emotionally disturbed (behavior disordered) [pupils] shall operate pursuant to procedures as described in 707 KAR 1:051, Section 1. Classroom plans for emotionally disturbed (behavior disordered) pupils shall be established under the resource [room,] special class or variation plan. [Membership and age range shall be consistent with provisions in "Standards for Programs for Exceptional Children."]

Section 8. *Membership and Age Range.* (1) *Classroom membership and age range in programs for the emotionally disturbed (behavior disordered) shall be:*

Classroom Plan (Units)	Membership	Age Range
Special Class Plan	5 to 8	4 years
Resource Plan	6 to 15	4 years

(2) *No more than eight (8) pupils may be in the resource room during any one (1) instructional period.*

(3) *Variations of the above shall be approved upon submission of written request and justification to the Bureau of Education for Exceptional Children. Factors for consideration of approval in determining pupil/teacher ratio and age will include, but are not limited to, the following:*

(a) *Age and grade level of the pupils;*

(b) *Physical condition of the pupils; and*

(c) *Support personnel.* [Housing. Classes for emotionally disturbed (behavior disordered) pupils shall be housed in elementary and secondary schools commensurate with the age range of the pupils or in approved special schools/facilities.]

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: June 11, 1980

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SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Education for Exceptional Children
(Proposed Amendment)

707 KAR 1:055. Programs for home instruction[, and/or hospital instruction]; and combined home and hospital instruction].

RELATES TO: KRS 157.200 to 157.285[305], 159.030
PURSUANT TO: KRS 13.082, 156.070, 156.160

NECESSITY AND FUNCTION: To promulgate State Board for Elementary and Secondary Education regulations for home instruction[, and/or hospital instruction[, and combined home and hospital instruction programs]. This regulation is necessary to assure uniformity in providing special education and related services in the home and/or hospital setting and to conform with Public Law 94-142.

Section 1. General Provisions. Local school boards of education shall operate programs for home instruction[, and/or hospital instruction[, and combined home and hospital instruction] for children of school attendance age pursuant to KRS 157.200 to 157.285[305], inclusive, and the criteria listed in this section. [Children with conditions such as fractures, surgical recuperation, kidney infection, pregnancy or other temporary conditions do not follow due process procedures outlined for exceptional children.]

Section 2. Eligibility Criteria. *An admissions and release committee shall determine that an exceptional [A] child shall be eligible for instruction in the home, hospital, or sanatorium provided the following criteria are met:*

(1) *The child is identified as exceptional by meeting the eligibility criteria for one (1) of the categorical programs;*

(2) *The identified child needs special education and related services; and/or*

(3) *The condition of the identified child prevents or renders inadvisable attendance at school [or application to study].*

Section 3. Admissions and Release Committee. As required and provided in 707 KAR 1:051, Section 3, a committee process shall be followed for the identification, evaluation, and placement of exceptional children, as defined in KRS 157.200, in the home instruction[, and/or hospital instruction[, and combined home and hospital instruction] programs. The appropriate admissions and release committee shall assure that procedural safeguards as described in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060 shall be followed. The admissions and release committee shall review the statement of the child's condition and any additional reports, information, and assessments that it deems necessary for the placement of each individual child in an appropriate educational program.

Section 4. Child Evaluation. Appropriate child evaluation shall be assured by the appropriate admissions and release committee. Evaluation information shall be obtained pursuant to the requirements in 707 KAR 1:051, Section 4 and the appropriate categorical regulation(s). Evaluations shall include:

(1) A developmental and social history;

(2) M [A m]edical statement(s) pursuant to KRS 159.030;

(3) An individual assessment of basic skills, (i.e., math, reading, language);

(4) Written behavioral observation; and/or

(5) Additional reports, information, and assessments deemed necessary by the admissions and release committee for the appropriate placement of each child.

Section 5. Individual Education Program (IEP). As required and provided in 707 KAR 1:051, Section 5, for each exceptional child identified, the appropriate admissions and release committee shall develop and assure the implementation and annual review of an individual education program. The IEP is required for each exceptional child placed in a program for home instruction[,] and/or hospital instruction[, and combined home and hospital instruction].

Section 6. Placement. Placement in a home instruction[,] and/or hospital instruction[, and combined home and hospital instruction] program shall be determined by the appropriate admissions and release committee pursuant to procedures as described in 707 KAR 1:051, Section 6. The child shall be returned to a less restrictive and more appropriate educational environment when improvement of the condition renders this advisable. Home instruction shall not be used as a substitute for a more appropriate educational placement for exceptional children. *A responsible adult shall be in the home during the time the home instruction teacher is present.*

Section 7. Classroom Plan [and Membership]. Programs for home instruction[,] and/or hospital instruction[, and combined home and hospital instruction] shall be established pursuant to [under] the [itinerant] plan(s) as described in 707 KAR 1:051, Section 1. [Requests for approval of an alternative plan shall be made to the Bureau of Education for Exceptional Children.]

Section 8. Membership and Age Range. (1) Classroom membership and age range in programs for home instruction and/or hospital instruction shall be:

Classroom Plans (Units)	Membership	Age Range
Home Instruction Plan	5 to 10	unlimited
Hospital Based— Special Class Teacher	6 to 15	unlimited
Hospital Based— Itinerant Teacher	5 to 12	unlimited

(2) Variations of the above shall be approved upon submission of written request and justification to the Bureau of Education for Exceptional Children. Factors for consideration of approval in determining pupil/teacher ratio and age range will include, but are not limited to, the following:

- (a) Age and grade level of the pupils;
- (b) Physical condition of the pupils; and
- (c) Support personnel.

Section 9. Temporary Placement for Non-Exceptional Children. Local boards of education shall implement referral and placement procedures in accordance with local board policy for children with temporary conditions such as fractures, surgical recuperation, kidney infection, and

pregnancy; and local boards do not need to follow the due process procedures outlined in 707 KAR 1:051.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: June 11, 1980

RECEIVED BY LRC: June 26, 1980 at 2:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET

Department of Education

Bureau of Education for Exceptional Children

(Proposed Amendment)

707 KAR 1:056. Programs for children with specific learning disabilities.

RELATES TO: KRS 157.200 to 157.285[305]

PURSUANT TO: KRS 13.082, 156.070, 156.160

NECESSITY AND FUNCTION: To promulgate State Board for Elementary and Secondary Education regulations for learning disabled children. The regulation is necessary to assure uniformity in providing special education and related services to children with specific learning disabilities and to conform with Public Law 94-142.

Section 1. General Provisions. Local school boards of education shall operate programs for learning disabled children of school attendance age pursuant to KRS 157.200 to 157.285[305], inclusive, and the criteria listed in this section.

Section 2. Eligibility Criteria. [Pupils shall be eligible for enrollment in programs for children with specific learning disabilities pursuant to the following:] (1) An admissions and release committee shall determine that a child has a specific learning disability provided the following eligibility criteria are met: [if:]

(a) The child does not achieve commensurate with his or her age and ability levels when provided with learning experiences appropriate for the child's age and ability levels; (in one or more of the seven (7) areas listed below):

1. Oral expression;
2. Listening comprehension;
3. Written expression;
4. Basic reading skills;
5. Reading comprehension;
6. Mathematics calculation; and/or
7. Mathematics reasoning.

(b) The [admissions and release committee finds that a] child has a severe discrepancy between achievement and intellectual ability in one or more of the seven (7) areas listed above.

(2) The admissions and release committee shall not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of:

- (a) A visual, hearing or motor handicap;
- (b) Mental retardation;

- (c) Emotional disturbance; or
- (d) Environmental, cultural or economic disadvantage.

(3) *A child who meets the above criteria shall be eligible for special education and related services.*

Section 3. Admissions and Release Committee. As required and provided in 707 KAR 1:051, Section 3, a committee process shall be followed for the identification, evaluation and placement of learning disabled children. The appropriate admissions and release committee shall assure that procedural safeguards as described in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060 shall be followed.

Section 4. Child Evaluation. Appropriate child evaluation shall be assured by the appropriate admissions and release committee. Evaluation information shall be obtained pursuant to the requirements in 707 KAR 1:051, Section 4.

(1) Team membership. In order to evaluate and identify children with specific learning disabilities, the team membership shall include, but not be limited to:

(a) Referred pupil's regular education teacher; or

1. If the child does not have a regular education teacher, then a teacher qualified to teach a child of his or her age.

2. For a child of less than school age, an individual qualified by the state education agency to teach a child of his or her age.

(b) At least one (1) person qualified to conduct individual diagnostic examinations *including administration of individual intelligence tests* [of children].

(c) Certified teacher of the learning disabled.

[(d) Individual qualified to administer individual intelligence tests.]

(d) [(e)] Other individuals as needed; such as:

1. Speech and language pathologist;
2. Guidance counselors;
3. Remedial reading teacher; and/or
4. Physician.

(2) Assessment for identification and placement. The assessment for identification and placement shall consist of:

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

(b) Written behavioral observations. *The behavior observations shall be a compilation of specific behavioral data collected over a period of time describing the behaviors of concern.*

1. An evaluation team member other than the child's regular teacher shall observe the child's academic performance in the regular classroom setting.

2. In the case of a child of less than school age or out of school a team member shall observe the child in an environment appropriate for a child of that age.

(c) *Formal and informal educational evaluation data composed of individual standardized and informal test(s) of basic skills and individual assessment in all areas of the students suspected disability as stated in Section 2 above.* [Individual standardized test(s) of basic skills to be administered by qualified personnel.]

(d) An individual measure of intelligence [to be administered by qualified personnel].

(e) *An assessment of adaptive behavior including a developmental history.*

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

Section 5. [(3)] Written report. The evaluation team shall prepare a written report of the results of the evaluation.

(1) [(a)] The report shall include a statement of:

(a) [1.] Whether the child has a specific learning disability;

(b) [2.] The basis for making the determination;

(c) [3.] The relevant behavior noted during the observation of the child;

(d) [4.] The relationship of that behavior to the child's academic functioning;

(e) [5.] The educationally relevant medical findings, if any;

(f) [6.] Whether there is a severe discrepancy between achievement and ability which is not correctable without special education and related services; and

(g) [7.] The determination of the evaluation team concerning the effects of environmental, cultural, or economic disadvantage on the child's performance.

(2) [(b)] Each evaluation team member shall certify in writing whether the report reflects his or her conclusion. If it does not reflect his or her conclusion, the evaluation team member shall submit a separate statement presenting his or her conclusions.

Section 6. [5.] Individual Education Program (IEP). As required and provided in 707 KAR 1:051, Section 5, for each child identified the appropriate admissions and release committee shall develop and assure the implementation and annual review of an individual education program.

Section 7. [6.] Placement. Placement in a program for children with specific learning disabilities shall be determined by the appropriate admissions and release committee pursuant to procedures as described in 707 KAR 1:051, Section 6.

Section 8. [7.] Classroom Plan [and Membership]. Classroom programs for children with specific learning disabilities shall operate pursuant to procedures as described in 707 KAR 1:051, Section 1. The following types of classroom plans shall be utilized: [itinerant teacher,] resource [room] variation, and special class plan. *An itinerant teacher shall not serve more than two (2) schools and shall operate as a resource plan.* [Membership and age range in the above plans shall be consistent with provisions in "Standards for Programs for Exceptional Children."]

[Section 8. Housing. Classes for learning disabled pupils shall be housed in elementary and secondary schools commensurate with the age range of the pupils or in approved special schools/facilities.]

Section 9. Membership and Age Range. (1) Classroom membership and age range in programs for pupils with specific learning disabilities shall be:

Classroom Plan (Units)	Membership	Age Range
Resource Plan		
Primary through Intermediate	8 to 15	4 years
Junior through Senior High	8 to 20	4 years
Special Class Plan		
Primary through Intermediate	6 to 10	4 years
Junior through Senior High	6 to 15	4 years

(2) No more than eight (8) pupils may be in the resource room during any one (1) instructional period.

(3) Variations of the above shall be approved upon submission of written request and justification to the Bureau of Education for Exceptional Children. Factors for consideration of approval in determining pupil/teacher ratio and age range will include, but are not limited to, the following:

- (a) Age and grade level of the pupils;
- (b) Physical condition of the pupils; and
- (c) Support personnel.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: June 11, 1980

RECEIVED BY LRC: June 26, 1980 at 2:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET

Department of Education

Bureau of Education for Exceptional Children

(Proposed Amendment)

707 KAR 1:057. Programs for mentally handicapped children.

RELATES TO: KRS 157.200 to 157.285[305]

PURSUANT TO: KRS 13.082, 156.070, 156.160

NECESSITY AND FUNCTION: To promulgate State Board for Elementary and Secondary Education regulations for programs for mentally handicapped children. This regulation is necessary to assure uniformity in providing special education and related services to mentally handicapped children and to conform with Public Law 94-142

Section 1. General Provisions. Local school boards of education shall operate programs for mentally handicapped pupils of school attendance age pursuant to KRS 157.200 to 157.285[305], inclusive, and the criteria listed in this section.

Section 2. Programs for educable mentally handicapped pupils shall be operated according to the following provisions:

(1) Eligibility criteria:

(a) An admissions and release committee shall determine that a child is educable mentally handicapped provided the following criteria are met:

1. The p[P]upil[s who] meets the definition pursuant to KRS 157.200;[(4)] and [who]

2. The pupil obtains an intelligence quotient score[s] between fifty (50) and seventy-five (75) on individual intelligence tests. [shall be eligible for enrollment in programs for the educable mentally handicapped.] Individual intelligence test scores shall not be the sole criterion for determination of placement, but shall be considered in conjunction with other evaluation information as set forth

in subsection (3) of this section.

(b) Pupils who meet the above criteria shall be eligible for special education and related services.

(c) Pupils whose intelligence score is borderline may be eligible for special education and related services [placed in a program for the educable mentally handicapped] on a trial basis upon the recommendation of the appropriate admissions and release committee. "Borderline" shall be one (1) standard error of measurement above seventy-five (75) or below fifty (50) IQ points. ["Trial basis" shall be a period of time no longer than four (4) months, at which time the pupil's placement shall be reviewed by the appropriate admissions and release committee in consultation with the teacher in whose classroom the pupil was enrolled.]

(2) Admissions and release committee. As required and provided in 707 KAR 1:051, Section 3, a committee process shall be followed for the identification, evaluation, and placement of educable mentally handicapped children. The appropriate admissions and release committee shall assure that procedural safeguards as described in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060 shall be followed.

(3) Child evaluation. Appropriate child evaluation shall be assured by the appropriate admissions and release committee. Evaluation information shall be obtained pursuant to the requirements in 707 KAR 1:051, Section 4. The evaluation of pupils referred for identification and placement purposes shall consist of:

(a) The referring person's written account of the pupil's specific strengths and weaknesses in the academic and behavioral areas;

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

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

(d) An assessment of adaptive behavior including a developmental history; and

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

(f) In cases where a visual, auditory or physical handicap or serious emotional disturbance is suspected to be a handicapping condition, a referral for appropriate assessment of qualified professional(s) shall be made.

(4) Individual education program (IEP). As required and provided in 707 KAR 1:051, Section 5, for each child identified, the appropriate admissions and release committee shall develop and assure the implementation and annual review of an individual education program.

(5) Placement. Pupil placement in a program for the educable mentally handicapped shall be determined by the appropriate admissions and release committee pursuant to procedures as described in 707 KAR 1:051, Section 6.

(6) Classroom plan [and membership]. Classroom plans shall operate pursuant to procedures as described in 707 KAR 1:051, Section 1. Programs for educable mentally handicapped pupils may be established under one or more of the following classroom plans: special class, resource [room], [itinerant plan,] and variation plan. [Membership and age range in each plan shall be consistent with provisions in "Standards for Programs for Exceptional Children."]

(7) Membership and age range:

(a) Classroom membership and age range in programs for educable mentally handicapped shall be:

<i>Classroom Plan (Units)</i>	<i>Membership</i>	<i>Age Range</i>
<i>Special Class Plan</i>	<i>10 to 20</i>	<i>4 years</i>
<i>Resource Plan</i>	<i>10 to 25</i>	<i>4 years</i>

(b) No more than ten (10) pupils may be in the resource room during any one (1) instructional period.

(c) Variations of the above shall be approved upon submission of written request and justification to the Bureau of Education for Exceptional Children. Factors for consideration of approval in determining pupil/teacher ratio and age range will include, but are not limited to, the following:

1. Age and grade level of the pupils;
2. Physical condition of the pupils; and
3. Support personnel.

Section 3. Programs for trainable mentally handicapped pupils shall be operated according to the following provisions:

(1) Eligibility criteria:

(a) An admissions and release committee shall determine that a child is trainable mentally handicapped provided the following criteria are met:

1. The p [P]upil[s who] meets the definition pursuant to KRS 157.200;[(5)] and [who]
2. The pupil obtains an intelligence quotient score[s] between thirty-five (35) and [below] fifty (50) on individual intelligence tests [shall be eligible for enrollment in programs for the trainable mentally handicapped]. Individual intelligence test scores shall not be the sole criterion for determination of placement, but shall be considered in conjunction with other evaluation information as set forth in subsection (3) of this section.

(b) Pupils who meet the above criteria shall be eligible for special education and related services.

(2) Admissions and release committee. As required and provided in 707 KAR 1:051, Section 3, a committee process shall be followed for the identification, evaluation, and placement of trainable mentally handicapped children. The appropriate admissions and release committee shall assure that procedural safeguards as described in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060 shall be followed.

(3) Child evaluation. Appropriate child evaluation shall be assured by the appropriate admissions and release committee. Evaluation information shall be obtained pursuant to the requirements in 707 KAR 1:051, Section 4. The evaluation of pupils referred for identification and placement purposes shall consist of:

(a) The referring person's written account of the pupil's specific strengths and weaknesses in the academic and behavioral areas;

(b) A written account of a behavioral observation of the referred pupil in familiar surroundings (e.g., classroom, playground, etc.);

[(c) A measure of social competence;]

(c) [(d)] An individual assessment of basic skills areas such as reading, math, [and] language, motor, social, and self-help skills;

(d) [(e)] An assessment of adaptive behavior including a developmental history; and

(e) [(f)] An individual intellectual [psychological] assessment utilizing a recognized standardized measure. [of individual intelligence;]

(f) [(g)] In cases where a visual, auditory or physical handicap or serious emotional disturbance is suspected to be a handicapping condition, a referral for appropriate assessments by qualified professional(s) shall be made.

(4) Individual education program (IEP). As required and provided in 707 KAR 1:051, Section 5, for each child identified, the appropriate admissions and release committee shall develop and assure the implementation and annual review of an individual education program.

(5) Placement. Pupil placement in a program for the trainable mentally handicapped shall be determined by the appropriate admissions and release committee pursuant to procedures as described in 707 KAR 1:051, Section 6.

(6) Classroom plan [and membership]. Classroom plans shall operate pursuant to procedures as described in 707 KAR 1:051, Section 1. Programs for trainable mentally handicapped pupils shall be established under the special class or variation plan. [Membership and age range in either plan shall be consistent with provisions in "Standards for Programs for Exceptional Children."]

(7) Membership and age range.

(a) Classroom membership and age range in programs for trainable mentally handicapped shall be:

<i>Classroom Plan (Units)</i>	<i>Membership</i>	<i>Age Range</i>
<i>Special Class Plan</i>	<i>5 to 12</i>	<i>6 years</i>

(b) Variations of the above shall be approved upon submission of written request and justification to the Bureau of Education for Exceptional Children. Factors for consideration of approval in determining pupil/teacher ratio and age range will include, but are not limited to the following:

1. Age and grade level of the pupils;
2. Physical condition of the pupils; and
3. Support personnel. [Housing. Classes for trainable mentally handicapped pupils shall be housed in elementary or secondary schools commensurate with the age range of the pupils or in approved special schools for handicapped pupils.]

Section 4. Programs for severely and profoundly handicapped pupils shall be operated according to the following provisions: (1) Eligibility criteria:

(a) An admissions and release committee shall determine that a child is severely and profoundly handicapped provided the following criteria are met:

1. There is evidence of primary disabilities that are cognitive (obtained intelligence quotient scores shall be below thirty-five (35)).

2. There may be evidence of behavioral, physical, and/or sensory handicaps.

(b) Pupil(s) who meet the above criteria shall be eligible for special education and related services.

(2) Admissions and release committee. As required and provided in 707 KAR 1:051, Section 3, a committee process shall be followed for the identification, evaluation, and placement of severely and profoundly handicapped children. The appropriate admissions and release committee shall assure that procedural safeguards as described in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060 shall be followed.

(3) Child evaluation. Appropriate child evaluation shall be assured by the appropriate admissions and release committee. Evaluation information shall be obtained pursuant to the requirements in 707 KAR 1:051, Section 4. The evaluation of pupils referred for identification and placement purposes shall consist of:

(a) The referring person's written account of the pupil's specific strengths and weaknesses;

(b) A written account of a behavioral observation of the referred pupil in familiar surroundings (e.g., classroom, home, etc.);

(c) An individual assessment of basic skills areas including language, motor, social, self-help and cognitive skills;

(d) An assessment of adaptive behavior including a developmental history; and/or

(e) An individual intellectual assessment utilizing a recognized standardized measure.

(f) In cases where sensory or physical deficits or behavioral disorders are suspected to exist, a referral for appropriate assessments by qualified professional(s) shall be made.

(4) Individual education program (IEP). As required and provided in 707 KAR 1:051, Section 5, for each child identified, the appropriate admissions and release committee shall develop and assure the implementation and annual review of an individual education program.

(5) Placement. Placement shall be in programs for the severely and profoundly handicapped, trainable mentally handicapped or multiple handicapped as determined by the appropriate admissions and release committee pursuant to procedures as described in 707 KAR 1:051, Section 6.

(6) Classroom plan. Classroom plans shall operate pursuant to procedures as described in 707 KAR 1:051, Section 1. Programs for severely and profoundly handicapped pupils shall be established under the special class or variation plan.

(7) Membership and age range.

(a) Classroom membership and age range in programs for severely and profoundly handicapped shall be:

Classroom Plan (Units)	Membership	Age Range
Special Class Plan	3 to 8	6 years

(b) Variations of the above shall be approved upon submission of written request and justification to the Bureau of Education for Exceptional Children. Factors for consideration of approval in determining pupil/teacher ratio and age range will include, but are not limited to, the following:

1. Age and functioning level of the pupils;
2. Physical condition of the pupils; and
3. Support personnel.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: June 11, 1980

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SUBMIT COMMENT OR REQUEST FOR HEARING TO: Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Education for Exceptional Children
(Proposed Amendment)

707 KAR 1:058. Programs for multiple handicapped children.

RELATES TO: KRS 157.200 to 157.285[305]

PURSUANT TO: KRS 13.082, 156.070, 156.160

NECESSITY AND FUNCTION: To promulgate State Board for Elementary and Secondary Education regulations for programs for multiple handicapped children. This regulation is necessary to assure uniformity in providing special education and related services to multiple handicapped children and to conform with Public Law 94-142.

Section 1. General Provisions. Local school boards of education shall operate programs for multiple handicapped children of school attendance age pursuant to KRS 157.200 to 157.285[305], inclusive, and the criteria listed in this section.

Section 2. Eligibility Criteria. (1) An admissions and release committee shall determine that a child is m["M]ultiple handicapped [children"] provided the following criteria are met: [shall be those children who have]

(a) The pupil has a combination of two (2) or more impairments (such as mentally handicapped-blind, mentally handicapped-orthopedically impaired, etc.); and

(b) T[t]he combination [of which] produces such severe learning, developmental or behavioral problems that appropriate services cannot be provided in special education programs designed solely for children with one (1) impairment.

(2) Pupils who meet the above criteria shall be [requirements of this definition are] eligible for special education and related services [enrollment in programs for the multiple handicapped. The term shall not include deaf-blind children or severely/profoundly handicapped children].

Section 3. Admissions and Release Committee. As required and provided in 707 KAR 1:051, Section 3, a committee process shall be followed for the identification, evaluation, and placement of multiple handicapped children. The appropriate admissions and release committee shall assure that procedural safeguards as described in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060 shall be followed.

Section 4. Child Evaluation. Appropriate child evaluation shall be assured by the appropriate admissions and release committee. Evaluation information shall be obtained pursuant to the requirements in 707 KAR 1:051, Section 4. Evaluations shall include: (1) A developmental and social history;

(2) A medical evaluation;

(3) An individual psychological assessment of current intellectual functioning;

(4) An individual educational assessment of basic skills (i.e., math, reading, language);

(5) Written behavioral observation; and

(6) Additional reports, information and assessments deemed necessary by the admissions and release committee for the appropriate placement of each child.

Section 5. Individual Education Program (IEP). As required and provided in 707 KAR 1:051, Section 5, for each child identified, the appropriate admissions and release committee shall develop and assure the implementation and annual review of an individual education program.

Section 6. Placement. Placement in a program for multiple handicapped children shall be determined by the appropriate admissions and release committee pursuant to procedures described in 707 KAR 1:051, Section 6.

Section 7. Classroom Plan [and Membership]. Programs for multiple handicapped pupils shall be established under the resource, special class or variation plan as described in 707 KAR 1:051, Section 1. [Membership and age range in either plan shall be consistent with provisions in "Standards for Programs for Exceptional Children."]

Section 8. Membership and Age Range. (1) Classroom membership and age range in programs for multiple handicapped shall be:

Classroom Plan (Units)	Membership	Age Range
Special Class Plan	5 to 10	6 years
Resource Plan	5 to 10	6 years

(2) No more than seven (7) pupils may be in the resource room during any one (1) instructional period.

(3) Variations of the above shall be approved upon submission of written request and justification to the Bureau of Education for Exceptional Children. Factors for consideration of approval in determining pupil/teacher ratio and age range will include, but are not limited to, the following:

- (a) Age and grade level of the pupils;
- (b) Physical condition of the pupils; and
- (c) Support personnel. [Housing. Classrooms for multiple handicapped children shall be housed in elementary or secondary schools commensurate with the age range of the pupils or in approved special school/facilities.]

RAYMOND BARBER
Superintendent of Public Instruction

ADOPTED: June 11, 1980

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TO: Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Education for Exceptional Children
(Proposed Amendment)

707 KAR 1:059. Programs for visually handicapped children.

RELATES TO: KRS 157.200 to 157.285[305]
PURSUANT TO: KRS 13.082, 156.070, 156.160
NECESSITY AND FUNCTION: To promulgate State Board for Elementary and Secondary Education regulations for programs for visually handicapped children. This

regulation is necessary to assure uniformity in providing special education and related services to visually handicapped children and to conform with Public Law 94-142.

Section 1. General Provisions. Local school boards of education shall operate programs for visually handicapped children of school attendance age pursuant to KRS 157.200 to 157.285[305], inclusive, and the criteria in this section.

Section 2. Eligibility Criteria. (1) An admissions and release committee shall determine that a child is visually impaired provided the following criteria are met: [A pupil shall be eligible for enrollment in a program for the visually handicapped if]

(a) T[h]e child has a visual acuity of 20/70 or less in the better eye after correction;[.] and/or

(b) The child has a [Included are] visual handicap(s) which, even with correction, adversely affect the [a] child's educational performance. The term includes both partially seeing and blind children.

(2) A pupil who meets the above criteria shall be eligible for special education and related services.

Section 3. Admissions and Release Committee. As required and provided in 707 KAR 1:051, Section 3, a committee process shall be followed for the identification, evaluation, and placement of visually handicapped children. The appropriate admissions and release committee shall assure that procedural safeguards as described in 707 KAR 1:051, Sections 9 and 10, and 707 KAR 1:060 shall be followed.

Section 4. Child Evaluation. (1) Appropriate child evaluation shall be assured by the appropriate admissions and release committee. Evaluation information shall be obtained pursuant to the requirements in 707 KAR 1:051, Section 4. The evaluation for identification and placement shall include:

(a) [(1)] An eye examination report, completed and signed by a [an] licensed eye specialist;

(b) [(2)] Developmental and social history;

(c) [(3)] An individual educational assessment of basic skills, (i.e., math, reading, language);

(d) [(4)] A written behavior observation; and

(e) [(5)] Any additional reports, information, and assessments that the admissions and release committee deems necessary for the placement of a child in an appropriate program.[.]

(2) [(6)] Cases in which retardation is suspected to be a handicapping condition, a referral for appropriate assessment by a qualified[ing] professional shall be made.

Section 5. Individual Education Program (IEP). As required and provided in 707 KAR 1:051, Section 5, for each child identified, the appropriate admissions and release committee shall develop and assure the implementation and annual review of an individual education program.

Section 6. Placement. Placement in a program for visually handicapped shall be determined by the appropriate admissions and release committee pursuant to procedures as described in 707 KAR 1:051, Section 6.

Section 7. Classroom Plan [and Membership]. Programs for visually handicapped pupils may be established under one or more of the following plans as described in 707 KAR 1:051, Section 1: special class, resource [room, itinerant plan], and variation plan. [Membership and age

range in either plan shall be consistent with provisions in "Standards for Programs for Exceptional Children."

Section 8. *Membership and Age Range.* (1) *Classroom membership and age range in programs for visually handicapped shall be:*

<i>Classroom Plan (Units)</i>	<i>Membership</i>	<i>Age Range</i>
<i>Special Class Plan</i>	<i>5 to 10</i>	<i>6 years</i>
<i>Resource Plan</i>	<i>5 to 10</i>	<i>6 years</i>

(2) *No more than seven (7) pupils may be in the resource room during any one (1) instructional period.*

(3) *Variations of the above shall be approved upon submission of written request and justification to the Bureau of Education for Exceptional Children. Factors for consideration of approval in determining pupil/teacher ratio and age range will include, but are not limited to, the following:*

- (a) *Age and grade level of the pupils;*
- (b) *Physical condition of the pupils; and*
- (c) *Support personnel.* [Housing. Classes for visually handicapped pupils shall be housed in elementary or secondary schools commensurate with the age range of the pupils or in approved special schools/facilities.]

RAYMOND BARBER
Superintendent of Public Instruction

ADOPTED: June 11, 1980

RECEIVED BY LRC: June 26, 1980 at 2:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Education for Exceptional Children
(Proposed Amendment)

707 KAR 1:060. Identification, evaluation and placement policy and procedure.

RELATES TO: KRS 157.200 to 157.285[305]

PURSUANT TO: KRS 13.082, 156.070

NECESSITY AND FUNCTION: The Consent Agreement in Kentucky Association for Retarded Children, et.al., v. Kentucky State Department of Education, et.al., Civil Action No. 435, U.S. District Court, Eastern District of Kentucky, specifies that regulations and guidelines be established for the identification and placement of exceptional children in local school districts. 707 KAR 1:051, Section 9, and P.L. 94-142, Section 615, assure that each child, parents and the local school districts will be guaranteed procedural safeguards relative to the identification, evaluation and placement of exceptional children. This manual provides policies and procedures relative to the fulfillment of the Consent Agreement, 707 KAR 1:051, Section 9, and P.L. 94-142, Section 615.

Section 1. The "Due Process Policy and Procedure Manual," May, 1980 [March, 1979], copy of which is attached hereto and filed by reference, is hereby approved.

This manual fulfills requirements of the Consent Agreement, Civil Action No. 435, 707 KAR 1:051, Section 9, and P.L. 94-142, Section 615, and shall be referred to as the "Due Process Policy and Procedure Manual," for identification, evaluation and placement of exceptional children. Copies may be obtained from the Bureau of Education for Exceptional Children, State Department of Education, Frankfort, Kentucky 40601.

RAYMOND BARBER
Superintendent of Public Instruction

ADOPTED: June 11, 1980

RECEIVED BY LRC: June 26, 1980 at 2:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

KENTUCKY SCHOOL BUILDING AUTHORITY
(Proposed Amendment)

723 KAR 1:005. Funding procedure.

RELATES TO: KRS 157.820, 157.895

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: To establish procedures for funding Department of Education projects.

Section 1. The authority shall act upon projects recommended by the Superintendent of Public Instruction and approved by the appropriate state board of education.

Section 2. The authority shall consider funding projects based upon the order of priorities established by the appropriate state board of education after approval by the authority.

Section 3. In the absence of legislative determination, the authority shall determine the allocation of funds available to the authority which shall be made to the various types of projects.

Section 4. In the event funding for projects recommended by the Department of Education exceed the limit of resources established by the School Building Authority for such projects, the chairman of the authority shall notify the chairman of either affected board of the amount by which such resources have been or will be exceeded and such board, upon recommendation of the Superintendent of Public Instruction, shall eliminate or reduce the scope of the projects recommended in order to stay within resources available.

Section 5. *In establishing funding priorities, the authority shall give first priority to school building projects from available uncommitted funds needed because of some sudden and disastrous calamity or other unusual occurrence which necessitates housing school children in inadequate facilities:*

(1) *Calamity projects are defined as those projects necessary to replace or restore a facility lost or destroyed through an occurrence normally covered by insurance such as flood, fire, tornado or other such happenings.*

(2) *Such projects shall be undertaken by the authority only when the Department of Education certifies to the authority that school children normally housed in the affected facility cannot be housed in standard facilities within a reasonable distance of the facility destroyed.*

(3) *Funding for calamity projects will be available only to those school districts that carry insurance programs recommended or required by the State Board for Elementary and Secondary Education.*

(4) *The authority's share of debt service payments on a calamity project shall be based upon the replacement cost of the facility destroyed or damaged less the net proceeds of any casualty insurance collected, less any other local, state, federal or private grants available and committed to the project, and less the current bonding potential of the school district as certified to the authority by the Superintendent of Public Instruction provided, however, the authority's participation shall not exceed ninety percent (90%) of the debt service cost of the project.*

(5) *The net insurance proceeds shall be that amount of insurance collected as a result of the calamity less any expenses the district incurs in providing temporary school housing or other expedients attendant to providing temporary housing which are in excess of the normal operating expenses of the school district for that facility provided such expenses receive the prior approval of the Superintendent of Public Instruction or his designee.*

Section 6. [5.] Upon recommendation of the Superintendent of Public Instruction, the authority shall employ a fiscal agent(s) for such project or projects which have been approved by the authority.

Section 7. [6.] Fiscal agent(s) employed by the authority shall carry out all functions normally performed by such agents and shall include but not be limited to preparing conveyances of property, preparing contracts of lease and rent, and all other functions normally associated with the preparation and sale of bonds issued by the authority.

Section 8. [7.] Upon direction of the authority, the Bureau of Facilities Management will enter into a contract with an architect and/or engineer for such project or projects which have been approved by the authority.

Section 9. [8.] Architects and/or engineers shall be employed through the use of contract form B210-26, as adopted by the Bureau of Facilities Management, Department of Finance, with such amendments thereto as may be required from time to time by the Bureau of Facilities Management, *Department of Finance*.

Section 10. [9.] Architects and/or engineers so employed shall be responsible for the preparation of preliminary and completed plans and specifications which shall have the approval of the Superintendent of Public Instruction prior to bids being taken for construction of the project or projects. Such architect and/or engineer shall also be responsible for obtaining approval of their plans and specifications from all authorities having jurisdiction. This provision shall be included in every contract into which the authority enters.

Section 11. [10.] Architects and/or engineers so employed shall at the end of each month for each construction project prepare an estimate of work completed and materials used on each project. Such an estimate shall be provided the Superintendent of Public Instruction for his

approval on or before the tenth day of each month and shall cause to be withheld ten (10) percent of the first one (1) million dollars and five (5) percent of the completed performance above one (1) million dollars of the contract price of the work until the work is substantially completed. Upon substantial completion of the work, the ten (10) percent retainage may be reduced to five (5) percent with certification of the architect or engineer and approval of the Superintendent of Public Instruction. No part of the five (5) percent retainage shall be paid until the Superintendent of Public Instruction has made final inspection of the completed construction in accordance with approved plans, specifications and contract documents. When certified for payment by the Superintendent of Public Instruction, such estimate shall provide the basis for all authority payments. This provision shall be included in every contract into which the authority enters.

Section 12. [11.] On all properties which are to be deeded to the Kentucky School Building Authority for the purposes of constructing a project, the School Building Authority will receive a fee simple title in conformance with KRS 162.010. A copy of the deed and an attorney's title certificate, along with evidence of title insurance, based on current appraised value of the site, from an acceptable insurance company will be provided the director of the School Building Authority.

ARNOLD GUESS, Director

ADOPTED: June 10, 1980

RECEIVED BY LRC: June 26, 1980 at 2:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Arnold Guess, Secretary, Kentucky School Building Authority, Room 927, Capital Plaza Tower, Frankfort, Kentucky 40601.

KENTUCKY SCHOOL BUILDING AUTHORITY (Proposed Amendment)

723 KAR 1:015. Eligibility criteria.

RELATES TO: KRS 157.820, 157.840

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: To develop eligibility criteria for local school districts seeking assistance from the School Building Authority.

Section 1. The School Building Authority will act upon applications for assistance from local boards of education on projects approved by the Superintendent of Public Instruction in accordance with the priorities contained in the school district's most recent facilities survey.

Section 2. For a local board of education to be eligible for funding assistance from the authority:

(1) It must have levied the maximum general fund tax rate in accordance with KRS 160.470, which is not subject to recall, in the year in which it receives assistance from the authority or have levied a voted or permissive tax at least equal to the difference between the maximum permissible general fund tax levy and the tax actually levied for general fund purposes.

(2) It must have levied a local tax sufficient to qualify for full participation in the rate supported by the power equalization fund in accordance with KRS 157.565.

(3) It must have submitted a balanced budget and show that no current or projected deficit exists in the district's general fund or capital construction funds in the year in which it receives assistance from the authority.

(4) It must have had a facilities survey, in accordance with 702 KAR 1:010, performed or updated at least once during the five (5) years preceding the year in which it receives assistance from the authority.

Section 3. In allocating funds to local school districts, the authority shall first fund those districts having the highest priority as shown by the classification system adopted by the authority pursuant to KRS 157.840 and 157.845.

Section 4. *Notwithstanding the provisions of Section 5, a school district shall not be eligible two (2) years in succession for assistance from the authority except in the case of an emergency declared by the State Board for Elementary and Secondary Education upon the recommendation of the Superintendent of Public Instruction.*

Section 5. [4.] In developing the eligibility classification system provided for in KRS 157.835 the authority will cause to have costed facilities needs for new construction and additions to existing buildings which are provided for in the district's approved facilities plan [departmental facilities survey] and convert such cost to a per pupil basis for each school district in the state. This raw cost of need will be adjusted by providing that need will have a weight of eight (8), effort a weight of one (1) and growth a weight of one (1). The weight for growth shall be based upon the increased average daily attendance for the last five (5) years and the weight of effort shall be based upon the cost of construction completed or obligated for the past ten (10) years as it relates to the equalized assessed value per child for each school district.

Section 6. [5.] Pursuant to KRS 157.850 the percentage participation rate for the authority shall be from thirty (30) percent for those districts having the highest equalized assessed value per pupil to seventy (70) percent for those districts having the lowest equalized assessed value per pupil. The authority establishes an expected norm of averaging fifty (50) percent participation in local school district projects and will work toward this norm by causing the equalized assessed value of property to be converted to a standard distribution with a mean of fifty (50) and a standard deviation of ten (10). No school district will receive less than a thirty (30) percent participation rate or more than a seventy (70) percent participation rate as a result of this procedure. The obligation of each school district for meeting bond and interest redemption schedules shall be stipulated in the contract of lease and rental which shall be approved by the authority.

Section 7. *Notwithstanding the authority percentage participation rate established pursuant to Section 6, a school district must commit to debt service for its first priority project as established in the local school district facilities plan, the full amount of its foundation program capital outlay fund not currently obligated to debt service payments.*

Section 8. *When an offer of assistance to construct the first priority project in a school district is made by the authority, the Superintendent of Public Instruction or his designee shall notify the director of the authority as to the*

amount of foundation program capital outlay funds available to that district for the year in which the offer is made that may be committed to debt service to the project.

Section 9. *In the event the amount of foundation program capital outlay funds available to meet the debt services for the districts first priority project exceeds the school districts's debt service requirements as established by Section 6, the director of the authority will adjust the percentage participation rate of the authority to a point at which the full available foundation program capital outlay funds of the district will be committed to project debt service.*

ARNOLD GUESS, Director

ADOPTED: June 10, 1980

RECEIVED BY LRC: June 26, 1980 at 2:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Arnold Guess, Secretary, Kentucky School Building Authority, Room 927, Capital Plaza Tower, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET Workers' Compensation Board (Proposed Amendment)

803 KAR 25:010. Procedure.

RELATES TO: KRS Chapter 342

PURSUANT TO: KRS 13.082, 342.260

NECESSITY AND FUNCTION: KRS 342.260 requires the Workers' [Workmen's] Compensation Board to prepare such rules and regulations as it considers necessary to carry on its work and for carrying out the provisions of KRS Chapter 342. The function of these rules and regulations is the regulating of practice and procedure before the Workers' [Workmen's] Compensation Board.

Section 1. Definitions. (1) "Board" means the Workers' [Workmen's] Compensation Board.

(2) "Director" means the director or acting director appointed pursuant to KRS 342.230(2), acting director or assistant director].

(3) "Hearing officer" means a hearing officer appointed pursuant to KRS 342.230(3), and also includes the director, assistant director, an attorney employed by the board, a board member of any enforcement officer employed by the board, when acting under Section 6.

(4) The masculine gender includes the feminine and the neuter, and the singular member includes the plural.

(5) "Employer" shall mean and include individuals, partnerships, voluntary associations and corporations.

(6) "Corporate surety" shall mean a corporation duly authorized, licensed and qualified to execute bonds and other surety obligations for compensation in Kentucky.

(7) The date of filing is the date the pleading, motion or other document is received by the board at its office at Frankfort, Kentucky.

(8) "An employer who has not secured payment of compensation" means an employer, or any person who has in his employment, covered employees as defined by Chapter 342 of the Kentucky Revised Statutes, is liable for payment

of compensation, who has not complied with KRS 342.340 by either insuring and keeping insured his liability for compensation in some corporation, association or organization authorized to transact the business of workers' [workmen's] compensation insurance in this state or furnished to the board, in accordance with the statutes or rules and regulations of the board, satisfactory proof of his financial ability to pay directly the compensation in the amount and manner due as provided for in KRS Chapter 342. Said terms shall not include those employers whose employees are exempt from coverage by KRS 342.650, unless said employer of an exempt employee has voluntarily elected to be subject to KRS Chapter 342, in accordance with KRS 342.660 [650], and has not revoked said election. [Said term also shall not include any employer whose employee is injured and who has rejected acceptance of the provisions of KRS Chapter 342, as provided for by KRS 342.395.]

Section 2. Parties. (1) The parties to any original proceedings before the board shall be designated as "plaintiff" and "defendant." The party filing the original application for relief in such proceedings shall be designated as the plaintiff and the adverse party as the defendant.

(2) All parties shall join as plaintiffs in whom any right to any relief, arising out of the same transaction or occurrence, is alleged to exist. If any such person should refuse to join as a plaintiff, he shall then be joined as a defendant, and the fact of his refusal to join as a plaintiff must be pleaded.

(3) All persons shall be joined as defendants against whom the ultimate right to any relief may exist, whether jointly, severally, or in the alternative. The board at any time, upon a proper showing, may order that any additional party be joined when it deems the presence of such party necessary.

Section 3. Pleadings. (1) All applications for adjustment of claims for compensation, answers, and other pleadings must be typewritten and the printed forms prescribed by the board must be used whenever applicable. All such forms will be furnished by the director to any person requesting same, without charge.

(2) The original application for adjustment of claim (Form 11) shall be fully completed, filed in triplicate, and need not be served by the party filing same. Any claim (Form 11) not fully completed shall be returned to the claimant or his attorney.

(3) Should the plaintiff be required to file two (2) medical reports pursuant to KRS 342.316(2)(b) the reports shall be made part of the record without the necessity of deposition if:

(a) They are comprehensive and conform with generally accepted diagnostic standards in the medical community, and

(b) They meet the mandate of KRS 342.316(2)(b)1. Any party may, however, depose either physician whose report has been tendered for compliance with KRS 342.316(2)(b)1.

(4) *When the plaintiff seeks an initial determination as to temporary total disability or medical benefit payment, this intention must be indicated by completion of the appropriate section on Form 11, Application for Adjustment of Claim. In addition to the information set forth in the Form 11, the plaintiff shall file supporting affidavits sufficient to establish a prima facie case that the benefits are payable under the Kentucky Workers' Compensation Act.*

(5) [(4)] All pleadings filed subsequent to the original application shall have appended thereto the certificate of the attorney filing same (or of the party, if the party is not represented by an attorney) stating the date and manner of service of a copy thereof upon the opposing party, which service shall be made in one of the manners provided by Rule 5 of the Rules of Civil Procedure.

(6) [(5)] The defendant may file an answer to the plaintiff's application at least five (5) days before the date set for the hearing on the application, but no such answer is required and if none is filed all of the allegations of the application will be deemed to be traversed. If, however, an answer is filed, (other than a special answer under subsection (5) of this section) only those allegations of the application which are specifically denied by the answer shall be considered as traversed.

(7) [(6)] If the defendant relies upon an affirmative special defense, he shall set forth such defense in a special answer to be filed at least five (5) days before the date set for hearing or within ten (10) days after such defense is discovered or could have been discovered in the exercise of reasonable diligence. If, in the exercise of reasonable diligence, such defense could not have been discovered until the introduction of proof, such plea must be filed to conform with the proof within ten (10) days after its introduction.

(8) [(7)] Upon any motion being filed by a party, the party filing same may file a short memorandum in support thereof and the adverse party may file a short memorandum in reply thereto. No further memorandum in support of motions may be filed.

(9) (a) *Where the plaintiff seeks an initial determination of issues as set forth in subsection (4) of this section, the defendant shall, not later than ten (10) days prior to the date scheduled for hearing, file with the Workers' Compensation Board a response, supported by sworn affidavit.*

(b) *In the event that the defendant fails to file a response to the plaintiff's application for determination of the issues of temporary total disability and medical benefit payments within the prescribed time, there being no controverted material issue of fact, the board shall cancel the hearing, order the initiation of total disability and medical payments and place the claim in abeyance until such time as the claim is removed from abeyance by the board on its own motion or upon the boards sustaining a motion to remove from abeyance filed by any party.*

Section 4. Motions. (1) Every application for an order of the board shall be by typewritten motion, served and filed in the manner prescribed by Section 3(3), and shall have annexed thereto the certificate prescribed by said section.

(2) Every motion for the allowance of an attorney's fee shall (in addition to service upon the adverse party) also be served upon said attorney's client and the fact of such service certified in the manner prescribed by this section. Every motion for attorney's fee shall set forth the percentage and the amount of money requested and shall be accompanied by an affidavit of the attorney setting forth in detail the services rendered and the amount of time expended.

(3) Every motion, the grounds of which depend upon the existence of one or more facts not appearing in evidence at the time of the filing of the motion, shall be supported by an affidavit or affidavits evidencing such fact or facts, which shall be served and filed with the motion. Controverting affidavits may likewise be served and filed by the opposing party.

(4) Every motion, the grounds of which depend upon the existence of one or more facts which the movant contends are shown in evidence or are admitted by the pleading of the adverse party, shall contain a reference to the hearing transcript of deposition containing such evidence and to the page thereof, or the pleading containing such admission.

(5) No motion will be considered at any meeting of the board unless same has been served and filed at least five (5) days prior to the date of such meeting, to which three (3) days shall be added to the service when service has been made by mail. A response to such motion will be considered if served and filed at any time prior to the day of such meeting.

Section 5. Board Meetings. Regular meetings of the board will be held weekly each Monday at the offices of the board at Frankfort, unless otherwise ordered by the board. Special meetings will be held, when necessary, upon the call of the chairman of the board, at such times and places as said chairman may designate.

Section 6. Hearings. (1) Hearings of *workers'* [workmen's] compensation cases shall be conducted by a hearing officer as defined in Section 1(3). [Each hearing shall be conducted in the county where the alleged accident or exposure to occupational disease occurred. A hearing may be held in another county only by agreement of the parties and upon authorization by the board.]

(2) Each case shall stand for hearing as soon as practicable after the plaintiff's application is filed. Promptly following the hearing, the hearing officer conducting the same shall transmit to the board a field order reciting the appearances on behalf of the parties and the general nature of the proceedings conducted. The order shall provide that any party may offer proof by deposition during the sixty (60) days following the date of the hearing; that the defendants shall have thirty (30) days thereafter within which to offer additional evidence; and that the plaintiffs shall have fifteen (15) days thereafter for the introduction of rebuttal evidence. A copy of such order shall be mailed to counsel for each party and to each party who is not represented by counsel. The field order shall be filed with the board's case record, but shall not be entered upon its order book. When a party has been joined as plaintiff or defendant after the expiration of the time allotted for taking proof under the terms of this subsection upon motion the board may allow such party time for the taking of his proof or may direct further hearing before a hearing officer. Except by agreement, no medical deposition may be taken until *authorized by order of the Workers' Compensation Board or a Workers' Compensation Board hearing officer and until the plaintiff's testimony has been taken* [the case has been heard by a hearing officer] unless prior approval has been granted by the board.

(3) At all hearings evidence may be introduced by oral testimony or by deposition as provided by Section 10. Unless otherwise ordered by the board or by the hearing officer conducting the hearing, the plaintiff shall complete his testimony in chief before the defendant is required to introduce testimony. The board will provide an official reporter who will stenographically report and thereafter transcribe upon the typewriter the evidence and proceedings at each hearing without cost to the parties except for any copies thereof which may be ordered by them.

(4) Rulings made by a hearing officer pursuant to KRS 342.230(3) may be reviewed by the board upon written ap-

plication made by any party prior to final submission of the case, which application shall be served and filed *no less than ten (10) days after the ruling* in the manner provided by Section 4 for the service and filing of motions.

(5) Unless otherwise ordered by the board for good cause, the proof introduced at each hearing may relate to all issues in the case, and preliminary hearings upon issues such as limitations or jurisdiction will not be held without a board order.

(6) At the hearing all parties shall represent to each other that they have exchanged all medical reports pertaining to the injury or disease and that they shall furnish additional medical reports as they are received. Additionally, a party shall promptly obtain all medical reports he intends to use and shall not intentionally cause delay in the providing of same to the other parties.

(7) The plaintiff shall also execute an authorization for any party to inspect and obtain all hospital records which shall be valid for 180 days. Any records so obtained shall be made available promptly to all parties for review and copying.

(8) Promptly following each hearing, the hearing officer conducting same shall transmit to the board a field order reciting the appearances on behalf of the parties, the general nature of the proceedings had at the hearing, and the time given by him to each party for completion by deposition, and shall mail a copy thereof to counsel for each party and to each party who is not represented by counsel. The field order shall be filed with the board's case record but will not be entered upon its order book.

(9) *In hearings involving applications for adjustment of claim in which the plaintiff seeks a determination as to the right to temporary total disability or medical benefit payments, the hearing officer shall review all pleadings contained in the board's record and hear oral arguments in support of each party's position. The hearing officer shall inform all parties of the recommendation on the issues of temporary total disability and medical payments. Where temporary total and medical benefit payments are recommended, further testimony may be taken only by agreement of all parties.*

(a) *The hearing officer shall recommend payment of temporary total disability and medical payments only in cases where there is not material issue of fact and the plaintiff is entitled to said benefits as a matter of law.*

(b) *Any party may file written exceptions to the hearing officers recommendation with the Workers' Compensation Board offices no later than fifteen (15) days following the hearing. Unless exceptions are properly filed, the board shall adopt the hearing officer's recommendation and issue an order to that effect.*

Section 7. Stipulation of Facts and Judicial Notice. (1) Stipulation of facts which are not in issue is mandatory and the refusal without good cause to stipulate facts which are not in issue, within the sound discretion of the board, may result in assessment of the costs of the hearing before the hearing officer against the party who without good cause has refused to stipulate to routine matters not in issue (See KRS 342.310). The assertion of the fact that any party has not had an opportunity to consult with the party whom he represents or has not had sufficient time or opportunity to ascertain the facts will not be necessarily considered "good cause" within the meaning of this rule. Every party to a stipulation shall be considered bound to the same, however, for good cause shown, any party may be relieved of a stipulation he makes provided such motion is filed with the board prior to the time the case is submitted for

opinion and judgment, and the board shall grant additional time for the opposing party or parties to complete their proof so as to prevent prejudice or surprise.

(2) The board will take judicial notice that the Act is mandatory except for those employers exempted by KRS 342.650 and those employees rejecting the Act pursuant to KRS 342.395 and 342.400.

(3) Upon the filing of a claim the director shall ascertain whether the employer, or any other person against whom a claim is filed and who is not exempt by KRS 342.650, has secured payment of compensation by either securing insurance coverage or qualifying as a self-insurer pursuant to KRS 342.340. Should the employee or any other person against whom a claim is filed not have insurance coverage or qualify as a self-insurer, the director within twenty (20) days after the filing of the claim shall notify the parties and the uninsured employer's fund that the defendant or any other person against whom a claim has been filed has failed to secure payment or compensation as provided by KRS Chapter 342.

(4) The hearing officer shall ask the appropriate questions in order to determine the reason for an inability or unwillingness to stipulate. The employer and the plaintiff have the joint responsibility of resolving jurisdictional and pre-hearing payment of compensation issues and explaining why these cannot be stipulated.

Section 8. Evidence: Rules Applicable. (1) The same rules of evidence that apply in judicial proceedings and that are governed by the common law and the statutes in effect in this commonwealth, apply in all hearings and depositions taken to be used in cases before this board.

(2) An exception to the above rule applies in depositions taken of evaluating physicians who are non-treating physicians, and in those instances the non-treating physician is permitted to use the case history related to him by the patient and the subjective symptomatology related to him by the patient in arriving at and formulating his opinion as to causation and disability.

Section 9. Informal Conferences. At any time before hearing, the board upon its own motion or upon motion of either party, may direct the holding of an informal conference as provided by KRS 342.270(3) in an attempt to assist the parties to adjust their differences, but will not delay the granting of a hearing, over the objection of either party, for such purpose. Such informal conference shall be held at the board's offices in Frankfort or at any other place designated by the board.

Section 10. Depositions and Discovery. The parties may take depositions and obtain discovery in accordance with the provisions of Rules 26 to 37, inclusive, of the Rules of Civil Procedure, except Rules 27, 33, and 36, which are not adopted by the board and which shall not apply to practice before the board.

Section 11. Exceptions. Formal exceptions to rulings or orders of the board or any member or hearing officer thereof are unnecessary.

Section 12. Appearance. Only duly licensed attorneys-at-law may appear or practice before the board, except that any natural person who is a party to any proceeding may represent himself only but shall not, either directly or indirectly, represent or appear in behalf of any legal entity other than himself. Any party who elects to represent himself without the aid of counsel shall be held accountable in the same manner, and to the same degree, as qualified counsel.

Section 13. Failure to Appear. (1) Where the plaintiff fails to appear at the hearing of his case and no good cause is shown for his failure to appear, the board may order the case dismissed for lack of prosecution; such dismissal shall be without prejudice.

(2) Where the defendant fails to appear at the hearing of a case and no good cause is shown for his failure to appear, the hearing officer may proceed with the hearing of the case.

Section 14. Continuances, Extensions and Motions to Hold in Abeyance. (1) Continuances of hearings, whether a request of the board or of the hearing officer, and extensions of time will be granted for good cause, upon motion, supported by affidavit stating facts making a proper showing of such cause, and upon due notice to the adverse parties. Motions for continuances of hearings must be received by the board no later than ten (10) days prior to the hearing unless there is a showing that circumstances beyond the control of the requesting party prohibited the timely filing of the motion.

(2) Extensions of time for introduction of evidence following the hearing shall not be granted except as hereafter provided and except upon a good cause showing of extraordinary circumstances preventing the party moving for extension from obtaining such evidence. The motion for extension of time and supporting affidavit must clearly set forth the following matters:

(a) A showing of timely and diligent efforts by counsel to secure such evidence must be detailed.

(b) The facts which prevent taking of the needed evidence must be detailed.

(c) The date of availability of such needed evidence and the probability of its production must be detailed.

(d) Where possible, supporting documentation giving rise to the need for extension should be filed with such motion.

(e) Where the parties shall agree, one (1) thirty (30) day extension or a lesser period of extension shall be allowed without order of the board by the filing of a joint stipulation, in form as follows:

John Doe

Plaintiff

vs. STIPULATION GRANTING 30 DAY
EXTENSION TO PLAINTIFF

Ajax Corporation

Defendant

Plaintiff is granted 30 additional days to complete evidence in chief to expire at the close of January 16, 1978.

Attorney for Plaintiff

Attorney for Defendant

(Attach Certificate of Service)

(3) Upon filing of such stipulation, the extension will be allowed without order of the board, and the next succeeding allotment of time shall begin to run after the expiration of the time so extended.

(4) In the absence of unusual circumstances, which will make an additional extension necessary, only one (1) thirty (30) day extension shall be granted to each side for completion of evidence in chief and only one (1) fifteen (15) day

extension may be granted to plaintiff for completion of evidence in rebuttal. No other allotment of time shall be granted.

(5) The granting of an extension of time for completion of proof or for an enlargement of time in order to file a brief shall enlarge the time to all parties plaintiff should extension be granted to a plaintiff, or to all parties defendant should extension be granted to a defendant.

(6) The provisions of this section shall apply to motions or applications requesting that proceedings in a case shall be held in abeyance pending settlement or for any other reason.

Section 15. Briefs. (1) The plaintiff may file a brief on the merits of the case within fifteen (15) days after the submission of the case as provided by Section 16. The defendant may file a brief in opposition thereto within fifteen (15) days after the filing of plaintiff's brief or within the like period, after the expiration of plaintiff's briefing time, whichever shall first occur. Plaintiff may file a reply brief within five (5) days after the filing of defendant's brief. No other or further briefs shall be filed, unless otherwise ordered by the board.

(2) One (1) copy of all briefs shall be filed. Every brief shall be served and the fact of such service certified in the manner provided by Section 4(3).

(3) It is the declared policy of the board not to consider extraneous matter placed in the briefs, nor to consider statements in briefs that are an exaggeration or overstatement of the law or evidence, and it is grounds to strike the brief when such matter appears therein.

(4) In briefs counsel shall state the case fairly and accurately setting out the stipulations and make a concise, accurate statement of the facts, make an argument exhibiting a clear statement of the issues and containing applicable citations of authority to support all positions.

Section 16. Submission and Decision of Cases. (1) Each case shall stand submitted at the first regular meeting of the board following the expiration of the time allowed for the taking of all proof.

(2) No deposition will be considered unless it has been filed with the board within ten (10) days after submission of the case; but upon motion and for good cause shown within said period the board may grant an extension of time for such filing.

(3) All cases will be decided by the full board. Every decision upon the merits shall contain findings of fact and rulings of law as required by KRS 342.275; but formal opinions will be delivered only in those cases in which the legal questions are novel or important, or the facts are to complicated as to require detailed analysis.

(4) Every final order or award of the board has the effect of overruling all pending motions or objections not otherwise specifically disposed of by such final order.

Section 17. Oral Argument. The board upon motion may permit oral argument of cases in which novel or important legal questions are presented or the factual situation is complicated. No such motion shall be made until all briefs have been filed.

Section 18. Petitions for Reconsideration. One (1) copy of each petition for reconsideration of a final order, award or decision, and one (1) copy of each response to such petition, shall be filed.

Section 19. Subsequent Proceedings. Every application for reopening or review of any order or award of the board

pursuant to KRS 342.125, and every application pursuant to KRS 342.730(4), shall be in writing, shall be verified or supported by affidavit as required by Section 4(3), shall be styled with the names of the original parties, plaintiff and defendant, as in the proceedings in which the order or award was made, or as substituted parties, shall bear the number of the original proceedings and shall be filed in triplicate.

Section 20. Withdrawal of Records. No paper, exhibit, or other portion of any original record of the board shall be withdrawn by any person except on order of the board.

Section 21. Depositions of Physicians Appointed under KRS 342.121. (1) An examining physician appointed by the board under the provisions of KRS 342.121 shall not be examined by deposition of his report except by permission of the board.

(2) Motions to join the special fund shall include a designation of the area of medical specialty for appointment of the physician designated pursuant to KRS 342.121.

Section 22. Examinations by Disinterested Physicians. When a disinterested physician or surgeon has been appointed by the board pursuant to KRS 342.315, no party shall furnish such physician or surgeon with any copies of reports previously made or depositions given by any physicians or surgeons who have previously rendered by the board in the same cause. Either party may, however, transmit to such physicians or surgeons, through the office of the director, properly identified x-ray photographs by any person. The transmittal shall be accompanied by certification of service upon all parties.

Section 23. Furnishing Medical Reports to Parties. Any party shall furnish, upon request of any other party, a copy, or copies of the full report of any and all physicians who have examined or treated the employee, or read x-rays in connection with any injuries or disease alleged in a claim filed under the *Workers'* [Workmen's] Compensation Law. For purposes of this section x-ray readings shall be deemed reports.

Section 24. Payment of Compensation from Uninsured Employers' Fund. (1) Payment from the uninsured employers' fund of compensation which has been awarded a claimant in the case where the defendant-employer, or any other party liable for the payment thereof, has not secured payment of compensation as provided for by KRS Chapter 342, shall be made only after the claimant, or any other party in interest, has filed in the circuit court of the county where the injury occurred an action pursuant to KRS 342.305 to enforce payment of the award against the defendant-employer, or any other person liable for payment of said action, judgment has been rendered thereon, and there has been default in payment of said judgment by the defendant-employer, or any other party liable for payment thereof, except the uninsured employers' fund.

(2) When the procedure provided in subsection (1) above has been complied with, the claimant may file a motion with the *Workers'* [Workmen's] Compensation Board together with proof of compliance with the requirement of subsection (1) above, requesting that the *Workers'* [Workmen's] Compensation Board order payment from the uninsured employers' fund in accordance with KRS 342.760. Upon satisfactory proof of such compliance, the *Workers'* [Workmen's] Compensation Board shall enter an order directing payment of compensation or any portion thereof from the uninsured employers' fund.

(3) This section shall not be construed as to prohibit the voluntary payment of compensation by an employer, or any other person liable for payment thereof, who has failed to secure payment of compensation as provided for by KRS Chapter 342, the compromise and settlement of a claim or award approved by the board pursuant to KRS 342.265, or the payment of its proportionate share of a claim or award by the Special Fund.

Section 25. Routine Records Admission. Any party may file with the board any routine hospital, Armed Forces and Social Security records. These shall be made part of the record and considered for their statistical content only and any opinion contained therein shall be sticken and not considered. A party may, however, depose the proper agent in the manner as otherwise provided herein in order to have these records admitted as to any opinion contained therein.

GLENN SCHILLING, Chairman
EUGENE F. LAND, Commissioner

ADOPTED: June 16, 1980

APPROVED: H. FOSTER PETTIT, Secretary

RECEIVED BY LRC: June 30, 1980 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Gerald V. Roberts, Workers' Compensation Board,
127 Building, US 127 South, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Labor
Workers' Compensation Board

803 KAR 25:025. Joint self insurers.

RELATES TO: KRS 342.350

PURSUANT TO: KRS 342.350

NECESSITY AND FUNCTION: This regulation establishes the procedure and minimum requirements through which groups of employers may join together to self-insure their *workers'* [workmen's] compensation liability.

Section 1. Definitions. (1) "Group members" means employers who form a self-insurance group and who have common ownership, common interests or both.

(2) "Common ownership" means two (2) or more entities with more than fifty (50) percent common ownership.

(3) "Common interests" means two (2) or more entities that are members of a bona fide trade association or are engaging in similar activities and with similar worker's compensation risks.

(4) "Manual premium" means the premium produced by using applicable manual rates, manual classifications and payrolls without regard to premium discounts and experience modifications.

(5) "Normal premium" means the premium produced by the application of a percentage to the manual premium. This percentage shall be agreed upon by the trustees and the excess insurers, and shall be based upon the actual past and anticipated future premiums and losses of the group members.

(6) "Aggregate excess insurance" means an insurance policy which covers statutory claims in excess of a certain percentage of the normal premium subject to a maximum dollar amount.

(7) "Specific excess insurance" means an insurance policy which covers the amount of any claim from any one (1) occurrence involving one (1) or more employees in the same accident or occurrence in excess of a specified dollar amount subject to a maximum dollar amount.

(8) "Loss fund" means the amount of the total retained liability for claims by the group members as set forth in the aggregate excess insurance policy.

(9) "Self-insurance fund" means the loss fund together with all other expenses of the group related to the self-insurance program, including aggregate and specific excess insurance, servicing organization fees, bonds, related taxes and other reasonable and necessary expenses.

(10) "Assessments" means charges to group members to sustain the self-insurance fund.

(11) "Surplus funds" means monies in the self-insurance fund resulting from investment income and resulting from earned premiums in excess of all losses and other costs for the period in which premiums were earned, including all reserves for outstanding liabilities.

(12) "Dividends" means periodic payments to group members from surplus funds.

(13) "Trustees" means persons to be elected by the group members and/or selected by the board of directors of the association for stated terms to direct the administration of the self-insurance fund.

(14) "Fiscal agent" means a person, partnership or corporation, other than a servicing organization or employees or agents of a servicing organization, with whom the trustees enter into a contract for the receipt, investment and disbursement of the self-insurance fund.

(15) "Servicing organization" means a person, partnership or corporation with whom the trustees enter into a contract to perform one (1) or more of the following services:

- (a) Adjustment of claims;
- (b) Safety engineering;
- (c) Purchase of excess insurance;
- (d) Accumulation of statistics and the preparation of needed premium and loss reports and tax reports;
- (e) Development of members, assessments and dividends;
- (f) Administration of a revolving fund; and
- (g) Preparation of self-insurance reports as may be required by the trustees or law.

(16) "Manual" means the manual on worker's compensation insurance as filed by the National Council on Worker's Compensation and approved by the Kentucky Department of Insurance.

(17) "Board" means the *Workers'* [Workmen's] Compensation Board, Department of Labor, Commonwealth of Kentucky.

Section 2. Requirements for Group Self-Insurance. (1) A group of employers must file an application and an indemnity agreement in the form prescribed by the board to become group self-insurers. Such application must be filed not later than thirty (30) days prior to the proposed inception date of the self-insurance program. The indemnity agreement shall jointly and severally bind the group and each member thereof to comply with the provisions of the Kentucky *Workers'* [Workmen's] Compensation Act, the rules and regulations of the board, and the decision of the trustees for operation of the group fund.

(2) Applicants must either meet the requirements of common ownership or common interests, or both.

(3) Group members must have a total estimated annual normal premium of not less than \$100,000. The total group

must have a combined net worth of not less than \$500,000 as shown by sworn statements by the owners or officers of each group member. Statements need not be certified, but must have been prepared by a certified public accountant.

Section 3. New Members. New members of a group must meet all the requirements of an original member.

Section 4. Withdrawals. (1) Members of a group. In order to withdraw from a self-insurance group a member must give sixty (60) days notice to the trustees and the board, must receive written acknowledgement from the trustees, and is not entitled to receive any dividends for at least two (2) years after the effective date of its withdrawal.

(2) Entire group. Should a group determine to withdraw from its self-insurance program, the trustees must give thirty (30) days notice to the board and to each of the group members by certified mail and may pay no dividends without the specific written approval of the board for at least three (3) years following the close of each self-insurance year during which it operated. It must also show the board that it has made satisfactory arrangements for the continued payment and servicing of all outstanding claims.

Section 5. Trustees; Duties. (1) Trustees shall consist of not less than three (3) nor more than seven (7) persons, none of whom are to be officers, employees or agents of a servicing organization. The trustees shall have the authority to administer the operations of the self-insurance fund.

(2) The trustees on behalf of the group members shall be responsible for the assessment and collection of all funds from the group members for the self-insurance fund, and for the disbursements of all funds in accordance with written agreements between the trustees and all group members. Such disbursements shall include the payment of claims, or payments into a revolving fund from which such claim payments shall be made, payments of insurance and bond premiums, payment of fees under agreements with servicing organizations and fiscal agents, payment of dividends to members, payment of self-insurance taxes and payment of all other expenses which may be reasonable and necessary.

(a) The trustees may contract with a fiscal agent and/or servicing organization to perform these functions.

(b) A revolving fund of not more than twenty (20) percent of estimated annual normal premiums may be established for the use by a servicing organization for the payment of claims.

(3) The trustees may perform, if qualified, any or all of the functions of a servicing organization or may contract with a servicing organization to perform these functions.

(a) A servicing organization must be qualified to perform the functions that it contracts to perform. Its employees and/or agents must be duly licensed to perform those functions for which a license is required under Kentucky law.

(b) Any contract with a servicing organization that includes the adjustment and settlement of claims must include a requirement that the servicing organization will adjust to final conclusion any and all claims that result from an occurrence during the period for which the contract is effective.

(c) If there is to be a revolving fund, the servicing organization must maintain a fidelity bond as required herein.

(4) Excess insurance:

(a) The trustees must purchase aggregate excess in-

surance for losses in excess of a percentage of the normal premium which shall be the retained liability of the group members. That retained liability and other fixed costs of the fund must not exceed 100 percent of the assessment of the group members, unless such amount over 100 percent is secured by unencumbered surplus monies of the group fund. The limit of liability of the aggregate excess insurance shall not be less than \$1,000,000 or fifty (50) percent of the normal premium, whichever is higher.

(b) The trustees shall purchase specific excess insurance with a limit of at least \$1,000,000 per occurrence.

(c) Contracts for excess insurance. Any casualty insurance company, to be eligible to write excess liability coverage for self-insurers in the State of Kentucky, shall at all times, in its financial statement on file with the Insurance Commissioner, show assets, including surplus to policy holders, at least equal to the latest Insurance Department requirements for admission of a new company to do business in the state. The financial and policyholder's ratings, as shown in the most current issue of "Best's Insurance Reports, Property-Liability," shall not be less than "IX" and "A," or "XII" and "B+" respectively. (The ratings are to be read separately, i.e., a rating of "X" and "B+" is not acceptable.) If, upon the publishing of "Best's" the company does not have a minimum rating of "A" policyholder's and "IX" financial or "B+" policyholders and "XII" financial, then the authorization for the company to write excess coverages shall be withdrawn immediately. In the event a company is not rated by "Best's", that company may be approved at the discretion of the board.

(5) Fund balances:

(a) Not less than thirty (30) days prior to inception of each self-insurance year, the trustees must collect from its group members an amount equal to not less than twenty-five percent of the anticipated self-insurance fund for the ensuing year and must collect not less than one-third ($\frac{1}{3}$) of the remaining balance each thirty (30) days thereafter. The amount to be collected shall be based upon estimated annual assessments and shall be adjusted each year accordingly. The assessment to each member shall bear a relationship to the normal premium chargeable to that member.

(b) Disbursements from the fund shall be only for those purposes related to the self-insurance program. Dividends may not be paid for at least twenty-four (24) months after the expiration of the self-insurance term and may be paid only from surplus funds. The distribution of dividends between members shall be based upon a formula which may or may not reflect any individual member's claim experience. Additional dividends may be paid periodically thereafter from surplus funds.

(c) The formula to be used for assessments and for the distribution of dividends shall be in accordance with a written agreement between all members of the group.

(d) The trustees or its fiscal agent shall not utilize any of the monies collected as premiums for any purpose unrelated to worker's compensation. Further, it shall be prohibited from borrowing any monies from the fund. The trustees may, at their discretion, invest any surplus monies not needed for current obligations, but such investments shall be limited to U.S. Government bonds, U.S. Treasury notes, investment share accounts in any savings and loan association whose deposits are insured by a federal agency, and certificates of deposit if issued by a duly chartered commercial bank. Such deposits in savings and loan associations and commercial banks shall be limited to institutions in the state of Kentucky and the safety of any in-

vestments which exceed the federally insured amounts shall be the responsibility of the trustees.

(e) Any variation from the requirements set forth in this subsection must be specifically authorized by a written order of the board.

(6) Group members:

(a) The trustees shall not accept as a member of the group, any employer that does not have a net worth of at least two (2) times its estimated annual assessment, unless such employer pays its full annual assessment in advance. The trustees shall not accept as a member of the group any employer that does not meet all other qualifications for being a member of the group as set forth in the by-laws of the group.

(b) At the discretion of the trustees, the self-insurance program may include the Kentucky employees of foreign (out-of-state) employers.

(c) The trustees may suspend or expel any member from the group due to adverse claims experience and/or lack of cooperation with safety and loss prevention policies by giving the member and the board thirty (30) days notice.

(d) The trustees shall secure from each member of the group within forty-five (45) days of the close of the self-insurance year a report of actual payrolls for the year and shall produce from such report a premium adjustment. The trustees shall secure from each member an agreement to report such payrolls in accordance with the rules and classifications of the manual. Willful failure to properly report in accordance with such rules may result in immediate expulsion from the group. Such expulsion shall be reported to the board.

(e) At least thirty (30) days prior to due date, the trustees shall notify each group member of all assessments due, including annual adjustments, and failure by any member to pay such assessments within thirty (30) days if such notice may, at the discretion of the trustees, result in immediate suspension or expulsion from the group.

(7) Reports:

(a) The trustees shall utilize the services of a certified public accountant and shall file a certified audit each year with the board within 180 days of the end of the self-insured term.

(b) Within 120 days of the end of each self-insurance term, the trustees shall furnish group members a statement setting forth all premiums, losses and expenses and the allocation of assessments and the distribution of dividends among its members.

(c) The trustees shall file such additional reports as may be required by appropriate agencies of the Commonwealth.

(8) Bonds:

(a) The trustees shall provide a fidelity bond to the board in the amount of not less than \$100,000.

(b) The fiscal agent shall provide a fidelity bond to the trustees for not less than fifty (50) percent or \$1,000,000, whichever is the lower, of the funds to be handled by the fiscal agent. This requirement shall be waived if the fiscal agent is a national bank.

(c) The servicing organization shall provide a fidelity bond to the trustees of not less than two (2) times the amount of the revolving fund.

(d) In lieu of the bonds required under paragraphs (a), (b) and (c) above, the trustees may secure a fidelity blanket bond in an amount not less than fifty (50) percent of the self-insurance fund or \$1,000,000, whichever is the lower; said bonds to include the trustees, personnel of the servicing organization and the fiscal agent, unless the fiscal agent is a national bank.

(e) The fund must provide a self-insurance surety bond to the board on a form prescribed by the board in an amount not less than seventy-five (75) percent of the annual normal premium, but not exceeding \$250,000.

(f) Any corporate surety, to be eligible for writing self-insurers' bonds in the state of Kentucky, shall be authorized by the insurance commissioner of the state of Kentucky to transact such a business in the state, and its latest financial statement on file with the insurance commissioner shall at all times show assets, including surplus to policyholders, at least equal to the latest Insurance Department requirements for admission of a new company to do business in the state. The policyholders' and financial ratings, as shown in the most current issue of "Best's Insurance Reports, Property-Liability," shall not be less than "B+" and "XII," or "A" and "IX," respectively. (The ratings are to be read separately, i.e., a rating of "X" and "B+" is not acceptable.) In the event a company is not rated by "Best's," a corporate surety may be approved at the discretion of the board. No surety shall expose itself to any loss on any one (1) risk in an amount exceeding its current U.S. Treasury limit.

(9) The group shall be considered as an individual employer for all purposes of taxation and the individual members of said groups shall not be exposed to tax liability other than liability existing as a result of the indemnity agreement with the other group members and the self-insurance fund.

EUGENE F. LAND, Commissioner
GLENN SCHILLING, Chairman

ADOPTED: June 6, 1980

APPROVED:

H. FOSTER PETTIT, Secretary

RECEIVED BY LRC: June 30, 1980 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Gerald V. Roberts, Worker's Compensation Board,
127 Building, U.S. 127 South, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET Kentucky State Racing Commission (Proposed Amendment)

810 KAR 1:009. Jockeys and apprentices.

RELATES TO: KRS 230.210 to 230.360

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: To regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of this regulation is to outline the requirements for jockeys and apprentice jockeys.

Section 1. Probationary Mounts. Any person desiring to participate in this state as a rider and who never previously has ridden in a race may be permitted to ride in three (3) [two (2)] races before applying for a license as a jockey or apprentice jockey; provided, however;

(1) Such person is a licensee with at least one (1) year of service with a racing stable;

(2) A licensed trainer certifies in writing to the stewards that such person has demonstrated sufficient horsemanship to be permitted such probationary mounts;

(3) The starter has schooled such person breaking from the starting gate with other horses and approves such per-

son as capable of starting a horse properly from the starting gate in a race;

(4) The stewards in their sole discretion are satisfied such person intends to become a licensed jockey, possesses the physical ability and has demonstrated sufficient horsemanship to ride in a race without jeopardizing the safety of horses or other riders in such race. No such person shall be permitted to ride in any such probationary race without prior approval of the stewards.

Section 2. Qualifications for License. In addition to rules applicable to licensees under 810 KAR 1:003, a holder of a license as a jockey or apprentice jockey:

(1) Must be an individual person sixteen (16) years of age or older and licensed under his legal name which shall be listed in the daily race program;

(2) Must have served at least one (1) year with a racing stable;

(3) Must have ridden in at least *three (3)* [two (2)] races;

(4) Must, when required by the stewards, provide a medical affidavit certifying such person is physically and mentally capable of performing the activities and duties of a licensed jockey.

Section 3. Amateur or Provisional Jockey. An amateur wishing to ride in races on even terms with professional riders, but without accepting fees or gratuities therefor, must be approved by the stewards as to competency of horsemanship, must be granted a jockey's license, and such amateur status must be duly noted on the daily race program. A licensed owner or licensed trainer, upon approval by the stewards, may be issued a provisional jockey's license to ride his own horse or horse registered in his care as trainer.

Section 4. Apprentice Allowance. Any person sixteen (16) years of age or older, who never previously has been licensed as a jockey in any country, and who is qualified under Section 2, may claim in all purse races except handicaps the following weight allowances:

(1) Ten (10) pounds until he has ridden five (5) winners, and seven (7) pounds until he has ridden an additional thirty (30) winners; if he has ridden a *total of forty (40)* [thirty-five (35)] winners prior to the end of one (1) year from the date of riding his fifth (5th) winner, he shall have an allowance of five (5) pounds until the end of that year.

(2) After the completion of conditions in subsection (1) a contracted apprentice for one (1) year may claim three (3) pounds when riding horses owned or trained by his original contract employer; provided, his contract has not been transferred or sold since his first winner. Such original contract employer shall be deemed the party to the contract who was the employer at the time of the apprentice jockey's first winner.

(3) An apprentice jockey may enter into a contract with a licensed owner or licensed trainer qualified under Section 5 for a period not to exceed five (5) years. Such contracts must be approved by the stewards and filed with the racing commission; such contracts shall be binding in all respects on the signatories thereof. An apprentice who is not contracted shall be given an apprentice jockey certificate, on a form furnished by the commission.

(4) In the event an apprentice jockey is unable to ride for a period of fourteen (14) consecutive days or more because of service in the armed forces of the United States, or because of physical disablement, or because of restrictions on racing, the commission upon recommendation of the stewards and after consultation with the racing authority which first approved the original apprentice contract, may

extend the time during which such apprentice weight allowance may be claimed for a period no longer than the period such apprentice rider was unable to ride.

(5) After completion of conditions in subsection (1), such rider must be issued a license as a jockey before accepting subsequent mounts. Under these circumstances, the commission may waive collection of an additional license fee.

Section 5. Rider Contracts. All contracts between an employer owner or trainer and employee rider are subject to the rules of racing. All riding contracts for terms longer than thirty (30) days, as well as any amendments thereto, or cancellation, or transfer thereof, must be in writing with signature of parties thereto notarized, must be approved by the stewards and filed with the commission. The stewards may approve a riding contract and permit parties thereto to participate in racing in this state if the stewards find that:

(1) The contract employer is a licensed owner or licensed trainer who owns or trains at least three (3) horses eligible to race at the time of execution of such contract;

(2) The contract employer possesses such character, ability, facilities, and financial responsibility as may be conducive to developing a competent race rider;

(3) Such contracts for apprentice jockeys provide for fair remuneration, adequate medical care, and an option equally available to both employer and apprentice jockey to cancel such contract after two (2) years from date of execution.

Section 6. Restrictions as to Contract Riders. No rider may: (1) Ride any horse not owned or trained by his contract employer in a race against a horse owned or trained by his contract employer;

(2) Ride or agree to ride any horse in a race without consent of his contract employer;

(3) Share any money earned from riding with his contract employer;

(4) Accept any present, money, or reward of any kind in connection with his riding of any race except through his contract employer.

Section 7. Calls and Engagements. Any rider not so prohibited by prior contract may agree to give first or second call on his race-riding services to any licensed owner or trainer. Such agreements, if for terms of more than thirty (30) days, must be in writing, approved by the stewards, and filed with the commission. Any rider employed by a racing stable on a regular salaried basis may not ride against the stable which so employs him. No owner or trainer shall employ or engage a rider to prevent him from riding another horse.

Section 8. Jockey Fee. (1) *The purpose of this section is not to set a minimum or maximum fee, but merely to provide a fee in the event that the parties have not made any other written agreement to the contrary.* [The fee to a jockey in all races shall be, in the absence of special agreement, as follows:]

Purse	Win	2nd	3rd	Unplaced
\$ 2,000 - \$ 3,400	10%	\$ 45	\$ 35	\$ 33
\$ 3,500 - \$ 4,900	10%	55	45	35
\$ 5,000 - \$ 9,900	10%	65	50	40
\$ 10,000 - \$14,900	10%	75	60	45
\$ 15,000 - \$24,900	10%	100	75	50
\$ 25,000 - \$49,900	10%	150	100	60
\$ 50,000 - \$99,900	10%	225	150	75
\$100,000 and up	10%	400	250	100

[(a) Purse \$2,000 to \$3,400: Winning mount, ten (10) percent of win purse; Second mount, \$45; Third mount, \$35; Losing mount, \$30.]

[(b) Purse \$3,500 to \$4,900: Winning mount, ten (10) percent of win purse; Second mount, \$50; Third mount, \$40; Losing mount, \$30.]

[(c) Purse \$5,000 and up: Winning mount, ten (10) percent of win purse; Second mount, \$55; Third mount, \$45; Losing mount, \$35.]

(2) A jockey fee shall be considered earned by a rider when he is weighed out by the clerk of scales except:

(a) When a rider does not weigh out and ride in a race for which he has been engaged because an owner or trainer engaged more than one (1) rider for the same race; in such case, the owner or trainer shall pay an appropriate fee to each rider engaged for such race.

(b) When such rider capable of riding elects to take himself off the mount without, in the opinion of the stewards, proper cause therefor.

(c) When such rider is replaced by the stewards with a substitute rider for a reason other than a physical injury suffered by such rider during the time between weighing out and start of the race.

Section 9. Duty to Fulfill Engagements. Every rider shall fulfill his duly scheduled riding engagements, unless excused by the stewards. No rider shall be forced to ride a horse he believes to be unsound, nor over a racing strip he believes to be unsafe, but if the stewards find a rider's refusal to fulfill a riding engagement is based on a personal belief unwarranted by the facts and circumstances, such rider may be subject to disciplinary action.

Section 10. Presence in Jockey Room. (1) Each rider who has been engaged to ride in a race shall be physically present in the jockey room no later than one (1) hour prior to post time for the first race on the day he is scheduled to ride, unless excused by the stewards, or the clerk of scales; and upon arrival shall report to the clerk of scales his engagements. In the event a rider should fail for any reason to arrive in the jockey room prior to one (1) hour before post time of a race in which he is scheduled to ride, the clerk of scales shall so advise the stewards who thereupon may name a substitute rider and shall cause announcement to be made of any such rider substitution prior to opening of wagering on such race.

(2) Each rider reporting to the jockey room shall remain in the jockey room until he has fulfilled all his riding engagements for the day, except to ride in a race, or except to view the running of a race from a location approved by the stewards. Such rider shall have no contact or communication with any person outside the jockey room other than an owner or trainer for whom he is riding, or a racing official, or a representative of the regular news media, until such rider has fulfilled all his riding engagements for the day.

(3) The association shall be responsible for such security of the jockey room as to exclude all persons except riders scheduled to ride on the day's program, valets, authorized attendants, racing officials, duly accredited members of the news media, and persons having special permission of the stewards to enter the jockey room.

(4) Any rider intending to discontinue riding at a race meeting prior to its conclusion shall so notify the stewards after fulfilling his final riding engagement of the day he intends to depart.

Section 11. Weighing Out. (1) Each rider engaged to ride in a race shall report to the clerk of scales for weighing out not more than one (1) hour and not less than fifteen (15) minutes before post time for each race in which he is engaged to ride, and at the time of weighing out shall declare overweight, if any.

(2) No rider shall pass the scale with more than one (1) pound overweight, without consent of the owner or trainer of the horse he is engaged to ride; in no event shall a rider pass the scale with more than five (5) pounds overweight.

(3) No horse shall be disqualified because of overweight carried.

(4) Whip, blinkers, number cloth, bridle, and rider's safety helmet shall not be included in a rider's weight.

Section 12. Wagering. No rider shall place a wager, or cause a wager to be placed on his behalf, or accept any ticket or winnings from a wager on any race except on his own mount, and except through the owner or trainer of the horse he is riding. Such owner or trainer placing wagers for his rider shall maintain a precise and complete record of all such wagers, and such record shall be available for examination by the stewards at all times.

Section 13. Attire. Upon leaving the jockey room to ride in any race, each rider shall be neat and clean in appearance and wear the traditional jockey costume with all jacket buttons and catches fastened. Each jockey shall wear the cap and jacket racing colors registered in the name of the owner of the horse he is to ride, stock tie, white or light breeches, top boots, safety helmet approved by the commission, and a number on his right shoulder corresponding to his mount's number as shown on the saddle cloth and daily racing program. The clerk of scales and attending valet shall be held jointly responsible with a rider for his neat and clean appearance and proper attire.

Section 14. Viewing Films or Tapes of Races. Every rider shall be responsible for checking the film list posted by the stewards in the jockey room the day after riding in a race, the posting of same to be considered as notice to all riders whose names are listed thereon to present themselves at the time designated by the stewards to view the patrol films or video tapes of races. Any rider may be accompanied by a representative of the jockey organization of which he is a member in viewing such films, or with the stewards' permission, be represented at such viewing by his designated representative.

EDNA LOOK JOHNSTONE, Secretary

ADOPTED: July 7, 1980

APPROVED: H. FOSTER PETTIT, Secretary

RECEIVED BY LRC: July 14, 1980 at 4:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Mr. Keene Daingerfield, Senior State Steward, Kentucky State Racing Commission, P.O. Box 1080, Lexington, Kentucky 40588.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
(Proposed Amendment)

815 KAR 25:010. Mobile homes.

RELATES TO: KRS 227.570

PURSUANT TO: KRS 13.082, 227.590

NECESSITY AND FUNCTION: KRS 227.590 requires the Mobile Home Certification and Licensure Board to establish rules and regulations governing the standards for manufacture, sale, and alteration of mobile homes. These regulations are intended to assure safety for owners and occupiers of mobile homes.

Section 1. Authorization: (1) These rules are authorized by KRS 227.590 and established pursuant to the rule making procedures set forth in KRS Chapter 13, in order to implement, interpret, and carry out the provisions of laws of 1974, as amended in 1976, KRS Chapter 227, relating to mobile homes. In the event that these regulations conflict with the codes promulgated by the National Fire Protection Association NFPA 501 (B) and Title VI of the Federal Housing and Community Development Act of 1974 (HUD Act), the codes or the HUD Act subsequent to the effective enforcement date, shall govern in all cases.

(2) At least thirty (30) days before the adoption or promulgation of any change in or addition to the rules and regulations, the office shall mail to all manufacturers possessing valid certificates of acceptability and dealers possessing valid licenses a notice including a copy of the proposed changes and additions and the time and place that the board will consider any objections to the proposed changes and additions. After giving the notice required by this section, the board shall afford interested persons an opportunity to participate in the rule making through submission of written data, views or arguments with or without opportunity to present the same orally in any manner.

(3) Every rule or regulation, or modification, amendment or repeal of a rule or regulation adopted by the board shall state the date it shall take effect.

Section 2. Enforcement: Subject to the provisions of applicable law, the Office of the State Fire Marshal shall administer and enforce all the provisions of the mobile home and recreational vehicle Act. Any officer, agent, or employee of the State Fire Marshal's office is authorized to enter any premises in order to inspect any mobile home for which the office has issued a seal of approval, or to inspect such mobile home's equipment and/or its installations to insure compliance with the Act, the code and/or the HUD Act and these regulations. Upon complaint and request, a privately owned mobile home bearing a seal may be entered to determine compliance with these regulations. When it becomes necessary to determine compliance he may require that a portion or portions of such mobile homes be removed or exposed in order that a compliance inspection can be made.

Section 3. Definitions: In addition to the definitions contained herein, the definitions of NFPA 501 (B) by the National Fire Protection Association and/or the HUD Act shall apply:

(1) Act: The Mobile Home and Recreational Vehicle Act, KRS 227.550 to 227.660.

(2) HUD Act: Title VI of the "Housing and Community

Development Act of 1974—National Mobile Home Construction and Safety Standards."

(3) Agency, testing: An outside organization which is:

(a) Primarily interested in testing and evaluating equipment and installations;

(b) Qualified and equipped for, or to observe experimental testing to approved standards;

(c) Not under the jurisdiction or control of any manufacturer or supplier of any industry;

(d) Makes available a published report in which specific information is included stating that the equipment and installations listed or labeled have been tested and found safe for use in a specific manner; and

(e) Approved by the board.

(4) Alteration or conversion: The replacement, addition, modification or removal of any equipment or installations which may affect the body and frame design and construction, plumbing, heat-producing or electrical systems or the functioning thereof of mobile homes subject to these rules is an alteration or conversion unless excluded by these rules. The above equipment must be installed in accordance with manufacturer's specifications.

(5) Board: Mobile Home Certification and Licensure Board.

(6) Certificate of acceptability: The certificate provided to the manufacturer signifying the manufacturer's ability to manufacture, import, or sell mobile homes within the state.

(7) Class "A" seal: A device or insignia issued by the office to indicate compliance with the standards, established by the office, or rules and regulations established by the board for new mobile homes not covered by the HUD Act and manufactured after the effective date of the Act.

(8) Class "B" seal: A device or insignia issued by the office to indicate compliance with the standards, established by the office, rules and regulations established by the board for used mobile homes.

(9) Dealer: Any person, other than a manufacturer, as defined herein, who sells or offers for sale three (3) or more mobile homes in any consecutive twelve (12) month period.

(10) Established place of business: A fixed and permanent place of business in this state, including an office building and hard surface lot of suitable character and adequate facilities and qualified personnel, for the purpose of performing the functional business and duties of a mobile home dealer, which shall include the books, records, files and equipment necessary to properly conduct such business or a building having sufficient space therein to properly show and display the mobile homes being sold and in which the functional duties of a mobile home dealer may be performed. The place of business shall not consist of residence, tent, temporary stand or open lot. It shall display a suitable sign identifying the dealer and his business.

(11) Hard surfaced lot: An area open to the public during business hours with a surface of concrete, asphalt/macadam, compacted gravel and/or stone, or other material of similar characteristics.

(12) Manufacturer: Any person who manufactures mobile homes and sells to dealers.

(13) Manufactured housing: Mobile homes, recreational vehicles, mobile office or commercial units, add-a-rooms, or cabanas.

(14) [(13)] Mobile home: For purposes of the scope of the Act and regulations this means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is

built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. [movable or portable unit constructed to be moved from place to place on the public streets or highways and designed to permit the permanent or temporary occupancy therein for the purpose of use] It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and [which can be connected to electric, water, gas, sewage, and telephone facilities. It] may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure. It shall include house trailers which are regulated as to length, width and registration by KRS Chapter 186. "Add-a-room" units are not considered an integral part of a mobile home. A new mobile home used or intended to be used as a single family dwelling is covered by the HUD Act and is excluded from these regulations.

(15) NFPA 501 (A): That section of the National Fire Code adopted by the National Fire Protection Association that pertains to mobile home installation.

(16) [(14)] NFPA 401 (B): That section of the National Fire Code adopted by the National Fire Protection Association that pertains to standards for mobile homes not covered by the HUD Act.

(17) [(15)] Office: The Office of the State Fire Marshal.

(18) [(16)] Person: This means a person, partnership, corporation or other legal entity.

(19) Secretary: The Secretary of the U.S. Department of Housing and Urban Development.

(20) [(17)] Suitable sign: A sign with the dealership name and type of dealership in letters of a minimum height of six (6) inches and minimum width of one and one-half (1½) inches.

Section 4. Scope and Purpose of the Act and Regulations: (1) Except to the extent otherwise stated in the Act and these regulations and in other laws of the Commonwealth which are not inconsistent with or superseded by the Act and these regulations, these regulations govern the design, manufacture and sale of mobile homes not covered by the HUD Act, which are manufactured, sold or leased for use within or outside of the Commonwealth. These regulations apply to mobile homes manufactured in manufacturing facilities located within or outside the Commonwealth. Mobile homes brought into this state for exhibition use only and which will not be sold in this state may be excluded from the coverage of this Act and regulations if inspections reveal no condition hazardous to health or safety.

(2) The state legislature has enacted the mobile home and recreational vehicle Act to protect the health and safety of the owner, occupiers, and all other persons from mal-manufactured mobile homes. The office has been given authority to carry out the purpose of the Act. The Act sets out the minimum standards for design and manufacture. Dealers are encouraged to maintain ethical business standards beyond non-fraudulent minimums.

Section 5. Standards for Vehicles in Manufacturers' or Dealers' Possession: (1) The office shall enforce such standards and requirements for the installation of plumbing, heating, and electrical systems in mobile homes not covered by the HUD Act, as it determines are reasonably necessary to protect the health and safety of the occupants and the public.

(2) The office shall also enforce such standards and requirements for the body and frame design and construction of mobile homes as are reasonably necessary in order to protect the health and safety of the occupants and the public.

(3) All mobile homes not covered by the HUD Act, manufactured for sale within the Commonwealth of Kentucky shall be constructed in accordance with NFPA 501 (B), 1977 edition, herein adopted by reference.

(4) On all used mobile homes [without a seal], said standards shall be that the dealer shall certify that the electric, heating, [and] plumbing systems doors, windows, structural integrity of the unit, smoke detection equipment and all exterior holes have been sealed to prevent the entrance of rodents, [have been checked,] and repaired if necessary, and found to be in safe working condition and thus be in conformity with the intent of the Act to protect the health and safety of the occupants and general public.

(5) All mobile homes taken in trade must be reinspected and certified. The existing Class "A" or Class "B" seal may be removed or a new seal may be applied over the existing seal. When a new mobile home purchased under the provision of the HUD Act is resold, it becomes a used mobile home and subject to the provisions of this section. A seal will not be required if such dealer submits an affidavit that the unit will not be resold for use as such by the public.

(6) All new mobile homes shall be installed per manufacturers instructions or NFPA 501 (A), 1977 edition when manufacturers defer to local jurisdiction. All used mobile homes shall be installed in accordance with NFPA 501 (A), 1977 edition.

(7) [(6)] All new mobile homes purchased outside the Commonwealth of Kentucky not bearing a Class "A" seal of approval or a HUD label and all used mobile homes purchased outside the Commonwealth of Kentucky, regardless of the type seal or label affixed, shall be inspected by a certified Kentucky dealer and a Class "B" seal of approval affixed prior to registration of the home. This inspection shall consist of the following:

(a) Inspection of the plumbing and waste systems.

(b) Inspection of the heating unit to determine adequacy of systems.

(c) Inspection of the electrical systems including the main circuit box and all outlets/switches to detect any damaged coverings, lost screws, or improper installations.

(8) [(7)] Any licensed Kentucky mobile home dealer that maintains the capability to perform minor maintenance of plumbing, heating and electrical systems of mobile homes shall be permitted to inspect and certify those mobile homes purchased in another state for use within the Commonwealth of Kentucky. Any dealer desiring to perform this service shall make application to the Office of the State Fire Marshal for appropriate certification.

(9) [(8)] Any unit found to be in non-compliance with the requirements of Section 5(7) [(6)] of this regulation shall be corrected prior to the dealer certifying the unit. All units requiring repairs or correction prior to unit certification shall be reported to the office specifying the repairs required to correct the deficiencies. Appropriate reporting forms shall be made available to qualified dealers performing inspection.

(10) [(9)] The fee for the inspection of mobile homes shall be twenty dollars (\$20) [fifteen dollars (\$15)] per hour plus mileage as required and a twenty-five dollar (\$25) [twenty dollar (\$20)] seal fee.

Section 6. Applicability and Interpretation of Code and

Regulation Provisions. Any questions regarding the applicability or interpretation of any provisions or code or regulation adopted shall be submitted in writing by any interested person to the office for resolution. It is the policy of the office that with respect to questions regarding NFPA 501 (B), any such questions shall whenever feasible be submitted to the NFPA in accordance with the established procedures of the organization. The decision of the office shall be in writing.

Section 7. Certificate of acceptability: (1) No manufacturer may manufacture, import, or sell any mobile home [not covered by the HUD Act,] in this state after the effective date of this Act, unless he has procured a certificate of acceptability from the board. Compliance shall be enforced through KRS 227.992. Mobile homes not covered by the HUD Act, manufactured in this state and designed for delivery to and for sale in a state that has a code that is inconsistent with NFPA 501 (B) need not comply with this provision.

(2) Requirements for issuance:

(a) The manufacturer must submit and the office must approve inplant quality control systems.

(b) A \$400 fee must accompany the application. The fee shall be paid by check or money order and shall be made payable to: Kentucky State Treasurer. [Said fee shall be prorated on a calendar year basis if it is a new license.]

(c) The manufacturer must furnish and maintain with the office proof of general liability insurance to include lot and completed operations insurance in the minimum amount of \$100,000 bodily injury or death for each person, \$300,000 bodily injury or death for each accident, and \$50,000 property damage.

(3) To obtain in-plant quality control approval, a manufacturer shall submit a system for in-plant control pursuant to paragraph (b) of this subsection and submit to inspection by the office for field certification of satisfactory quality control. Applications for approval of in-plant quality control systems shall contain the following:

(a) A certified copy of the plans and specifications of a model or model-group for body and frame design, [and] construction, [and] electrical, heating, and plumbing systems. All plans shall be submitted on sheets, the minimum possible size of which is eight and one-half inches by eleven inches (8½" x 11") and the maximum possible size of which is twenty-four inches by thirty inches (24" x 30"). The manufacturer shall certify that the aforementioned systems comply with NFPA 501 (B).

(b) Also a copy of the procedure which will direct the manufacturer to construct mobile homes in accordance with the plans, specifying:

1. Scope and purpose.
2. Receiving and inspection procedure for basic materials.
3. Material storage and stock rotation procedure.
4. Types and frequency of product inspection
5. Sample of inspection control form used.
6. Responsibility for quality control programs, indicating personnel, their assignments, experience and qualifications.
7. Test equipment.
8. Control of drawings and material specifications.
9. Test procedures.

(4) A unit certification format certifying compliance with the Act and regulations shall be submitted to the office no later than the end of the first week of each month for those units manufactured under the state code and not bearing a federal label, i.e., mobile offices, add-a-rooms,

duplex units, etc. The unit certification format shall contain the information in the format of Appendix A.

(5) [(4)] No manufacturer to which a certificate of acceptability has been issued shall modify in any way its manufacturing specifications without prior written approval of the office.

(6) [(5)] If the manufacturer is also a dealer, he must also comply with dealer licensing provisions.

(7) [(6)] Should the applicant not conform with these regulations, the applicant shall be no notified in writing by the office within ten (10) working days of the date received. Should the applicant fail to submit a corrected application in accordance with the information supplied on the application correction notice, the application will be deemed abandoned and twenty (20) percent of fees due will be forfeited to the office. Any additional submission shall be processed as new application.

(8) [(7)] Manufacturers shall notify the office in writing within thirty (30) days of any of the following occurrences:

- (a) The corporate name is changed;
- (b) The main address of the company is changed;
- (c) There is a change in twenty-five (25) percent or more of the ownership interest of the company within a twelve (12) month period;
- (d) The location of any manufacturing facility is changed;
- (e) A new manufacturing facility is established; or
- (f) There are changes in the principal officers of the firm.

(9) [(8)] Any information relating to building systems or in-plant quality control systems which the manufacturer considers proprietary shall be so designated by him at the time of its submission, and shall be so held by the office, and by the inspection, evaluation, and local enforcement agencies unless the board determines in each case that disclosure is necessary to carry out the purposes of the Act.

(10) [(9)] The office may determine that the standards for mobile homes established by a state or a recognized body or agency of the federal government or other independent third party are at least equal to NFPA 501 (B). If the office finds that such standards are actually enforced then it may issue a certificate of acceptability for such mobile homes.

(11) [(10)] A certificate of acceptability may be denied, suspended, or revoked on the following grounds:

- (a) Evidence of insolvency;
- (b) Material misstatement in application for certificate of acceptability;
- (c) Willful failure to comply with any provisions of the Act or any rule or regulation promulgated by the board under the Act;
- (d) Willfully defrauding any buyer;
- (e) Willful failure to perform any written agreement with any buyer or dealer;
- (f) Failure to furnish or maintain the required liability insurance;
- (g) A fraudulent sale, transaction, or repossession;
- (h) Violation of any law relating to the sale or financing of mobile homes.

(12) [(11)] If a certificate holder is a firm or corporation, it shall be sufficient cause for denial, suspension or revocation of a certificate that any officer, director or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending, or revoking a certificate to such party as an individual. Each certificate holder shall be responsible for any or all of his salesmen while acting as his agent while the agent is acting within the scope of his authority.

(13) [(12)] Procedure for denial, revocation or suspension:

(a) The office may deny the application for a certificate of acceptability by written notice to the applicant, stating the grounds for such denial.

(b) No certificate of acceptability shall be suspended or revoked by the office except after a hearing thereon. The office shall give the certificate holder at least thirty (30) days notice of the time and place of the hearing and of the charges to be heard.

(c) Any manufacturer who violates or fails to comply with this Act or any rules or regulations promulgated thereunder shall be notified in writing setting forth facts describing the alleged violation and instructed to correct the violation within *twenty (20)* [sixty (60)] days. Should the manufacturer fail to make the necessary corrections within the specified time, the office may, after notice and hearing, suspend or revoke any certificate of acceptability if it finds that:

1. The manufacturer has failed to pay the fees authorized by the Act; or that

2. The manufacturer, either knowingly or without the exercise of due care to prevent the same, has violated any provision of this Act or any regulation or order lawfully made pursuant to and within the authority of the Act.

3. The manufacturer has shipped or imported into this state a mobile home to any person other than to a duly licensed dealer.

(14) [(13)] Any person aggrieved by any ruling of the office denying a certificate of acceptability within fifteen (15) days after any such ruling of the office may appeal such ruling to the board herein provided for. Such appeal shall be in writing. The board shall state in writing, officially signed by all the members concurring therein, its findings and determination after such hearing and its order in the matter. If the board shall determine and order that any applicant is not qualified to receive a certificate of acceptability, no certificate shall be granted. If the board shall determine that the certificate holder was willfully or through gross negligence been guilty of a violation of any of the provisions of the Act, his certificate may be suspended or revoked.

(15) [(14)] Any person aggrieved by any ruling of the board may appeal to the Franklin Circuit Court and to the Court of Appeals in the manner provided for by KRS 281.780 and 281.785.

(16) [(15)] Under proceedings for the suspension of a certificate of acceptability for any of the violations enumerated in the Act, the holder of a certificate of acceptability may have the alternative subject to the approval of the board, to pay in lieu of part or all of the days of any suspension the sum of fifty dollars (\$50) per day.

Section 8. Serial Numbers, Model Numbers, Date Manufactured: A clearly designated serial number, model number, and date manufactured shall be stamped into the mobile home tongue, or front cross member of the frame at the lower left hand side (while facing the unit), and if there is no such tongue or cross member, then a data plate with this information shall be affixed on the outside in a conspicuous place.

Section 9. Dealer License: (1) No dealer of mobile homes shall engage in business as such in this state without a license issued by the office upon application.

(2) Application must contain the following information:

(a) Name and address of the chief managing officer;

(b) Location of each and every established place of business;

(c) Social security number and date of birth of chief managing officer;

(d) Affidavit certifying compliance with the Act and regulations;

(e) Names of offices if dealership in corporate form;

(f) Names of partners if dealership in partnership form;

(g) Any other information the office deems commensurate with safe-guarding of the public interest in the locality of the proposed business.

(3) All licenses shall be granted or refused within thirty (30) days after application therefor, and shall expire, unless sooner revoked or suspended, on December 31 of the calendar year for which they are granted.

(4) The license fee shall be fifty dollars (\$50). The fee shall be paid by check or money order and shall be made payable to Kentucky State Treasurer.

(5) The license must be conspicuously displayed at the established place of business. In case such location be changed, the office shall endorse the change of location on the license without charge if it be within the same municipality. A change of location to another municipality shall require a new license.

(6) The dealer must furnish and maintain with the office proof of liability insurance in the minimum amount of \$50,000 bodily injury or death for each person, \$100,000 bodily injury or death for each accident, and \$25,000 property damage.

(7) *Dealers shall maintain a record of all units sold, new and used, to include serial numbers, Kentucky seal numbers ("A" or "B"), date manufactured, make, and the name and address of the purchaser. This report shall be in the format depicted in Appendix B. The report shall be made available to the field inspector on a monthly basis.*

(8) *No dealer shall have the authority to alter any mobile home manufactured under the federal code without the express permission of the manufacturer. Any dealer altering a mobile home shall be guilty of a federal violation and shall be subject to the penalties provided in KRS 227.990. Alteration of a mobile home shall include but is not limited to: Addition/deletion of windows, doors, or partitions; conversion of a heat producing appliance from one (1) fuel to another, i.e., electric to gas or gas to electric or oil; addition of an electrical circuit to accommodate a washer or dryer; addition of central air conditioning when the unit is not designed for that purpose; improper or improperly listed materials for the repair of a unit; installing an unlisted heat producing appliance, etc. The following does not constitute an alteration or conversion; replacement of equipment in kind, i.e., gas furnace with gas furnace; replacement or changing of furniture to accommodate the consumer and any other cosmetic repairs.*

(9) [(7)] Notification of a change in the application information must be made within thirty (30) days of any of the following occurrences:

(a) Dealership name is changed;

(b) Established place of business is changed;

(c) There is a change in twenty-five (25) percent or more of the ownership interest of the dealership within a twelve (12) month period; or

(d) There are changes in the principal officers of the firm.

(10) [(8)] A license may be denied, suspended or revoked on the following grounds:

(a) A showing of insolvency in a court of competent jurisdiction;

(b) Material misstatement in application;

(c) Willful failure to comply with any provisions of the Act or any rule or regulation promulgated by the board under the Act;

(d) Willful failure to perform any written agreement with the buyer;

(e) Willfully defrauding any buyer;

(f) Failure to have or to maintain an established place of business;

(g) Failure to furnish or maintain the required liability insurance;

(h) Making a fraudulent sale, transaction or repossession;

(i) Employment of fraudulent devices, methods, or practices in connection with the requirements under the statutes of this state with respect to the retaking of goods under retail installment contracts and the redemption and resale of such goods;

(j) Failure of a dealer to put the title to a mobile home in his name after said dealer has acquired ownership of the mobile home by trade or otherwise;

(k) Violation of any law relating to the sale or financing of mobile homes.

(11) [(9)] If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension or revocation of a license that any officer, director or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending, or revoking a license to such party as an individual. Each licensee shall be responsible for any or all of his salesmen while acting as his agent while said agent is acting within the scope of his authority.

(12) [(10)] Upon proceedings for the suspension of a license for any of the violations enumerated in the Act, the licensee may have the alternative, subject to the approval of the board, to pay in lieu of part or all of the days of any suspension the sum of fifty dollars (\$50) per day.

(13) [(11)] Procedure for denial, revocation, or suspension:

(a) The office may deny the application for a license within thirty (30) days after receipt thereof by written notice to the applicant, stating the grounds for such denial.

(b) No license shall be suspended or revoked by the office except after a hearing thereon. The office shall give the licensee at least thirty (30) days notice of the time and place of hearing and of the charges to be heard.

(c) Any dealer who violates or fails to comply with the Act or any rules or regulations promulgated thereunder shall be notified in writing setting forth facts describing the alleged violation, and instructed to correct the violation within twenty (20) [sixty (60)] days. Should the dealer fail to make the necessary corrections within the specified time, the office may, after notice and hearing, suspend or revoke any license if it finds that:

1. The dealer has failed to pay the fees authorized by the Act; or [that]

2. The dealer either knowingly or without the exercise of due care to prevent the same, has violated any provision of the Act or any regulation or order lawfully made pursuant to and within the authority of the Act.

(14) [(12)] Any person aggrieved by any ruling of the office denying, suspending or revoking a license, within fifteen (15) days after such ruling of the office may appeal such ruling to the board herein provided for. Such appeal shall be in writing. The board shall state in writing, officially signed by all the members concurring therein, its findings and determination after such hearing and its order in the matter. If the board shall determine that the licensee has willfully or through gross negligence been guilty of a

violation of any of the provisions of the Act, his license may be suspended or revoked.

(15) [(13)] Any person aggrieved by any ruling of the board may appeal to the Franklin Circuit Court and to the Court of Appeals in the manner provided for by KRS 281.780 and 281.785.

Section 10. Temporary Licenses. (1) Any dealer other than one duly licensed in Kentucky wishing to show and offer mobile homes within the Commonwealth of Kentucky for the express purpose of retailing said units to the general public, shall be required to purchase from the Office of the State Fire Marshal a temporary license. Said license shall not exceed fifteen (15) days duration and the license fee shall be *fifteen dollars (\$15)* [twelve dollars and fifty cents (\$12.50)] for each authorized event.

(2) Applicant shall meet the following requirements before a temporary license is granted:

(a) Be a duly licensed dealer in a state other than Kentucky.

(b) Must certify to the office that the dealership has proper liability insurance in the minimum amount of \$50,000 bodily injury or death for each person, \$100,000 bodily injury or death for each accident, and \$25,000 property damage.

(c) Provide satisfactory assurance to the office *by way of a physical inspection by an authorized representative of this office, that each new unit not covered by the federal Act the dealer intends to display, show or offer for sale, bears a Kentucky Class "A" seal of approval. Used mobile homes are not permitted to be shown or offered for sale within the Commonwealth of Kentucky by non-resident dealers at any time; [that all new units sold to Kentucky consumers bear the Kentucky Class "A" seal affixed on the unit by the manufacturer.]*

(d) Provide all other information as may be required by the office.

(3) Temporary licenses shall be prominently displayed at the location where the applicant is transacting business.

(4) Temporary licenses shall not be required for those dealers attending a mobile home show within the Commonwealth of Kentucky provided they do not sell or offer for sale to the general public new or used mobile homes.

Section 11. Seals: (1) No manufacturer who has received a certificate of acceptability from the office shall sell or offer for sale to Kentucky dealers in this state mobile homes not covered by the HUD Act, unless they bear a Class "A" seal of approval issued by and purchased from the office. This provision shall not apply to vehicles sold or offered for sale for shipment out of state.

(2) No dealer who has received a license from the office shall sell a mobile home unless it has a seal. Any dealer who has acquired a used mobile home without a seal shall apply to the office for a Class "B" seal by submitting an affidavit certifying either that all electrical, heating, and plumbing equipment has been checked, and if necessary, repaired, and is now in safe working condition, or that the unit meets the applicable code.

(a) Acquisition of seal:

1. Any manufacturer, except one altering a new mobile home not covered by the HUD Act, bearing a seal, may qualify for acquisition of a Class "A" seal by obtaining a certificate of acceptability pursuant to KRS 227.580 and Section 7 of this regulation.

2. Any dealer, except one altering a mobile home bearing a seal, may qualify for acquisition of a Class "B" seal by giving an affidavit certifying either that all electrical,

heating, and plumbing equipment has been checked, if necessary, repaired, and is now in safe working condition or that the unit meets the applicable code.

(b) Application for seals:

1. Any person who has met the applicable requirements of Sections 7 or 9 of this regulation shall apply for seals in the form prescribed by the office. The application shall be accompanied by the seal fee of twenty dollars (\$20) for each Class "A" seal or twenty dollars (\$20) for each Class "B" seal.

2. If the applicant has qualified to apply for seals pursuant to the in-plant quality control approval method, the seal application shall include the certificate of acceptability number.

(c) Alteration or conversion of a unit bearing a seal:

1. Any alteration of the construction, plumbing, heat-producing equipment, electrical equipment [or] installations or fire safety in a mobile home not covered by the HUD Act, which bears a seal, shall void such approval and the seal shall be returned to the office.

2. The following shall not constitute an alteration or conversion for those mobile homes not covered by the HUD Act:

- a. Repairs with approved component parts.
- b. Conversion of listed fuel-burning appliances in accordance with the terms of their listing.
- c. Adjustment and maintenance of equipment.
- d. Replacement of equipment in kind.
- e. Any change that does not affect those areas covered by NFPA 501 (B).

3. Any dealer proposing an alteration to a mobile home not covered by the HUD Act, bearing a seal shall make application to the office. Such application shall include:

- a. Make and model of mobile home.
- b. Serial number.
- c. State seal number.
- d. A complete description of the work to be performed together with plans and specifications when required.
- e. Location of the mobile home where work is to be performed.

f. Name and address of the owner of the mobile home.

4. Upon completion of the alteration, the applicant shall request the office to make an inspection.

5. The applicant may purchase a replacement seal, based on inspection of the alteration for a fee of two dollars (\$2).

(d) Denial and repossession of seals: Should inspection reveal that a manufacturer is not constructing mobile homes not covered by the HUD Act, according to NFPA 501 (B) and such manufacturer, after having been served with a notice setting forth in what respect the provisions of these rules and the code have been violated, continues to manufacture mobile homes in violation of these rules and the code, applications for new seals shall be denied and the seals previously issued and unused shall be confiscated and credit given. Upon satisfactory proof of compliance, such manufacturer may resubmit an application for seal.

(e) Seal removal: In the event that any mobile home not covered by the HUD Act, bearing the seal is found to be in violation of these rules, the office shall attach to the vehicle a notice of non-compliance and furnish the manufacturer or dealer a copy of same. The office, dealer or manufacturer shall not remove the non-compliance tag until corrections have been made, and the owner or his agent has requested an inspection in writing to the office or given an affidavit certifying compliance.

(f) Placement of seals:

1. Each seal shall be assigned and affixed to a specific

mobile home not covered by the HUD Act. Assigned seals are not transferable and are void when not affixed as assigned, and all such seals shall be returned to or may be confiscated by the office. The seal shall remain the property of the office and may be seized by the office in the event of violation of the Act or regulations.

2. The seal shall be securely affixed by the door on the handle side at approximately handle height.

3. No other seal, stamp, cover, or other marking may be placed within two (2) inches of the seal.

(g) Lost or damaged seals:

1. When a seal becomes lost or damaged, the office shall be notified immediately in writing by the owner. The owner shall specify the manufacturer, the mobile home serial number, and when possible, the seal number.

2. All damaged seals shall be promptly returned. Damaged and lost seals shall be replaced by the office with a replacement seal on payment of the replacement seal fee of two dollars (\$2).

COMPILER'S NOTE: Appendix A and B are new; however, too cumbersome to italicize.

JOHN R. GROVES, JR., Commissioner

ADOPTED: June 23, 1980

APPROVED: H. FOSTER PETTIT, Secretary

RECEIVED BY LRC: June 25, 1980 at 10:45 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Chandler Robinson, Chief, Manufactured Housing,
Department of Housing, Buildings and Construction, U.S.
127 South, Frankfort, Kentucky 40601.

(Appendix A and B on following pages.)

APPENDIX A
UNIT CERTIFICATION FORMAT

Name of Manufacturer		
Mailing Address	County	
City	State	Zip Code

I hereby certify that the mobile homes described hereon
have been constructed in compliance with NFPA 501 B.

No.	Serial #	KY Seal #	Date Mfg.	Model	Size	Dealer
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						
11.						
12.						
13.						
14.						
15.						
16.						
17.						
18.						
19.						
20.						

This form must be used in reporting units to the Office of the State Fire Marshal. The form should be completed in duplicate with the original to be sent to the Office of the State Fire Marshal, and the copy retained by the manufacturer. This form should be mailed to the Office of the State Fire Marshal when the last entry has been filled or not later than the first week of each month.

DATE	BY	PERSON AUTHORIZED TO CERTIFY THESE UNITS
------	----	---

Name of Dealer

County

Zip Code

NO.	SERIAL #	HUD LABEL #/ KY SEAL #	DATE MFG.	MAKE	PURCHASER & ADDRESS
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[illegible]

SIGNATURE

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services
Certificate of Need and Licensure Board
(Proposed Amendment)

902 KAR 20:115. Emergency care; ambulance services.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1)(2) [216.405 to 216.485, 216.990(2)]

PURSUANT TO: KRS 13.082, 216B.040 [216.425]

NECESSITY AND FUNCTION: This regulation, which relates to the operations and services of Emergency Care; Ambulance Services, is being promulgated pursuant to the mandate of KRS 216B.040 [216.425(3)] that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services.

Section 1. Definition and Essential Characteristics: Emergency care ambulance service means health care and transportation provided by any individual or private or public organization having a vehicle or vehicles that are specially designed, constructed or that have been modified or equipped with the intent of using the same, or maintaining or operating the same for the health care and transportation of persons who are sick, injured, or otherwise incapacitated, *[.] except on-duty police and fire department personnel in counties containing cities of the first class assisting in emergency situations by providing first-aid or transportation when regulation emergency units licensed to provide first-aid or transportation are unable to arrive at the scene of an emergency situation within a reasonable time.*

Section 2. Licensure: No person shall provide emergency care ambulance services without having first obtained a license from the board. Licenses issued by the board shall include designation thereon of "conforming" or "non-conforming" with the standards set forth in this regulation.

(1) Existing services: An "existing service" is defined as an emergency care ambulance service in operation prior to January 1, 1973 and continuously thereafter.

(a) Upon submission of a properly completed application to the board, accompanied by the prescribed fee, an existing service in full compliance with the standards herein may be issued a license designated as "conforming." Any existing service not in full compliance, upon submission of properly completed application accompanied by the prescribed fee, may be issued a license designated as "non-conforming." Those standards which are not met by the non-conforming service shall be identified and reported to the Regional Health Planning Council and responsible state and local officials. An existing licensed non-conforming service may be redesignated as a conforming service upon full compliance with the standards herein.

(b) Licenses issued to existing services designated as "non-conforming" shall not be subject to renewal when adequate services conforming to standards have been developed and are available to serve the community or area in which the non-conforming service is operating. Delineation of such community or area shall be consistent with regional emergency medical services plans developed and adopted by the regional and state comprehensive health planning councils.

(2) Newly developed services: A "newly developed service" is defined as an emergency care ambulance service beginning operation on or after January 1, 1973.

(a) Upon submission of a properly completed application to the board, accompanied by the prescribed fee, a newly developed service in full compliance with the standards herein may be eligible to receive a license designated as "conforming." A newly developed service not in full compliance with the standards herein may, upon submission of a properly completed application accompanied by the prescribed fee, be eligible to receive a license designated as "non-conforming," provided that reasonable assurances including a plan setting dates for compliance with standards is submitted by the applicant and is accepted by the board. Newly developed services shall not be eligible for licensure when adequate services conforming to the standards herein exist in the area to be served. A newly developed service licensed as "non-conforming" may be redesignated as "conforming" upon full compliance with the standards herein.

(b) Licenses issued to newly developed services designated as "non-conforming" shall not be subject to renewal when adequate services conforming to standards have been developed and are available to serve the community or area in which the non-conforming service is operating. Delineation of such community or area shall be consistent with regional emergency medical services plans developed and adopted by the regional and state comprehensive health planning councils.

Section 3. Standards for the Operation of Ambulance Services: To be issued a license designated as "conforming," the ambulance service shall comply with the following standards: (1) Vehicle design and maintenance:

(a) On and after January 1, 1976 all vehicles used in the provision of ambulance services shall be designed to provide adequately for the care and transportation of patients and shall conform to the following patient compartment minimum dimensions: width twenty-five (25) inches of unobstructed floor space between stretcher and squad bench for the technician to perform cardiopulmonary resuscitation on the primary patient when the technician is in a right angle, kneeling position to the side of the patient; length, 116 inches (twenty-five (25) inches at the head plus fifteen (15) inches at the foot of a seventy-six (76) inch litter); height, fifty-four (54) inches from floor to ceiling; provided however, that for some of the vehicles in use by the applicant reasonable variation in dimensions may be allowed where such vehicles are to be utilized only for designated limited purposes which are specified by the applicant and approved by the board. Effective January 1, 1980, all conforming vehicles utilized (except limited purpose units) shall comply fully with vehicle design criteria contained in GSA Federal Specifications KKK-A-1822, dated January 2, 1974. *Vehicles licensed as conforming prior to January 1, 1980 shall continue to be considered conforming until such time as the vehicle is replaced.*

(b) All vehicles shall be kept in optimum working order. The interior of the vehicle and equipment shall be cleaned after each use, unless precluded by emergency conditions.

(2) Personnel:

(a) Ambulance services shall provide emergency service on a twenty-four (24) hour basis. This provision may be met through an adequate call system.

(b) Each emergency ambulance service shall be staffed to provide at least one (1) driver and one (1) attendant for each run. The attendant shall remain with the patient at all times during transport.

(c) Each employee shall receive pre-employment and annual physical examinations which shall include at least a

chest x-ray (or recommended tuberculin testing procedure).

(d) All attendants utilized in the provision of ambulance services shall be trained to at least minimal level. Until such time as EMT-A training becomes mandatory, the following are acceptable: Red Cross Advanced, Red Cross Standard First Aid and Personal Safety, either to be supplemented by ten (10) hours Cardio-Pulmonary Resuscitation; Red Cross Advanced First Aid and Emergency Care Certification with ten (10) hours supplemental CPR instruction, EMT-A certification, and Medical Corpsman Training within the last five (5) years supersede the above listed programs. Certification must be current.

(e) Effective January 1, 1976, each attendant shall be certified as an EMT-A by the Department for Human Resources. All additional personnel utilized in the provision of EMS Transportation shall be trained to the minimal levels specified in paragraph (d) above. New personnel added after January 1, 1976, shall receive the minimal training within six (6) months from date of initial utilization.

(3) Equipment: All vehicles used in the provision of ambulance services shall have at least the following essential equipment or such equipment as is prescribed by the board, including [viz]:

- (a) Suction apparatus (fixed or portable);
- (b) Hand operated bag-mask ventilation unit with adult, child, and infant size masks (capable of use with oxygen);
- (c) Oropharyngeal airways in adult, child, and infant sizes;

- (d) Oxygen equipment (fixed or portable);
 - 1. Pressure gauge and flow rate regulator;
 - 2. Adaptor and tubing;
 - 3. Transparent masks in adult, child, and infant sizes; and
 - 4. Filled spare cylinder.

(e) Mouth gags (commercial or made from tongue blades);

(f) Universal dressing approximately ten (10) inches by thirty-six (36) inches, compactly folded and packaged;

(g) Sterile gauze pads, four (4) inches by four (4) inches;

(h) Soft roller self-adhering bandages, various sizes;

(i) Roll of aluminum foil, sterilized and wrapped;

(j) Adhesive tape, various size rolls;

(k) Two (2) sterile burn sheets;

(l) Hinged half-ring lower extremity traction splint, length forty-three (43) inches or substitute padded board splints four and one-half feet by three inches (4½' x 3");

(m) Inflatable air splints for arm, leg and foot as minimum or a suitable substitute (i.e., padded boards, etc.);

(n) Short and long spine boards with accessories (orthopedic "scoop" stretcher preferred over long spine board);

(o) Triangular bandages;

(p) Large safety pins;

(q) Shears for bandages;

(r) Sterile obstetrical kit; and

(s) Sphygmomanometer and stethoscope.

(t) Effective [Additionally, the following medical items are to be considered mandatory on-board equipment as of] January 1, 1980, []:

[1. Mouth-to-mouth artificial ventilation airways for adults and children;]

[2. Sterile IV agents with administration kits to be used by qualified personnel;]

[3. Two (2) or more padded board splints four and one-half (4½) feet long by three (3) inches wide;]

[4.] poison kit to contain at least one (1) bottle of Syrup of Ipecac and one (1) bottle of Activated Charcoal.

(4) Extrication equipment: Effective January 1, 1980, all conforming vehicles shall carry the full contingent of access and extrication equipment for ambulance use as stipulated in the Highway Safety Program Manual No. 11, date April 1974 except for, those ambulance services which have written agreements with rescue squads, fire departments or any emergency service agency that meets the requirements of the Highway Safety Program manual, for extrication service.

(5) Radio communications equipment: All ambulance services shall be equipped with two (2) way radio communications equipment compatible with the statewide ambulance-to-hospital emergency radio communications system. This requirement becomes effective upon implementation of the regional communications network for the region in which a particular ambulance service is located.

(6) Records and reports: All conforming and non-conforming ambulance services shall keep adequate reports and records, [and shall utilize forms which may subsequently be specified by the board. Records shall be] which are maintained at the ambulance base headquarters, and are [shall be] available for periodic review as deemed necessary by the board. Required records and reports are as follows: [Records shall include at least the following information:]

- [(a) Name of patient;]
- [(b) Date of run;]
- [(c) Time and odometer readings;]
- [(d) Vehicle license or unit number;]
- [(e) Name of driver and attendant;]
- [(f) Destination;]
- [(g) Nature of call (illness, injury, etc.);]
- [(h) Victim status (conscious, convulsing, hemorrhaging, etc.);]
- [(i) Cause of injury (motor vehicle accident, gunshot wound, etc.);]
- [(j) Case severity;]
- [(k) Vital signs (blood pressure, pulse, respiration);]
- [(l) Response to external stimuli (patient does not react to pin prick, pupils do not react to light, etc.);]
- [(m) Aid given to patient;]

(a) The Kentucky emergency medical service ambulance run report form. Completed forms shall be forwarded to the respective regional emergency medical services office in accordance with submission dates established by that office.

(b) [(n)] Employee[e] records, including a resume of each employ[e]e's training and experience; [, shall be maintained; and]

(c) [(o)] Health records of all drivers and attendants including evidence of pre-employment and annual physical examination, chest x-ray (or recommended tuberculin testing procedure) and records of all illnesses or accidents occurring on duty.

MASON C. RUDD, Chairman

ADOPTED: June 2, 1980

RECEIVED BY LRC: July 1, 1980 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mason C. Rudd, Chairman, Kentucky Health Facilities and Health Services, Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

This office was abolished by budget cuts of Aug. 1980.

The Department for Human Resources

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance
(Proposed Amendment)

904 KAR 2:040. Procedures for determining initial and continuing eligibility.

RELATES TO: KRS 205.200(2)

PURSUANT TO: KRS 13.082, 194.050

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility under the provisions of KRS Chapter 205 to administer public assistance programs under Titles IV-A and XIX of the Social Security Act, namely Aid to Families with Dependent Children, hereinafter referred to as AFDC, and Medical Assistance, hereinafter referred to as MA. In addition the department is required by Title XVI as amended and by KRS 205.245 to provide supplementation to certain aged, blind and disabled individuals. This regulation sets forth the procedures utilized to determine initial and continuing eligibility for assistance under the above programs.

Section 1. Eligibility Determination Process: Each decision regarding eligibility or ineligibility for assistance shall be supported by facts recorded in the applicant's or recipient's case record. The applicant or recipient shall be the primary source of information and shall be required to furnish verification of income, resources, and technical eligibility if he can reasonably be expected to do so, and to give written consent to those contacts necessary to verify or clarify any factor pertinent to the decision of eligibility of the applicant, *and comply with procedural requirements considered necessary for completion of the determination process.*

Section 2. Continuing Eligibility. The recipient shall be responsible for reporting *within ten (10) days* any change in circumstances which may affect eligibility or the amount of payment. In addition, eligibility shall be reconsidered or redetermined:

(1) When a report is received or information is obtained about changes in circumstances; and

(2) At least every six (6) months for AFDC and every twelve (12) months for MA.

Section 3. Determination of Incapacity or Permanent and Total Disability: (1) A determination that a [the] parent with whom the needy child lives is incapacitated or that the individual requesting medical assistance due to disability is both permanently and totally disabled shall be made by a medical review team following review of both medical and social reports except as listed in subsection[s] (1) or (2) of this section.

(2) A parent shall be considered incapacitated *without a determination for the medical review team* if the parent [he] declares *physical inability* [he is physically unable] to work, the worker observes some physical or mental limitation; and *the parent*:

(a) [He/she] Is receiving SSI.

(b) [He/she] Is age[d] sixty-five (65) or over.

(c) [He/she] Has been determined to meet the definition of blindness as contained in Titles II and XVI of the Social Security Act relating to *RSDI* [OASDI] and SSI by either the Social Security Administration or the state supervising ophthalmologist of the Bureau for Social Insurance.

(d) [He/she] Has been determined to meet the definition of permanent and total disability as contained in Titles II and XVI of the Social Security Act relating to *RSDI* [OASDI] and SSI by either the Social Security Administration or the Medical Review Team of the Bureau for Social Insurance.

(e) [He/she] Has previously been determined to be incapacitated or permanently and totally disabled by the medical review team, hearing officer, appeal board or court of proper jurisdiction with no re-examination requested and there is no visible improvement in condition.

(f) [He/she] Is receiving *RSDI* [OASDI], federal black lung benefits or railroad retirement benefits based on disability as evidenced by an award letter or benefit check.

(g) [He/she] Is currently hospitalized and a statement from the attending physician indicated that incapacity will continue for at least thirty (30) days. If application was made prior to admission, the physician is also requested to indicate if incapacity existed as of application date.

(3) *The determination that a parent is not incapacitated will not be made by the local office field staff.*

(4) [(3)] An individual shall be considered permanently and totally disabled if *the individual*:

(a) [He] Receives *RSDI* [OASDI], railroad retirement, or federal black lung benefits based on disability.

(b) [He] Previously received SSI based on disability and discontinuance was due to income or resources, not to improvement in physical condition.

Section 4. Reviews of Supplementation Cases: Aged, blind or disabled supplementation cases shall be periodically reviewed to determine that the special need for which supplementation is granted continues to exist.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: June 23, 1980

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: June 26, 1980 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Secretary for Human Resources, DHR Building, 275
East Main Street, Frankfort, Kentucky 40621.

Proposed Regulations

DEPARTMENT OF TRANSPORTATION Bureau of Vehicle Regulation

601 KAR 9:071. Records of fuel tax licenses.

RELATES TO: KRS 138.680, Chapter 138

PURSUANT TO: KRS 13.082, 138.725(1)

NECESSITY AND FUNCTION: KRS 138.680 requires all fuel use tax licensees to keep and maintain complete records on all motor vehicles, by type, operating on Kentucky highways, the weight and number of axles, mileage records and records of all purchases, use and other dispositions of gasoline and special fuels. Such records are furthermore required to be kept for a minimum of two (2) years. Experience from previous audits reveals that this is not being done adequately and this regulation is for the purpose of establishing a presumption (if adequate records are not maintained), that all power units will average not more than four (4) miles for each gallon of fuel purchased and consumed.

Section 1. In accordance with KRS 138.680, every fuel tax licensee shall keep and maintain records sufficient to calculate the miles per gallon averaged by the fleet of motor vehicles used by such licensee on Kentucky highways.

Section 2. In the event that sufficient records do not exist, or that adequate records have not been maintained in accordance with KRS 138.680, it is hereby presumed that the licensee's entire fleet averages not more than four (4) miles per gallon of fuel purchased and consumed.

Section 3. Nothing herein shall permit any licensee to fail to keep such adequate records as are required by KRS 138.680. If the records of a licensee should indicate that its fleet is averaging less than four (4) miles per gallon of fuel, the lesser average shall be the one used for purposes of audit and taxation.

Section 4. Sufficient records must be maintained on a continuing basis for such mile per gallon average. If the records should not be sufficient, or if a calculation cannot be determined from an audit of the records maintained by such licensee, the mile per gallon of fuel average shall not be allowed in excess of four (4) miles per gallon. In the absence of such required records, the Motor Fuel Use Tax Section of the Division of Motor Carriers shall compute the miles and fuel used computing four (4) miles per gallon as the fleet average on Kentucky highways.

JAMES F. RUNKE, Acting Commission

ADOPTED: July 11, 1980

APPROVED: FRANK R. METTS, Secretary

RECEIVED BY LRC: July 14, 1980 at 1:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Director, Division of Motor Carriers, 308 State Office Building, Frankfort, Kentucky 40622.

PUBLIC PROTECTION AND REGULATION CABINET Energy Regulatory Commission

807 KAR 50:067. Electric consumer information.

RELATES TO: KRS Chapter 278

PURSUANT TO: KRS 13.082, 278.040, 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 requires electric utilities to provide certain information to their consumers pursuant to the federal standard established by Section 113(b)(3) of the Public Utility Regulatory Policies Act of 1978.

Section 1. General. The purpose of this regulation is to require electric utilities to provide their consumers with information concerning rate schedules, changes in rate schedules and their energy consumption.

Section 2. Definitions. For purposes of this regulation:

(1) "Consumption" means the total electric energy used by a customer, expressed in kilo-watt hours (KWH).

(2) "Standard usage" means an amount of electric energy consumption for a given period that excludes usage for space heating or cooling. This is to be determined as the usage during a month when the space heating or cooling is a minimum. The month or comparable time period used to determine the standard usage shall be the month from the previous year containing the lowest number of degree days.

(3) "Mean daily temperature" means the average of hourly temperature readings taken within a twenty-four (24) hour period.

(4) "Temperature norm" for measuring electric consumption means sixty-five degrees Fahrenheit (65°F).

(5) "Degree day" means the unit representing each degree Fahrenheit (F) difference between the mean daily temperature and the temperature norm in one (1) day.

(6) "Adjusted consumption" means the electric energy consumption of a customer for heating and cooling expressed in kilowatt hours calculated by subtracting the standard usage from the total consumption.

(7) "Degree-day adjusted consumption" means the ratio of the adjusted consumption for a given billing period to the sum of the degree-days corresponding to the same billing period.

Section 3. Energy Consumption Information. Upon request, each electric utility shall furnish any consumer with a clear and concise statement of the actual consumption and degree-day adjusted consumption of electric energy by such consumer in their service region for each billing period during the prior year.

(1) In rendering the reporting information required in this regulation, the utility will make appropriate adjustments to reflect differences in the number of days metered for the respective billing periods.

(2) If a utility offers time-of-day rates, the information required to be furnished to a customer qualified to receive such rates must reflect that customer's peak and off-peak usage in a manner which will enable the customer to evaluate and utilize such rates.

(3) In special cases, where an electric utility cannot reasonably ascertain such consumption data, such utility may apply for and be permitted a deviation from this section.

Section 4. Rate Schedule Information. (1) Each electric utility shall transmit to each of its consumers a clear and concise explanation of both the current rate schedule and any proposed change in such rate schedule applicable to the consumer.

(a) The statement explaining the current rate schedule shall be mailed to each consumer within sixty (60) days after the date service to the consumer begins or ninety (90) days after this regulation becomes effective, whichever last occurs.

(b) When an electric utility proposes a change in a rate schedule, the statement explaining it shall be transmitted to each consumer to which the change applies within thirty (30) days after the utility applies for that change or within sixty (60) days in the case of an electric utility which uses a bi-monthly billing system.

(2) Each electric utility shall transmit annually to each of its consumers a clear and concise summary of the current rate schedules applicable to each of the classes of its consumers for which there is a separate rate and shall identify any class whose rate is not so summarized.

(a) Each utility shall annually inform each of its consumers of their right to receive the consumption information specified in Section 3.

(b) Information and notices to be furnished by the utilities under this regulation may be included with the regular bill.

PERRY R. WHITE, Chairman

ADOPTED: July 9, 1980

APPROVED: H. FOSTER PETTIT

RECEIVED BY LRC: July 11, 1980 at 1 p.m.

PUBLIC HEARING: A public hearing on this proposed regulation will be held on September 4, 1980 at 1 p.m., EDT, in the Hearing Room of the Energy Regulatory Commission at its offices located at 730 Schenkel Lane, Frankfort, Kentucky 40602.

PUBLIC PROTECTION AND REGULATION CABINET Department of Housing, Buildings and Construction

815 KAR 45:035. Education incentive.

RELATES TO: KRS Chapter 95A

PURSUANT TO: KRS 95A.240

NECESSITY AND FUNCTION: KRS 95A.240(1) authorizes the Commission on Fire Protection Personnel Standards and Education to issue such regulations as are necessary to properly administer the Professional Firefighters Foundation Program Fund. This regulation establishes the procedures and criteria which shall be utilized to determine the eligibility of local governments and individual firefighters to share in the fund.

Section 1. Definitions. As employed in the Kentucky Professional Firefighters Program Fund administrative regulations, the following words and phrases have the following meanings:

(1) "Annual salary" means base pay for forty (40) hours and any required scheduled overtime.

(2) "Certified training" means firefighter training given by a certified inspector and approved and recorded by the commission.

(3) "Commission" means the Commission on Fire Protection Personnel Standards and Education established pursuant to KRS 95A.020.

(4) "Department" means the Department of Housing, Buildings and Construction.

(5) "Fiscal year" means the period July 1 through June 30 of each twelve month period.

(6) "Full-time firefighters" means individuals who work a minimum of 2,080 hours per year as a member of a fire department or fire protection district.

(7) "Fund" means Professional Firefighters Foundation Program Fund.

(8) "Incentive pay" means monies from the fund used to supplement compensation paid to full-time paid firefighters.

(9) "Local government" means any city or county, or any combination thereof, or urban county government of the Commonwealth.

(10) "Professional firefighter" means any sworn member of a paid municipal fire department organized under KRS Chapter 95 or a fire protection district organized under KRS Chapter 75, or a county fire department created pursuant to Chapter 67.

(11) "Scheduled overtime" means those working hours required beyond forty (40) hours a week in order to meet the requirements of KRS Chapter 95 concerning firefighters working hours.

(12) "Total annual compensation" means the base pay, including longevity, plus scheduled overtime.

Section 2. Eligibility. Each local government which meets the following requirements shall be eligible to participate and share in the distribution of funds when it has made application on forms prescribed by the commission and the commission has determined that the local government has met the eligibility criteria. Those criteria are:

(1) Employs one or more firefighters.

(2) Pays a minimum annual salary of \$8,000.

(3) Maintains as a minimum educational requirement, for anyone newly employed as a firefighter after August 1, 1980, high school graduation or its equivalent.

(4) Requires all firefighters to successfully complete within one (1) year of the date of employment a basic training course of a minimum of 200 hours at a school or by a method certified or recognized by the commission.

(5) Local units which have not previously participated in the fund shall require all firefighters who have been employed for at least one (1) year by the local unit on the date of initial participation to have completed a basic training course certified or recognized by the commission of at least 200 hours duration. All firefighters employed less than one (1) year prior to or hired after the date of initial participation shall complete the basic training within one (1) year of the date of employment as required for participating local units.

(6) Requires all firefighters to successfully complete in each calendar year an in-service training program appropriate to the firefighter's rank and responsibilities of at least 100 hours duration at a school or through a method certified or recognized by the commission.

(7) The commission shall review the qualifications of firefighters employed by local units after the effective date of this regulation, to determine the basic training, if any,

which the firefighter may be required to successfully complete prior to being eligible to participate in the fund.

(8) Requires compliance with all rules and regulations issued by the commission to facilitate the administration of the fund and further the provisions of KRS Chapter 95A.

(9) Requires compliance with all provisions of law applicable to local firefighters.

(10) Any firefighter who does not possess a high school degree or its equivalent and who has been deemed eligible to participate in the fund pursuant to KRS Chapter 95A who terminates firefighter service forfeits such eligibility and must meet the minimum educational requirement to reparticipate in the fund.

(11) Any firefighter who possesses sufficient training to meet the basic training requirements established by the commission and who terminates firefighter service for a period exceeding one (1) year (365 days) forfeits such eligibility and must meet the minimum training requirements to reparticipate in the fund. If his separation does not exceed one (1) year, he shall be considered eligible for participation in the fund.

(12) A copy of the high school diploma or GED certificate for each firefighter where required must be maintained by the local unit and must be available for review by appropriate commission personnel.

(13) If, after having successfully completed a certified basic training course, a firefighter transfers from one (1) participating local unit to another, he shall be eligible to receive payments from the fund providing he continues to meet the requirements of the fund as set down by the commission.

(14) If a firefighter transfers from one (1) fire department to another, paid or volunteer, all certified training received by him/her shall be recognized by the fire department to which he/she transferred and shall be considered toward his/her eligibility for participation in the fund.

Section 3. Participation Requirements. (1) An eligible local government shall be entitled to receive up to an amount equal to fifteen percent (15%) of each firefighter's annual compensation from the fund to be paid to each firefighter in addition to his annual compensation.

(2) Participation in the Professional Firefighter's Incentive Pay Program during the first fiscal year of the program's existence (January 1-June 30, 1981) shall require that application be made to the commission within the dates of August 1, 1980 through October 20, 1980. Thereafter, application must be made annually by local governments for new or continued participation. Applications shall be accepted from February 1 through April 30 of each year. Local governments failing to make application within the specified dates shall not be considered for participation until the next application filing period.

(3) The commission shall determine which local governments are eligible to share in the fund and may withhold or terminate payments to any local government that does not comply with the requirements of KRS Chapter 95A or the rules and regulations issued by the commission thereunder.

Section 4. Local Use of Funds. Funds made available to local governments shall be received, held and expended in accordance with the provisions of this act, any rules and regulations issued by the commission, and the following specific restrictions: (1) Funds provided shall be used only as a direct monetary supplement to firefighters' compensation.

(2) Funds provided shall be used only to compensate firefighters who have complied with subsection (3), (4), and (6) of Section 2.

(3) Each firefighter shall be entitled to receive the state supplement which his qualifications brought to the local government.

(4) Funds shall not be used to supplant existing salaries or as a substitute for normal salary increases periodically due to a firefighter.

(5) No firefighter shall receive monies from this fund for employment with more than one (1) employer and in no instance shall receive dual payment.

(6) Incentive pay shall be paid on that portion of the salary up to \$25,000.

Section 5. Certification of Funds. The Department of Finance, on the certification of the commission, shall draw warrants as specified on the State Treasury for the amount of the fund due each eligible local government. Checks shall be issued by the State Treasurer and transmitted to the commission for distribution to the proper officials or participating local governments which have complied with the provisions of KRS Chapter 95A and this regulation. Beginning January 1, 1981, and on the first day of each month thereafter, the share of each eligible local unit shall be distributed from the fund.

Section 6. Available Funds. (1) If funds appropriated by the General Assembly and otherwise made available to the fund are insufficient to provide the amount of money required by Section 3(1), the commission shall make a uniform percentage reduction in the allotment of funds available.

(2) Funds appropriated by the General Assembly and unexpended by the commission at the close of the fiscal year for which the funds were appropriated shall not lapse but shall be carried forward into the following fiscal year.

Section 7. Transmittal of Funds. (1) Request for funds by the local unit shall be submitted to the department not later than thirty (30) days prior to the beginning of the month in which the funds are to be expended.

(2) The department shall mail fund checks by the first day of each month to all local units which have filed timely requests for funds.

(3) The local unit shall acknowledge receipt of funds to the department on forms provided for that purpose.

Section 8. Local Unit Distribution of Funds. (1) The local unit shall include the incentive compensation paid to each firefighter from the fund as a part of the firefighter's salary in determining all payroll deductions.

(2) The local unit shall provide each firefighter with a check stub or separate receipt upon which the gross amount of incentive funds paid to the firefighter is identified.

(3) The local unit shall disburse incentive funds during the month for which the funds are requested.

(4) The local unit shall maintain a separate account for all incentive funds which it receives pursuant to KRS Chapter 95A and this regulation.

(5) The local unit shall maintain records to document that each firefighter devotes sufficient hours performing firefighter's duties and training to qualify him for incentive funds consistent with his annual salary.

Section 9. Quarterly Reports. (1) Each participating local unit shall submit quarterly reports to the department within fifteen (15) days of the close of the quarter falling on March 31, June 30, September 30 and December 31 of each year.

(2) The quarterly report shall include the name, rank,

social security number, date of employment, annual compensation and the amount of incentive funds received for each firefighter and any other information specifically requested on the respective quarterly report form.

Section 10. Local Audits. (1) The local unit may be audited by the department pursuant to established procedures.

(2) For audit purposes, the local unit shall maintain accurate financial records. Such records shall include, but are not limited to, books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, cancelled checks and any related document and record.

(3) These records shall be retained by the local unit until destruction is authorized by the commission.

Section 11. False or Fraudulent Statements. (1) Any person who knowingly or willfully makes any false or fraudulent statement or representation in any record or report to the commission under KRS Chapter 95A or this regulation shall cause the unit of government which he represents to become ineligible for further funds and that unit of government may be responsible for the return to the State Treasury of those funds which were received through these false or fraudulent statements or representations. Eligibility can be reestablished by submitting a new ap-

plication as outlined in Section 2 after settlement has been completed to the satisfaction of the commission.

(2) Any person who knowingly or willfully makes a false or fraudulent statement or representation in any record or report to the commission under this act shall be fined not less than \$100 or imprisoned for not less than thirty (30) days nor more than one (1) year or both.

Section 12. Appeals. (1) No decision of the commission which negatively affects the eligibility of a firefighter to be a recipient of the fund shall be final until said firefighter shall have been afforded an opportunity to be heard on the matters.

(2) An appeal may be taken from a final decision of the commission to withhold or terminate payment from the fund to any local government. Said appeal shall be to the circuit court of the circuit where the controversy originated.

JOHN R. GROVES, JR., Commissioner

ADOPTED: July 15, 1980

APPROVED: H. FOSTER PETITT, Secretary

RECEIVED BY LRC: July 15, 1980 at 8:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Judith G. Walden, Office of the Counsel, Department of Housing, Buildings and Construction, 127 Building, U.S. 127, Frankfort, Kentucky 40601.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the July 2, 1980 Meeting

(Subject to subcommittee approval at its August 6, 1980 meeting.)

The regularly scheduled meeting of the Administrative Regulation Review Subcommittee was held on Wednesday, July 2, 1980, at 10 a.m., in Room 327 of the Capitol. Present were:

Members: Representative William T. Brinkley, Chairman; Senator William Quinlan, and Representative Albert Robinson.

Guests: Janet Straub, E. Edsel Moore, Ked R. Fitzpatrick, Volinda M. Walters and Leon Townsend, Department for Human Resources; Ed Fossett, Donald B. Hunter, Gary Bale and Fred Johnson, Department of Education; Bill Hill and Cattie Lou Miller, Department of Finance; Charles McCoy, Larry L. Roberts and Mike Salyers, Department of Labor; Andy Naff, Drug Formulary Council; Harold Newton and H. Gene Taylor, Department of Personnel; Sharon M. Weisenbeck, Alta Hounsiz and Dr. Marion E. McKenna, Kentucky Board of Nursing; Edna-French Look Johnstone and Mary Jane Gallaher, State Racing Commission; Jim McGown, Board for Proprietary Education; Fay F. Carpenter, Fleming County Board of Education; John M. Leinenbach, Associated General Contractors; Jay Runyon, Kentucky Power Company; Frank H. Loudermilk, South Central Bell Telephone Company; Tony Sholar, Kentucky Chamber of Commerce.

LRC Staff: Mabel D. Robertson, Deborah Herd, Garnett Evins, Bob Sherman, Janie Jones, Steve Armbrust, Sam Sears, Gene Swift and Dan Meyer.

Press: Winnie McConnell, U.P.I.; Mary Gehant, Department of Public Information.

Chairman Brinkley called the meeting to order and on motion of Senator Quinlan, seconded by Representative Robinson the minutes of the June 4, 1980 meeting were approved.

The following regulations were deferred until the August 6 meeting because the affirmative consideration was received by the compiler too late to be placed on the July agenda:

Board of Psychology: 201 KAR 26:010, 201 KAR 26:030, 201 KAR 26:040, 201 KAR 26:050, 201 KAR 26:060, 201 KAR 26:070, 201 KAR 26:080, 201 KAR 26:100, 201 KAR 26:110.

Department of Housing, Buildings and Construction: 815 KAR 20:141.

The following regulation was rejected by unanimous vote of the subcommittee because it did not conform to statutory authority or legislative intent.

DEPARTMENT OF EDUCATION Bureau of Administration and Finance School District Finance

702 KAR 3:030. Insurance requirements on mortgaged buildings.

The following regulations were deferred until the August 6 meeting on motion of Senator Quinlan, seconded by Representative Robinson.

DEPARTMENT OF FINANCE**Travel Expense and Reimbursement**

200 KAR 2:005. Reimbursement for employee's travel.

Occupations and Professions**Board of Hairdressers and Cosmetologists**

201 KAR 12:105. School districts.

The following regulation was approved with the amendment on page 2, Section 4, by deleting the words "and approved;" if acceptable to the Board for Elementary and Secondary Education.

DEPARTMENT OF EDUCATION**Bureau of Instruction****Kindergartens and Nursery Schools**

704 KAR 5:050. Public school programs.

The following regulations were approved and ordered filed on motion of Senator Quinlan, seconded by Representative Robinson:

DEPARTMENT OF PERSONNEL**Personnel Rules**

101 KAR 1:050. Compensation plan.

DEPARTMENT OF FINANCE**Occupations and Professions****Board of Nursing Education and Nurse Registration**

201 KAR 20:110. Endorsement.

Board for Proprietary Education

201 KAR 24:010. License fees.

DEPARTMENT OF TRANSPORTATION**Division of Aeronautics and Airport Zoning****Airport Development**

602 KAR 15:010. Airport development loans.

DEPARTMENT OF EDUCATION**Bureau of Administration and Finance****School District Finance**

702 KAR 3:045. Withholding funds.

702 KAR 3:130. Internal accounting.

Bureau of Pupil Personnel Services**School Terms, Attendance and Operation**

703 KAR 2:010. Terms and months.

703 KAR 2:016. Repeal of 703 KAR 2:015.

Bureau of Instruction**Elementary and Secondary Education Act**

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

DEPARTMENT OF LABOR**Labor Standards; Wages and Hours**

803 KAR 1:100. Child labor.

Occupational Safety and Health

803 KAR 2:015. General industry standards.

803 KAR 2:019. Receiving and unloading bulk hazardous liquids.

803 KAR 2:050. Scope.

DEPARTMENT FOR HUMAN RESOURCES**Bureau for Health Services****Drug Formulary**

902 KAR 1:142. Cyclandelate.

902 KAR 1:322. Triprolidine and pseudoephedrine hydrochloride.

Certificate of Need and Licensure Board

902 KAR 20:010. Hospital facilities; construction and alteration.

902 KAR 20:020. Skilled nursing facilities; construction and alteration.

902 KAR 20:030. Personal care homes; operation and services.

902 KAR 20:035. Personal care homes; construction and alteration.

902 KAR 20:040. Family care homes; operation and services.

902 KAR 20:050. Intermediate care facilities; operation and services.

902 KAR 20:055. Intermediate care facilities; construction and alteration.

Hazardous Substances

902 KAR 47:040. Cellulose insulation.

Milk and Milk Products

902 KAR 50:020. Grade A requirements.

Bureau for Social Insurance**Medical Assistance**

904 KAR 1:027. Payments for dental services.

904 KAR 1:074. Claims processing.

Public Assistance

904 KAR 2:045. Conditions under which adverse action is taken.

904 KAR 2:050. Time and manner of payments.

The meeting adjourned at 11:30 a.m., to meet again on Wednesday, August 6, 1980, at 10 a.m., in Room 327 of the Capitol.

Administrative Register ^{of} *kentucky*

Cumulative Supplement

Regulation Locator—Effective Dates	A 2
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Regulation Locator—Effective Dates

Volume 6

Emergency Regulation	6 Ky.R. Page No.	Effective Date	Emergency Regulation	6 Ky.R. Page No.	Effective Date	Emergency Regulation	6 Ky.R. Page No.	Effective Date
200 KAR 2:005E	557	5-1-80	405 KAR 16:140E	785	6-11-80	405 KAR 20:030E	829	6-11-80
Expires		8-28-80	Expires		10-9-80	Expires		10-9-80
405 KAR 7:020E	703	6-11-80	405 KAR 16:150E	786	6-11-80	405 KAR 20:040E	830	6-11-80
Expires		10-9-80	Expires		10-9-80	Expires		10-9-80
405 KAR 7:030E	710	6-11-80	405 KAR 16:160E	787	6-11-80	405 KAR 20:050E	831	6-11-80
Expires		10-9-80	Expires		10-9-80	Expires		10-9-80
405 KAR 7:040E	710	6-11-80	405 KAR 16:170E	787	6-11-80	405 KAR 20:060E	832	6-11-80
Expires		10-9-80	Expires		10-9-80	Expires		10-9-80
405 KAR 7:060E	713	6-11-80	405 KAR 16:180E	788	6-11-80	405 KAR 20:070E	833	6-11-80
Expires		10-9-80	Expires		10-9-80	Expires		10-9-80
405 KAR 7:080E	714	6-11-80	405 KAR 16:190E	789	6-11-80	405 KAR 20:080E	833	6-11-80
Expires		10-9-80	Expires		10-9-80	Expires		10-9-80
405 KAR 7:090E	716	6-11-80	405 KAR 16:200E	791	6-11-80	405 KAR 24:020E	834	6-11-80
Expires		10-9-80	Expires		10-9-80	Expires		10-9-80
405 KAR 7:100E	720	6-11-80	405 KAR 16:210E	793	6-11-80	405 KAR 24:030E	835	6-11-80
Expires		10-9-80	Expires		10-9-80	Expires		10-9-80
405 KAR 7:110E	721	6-11-80	405 KAR 16:220E	795	6-11-80	405 KAR 24:040E	837	6-11-80
Expires		10-9-80	Expires		10-9-80	Expires		10-9-80
405 KAR 8:010E	721	6-11-80	405 KAR 16:250E	797	6-11-80	815 KAR 20:050E	839	6-13-80
Expires		10-9-80	Expires		10-9-80	Expires		10-11-80
405 KAR 8:020E	730	6-11-80	405 KAR 18:010E	797	6-11-80			
Expires		10-9-80	Expires		10-9-80			
405 KAR 8:030E	732	6-11-80	405 KAR 18:020E	798	6-11-80	Regulation	6 Ky.R. Page No.	Effective Date
Expires		10-9-80	Expires		10-9-80	101 KAR 1:050	576	7-2-80
405 KAR 8:040E	740	6-11-80	405 KAR 18:030E	799	6-11-80	Amended		
Expires		10-9-80	Expires		10-9-80	201 KAR 12:105	123	
405 KAR 8:050E	749	6-11-80	405 KAR 18:040E	799	6-11-80	Amended		
Expires		10-9-80	Expires		10-9-80	Withdrawn		7-7-80
405 KAR 10:010E	753	6-11-80	405 KAR 18:050E	800	6-11-80	201 KAR 20:110		
Expires		10-9-80	Expires		10-9-80	Amended	579	7-2-80
405 KAR 10:020E	754	6-11-80	405 KAR 18:060E	801	6-11-80	201 KAR 24:010		
Expires		10-9-80	Expires		10-9-80	Amended	579	7-2-80
405 KAR 10:030E	755	6-11-80	405 KAR 18:070E	803	6-11-80	602 KAR 15:010		
Expires		10-9-80	Expires		10-9-80	Amended	580	7-2-80
405 KAR 10:040E	758	6-11-80	405 KAR 18:080E	804	6-11-80	702 KAR 3:030		
Expires		10-9-80	Expires		10-9-80	Amended	386	
405 KAR 10:050E	760	6-11-80	405 KAR 18:090E	806	6-11-80	Rejected		7-2-80
Expires		10-9-80	Expires		10-9-80	702 KAR 3:045		
405 KAR 10:060E	761	6-11-80	405 KAR 18:100E	807	6-11-80	Amended	580	7-2-80
Expires		10-9-80	Expires		10-9-80	702 KAR 3:130		
405 KAR 12:010E	762	6-11-80	405 KAR 18:110E	808	6-11-80	Amended	581	7-2-80
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405 KAR 12:020E	763	6-11-80	405 KAR 18:120E	809	6-11-80	Amended	581	7-2-80
Expires		10-9-80	Expires		10-9-80	703 KAR 2:015		
405 KAR 12:030E	766	6-11-80	405 KAR 18:130E	811	6-11-80	Repealed	652	7-2-80
Expires		10-9-80	Expires		10-9-80	703 KAR 2:016	652	7-2-80
405 KAR 16:010E	767	6-11-80	405 KAR 18:140E	814	6-11-80	704 KAR 5:050		
Expires		10-9-80	Expires		10-9-80	Amended	582	7-15-80
405 KAR 16:020E	768	6-11-80	405 KAR 18:150E	816	6-11-80	704 KAR 10:022		
Expires		10-9-80	Expires		10-9-80	Amended	60	9-5-79
405 KAR 16:030E	769	6-11-80	405 KAR 18:160E	816	6-11-80	Amended	583	7-2-80
Expires		10-9-80	Expires		10-9-80	803 KAR 1:100		
405 KAR 16:040E	769	6-11-80	405 KAR 18:170E	817	6-11-80	Amended	61	
Expires		10-9-80	Expires		10-9-80	Amended	179	9-5-79
405 KAR 16:050E	770	6-11-80	405 KAR 18:180E	818	6-11-80	Amended	583	7-2-80
Expires		10-9-80	Expires		10-9-80	803 KAR 2:015		
405 KAR 16:060E	771	6-11-80	405 KAR 18:190E	818	6-11-80	Amended	585	7-2-80
Expires		10-9-80	Expires		10-9-80	803 KAR 2:019	652	7-2-80
405 KAR 16:070E	773	6-11-80	405 KAR 18:200E	819	6-11-80	803 KAR 2:050		
Expires		10-9-80	Expires		10-9-80	Amended	589	7-2-80
405 KAR 16:080E	774	6-11-80	405 KAR 18:210E	822	6-11-80	902 KAR 1:142	653	7-2-80
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405 KAR 16:090E	776	6-11-80	405 KAR 18:220E	823	6-11-80	Amended	589	7-2-80
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405 KAR 16:100E	777	6-11-80	405 KAR 18:230E	824	6-11-80	Amended	590	7-2-80
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405 KAR 16:110E	778	6-11-80	405 KAR 18:260E	826	6-11-80	Amended	602	7-2-80
Expires		10-9-80	Expires		10-9-80	902 KAR 20:030		
405 KAR 16:120E	779	6-11-80	405 KAR 20:010E	827	6-11-80	Amended	610	7-2-80
Expires		10-9-80	Expires		10-9-80	902 KAR 20:035		
405 KAR 16:130E	782	6-11-80	405 KAR 20:020E	828	6-11-80	Amended	614	7-2-80
Expires		10-9-80	Expires		10-9-80			

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A3

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902 KAR 20:040		
Amended	148	10-3-79
Amended	456	4-1-80
Amended	620	7-2-80
902 KAR 20:050		
Amended	460	
Amended	527	4-1-80
Amended	623	7-2-80
902 KAR 20:055		
Amended	632	7-2-80
902 KAR 47:040	654	7-2-80
902 KAR 50:020		
Amended	639	7-2-80
904 KAR 1:027	645	7-2-80
904 KAR 1:074	655	7-2-80
904 KAR 2:050		
Amended	648	7-2-80

Volume 7

NOTE: Effective July 15, 1980, emergency regulations expire upon being repealed, replaced or sine die adjournment of the next regular session of the General Assembly.

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101 KAR 1:120E	1	6-26-80	302 KAR 20:070			707 KAR 1:057		
Expires		10-24-80	Amended	22		Amended	45	
302 KAR 20:040E	2	7-15-80	601 KAR 1:090			707 KAR 1:058		
302 KAR 20:070E	5	7-15-80	Amended	24		Amended	47	
904 KAR 1:004E	8	7-1-80	601 KAR 9:070			707 KAR 1:059		
Expires		10-28-80	Amended	25		Amended	48	
904 KAR 1:038E	9	7-1-80	601 KAR 9:071	72		707 KAR 1:060		
Expires		10-28-80	702 KAR 5:080			Amended	49	
904 KAR 2:008E	10	7-1-80	Amended	26		723 KAR 1:005		
Expires		10-28-80	704 KAR 4:020			Amended	49	
904 KAR 2:010E	13	7-1-80	Amended	28		723 KAR 1:015		
Expires		10-28-80	705 KAR 1:010			Amended	50	
904 KAR 2:015E	15	7-1-80	Amended	30		803 KAR 25:010		
Expires		10-28-80	707 KAR 1:051			Amended	51	
904 KAR 2:081E	15	7-1-80	Amended	30		803 KAR 25:025		
Expires		10-28-80	707 KAR 1:052			Amended	56	
			Amended	38		807 KAR 50:067	72	
			707 KAR 1:053			810 KAR 1:009		
			Amended	40		Amended	58	
			707 KAR 1:054			815 KAR 25:010		
			Amended	41		Amended	61	
			707 KAR 1:055			815 KAR 45:035	73	
			Amended	42		902 KAR 20:115		
			707 KAR 1:056			Amended	69	
			Amended	43		904 KAR 2:040		
						Amended	71	

KRS Sections Related to KAR

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18.110	101 KAR 1:120	350.020	405 KAR 12:010	350.090	405 KAR 7:090
18.170	101 KAR 1:120		405 KAR 12:020		405 KAR 8:010
18.210	101 KAR 1:120		405 KAR 12:030		405 KAR 16:010
18.240	101 KAR 1:120		405 KAR 16:010		405 KAR 16:070
18.270	101 KAR 1:120		405 KAR 16:070		405 KAR 16:130
Chapter 42	200 KAR 2:005		405 KAR 16:090		405 KAR 16:150
Chapter 44	200 KAR 2:005		405 KAR 16:150		405 KAR 18:010
Chapter 45	200 KAR 2:005		405 KAR 16:170		405 KAR 18:070
45.700	1 KAR 2:010		405 KAR 16:180		405 KAR 18:130
45.705	1 KAR 2:010		405 KAR 16:190		405 KAR 18:150
45.710	1 KAR 2:010		405 KAR 16:220		405 KAR 20:030
45.715	1 KAR 2:010		405 KAR 16:250		405 KAR 20:060
45.720	1 KAR 2:010		405 KAR 18:010	350.093	405 KAR 7:090
Chapter 95A	815 KAR 45:035		405 KAR 18:070		405 KAR 8:050
Chapter 138	601 KAR 9:070		405 KAR 18:090		405 KAR 10:020
	601 KAR 9:071		405 KAR 18:150		405 KAR 10:040
138.680	601 KAR 9:071		405 KAR 18:170		405 KAR 10:050
156.112	705 KAR 1:010		405 KAR 18:180		405 KAR 10:060
156.160	702 KAR 5:080		405 KAR 18:190		405 KAR 16:010
	704 KAR 4:020		405 KAR 18:210		405 KAR 16:020
157.200-157.285	707 KAR 1:051		405 KAR 18:230		405 KAR 16:190
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