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

MEETING NOTICE: The next meeting of the Administrative Regulation Review Subcommittee is October 1 and 2, 1986. See tentative agenda on pages 611 and 612 of this Administrative Register.

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

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

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NOTE: The following agenda for the October meeting of the Administrative Regulations Review Subcommittee is subject to change. Please call (502) 564-8100, ext. 411, if you have questions.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA
October 1, 1986
(Rm. 110, Capitol Annex @ 2 p.m.)

KENTUCKY INFORMATION SYSTEMS COMMISSION

Information Systems
14 KAR 1:010. Statewide strategic plan for information processing.

STATE BOARD OF ELECTIONS

Statewide Voter Registration
31 KAR 3:010. Current address of Kentucky registered voters.

PERSONNEL BOARD

Personnel Rules
101 KAR 1:330 & E. Employee actions. (Deferred from September)

FINANCE AND ADMINISTRATION CABINET

Board of Examiners for Speech Pathology & Audiology
201 KAR 17:010. Application for licensure.
201 KAR 17:011. Requirements for interim licensure.
201 KAR 17:012. Requirements for licensure.
201 KAR 17:015. Board members; expenses.
201 KAR 17:041. Professional code of ethics.
201 KAR 17:061. Repealer. (Repeals 201 KAR 17:050 & 201 KAR 17:060)

TOURISM CABINET
Department of Fish and Wildlife Resources

Fish
301 KAR 1:145. Gear allowed for commercial fishing.
Game
301 KAR 2:044 and E. Taking of migratory wildlife.
301 KAR 2:047 and E. Specified areas; seasons, limits for birds and small game.
Hunting and Fishing
301 KAR 3:021. Hunting and fishing license fees.

NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Air Pollution

General Standards of Performance
401 KAR 63:021. Existing sources emitting toxic air pollutants.
401 KAR 63:022. New or modified sources emitting toxic air pollutants.

CORRECTIONS CABINET

Office of the Secretary
501 KAR 6:030. Kentucky State Reformatory. (1st copy deferred from September. 2nd copy is amendment filed on August 15, 1986.)
501 KAR 6:040. Kentucky State Penitentiary.
501 KAR 6:060. Northpoint Training Center. (1st copy deferred from September. 2nd copy is amendment filed on August 15, 1986.)
501 KAR 6:090. Frankfort Career Development Center.
501 KAR 6:110. Roederer Farm Center.

JUSTICE CABINET
Department of State Police

General Traffic
502 KAR 15:020 & E. Abandoned vehicles; definitions.
Trial Board Proceedings
502 KAR 50:010 & E. Admissibility of evidence.

TRANSPORTATION CABINET

Administration
600 KAR 1:045 & E. Disciplinary and separation procedures.

Department of Vehicle Regulation

Division of Motor Carriers
601 KAR 1:005. Safety regulations.
Driver Improvement
601 KAR 13:050. Alcohol driver education program.

Department of Highways

Traffic
603 KAR 5:190 & E. Vehicles prohibited on I-75 & I-71.
603 KAR 5:200 & E. Vehicles prohibited on I-471.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA
October 2, 1986
(Rm. 110, Capitol Annex @ 10 a.m.)

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Local Services

General Administration
702 KAR 1:005. Textbook program plan. (Amended After Hearing)
702 KAR 1:010 & E. Facilities surveys and plans. (Amended After Hearing)

Office of Instruction

Instructional Services
704 KAR 3:005. Educational improvement act. (Amended After Hearing)
Teacher Education
704 KAR 15:080 & E. Paraprofessional employees and volunteer personnel. (Amended After Hearing)

Department of Libraries and Archives

Archives
725 KAR 1:050. Records management program.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance

General Provisions
806 KAR 1:010. Liability self-insurance groups. (Amended After Hearing)
Casualty Insurance Contracts
806 KAR 20:010. Declination, cancellation and nonrenewal of property and casualty insurance. (Amended After Hearing)

Department of Financial Institutions

Credit Unions
808 KAR 3:060. Investment authority of state-chartered credit unions.

CABINET FOR HUMAN RESOURCES
Department for Health Services

Maternal and Child Health
902 KAR 4:050. Kentucky Family Planning Program.
Sanitation
902 KAR 10:110 & E. Onsite sewage disposal system installation permits and certification of installers.
Hospitaliation of Mentally Ill and Mentally Retarded
902 KAR 12:080. Policies and procedures for mental health/mental retardation facilities.
Certificate of Need and Licensure
902 KAR 20:016 & E. Hospitals, operation and services. (Amended After Hearing)
902 KAR 20:220 & E. Dual licensure hospitals. (Amended After Hearing)
Milk and Milk Products
902 KAR 50:010. Definitions for milk and milk products.
902 KAR 50:070. Standards of identity for milk and milk products.

Department for Social Insurance

Public Assistance
904 KAR 2:140 & E. Supplementary policies for programs administered by the Department for Social Insurance.
904 KAR 2:170 & E. Incorporation by reference of materials relating to the Child Support Program.
Food Stamp Program
904 KAR 3:010 & E. Definitions.
904 KAR 3:090 & E.Incorporation by reference of materials relating to the Food Stamp Program.

Department for Social Services

Child Welfare
905 KAR 1:180 & E. DSS policy and procedure manual. (Repeals 905 KAR 7:020; 7:040; 7:050; 7:070; 7:080 7:110; 7:120; 7:130 7:140; 7:150; 7:160; 7:170; 7:180; 7:190; 7:200; 7:210; 7:220)(Amended After Hearing)

Department for Medicaid Services

Medicaid Services
907 KAR 1:036 & E. Amounts payable for skilled nursing and intermediate care facility services. (Amended After Hearing)
907 KAR 1:250. Incorporation by reference of materials relating to the Medical Assistance Program.

REGULATION REVIEW PROCEDURE

Filing and Publication

Administrative bodies shall file with the Regulations Compiler all proposed administrative regulations, including public hearing information (described below), the tiering statement required by KRS 13A.210, the regulatory impact analysis as required by KRS 13A.240, the fiscal note required by KRS 13A.250, and the federal mandate comparison required by KRS 13A.245.

All proposed administrative regulations received by the deadline required in KRS 13A.050, as well as the information required above, shall be published in the Administrative Register.

Following publication in the Administrative Register, all proposed administrative regulations shall be referred by the Legislative Research Commission to the appropriate committee or subcommittee for review.

Public Hearing

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

Any person interested in attending the scheduled hearing must submit written notification of such to the administrative body at least five (5) days before the scheduled hearing. If no written notice is received at least five (5) days before the hearing, the administrative body may cancel the hearing.

If the hearing is cancelled, the administrative body shall notify the Compiler immediately by telephone of the cancellation with a follow-up letter and the Compiler will place the letter of cancellation in the file of the original administrative regulation. If the hearing is held, the administrative body shall submit within fifteen (15) days following the hearing a statement of consideration summarizing the comments received at the hearing and the administrative body's responses to the comments.

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

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

Review Procedure

If a proposed administrative regulation is amended as a result of the public hearing, the amended version shall be published in the next Administrative Register; and following publication shall be sent to the appropriate committee for review at its next meeting. If a proposed administrative regulation is not amended as a result of the hearing or if the hearing is cancelled, the regulation shall be sent to the appropriate committee for review at its next meeting. The administrative regulation shall be considered as adopted and in effect as of adjournment on the day the subcommittee meets.

EMERGENCY REGULATIONS NOW IN EFFECT

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

STATEMENT OF EMERGENCY

Senate Bill No. 130, 1986 Acts Chapter 137, passed by the 1986 Kentucky General Assembly and now codified at KRS 350.700 through .755, established an alternative, voluntary bonding program for surface coal mining and reclamation operations known as a "bond pool." The legislation contains certain provisions related to membership in the bond pool which take effect within sixty days after the effective date of the legislation, and other provisions which take effect on September 1, 1986. The legislation further directs the Natural Resources and Environmental Protection Cabinet to promulgate certain administrative requirements necessary to implement the legislation. The attached emergency regulation, 405 KAR 10:200E, contains the requirements necessary to fully implement the legislation. An ordinary administrative regulation cannot suffice because the legislation must be implemented well prior to the time when the promulgation of ordinary administrative regulations could be completed. This emergency regulation will be replaced by an ordinary administrative regulation in accordance

with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor
CHARLOTTE E. BALDWIN, Secretary

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Surface Mining Reclamation and Enforcement

405 KAR 10:200E. Kentucky bond pool.

RELATES TO: KRS Chapter 304, 350.020, 350.028, 350.060, 350.062, 350.064, 350.068, 350.085, 350.093, 350.095, 350.100, 350.110, 350.113, 350.130, 350.135, 350.151, 350.260, 350.465, 350.700, 350.705, 350.710, 350.715, 350.720, 350.725, 350.730, 350.735, 350.740, 350.745, 350.750, 350.755, 350.990

PURSUANT TO: KRS Chapter 13A, 350.020, 350.028, 350.060, 350.062, 350.064, 350.093, 350.130, 350.151, 350.465, 350.710, 350.715, 350.720, 350.725, 350.730, 350.735, 350.740, 350.750

EFFECTIVE: September 3, 1986

NECESSITY AND FUNCTION: KRS Chapter 350 in pertinent part requires the cabinet to regulate surface coal mining and reclamation operations, including requiring bond sufficient to insure satisfactory reclamation. KRS Chapter 350 further authorizes the cabinet to establish alternative methods of meeting bonding requirements. This regulation implements an alternative bonding program known as a bond pool. This regulation establishes requirements for applications for membership in the bond pool; procedures for submittal of, review of, and decisions on such applications, including determinations of financial standing and reclamation compliance records of applicants; procedures for acceptance of specific permit areas into coverage by the bond pool; and procedures for keeping of production records, reporting of production, and payment of fees based on coal production.

Section 1. Applicability. This regulation applies only to the voluntary alternative bonding program known as the Kentucky Bond Pool, as established in Senate Bill No. 130, 1986 Acts Chapter 137, codified at KRS 350.700 through .755; and to permanent program permits, or parts of such permits, covered under that pool.

Section 2. Definitions. (1) "Administrator" or "bond pool administrator" means the cabinet employee named by the secretary to assist the commission and to perform certain administrative functions in connection with the bond pool, as required by KRS 350.715.

(2) "Applicant," for purposes of this regulation, means a person or entity which has submitted an application form to the commission seeking membership in the bond pool.

(3) "Bond pool" or "Kentucky Bond Pool" means the voluntary alternative bonding program as established at KRS 350.700 through .755.

(4) "Commission" or "bond pool commission" means the seven (7) member body established at KRS 350.705.

(5) "Member" means a person or entity which the bond pool commission has determined meets the minimum requirements of KRS 350.720 and this regulation for inclusion in the bond pool and upon whom the commission has formally conferred membership. Permanent program permits, or portions thereof, may be covered by the bond pool only if the permittee is a member of the bond pool.

(6) "Month of operation," for the purposes of Section 7 of this regulation, means a calendar month in which a duty exists to reclaim a disturbed area for which a permit was issued under KRS Chapter 350. It is not necessary that coal extraction occur during the month.

Section 3. Review of Decisions. There shall be no administrative appeal under 405 KAR 7:090 from a decision of the commission. However, the applicant or member may within sixty (60) days after notice of the decision, request the commission to reconsider its decision. The commission may, at its discretion, grant or deny the request for reconsideration.

Section 4. Applications for Membership. (1) Any person desiring membership in the bond pool shall submit an application for membership to the commission at the address established by the administrator.

(2) The application shall be submitted on forms provided by the commission and shall be of such form, content, and number of originals and copies as the commission may require. The application shall be typed or printed, and shall be legible throughout.

(3) The application shall include an application fee of $100, by certified check, cashier's check, or money order made payable to "Kentucky State Treasurer." The fee shall not be refunded in any circumstances, but shall be applied toward the membership fee if the applicant is accepted for membership.

(4) The application shall be complete in all respects.

Section 5. Review of Applications. (1) As soon as practicable after the administrator receives the application, he shall determine whether the application is complete or incomplete.

(a) If the application is incomplete, the administrator shall so notify the applicant and shall identify the additional information which is needed to make the application complete. The applicant may submit the corrected application, in whole or in part, and no additional application fee shall be required.

(b) If the application is complete, the administrator shall so notify the applicant in writing. The administrator shall evaluate the complete application and any other relevant information available to the administrator, and shall submit the evaluation to the commission. The application, the administrator's evaluation, and any other relevant information available to the commission, shall form the factual basis for the commission's decision on the application.

(2) The commission shall act upon the application as soon as practicable.

(a) If the commission approves the application, the administrator shall provide written notice to the applicant. The notice shall specify the rating which the applicant will receive upon membership, and shall state the membership fee required. The applicant shall submit the required membership fee. As soon as practicable after receipt of the membership fee, the administrator shall provide the applicant

with an official certificate of membership which shall confer actual membership as of the date of the certificate. The certificate shall state the rating assigned to the member and also shall assign the member a unique membership number. The certificate shall be signed by the chairman of the commission and by the administrator.

(b) If the commission denies the application, the administrator shall provide written notice to the applicant, setting forth the reasons for denial. The notice of denial shall be signed by the chairman of the commission.

Section 6. Determination of Financial Standing. (1) Financial statements required to be submitted as attachments to the application shall be kept confidential to the commission, the administrator, and cabinet personnel authorized by the administrator.

(2) The financial standing of the applicant for membership shall be determined based upon the financial information required in the application and other information available to the commission and cabinet. The commission may consider, but shall not be limited to, the following financial ratios and related financial information:

(a) The ratio of current assets to current liabilities;

(b) The ratio of net income to net sales;

(c) The ratio of total liabilities to stockholders' equity;

(d) The ratio of net income to owners' equity;

(e) The ratio of owners' equity to total assets; and

(f) The ratio of the sum of cash, marketable securities, and net receivables, to current liabilities.

Section 7. Determination of Reclamation Compliance Record. (1) Excellent compliance record. The applicant shall be deemed to have an excellent compliance record if the applicant, each person who owns or controls the applicant, each person who is owned or controlled by the applicant, and each person who is under common ownership or control with the applicant, meet all the criteria in this subsection.

(a) Has never forfeited a bond under KRS Chapter 350;

(b) Has never avoided forfeiture of a bond under KRS Chapter 350 because a surety performed reclamation work in order to avoid forfeiture;

(c) Has never been determined to have demonstrated a pattern of willful violations pursuant to KRS 350.028(4), 350.130(3), or 350.465(3)(f);

(d) Has not been issued a failure-to-abate cessation order pursuant to 405 KAR 12:020, Section 3(1)(a) in the most recent thirty-six (36) months of operation;

(e) Has not been issued more than one (1) cessation order under 405 KAR 12:020, Section 3(1)(b) in the most recent thirty-six (36) months of operation;

(f) Has not committed a violation of contemporaneous reclamation requirements under 405 KAR 16:020 or 405 KAR 18:020 in the most recent thirty-six (36) months of operation;

(g) Has not committed more than three (3) violations of KRS Chapter 350 or 405 KAR Chapters 7-24 on any one (1) permit in any twelve (12) month period of the most recent thirty-six (36) months of operation, excluding the twelve (12) month period on one (1) permit during which the largest number of such violations occurred; or

(h) Has not had civil penalities under KRS 350.990, 405 KAR 7:090 or 405 KAR 7:095 remaining unpaid more than thirty (30) days after they were due and payable, within the most recent thirty-six (36) months of operation.

(i) To the extent such information is available, the commission may take into account the applicant's performance in other states and on federal lands and Indian lands under criteria similar or equivalent to paragraphs (a) - (h) of this subsection.

(2) Acceptable compliance record. The applicant shall be deemed to have an acceptable compliance record if the applicant, each person who owns or controls the applicant, each person who is owned or controlled by the applicant, and each person who is under common ownership or control with the applicant, meet all the criteria in this subsection:

(a) Has never forfeited a bond under KRS Chapter 350;

(b) Has never avoided forfeiture of a bond under KRS Chapter 350 because a surety performed reclamation work to avoid forfeiture;

(c) Has never been determined to have demonstrated a pattern of willful violations pursuant to KRS 350.028(4), 350.130(3), or 350.465(3)(f);

(d) Has not been issued a failure-to-abate cessation order pursuant to 405 KAR 12:020, Section 3(1)(a) in the most recent thirty-six (36) months of operation;

(e) Has not been issued a cessation order under 405 KAR 12:020, Section 3(1)(b) in the most recent thirty-six (36) months of operation;

(f) Has not committed more than one (1) violation of contemporaneous reclamation requirements under 405 KAR 16:020 or 405 KAR 18:020 in the most recent thirty-six (36) months of operation;

(g) Has not committed more than eight (8) violations of KRS Chapter 350 or 405 KAR Chapters 7-24 on any one (1) permit in any twelve (12) month period of the most recent thirty-six (36) months of operation, excluding the twelve (12) month period on one (1) permit during which the largest number of such violations occurred; or

(h) Has not had civil penalities under KRS 350.990, 405 KAR 7:090 or 405 KAR 7:095 remaining unpaid more than ninety (90) days after they were due and payable, within the most recent thirty-six (36) months of operation.

(i) To the extent such information is available, the commission may take into account the applicant's performance in other states and on federal lands and Indian lands under criteria similar or equivalent to paragraphs (a) - (h) of this subsection.

Section 8. Acceptance of Permit Areas Into Bond Pool. (1) The commission shall specifically set forth those permits, increments, or portions thereof, which have been accepted for coverage under the bond pool. Coverage shall not be effective unless so identified by the commission.

(2) Eligible portions of all permits issued to the member after the date of membership shall be covered by the bond pool.

(3) For existing permits or increments which have been disturbed at the time membership is

granted, the bond pool shall cover all eligible undisturbed portions of such permits provided that:

(a) The disturbed areas and undisturbed areas on the permit area or increment, and the acreages thereof, and the current date, shall be clearly marked by the applicant on a map or maps as required by the cabinet and shall be submitted to the cabinet. The map or maps shall be certified as required by the cabinet. Upon verification of the map information by the cabinet, the bond pool shall cover the eligible undisturbed portions of such permits or increments beginning on the date of verification.

(b) A permit area or increment shall not be accepted for coverage if all coal removal has been completed on the permit area or increment.

Section 9. Production Records, Reporting, and Payment of Fees. (1)(a) Authorized representatives of the commission and administrator shall have access to all permit areas of the applicant for purposes of determining compliance with the requirements of this section.

(b) Each member shall make any book or record necessary to substantiate the accuracy of reports and payments available at reasonable times for inspection and copying by authorized representatives of the commission and administrator. All information copied shall be kept confidential to the administrator and commission and their authorized representatives.

(c) Each member shall retain books and records for a period of six (6) years from the end of the calendar month in which a report was due.

(d) Authorized representatives of the administrator and commission shall have authority to examine records of second parties involved in the sale or transfer of the ownership of coal by the member, and shall have authority to examine the records of any party selling or transferring coal to the member.

(2) Each member shall maintain current books and records that contain at least the following information separately for each permit covered by the bond pool:

(a) Tons of coal sold or transferred, name of party to whom sold or transferred, and the date of each sale or transfer.

(b) Tons of coal used by the member and date of use.

(c) Tons of coal stockpiled or inventoried, but not classified as sold, transferred, or used, for fee computation purposes.

(3) Coal subject to fees.

(a) Each member shall pay the tonnage fees required by KRS 350.725 through 350.730 on each ton of coal extracted. Fees shall be paid for all coal extracted on all eligible permits issued to the member after the date of membership. For permits held at the time of initial membership, coal extracted after the date of verification under Section 8(3)(a) shall be subject to fees.

(b) Stockpiled coal shall not be subject to tonnage fees until sold, transferred, or used by the member.

(4) Determination of fees. Fees shall be determined by the weight of coal at the time of initial bona fide sale, transfer of ownership, or use by the member.

(a) The initial bona fide sale, transfer of ownership, or use by the member, shall be the first transaction or use of the coal after it is extracted.

(b) The weight of the coal shall be the actual gross weight of the coal. Impurities, including water, that have not been removed prior to the time of initial bona fide sale, transfer of ownership, or use by the member, shall not be deducted from the gross weight. Members selling coal on a clean coal basis shall retain records that show run-of-mine tonnage, and the basis for the clean coal transaction. Insufficient records shall subject the member to fees based on run-of-mine tonnage.

(c) If the member combines surface mined coal and underground mined coal before the coal is weighed for fee purposes, the rate for surface mined coal shall apply unless the member can substantiate the tonnage produced by surface and underground mining by acceptable engineering calculations or other procedures which the cabinet may require.

(5) Reporting of tonnage and payment of fees.

(a) On forms provided by the cabinet each member shall report, for each permit covered by the bond pool, all coal tonnage extracted, stockpiled, sold, transferred, or used, during the reporting period. Payment of fees shall accompany the report.

(b) The reporting and payment period shall be monthly. The report shall be submitted, and fees shall be paid, not later than the 20th day of the month which follows the reporting period. The report shall be submitted even if the member has zero production during the reporting period.

(c) Late report or payment. If a member fails to submit a report or payment on or before the due date, five (5) percent of the original fee due shall be added to the fee for each month or fraction thereof elapsing between the due date and the date on which the report or payment is submitted. In no case shall the penalty be less than ten (10) dollars.

(6) As soon as practicable after each report is received, the administrator shall examine it and shall notify the member of any underpayment or overpayment.

(a) If the amount of required fee as computed by the administrator is greater than the amount submitted by the member, the administrator shall notify the member, within thirty (30) days from the date the payment was received, of the additional amount to be paid; except that in the case of a failure to submit a report or of a fraudulent report, the examination and notification may occur at any time. Additional fee payments under this paragraph shall include a penalty of five (5) percent of the amount of the deficiency for each month or fraction thereof elapsing between the original due date and the date on which the payment is submitted.

(b) If the amount of required fee as computed by the administrator is less than the amount submitted by the member, the administrator shall notify the member, within thirty (30) days from the date the payment was received, of the amount of the overpayment. The member may receive credit for the overpayment against the next monthly payment or any subsequent payment.

CHARLOTTE E. BALDWIN, Secretary
APPROVED BY AGENCY: September 2, 1986
FILED WITH LRC: September 3, 1986 at 4 p.m.

STATEMENT OF EMERGENCY

In order to continue to operate the Frankfort Career Development Center in accordance with KRS Chapter 196, the Corrections Cabinet needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because the effected institutional policy must be revised immediately to allow for the institution to have required policy in effect for an upcoming National Accreditation Audit. This emergency regulation will be replaced by the ordinary administrative regulation filed with LRC on September 9, 1986 in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINs, Governor
GEORGE W. WILSON, Secretary

CORRECTIONS CABINET

501 KAR 6:090E. Frankfort Career Development Center.

RELATES TO: KRS Chapters 196, 197, 439
PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640
EFFECTIVE: September 10, 1986
NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on September 9, 1986 [August 13, 1986] and hereinafter should be referred to as Frankfort Career Development Center Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

FCDC 01-04-01	Confidentiality of Information Roles and Services of Consultant, Contract Personnel, Governmental Services Supervisors and Volunteers (Added 9/9/86)
FCDC 02-10-01	Fiscal Management and Control (Amended 9/9/86)
FCDC 02-11-01	Fiscal Management: Accounting Procedures
FCDC 02-12-01	Fiscal Management: Checking Accounts [Agency Funds] (Amended 9/9/86)
FCDC 02-13-01	Purchasing and Receiving (Amended 9/9/86)
FCDC 03-01-02	Security Manual Part 1: Staff Guidelines
FCDC 03-10-01	Dress Code
FCDC 03-15-01	Travel Expense Reimbursement
FCDC 03-16-01	Employee Grievance Procedure
FCDC 03-21-01	Time and Attendance
FCDC 06-02-01	Inmate Records (Added 9/9/86)
FCDC 11-01-01	Special Diets (Amended 9/9/86) [(Added 8/13/86)]
FCDC 11-03-01	Food Services
FCDC 12-03-01	Laundry, Clothing, Hygiene and Grooming Services (Added 9/9/86)
FCDC 13-01-01	Use of Pharmaceutical Products [(Amended 8/13/86)]
FCDC 13-01-02	Medical Emergencies (Added 9/9/86)
FCDC 13-01-03	Informed Consent [(Added 8/13/86)]
FCDC 13-02-01	Inmate Medical Screenings and Health Evaluations [(Added 8/13/86)]
FCDC 13-03-01	Psychiatric and Psychological Services (Added 9/9/86)
FCDC 13-03-02	Parental Administration of Medications and Use of Psychotropic Drugs [(Added 8/13/86)]
FCDC 13-04-01	Intra-System Transfers of Medical/Psychiatric Problems [(Added 8/13/86)]
FCDC 13-06-01	Chronic and Convalescent Care [(Added 8/13/86)]
FCDC 13-10-01	Treatment Protocol Regarding First-Aid Procedures, Routine Health Care
FCDC 13-11-01	Health Education: Provision of Special Health Care Needs [(Amended 8/13/86)]
[FCDC 13-12-01	Physician's Clinic (Deleted 9/9/86)]
FCDC 13-13-01	Physicians Referrals (Added 9/9/86)
[FCDC 13-13-01	Physician Referrals, Emergency Room Visits, and Hospitalization (Deleted 9/9/86)]
FCDC 13-14-01	Health Records (Amended 9/9/86)
FCDC 13-15-01	Routine and Emergency Dental Appointments (Amended 9/9/86)
FCDC 13-16-01	Routine and Emergency Eye Examinations
FCDC 13-17-01	Health Requirements of Food Service Workers
FCDC 14-01-01	Prohibiting Inmate Authority Over Other Inmates [(Added 8/13/86)]
FCDC 14-02-01	Inmate Grievance System (Added 9/9/86)
FCDC 14-03-01	Inmates Are Not Subject to Discrimination Based on Race, Religion, National Origin, Sex, Handicap or Political Beliefs and Are Protected Against Corporal Punishment (Added 9/9/86)
FCDC 14-04-01	Legal Services Program [(Amended 8/13/86)]
FCDC 15-01-01	Good Time - Credits (Meritorious, Governor's and Statutory) [(Added 8/13/86)]
FCDC 15-03-01	Conduct of Adjustment Committee Hearings (Chairperson) (Added 9/9/86)
FCDC 16-01-01	Inmate Visiting (Amended 9/9/86)
FCDC 16-02-01	Mail Policy [(Amended 8/13/86)]
FCDC 16-03-01	Inmate Access to Telephones (Added 9/9/86)
FCDC 17-01-01	Inmate Property Control
FCDC 17-02-01	Inmate Reception, Orientation, and Discharge (Added 9/9/86)
FCDC 18-01-01	Inmate Classification (Added 9/9/86)
FCDC 18-02-01	Reclassification Document (Added 9/9/86)
FCDC 18-03-01	Instructions for Six Month Review (Added 9/9/86)
[FCDC 18-04-01	Institutional Classification/ Reclassification Committee (Deleted 9/9/86]
FCDC 19-01-01	Security and Operation of the Governmental Services Program (Added 9/9/86)

FCDC 19-02-01	Inmate Work Program (Added 9/9/86)
FCDC 22-01-01	Privilege Trips
FCDC 22-01-02	Activity Trips
FCDC 22-02-01	Recreation and Inmate Activities (Added 9/9/86)
FCDC 23-01-01	Religious Activities (Added 9/9/86)
FCDC 24-01-01	Social Service Program (Added 9/9/86)
FCDC 24-02-01	Substance Abuse Programs (Added 9/9/86)
FCDC 25-01-01	Escorted Leaves (Added 9/9/86)
FCDC 25-02-01	Temporary Release/Community Center Program (Added 9/9/86)
FCDC 25-03-01	Release Preparation Program

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 10, 1986
FILED WITH LRC: September 10, 1986 at 2 p.m.

STATEMENT OF EMERGENCY

House Bill 6 passed by the 1985 Extraordinary Session of the General Assembly mandates that the State Board of Education establish a Management Assistance Program for local school districts in need of such. An advisory committee and the Finance Committee of the State Board have had extensive meetings to propose, review, revise and make final recommendations on selection criteria, which are now ready to be adopted. An emergency needs to be declared in order to implement the program during the coming school year. This emergency regulation will be replaced by an ordinary administrative regulation.

MARTHA LAYNE COLLINS, Governor
ALICE McDONALD, Superintendent

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Local Services

702 KAR 3:200E. Management Assistance Program.

RELATES TO: KRS 158.780, 158.785
PURSUANT TO: KRS 156.070, 158.780
EFFECTIVE: September 8, 1986
NECESSITY AND FUNCTION: KRS 158.780 and 158.785 require the Superintendent of Public Instruction to identify to the State Board of Education each year a minimum of five (5) districts with critical management deficiencies and in need of the resources of a management assistance team. This regulation prescribes the selection criteria for such a program and sets forth the effect of refusal to participate by a selected district.

Section 1. Districts participating in the Management Assistance Program mandated by KRS 158.780 and 158.785 shall be selected based upon the following criteria:
(1) Performance criteria:
(a) Holding power (9-12);
(b) Percent attendance;
(c) Dropout rate;
(d) Retention rate;
(e) Test scores (Normal Curve Equivalent Grade 3);
(f) Test scores (Normal Curve Equivalent Grade 5);
(g) Test scores (Normal Curve Equivalent Grade 7);
(h) Test scores (Normal Curve Equivalent Grade 10); and
(i) Test scores (Normal Curve Equivalent Total).
(2) Resource commitment criteria:
(a) Cost/Pupil - current expenses (obtained from local districts on the annual financial reports collected by the Division of School Management and Audit and the Superintendent's annual statistical reports collected by the Division of Pupil Attendance. The total current expenses are to be divided by the ADA to arrive at the figure. Current expenses include administration, instruction, attendance services, health services, pupil transportation, plant operation and maintenance, and fixed charges);
(b) Average teacher salary (average of all classroom teachers in a district, excluding salaries of administrators, principals, supervisors, and like personnel);
(c) Cost/Pupil - instruction (such instruction costs are calculated by dividing the total spent for instruction by the average daily attendance);
(d) Pupil/Teacher ratio (calculated by dividing the enrollment obtained from the Superintendent's Annual Statistical Report by the total number of clasroom teachers as reported on the federal and state salary schedules);
(e) Percent local revenue (percent of total revenue from local sources as indicated on the annual financial reports);
(f) Percent state revenue (the total posted in account codes 41-45 and below the line receipts 94.12 and 94.22 of the Annual Financial Report);
(g) Percent supplement for salary (teachers' salaries in excess of Foundation Program funding, with data necessary for this calculation to be obtained from a publication of the Department of Education, "Foundation Program Expenditures by Category," and from the salary schedules which include only state funds); and
(h) Cost/Pupil - instructional materials (cost for educational materials is found by adding the account items dealing with library books, periodicals and newspapers, library supplies, audio-visual materials, tests, supplementary books, and teaching supplies which include codes 251-258; 261-266.03; and 268 on the Annual Financial Report. This total is divided by the number of students in average daily attendance).

Section 2. Any district identified and selected by the state board which refuses management assistance and which has identified deficiencies and required Master Educational Improvement Plan/sub-plans according to 704 KAR 3:005 shall not have such Master Educational Improvement Plan approved and shall be assessed under the provisions of 704 KAR 3:005.

Section 3. Subsequent to selection, the Superintendent of Public Instruction shall provide the state board, for its approval. Agreements to accept management assistance, signed by respective districts. A plan of action shall be developed and become a part of the agreement. The plan of action shall specify the needs of the district, the personnel involved and the time frame for accomplishment, including an agreement on a procedure for developing the

required work program.

Section 4. A mid-year progress report shall be submitted to the State Board of Eduction on each district participating in the Management Assistance Program. This progress report shall be submitted to the state board at it's first regular meeting of the calendar year. A final evaluation shall be submitted to the State Board of Education following the completion of the project which shall include an analysis of the effectiveness of the management assistance program in each district. Each team manager shall submit such an evaluation on the district to which he/she was assigned.

ALICE MCDONALD, Superintendent
APPROVED BY AGENCY: August 27, 1986
FILED WITH LRC: September 8, 1986 at 11 a.m.

STATEMENT OF EMERGENCY

KRS 156.070 allows the State Board of Education to designate an agent to manage interscholastic athletics in the common schools, and the Kentucky High School Athletic Association has previously been designated as said agent for high school athletics. This emergency regulation, 702 KAR 7:065E, is necessary to adopt and approve the newly-received rules and regulations of KHSAA for the current school year. This emergency regulation will be replaced by an ordinary administrative regulation.

MARTHA LAYNE COLLINS, Governor
ALICE McDONALD, Superintendent

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Local Services

702 KAR 7:065E. Designation of agent to manage high school interscholastic athletics.

RELATES TO: KRS 156.070
PURSUANT TO: KRS 156.070
EFFECTIVE: September 8, 1986
NECESSITY AND FUNCTION: KRS 156.070 gives the State Board of Education the management and control of the common schools, including interscholastic athletics therein, and allows the state board to designate an agency to manage athletics pursuant to rules approved by the state board. This regulation designates such an agent for high school athletics and adopts the constitution, bylaws, and rules of said agent.

Section 1. The Kentucky High School Athletic Association (KHSAA) is hereby designated as the State Board of Education's agent to manage interscholastic athletics at the high school level in the common schools, including any private schools desiring to associate therewith and to compete with said common schools.

Section 2. The constitution, bylaws, and tournament rules of the KHSAA, 1986-87 are hereby approved, adopted, and incorporated herein by reference. A copy of said rules may be obtained from the Office of Local Services, Department of Education, Frankfort, Kentucky 40601.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: August 27, 1986
FILED WITH LRC: September 8, 1986 at 11 a.m.

STATEMENT OF EMERGENCY

KRS 156.070 allows the State Board of Education to designate an agent to manage interscholastic athletics in the common schools, and the Kentucky High School Athletic Association has previously been designated as said agent for high school athletics. This emergency regulation, 702 KAR 7:070E, is necessary to adopt and approve the newly-received rules and regulations of KHSAA for the current school year. This emergency regulation will be replaced by an ordinary administrative regulation.

MARTHA LAYNE COLLINS, Governor
ALICE McDONALD, Superintendent

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Local Services

702 KAR 7:070E. Interscholastic athletic eligibility and requirements; redshirting prohibited.

RELATES TO: KRS 156.070
PURSUANT TO: KRS 156.070
EFFECTIVE: September 8, 1986
NECESSITY AND FUNCTION: KRS 156.070 gives the State Board of Education the management and control of interscholastic athletics in the common schools, and the authority to designate an organization or agency to manage such athletics. This regulation is needed to establish with the public common schools a uniform system of eligibility to participate in interscholastic athletics and to designate an organization to manage interscholastic athletics in the secondary schools.

Section 1. Eligibility to Participate in Elementary School Athletics. (1) No pupil in the public common schools repeating the sixth grade during the 1985-86 school year, or enrolled in grades seven (7) through eight (8) during said year or thereafter and not subject to subsection (2) of this section, shall be eligible to participate in interscholastic athletics the second, or any subsequent, year the pupil is enrolled in the same grade, and no public common school shall participate in an athletic contest with another school that does not adhere to this policy.

(2) Any pupil enrolling in the sixth grade of a public common school, and not repeating said grade, during the 1985-86 school year, and any subsequent sixth grade enrollee, shall have three (3) school years from the time of initial sixth grade enrollment to complete his or her eligibility in elementary school interscholastic athletics. No public common school shall participate in an athletic contest with another school that does not adhere to this policy.

Section 2. Eligibility to Participate in Secondary School Athletics. (1) The eligibility

of students to participate in interscholastic athletics at the secondary level shall be governed by the current Constitution, bylaws and tournament rules of the Kentucky High School Athletic Association (KHSAA)[, 1985-86, a copy of which is presented herewith for filing with the Legislative Research Commission and incorporated by reference. A copy of said rules may be obtained from the Office of Instruction, Department of Education, Frankfort, Kentucky 40601].

(2)(a) Effective with the 1985-86 school year, pupils enrolling in the sixth grade of any school shall have seven (7) school years from the time of such enrollment to complete their eligibility in high school interscholastic athletics subject to the jurisdiction of KHSAA.

(b) No pupil enrolled in the seventh or eighth grade in 1985-86, or thereafter, and not subject to paragraph (a) of this subsection, shall be eligible for more than a total of one (1) year in each grade.

(c) No student who initially enrolled in the ninth grade during or prior to the 1985-86 school year or who is not otherwise subject to paragraph (a) of this subsection, and who has been enrolled in grades 9-12 eight (8) semesters, shall thereafter be eligible.

(d) The KHSAA shall adopt the provisions of this subsection as a part of its by-laws and shall fully implement and enforce said eligibility requirements for all high school athletics subject to its jurisdiction.

Section 3. Any public elementary or secondary school or school employee or official who knowingly allows participation of an ineligible player hereunder, or who, through reasonable diligence, should have known of such ineligibility, shall be considered in noncompliance with state accreditation standards or guilty of willful neglect of duty or breach of contract. Such shall apply not only to coaches but also to personnel supervising coaches; such as but not limited to an athletic director, an assistant principal, a principal, an assistant superintendent, a superintendent, or a school board member.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: August 27, 1986
FILED WITH LRC: September 8, 1986 at 11 a.m.

STATEMENT OF EMERGENCY

KRS 156.070 allows the State Board of Education to designate an agent to manage interscholastic athletics in the common schools, and the Kentucky High School Athletic Association has previously been designated as said agent for high school athletics. This emergency regulation, 702 KAR 7:080E, is necessary to adopt and approve the newly-received rules and regulations of KHSAA for the current school year. This emergency regulation will be replaced by an ordinary administrative regulation.

MARTHA LAYNE COLLINS, Governor
ALICE McDONALD, Superintendent

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Local Services

702 KAR 7:080E. Recruiting of student athletes prohibited.

RELATES TO: KRS 156.070
PURSUANT TO: KRS 156.070
EFFECTIVE: September 8, 1986
NECESSITY AND FUNCTION: KRS 156.070 gives the State Board of Education the management and control of interscholastic athletics in the common schools and authority to designate an organization to manage such. This regulation is needed to eliminate the practice of recruiting student athletes.

Section 1. Pupils enrolled in a private or public school (both domestic and foreign) at any grade level shall not be recruited to a public common school in the Commonwealth of Kentucky for the purpose of participating in athletics, including recruitment under the guise of academics.

Section 2. (1) Recruiting is defined as the act by a school employee or official, or anyone on behalf of or for the benefit of a school, of influencing a student, either directly or indirectly through verbal, nonverbal or written communications, during working hours or after (including the summer months), to transfer from a private or public school (both domestic and foreign) to a public common school in the Commonwealth of Kentucky for the purpose of participating in athletics. Such also includes so influencing a student to remain at a school when a bona fide change of residence is proper. A school official utilizing an intermediary, such as but not limited to a peer, another school employee, a student, a parent or a citizen, for the purpose of recruiting a student athlete shall be in noncompliance.

(2) An athletic coach also shall not influence a student even if the student, his parents or any intermediary from another school makes the initial contact. In this situation, a coach should immediately refer the person(s) to the school principal.

(3) Influencing a student shall include, but shall not be limited to the promise or instilling the expectation of an athletic advantage, playing time, employment of the student or his or her parents or relatives, housing for the student or his parents, or any other material or athletic reward.

Section 3. (1) Any common school or common school employee or official, including paraprofessionals and volunteers, knowingly allowing the recruitment of a student for the purposes of participating in athletics hereunder, or who, through reasonable diligence, should have known of such recruitment, shall be in noncompliance with state accreditation standards or guilty of willful neglect of duty or breach of contract. Such shall apply not only to coaches but also to personnel supervising coaches, such as but not limited to an athletic director, an assistant principal, a principal, an assistant superintendent, a superintendent or a school board member.

(2) This regulation shall also apply to

students or their parents and can result in the student being declared ineligible for up to one (1) year and/or the athletic program of the offending school being suspended for an appropriate period of time, both to be decided and administered by the Kentucky High School Athletic Association (KHSAA) or the State Board of Education, as appropriate.

Section 4. The KHSAA [is hereby designated to manage interscholastic athletics in the secondary schools, and said organization and any other organization or agency designated in the future to manage interscholastic athletics,] shall adopt this regulation as a part of its by-laws and fully implement and enforce the applicable requirements hereof, relative to any and all its member schools, both public and private.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: August 27, 1986
FILED WITH LRC: September 8, 1986 at 11 a.m.

STATEMENT OF EMERGENCY

House Bill 6 adopted by the 1985 Extraordinary Session of the General Assembly contains provisions directing the State Board of Education to establish criteria for development of dropout prevention programs and for awarding state grants to certain local school districts. An emergency declaration is necessary in order that the program and grant funding criteria be officially in place for the 1986-87 school year. This emergency regulation will be replaced by an ordinary administrative regulation.

MARTHA LAYNE COLLINS, Governor
ALICE McDONALD, Superintendent

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction

704 KAR 7:070E. Guidelines for dropout prevention programs.

RELATES TO: KRS 158.148
PURSUANT TO: KRS 156.031(6), 156.035(2), 156.070(5), 158.148
EFFECTIVE: September 8, 1986
NECESSITY AND FUNCTION: KRS 158.148 directs the State Board of Education to establish criteria for the development of dropout prevention programs and criteria for awarding grants to school districts which have the highest dropout rate and/or numbers of dropouts in the state. The state board is also directed to prescribe dropout prevention services and to develop grant funding criteria based upon available appropriations. This regulation prescribes the criteria for operation and funding of dropout prevention programs and authorizes the Department of Education to enter into contracts with other agencies for the purpose of securing additional funds for dropout prevention programs.

Section 1. (1) Local boards of education may operate dropout prevention programs for students of high risk for dropping out. A student is considered of high risk for dropping out if he/she meets one (1) or more of the following criteria:

(a) A student who is currently achieving two (2) or more grade levels below his/her age group.

(b) A student who has demonstrated poor academic skills, i.e., who has failed two (2) or more subjects in two (2) of the past four (4) school years.

(c) A student who is consistently absent or tardy and who has been absent twenty-five (25) or more unexcused days in the last two (2) school years and has an overall grade point average below a C.

(d) A student who has been suspended (in-school alternative to home suspension or home suspension) two (2) or more times during the past school year and has an overall grade point average below a C.

(e) A student who becomes pregnant.

(f) A student whose family has a history of dropping out and/or, whose family does not support the student in the completion of school.

(g) A student who little or no participation in school co-curricular activities.

(h) A student who is two (2) or more grades behind in reading or math skills.

(i) A student who shows indication of being socially isolated.

(j) Upon approval of the Department of Education, other indicators supported by strong research may also be utilized to identify students of high risk for dropping out.

(2) Funds shall be made available to eligible Kentucky school districts through contractual agreements whereby school districts agree to provide special services designed to prevent students of high risk from dropping out. State appropriated funds shall be utilized first in providing grant awards for dropout prevention programs. These funds may be supplemented by other special funds which may be available to the Department of Education through contracts or grants intended for this purpose.

(a) Eligibility for grant awards shall be based on the following criteria:

1. Twenty (20) dropout prevention programs shall be funded in districts whose dropout rates are among the highest twenty-five (25) districts in the state and who report more than 100 student dropouts each year.

2. Twenty (20) dropout prevention programs shall be funded in districts having high dropout rates but fewer than 100 dropouts per year.

3. Additional dropout prevention programs shall be funded in districts with dropout rates above the state average dropout rate and/or who report more than 100 dropouts each year, if special grant funds are available.

4. Special contract or grant funds may also be used to fund the continuation of successful dropout prevention services in school districts demonstrating a reduction in their dropout rates and/or numbers.

(b) Available dropout prevention funds, unless otherwise restricted by legislation or contract, shall be allocated for the use of eligible districts on a pro rata share basis. A percentage will be determined for each eligible district by dividing the number of reported dropouts of each eligible district by the total number of dropouts for all eligible districts. The resulting percentage shall be used as a multiple with the total funds for distribution to determine the amount of funds to be made

available for each eligible district. The number of dropouts to be counted for each district shall be the total dropouts reported by the districts' annual report on file in the State Department of Education.

(c) The Department of Education shall notify school districts of their eligibility to receive funds for operation of dropout prevention programs based upon the rate and/or numbers of dropouts within each district during the most recent school year for which such data is available.

(d) School districts may apply for such funds by submitting applications which specify special services to be provided to students who are at high risk of dropping out. Procedures and forms for applications shall be developed by the Department of Education. Applications shall be approved by the Department of Education prior to the encumbrance or expenditure of such funds for a dropout prevention program.

(e) All districts receiving dropout prevention funds as provided for in this administrative regulation shall demonstrate a reduction in the number of youths dropping out as compared to the previous year in order to be eligible for continuation funding. In the 1986-87 school year, the percentage reduction shall be thirteen (13) percent. Appropriate percentage reductions will be determined by the Department of Education for succeeding years.

(3) School districts applying for such funds shall describe the special service(s) which will be provided to eligible students from the services listed below:

(a) Alternative curriculum provides academic alternatives for rebellious or disruptive students, who have negative feelings for school or staff. Alternative programs, classes or schools provide the students with a neutral territory in which they can develop a positive attitude and build academic successes.

(b) Counseling/advising services provide techniques to fulfill individual needs for a positive self-esteem and personal status through school activities which promote the development of a healthy identity.

(c) Parent involvement services provide teachers and counselors with needed information to make an accurate assessment of student needs. This approach can be implemented through extensive home visits, group conferences or using parents as tutors.

(d) Students-centered services provide a focus on the individual student. All efforts are focused on individual needs and differences. These differences are respected and individualized goals and objectives for cognition and effective growth are determined and priorities.

(e) Tutorial services provide the extra attention, encouragement and support needed by underachievers. Tutoring can be provided by students (peer tutoring) or specialized staff, at a small cost, to help students gain academic skills, social skills and social maturity.

(f) Work-related services provide opportunities for paid employment to students who face family economic pressure. This approach may utilize several components which include on-the-job experiences, work-related classes, career awareness/exploration activities or vocational courses. It is designed to help students enter the world of work.

Section 2. All school districts receiving dropout prevention funds shall submit an annual evaluation report. The annual evaluation report shall provide data for each student receiving dropout prevention services. The following data shall be required as a minimum: number of courses passed, number of courses failed, grade point average, NCE score of the Kentucky Essential Skills Test in reading and math, suspension data, and whether or not the student receiving services remained in school.

Section 3. The State Board of Education authorizes the Superintendent of Public Instruction to enter into contractual agreements with the Department of Employment Services and other agencies and organizations for the purpose of securing Job Training Partnership Act funds and other special grant and contract funds to be utilized to supplement state appropriations, under the criteria and standards of this regulation, in reducing the numbers of dropouts in the common schools of Kentucky.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: August 27, 1986
FILED WITH LRC: September 8, 1986 at 11 a.m.

STATEMENT OF EMERGENCY

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

MARTHA LAYNE COLLINS, Governor
E. AUSTIN, JR., Secretary

CABINET FOR HUMAN RESOURCES
Department for Health Services

902 KAR 4:050E. Kentucky family planning program.

RELATES TO: KRS 211.180, 214.185
PURSUANT TO: KRS 194.050(1), 211.090, 211.180
EFFECTIVE: August 15, 1986
NECESSITY AND FUNCTION: P.L. 91-572 [571], the "Family Planning Services and Population Research Act of 1970" and 42 CFR, Part 59, authorizes grants for family planning services. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the Kentucky Family Planning Program in accordance with applicable federal laws and regulations.

Section 1. State Plan for Family Planning Services. The Cabinet for Human Resources hereby

adopts the "Kentucky State Plan for Family Planning Services - Fiscal Year 1984-1985" and the "Kentucky State Plan for Family Planning Services - Fiscal Year 1985-1986 and the "Kentucky State Plan for Family Planning Services - Fiscal Year 1986-1987" by reference as the Kentucky Family Planning regulation covering all phases of program operation including but not limited to program eligibility for services and provision for fee collections in accordance with federal regulations and guidelines, consent requirements, medical standards, quality assurance, and other relevant components of the program. A copy of the State Plan for Family Planning Services - Fiscal Year 1984-1985 (three (3) volumes) and the State Plan for Family Planning Services - Fiscal Year 1985-1986 (one (1) volume) and the State Plan for Family Planning Services - Fiscal Year 1986-1987 (one (1) volume) have been filed with Region IV, Department of Health and Human Services, 101 Marietta Tower, Atlanta, GA 30323. A copy shall be on file and available for public inspection in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, KY 40621.

C. HERNANDEZ, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: August 12, 1986
FILED WITH LRC: August 15, 1986 at 2 p.m.

STATEMENT OF EMERGENCY

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

MARTHA LAYNE COLLINS, Governor
E. AUSTIN, JR., Secretary

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services

907 KAR 1:013E. Payments for acute care and mental hospital inpatient services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 194.050
EFFECTIVE: August 27, 1986
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the cabinet for acute care and mental hospital inpatient services.

Section 1. Acute Care Hospital and Mental Hospital (Including Psychiatric Facility) Inpatient Services. The state agency will pay for inpatient hospital services provided to eligible recipients of Medical Assistance through the use of rates that are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated hospitals to provide services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

Section 2. Establishment of Payment Rates. The policies, methods, and standards to be used by the cabinet in setting payment rates are specified in the cabinet's "Inpatient Hospital Reimbursement Manual" revised August 16 [April 1], 1986, which is incorporated herein by reference. For any reimbursement issue or area not specified in the manual, the cabinet will apply the Medicare standards and principles described in 20 CFR Sections 405.402 through 405.488 (excluding the Medicare inpatient routine nursing salary differential).

Section 3. Compliance with Federal Medicaid Requirements. The cabinet will comply with the requirements shown in 42 CFR 447.250 through 447.280.

Section 4. General Description of the Payment System. (1) Use of prospective rates. Each hospital will be paid using a prospective payment rate based on allowable Medicaid costs and Medicaid inpatient days. The prospective rate will be all inclusive in that both routine and ancillary cost will be reimbursed through the rate. For universal rate years prior to January 1, 1985 the prospective rate will not be subject to retroactive adjustment except to the extent that an audited cost report alters the basis for the prospective rate and/or the projected inflation index utilized in setting the individual rate is different from actual inflation as determined by the index being used. For universal rate years beginning on or after January 1, 1985, the prospective rate will not be subject to retroactive adjustment except to the extent that facilities with a rate based on unaudited data will have their rate appropriately revised for the rate year when the audited cost report is received from the fiscal intermediary. However, total prospective payments shall not exceed the total customary charges in the prospective year. Overpayments will be recouped by payment from the provider to the cabinet of the amount of the overpayment, or alternatively, by the withholding of the overpayment amount by the cabinet from future payments otherwise due the provider.

(2) Use of a uniform rate year. A uniform rate year will be set for all facilities, with the rate year established as January 1 through December 31 of each year. The first uniform rate year for mental hospitals shall be July 1, 1985 through June 30, 1986; however, effective January 1, 1986 the mental hospital rate year shall be re-established and shall be January 1 through December 31 of each year thereafter. Changes of rates throughout the rate year as a result of policy changes shall not change the rate year, although the facility rates may change. Hospitals are not required to change their fiscal years.

(3) Trending of cost reports. Allowable

Medicaid cost as shown in cost reports on file in the cabinet, both audited and unaudited, will be trended to the beginning of the rate year so as to update Medicaid costs. When trending, capital costs and return on equity capital are excluded. The trending factor to be used will be the Data Resources, Inc. rate of inflation for the period being trended.

(4) Indexing for inflation. After allowable costs have been trended to the beginning of the rate year, an indexing factor is applied so as to project inflationary cost in the uniform rate year. The forecasting index currently in use is prepared by Data Resources, Inc. This policy shall be effective August 3, 1985.

(5) Peer grouping. Acute care hospitals will be peer grouped according to bed size. The peer groupings for the payment system will be: 0-50 beds, 51-100 beds, 101-200 beds, 201-400 beds, and 401 beds and up (except that the designated state teaching hospitals affiliated with or a part of the University of Kentucky and the University of Louisville shall not be included in the array for facilities with 401 beds and up unless such facility's primary characteristics are considered essentially the same as the peer group's, and the facility, although not a university teaching hospital as such, is treated in the same manner with regard to the upper limit to recognize the presence of the major pediatric teaching component existing outside the state university hospitals). No facility in the 201-400 peer group shall have its operational per diem reduced below that amount in effect in the 1982 rate year as a result of the establishment of a peer grouping of 401 beds and up. Mental hospitals will not be peer grouped but will have a separate array of mental hospitals only.

(6) Use of a minimum occupancy factor. A minimum occupancy factor will be applied to operating and capital costs attributable to the Medicaid program. A sixty (60) percent occupancy factor will apply to hospitals with 100 or fewer beds. A seventy-five (75) percent occupancy factor will apply to facilities with 101 or more beds. Operating costs are all costs except professional (physician) and capital costs. Capital costs are interest and depreciation related to plant and equipment. The minimum occupancy factor is not applicable with regard to operating costs of mental hospitals. Effective January 1, 1986, the operating cost occupancy factor shall be applied in such a manner as not to reduce otherwise allowable payments for operating costs below eighty (80) percent of the appropriate peer group upper limit.

(7) Use of a reduced depreciation allowance. The allowable amount for depreciation on building and fixtures (not including major movable equipment) shall be sixty-five (65) percent of the reported depreciation amount as shown in the hospital's cost reports. The use of a reduced depreciation allowance is not applicable with regard to mental hospitals.

(8) Use of upper limits. For acute care hospitals, an upper limit will be established on all costs (except Medicaid capital cost) at the weighted median per diem cost for hospitals in each peer group, using the most recent medicaid cost report available as of December 1 of each year. For mental hospitals, an upper limit will be established on all costs (except Medicaid capital cost) at the weighted median per diem cost for hospitals in the array. Upon being set, the arrays and upper limits will not be altered due to revisions or corrections of data; however the arrays and/or upper limits may be changed as a result of changes of agency policy. The upper limit is established at 120 percent for those acute care hospitals serving a disproportionate number of poor patients (defined as twenty (20) percent or more Medicaid clients as compared to the total number of clients served) and the upper limit is established at 105 percent for those mental hospitals serving a disproportionate number of poor patients (defined as thirty-five (35) percent or more Medicaid clients as compared to the total number of clients served). For the designated state teaching hospitals affiliated with or a part of the University of Kentucky and the University of Louisville, and major pediatric teaching hospitals affiliated thereto, their upper limit shall recognize their status as teaching hospitals traditionally serving a disproportionate number of poor patients, and shall be set at 126 percent of the median of the array for all other hospitals of comparable size (401 beds and up).

(9) Operating costs shall not include professional (physician) costs for purposes of establishing the median based upper limits. Professional costs shall be trended separately.

(10) Hospitals whose general characteristics are not those of an acute care or mental hospital (i.e., because they are primarily rehabilitative in nature) are not subject to the operating cost upper limits.

(11) Rate appeals. As specified in the Inpatient Hospital Reimbursement Manual, hospitals may request an adjustment to the prospective rate with the submittal of supporting documentation. The established appeal procedure allows a representative of the hospital group to participate as a member of the rate review panel.

Section 5. Payments to Participating Out-of-State Hospitals. Participating out-of-state hospitals, except those where the other state's Medicaid Program pays on the basis of diagnosis related groupings, shall be reimbursed for covered services rendered eligible Kentucky Medicaid recipients at the lower of the rate paid by the other state's Medicaid Program or the upper limit for Kentucky hospitals in a peer group for hospitals of comparable size (or total array, in the instance of mental hospitals), except that payments shall not exceed charges. For those participating out-of-state hospitals where the other state's Medicaid Program pays on the basis of diagnosis related groupings, reimbursement for covered services rendered eligible Kentucky Medicaid recipients shall be at the lower of eight (80) percent of the hospital's covered charges or the upper limit for Kentucky hospitals in a peer group for hospitals of comparable size. The operating cost upper limits shall be appropriately adjusted to include capital costs. The appropriate amount to include for capital costs shall be the average allowable per diem capital cost for the peer group (not adjusted for occupancy). Professional costs (i.e., physician fees) shall be paid on the basis of

the usual and customary charges of the provider.

R. HUGHES WALKER, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: August 19, 1986
FILED WITH LRC: August 27, 1986 at 10 a.m.

STATEMENT OF EMERGENCY

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

MARTHA LAYNE COLLINS, Governor
E. AUSTIN, JR., Secretary

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services

907 KAR 1:250E. Incorporation by reference of materials relating to the Medical Assistance Program.

RELATES TO: KRS [194.030(6),] 205.520
PURSUANT TO: KRS 194.050
EFFECTIVE: August 15, 1986
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the Medical Assistance Program and is applicable for both the categorically and medically needy.

Section 1. Incorporation by Reference. The cabinet shall incorporate by reference materials used in the implementation of the Medical Assistance Program[, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary policies for programs administered by the Department for Social Insurance]. In the event of a conflict between material incorporated by reference in this regulation and a specific regulation of the cabinet relating to a particular phase of the Medical Assistance Program the latter shall prevail.

Section 2. Listing of Incorporated Material. The following listed materials are hereby incorporated by reference, effective on the date shown:

(1) Federal Medicaid regulations at 42 CFR Parts 430-456, and interim final regulations at 42 CFR Parts 430-456, effective August [May] 1, 1986. The regulations contain federal supplementary policies, interpretations and implementing instructions for the Medical Assistance Program as authorized by Title XIX of the Social Security Act.

(2) Federal "State Medicaid Manual," effective August [May] 1, 1986. The "State Medicaid Manual" contains federal interpretations and clarifications of policy relating to implementation of the Medical Assistance Program.

(3) Federal action transmittals and program memoranda issued by the Health Care Financing Administration as follows: HCFA-AT-79-63, 79-72, 79-98, 80-9, 80-59, 81-23, 81-33, 81-35, 82-1, 82-2, 82-20, 83-1, 83-4, 83-7, 83-8, 83-11, 84-1, 84-2, 84-4, 84-5, 84-10, 84-16, 85-1, and HCFA PM-85-4, 85-10, [and] 85-13, 86-7, 86-8, 86-12 and 86-13 effective August 1, 1986 [October 1, 1985]. Action transmittals and program memoranda contain federal instructions relating to implementation of the Medical Assistance Program.

(4) Federal transmittal notices issued by the Health Care Financing Administration as follows: DQC-1-82, 10-82; DPO-76-81, 77-81, 78-81; MCD-46-81, 48-81, 55-81, 61-81, 62-81, 64-81, 67-81, 82-81, 86-81, 87-81, 89-81, 92-81, 1-82, 2-82, 6-82, 7-82, 10-82, 14-82, 16-82, 17-82, 18-82, 19-82, 25-82, 26-82, 28-82, 30-82, 33-82, 34-82, 35-82, 38-82, 41-82, 42-82, 50-82, 52-82, 2-83, 5-83, 9-83, 11-83, 12-83, 13-83, 14-83, 15-83, 19-83, 20-83, 26-83, 28-83, 29-83, 30-83, 35-83, 39-83, 40-83, 42-83, 1-84, 6-84, 7-84, 8-84, 9-84, 11-84, 13-84, 14-84, 15-84, 16-84, 18-84, 20-84, 23-84, 24-84, 25-84, 26-84, 27-84, 29-84, 34-84, 35-84, 36-84, 39-84, 48-84, 50-84, 51-84, 55-84, 2-85, 4-85, 5-85, 6-85, 8-85, 10-85, 11-85, 14-85, 18-85, 19-85, 21-85, 22-85, 23-85, 24-85, 25-85, 27-85, 28-85, 29-85, 30-85, 31-85, 32-85, 33-85, 34-85, 36-85, 37-85, 38-85, 39-85, 41-85, 42-85, 43-85, 44-85, 46-85, 47-85, 01-86, 03-86, 04-86, 05-86, 07-86, [and] 10-86, 11-86, 14-86, 16-86, 17-86, 18-86, 20-86, 21-86 (May 9, 1986), 21-86 (May 27, 1986), 24-86, 25-86, 26-86, 27-86 and 33-86, effective August [May] 1, 1986. Transmittal notices contain federal clarifications of policy relating to implementation of the Medical Assistance Program.

(5) Medicare and Medicaid Guide, Volumes I, II, III, and IV, as published by the Commerce Clearing House, Inc., with the following related new developments transfer binders: 1981-1, 1981-2, 1982, 1983-1, 1983-2, and 1984-1, effective August [May] 1, 1986. The Medicare and Medicaid Guide contains reprints of federal laws and regulations relating to the Medicare and Medicaid programs; reprints of Medicare/Medicaid related court decisions; Medicare principles of reimbursement; summaries of state plan characteristics; and other items of general information relating to the Medicare and Medicaid programs. Although the cabinet is bound by federal Medicaid law [and] regulations and notices in the implementation of the Medical Assistance Program, the Guide is used principally as supplementary material for reimbursement issues in situations where the cabinet's vendor reimbursement system uses the Medicare cost principles in unaddressed areas.

(6) State Medicaid Program policies and procedures manuals and letters issued by the cabinet, and which contain benefit descriptions and operating instructions used by agency staff and participating vendors in the provision of, and billing for, Medical Assistance benefits provided eligible program recipients, as follows:

(a) Home and Community Based Services Waiver Project Adult Day Health Care Services,

effective October 1, 1985;
(b) Alternative Intermediate Services/Mental Retardation Project, effective October 1, 1985;
(c) Birthing Center Services, effective May 1, 1986;
(d) Community Mental Health Benefits, effective July 1, 1985;
(e) Dental Benefits, effective August [May] 1, 1986;
(f) Early and Periodic Screening, Diagnosis and Treatment Benefits, effective August 1, 1986 [July 1, 1985];
(g) Family Planning Benefits, effective May 1, 1986;
(h) Hearing Services Benefits, effective October 1, 1985;
(i) Home and Community Based Services Waiver Project, effective October 1, 1985;
(j) Home Health Benefits, effective August [May] 1, 1986;
(k) Hospital Services Benefits, effective October 1, 1985;
(l) Independent Laboratory Services Benefits, effective May 1, 1986;
(m) Intermediate Care Facility Benefits, effective August [May] 1, 1986;
(n) Mental Hospital Services Benefits, effective May 1, 1986;
(o) Nurse Anesthetist Services, effective May 1, 1986;
(p) Nurse Midwife, effective May 1, 1986;
(q) Pharmacy Services, effective August [May] 1, 1986 and updated Outpatient Drug List, including preauthorization list, effective July [April] 1, 1986;
(r) Physician Services Benefits, effective August [May] 1, 1986;
(s) Primary Care Benefits, effective May 1, 1986;
(t) Rural Health Clinic Benefits, effective May 1, 1986;
(u) Skilled Nursing Facility Benefits, effective August [May] 1, 1986;
(v) Ambulance Transportation Benefits, effective May 1, 1986, as revised;
(w) Vision Services Benefits, effective August 1, 1986 [November 1, 1985];
(x) Podiatry Services, effective October 1, 1985;
(y) Ambulatory Surgical Center Benefits, effective July 1, 1985;
(z) Renal Dialysis Center Benefits, effective October 1, 1985;
(aa) General Provider Letter A-8 and A-9, effective August 1, 1986 [July 1, 1985];
(bb) Medical Director's Letter dated April 26, 1985, effective July 1, 1985; [and]
(cc) EDS Federal Hospital Letter (as fiscal agent for the Medicaid Program) dated April 1, 1985, effective July 1, 1985;
(dd) Provider letters dated September 20 and 23, 1985 relating to KenPac, effective February 1, 1986; and
(ee) KenPAC Benefits, effective August 1, 1986.

Section 3. All documents included by reference herein may be reviewed during regular working hours in the Office of the Commissioner [Division of Management and Development], Department for Medicaid Services [Social Insurance], 275 East Main Street, Frankfort, Kentucky. Copies may be obtained from that office upon payment of an appropriate fee which will not exceed approximate cost.

R. HUGHES WALKER, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: August 12, 1986
FILED WITH LRC: August 15, 1986 at 2 p.m.

AS AMENDED BY AGENCY AND SUBCOMMITTEE

DEPARTMENT OF PERSONNEL
(As Amended)

101 KAR 2:110. Employee evaluation plan.

RELATES TO: KRS 18A.030, 18A.110
PURSUANT TO: KRS Chapter 13A, 18A.110
NECESSITY AND FUNCTION: KRS 18A.110 requires the Commissioner of Personnel to promulgate comprehensive administrative regulations for classified service employees to provide for uniform standards and methods of appraising work performance of all employees, and for the use of such methods of appraisal in personnel actions, and for the development and operation of programs to improve the work effectiveness of employees. This regulation implements such directives by establishing a uniform employee evaluation system.

Section 1. Eligible Employees. (1) Each full-time employee who has completed his initial probationary period of service; each part-time employee who works over 100 hours each month and who has completed his initial probationary period of service; each federally funded, time limited employee who has completed six (6) months service shall have his work performance evaluated on an annual basis, and be eligible for a lump sum performance award, usirg as a guide criteria developed by the commissicner.
(2) An appointing authority may elect to utilize the standards and methods of appraising work performance promulgated in this regulation for employees who are not eligible to receive a lump sum performance award.

Section 2. Work Performance Evaluation. (1) Each evaluator (the first line supervisor or the person with direct supervisory responsibility over the employee) shall assess employee performance in five (5) categories: job knowledge and skills; quality of work; productivity; improvement in performance; and employee conduct.
(2) Each category shall be assessed as: "exceeding performance requirements," "meeting performance requirements" or "failing to meet performance requirements."
(3) The overall rating shall be determined by the ratings on each of the five (5) job categories.
(4) "Exceeds requirements." The employee shall receive an "exceeds" rating when his job

performance exceeds requirements in all five (5) of the job categories.

(5) "Fails to meet requirements." The employee shall receive a "fails to meet" rating when his job performance fails to meet requirements in all five (5) of the job caterogies. The evaluator shall provide the employee with suggestions for improvement and training, as needed.

(6) "Meets requirements." The employee who receives any other combination of ratings on the job categories shall receive an overall rating of "meets requirements."

Section 3. Procedures for Evaluation of Job Performance. (1) Identification of job duties. At the beginning of the evaluation period, the evaluator shall identify and review the job duties, factors to be evaluated and evaluation criteria with the employee and record the job description on the evaluation form.

(2) Mid-year evaluation. After six (6) months, the evaluator will assess the employee's job performance to date, assign a rating to each job category and determine the overall rating for the mid-year evaluation, discuss the employee's performance with him, and initiate corrective measures, as needed.

(3) Annual final evaluation. A final evaluation shall take place annually. After twelve (12) months, the evaluator shall assess the employee's job performance, considering the ratings given during the mid-year evaluation, assign a rating to each category, determine the overall rating for the year end, and discuss the employee's performance with him. The overall rating given at the twelve (12) month evaluation shall be the employer's [FINAL] rating of performance.

(4) When an employee receives two (2) successive [final] ratings of "fails to meet requirements," he shall be demoted to a position commensurate with his skills and abilities or dismissed.

(5) The evaluator of each employee shall be the first line supervisor (or the person with direct supervisory responsibility over the employee) provided that he has supervised the employee in the same position for a minimum of ninety (90) calendar days. If a supervisor has supervised the employee for at least ninety (90) calendar days and if he ceases to be the employee's supervisor after such period of time, he/she shall evaluate the employee at least five (5) working days prior to the day he ceases to be the employee's supervisor. If a supervisor ceases to be the supervisor of an employee due to the suspension, demotion or dismissal of the supervisor, the next line supervisor shall evaluate the employee of the supervisor who has left. If an employee transfers to a new job, he/she shall be evaluated by his/her prior supervisor if that supervisor supervised the employee no less than ninety (90) calendar days prior to notification of his/her transfer.

(6) All employees shall be evaluated during the same time period. All ratings shall be completed and the results submitted to the Department of Personnel as prescribed by the commissioner. Evaluators shall schedule evaluation conferences to allow twenty-five (25) working days for reconsideration, as needed.

Section 4. Request for Reconsideration. (1) Any employee may request reconsideration of his evaluation. [Such a request shall only apply to the employee's FINAL RATING OF PERFORMANCE.] In response to an employee's request, a reconsideration meeting of the employee and the evaluator shall be held. The meeting shall be scheduled no sooner than two (2) working days and no later than five (5) working days after the evaluation was first presented to the employee.

(2) If the employee does not agree with the rating following the reconsideration meeting, he may request further review of the evaluation by submitting a written request to the reviewer (second line supervisor) within five (5) working days following the reconsideration meeting.

(3) The reviewer (second line supervisor) shall either obtain a written statement from the evaluator and employee, or meet individually with the evaluator and with the employee to discuss the rating. The reviewer shall inform the employee and the evaluator in writing of his determination within fifteen (15) working days from receipt of the request for review.

(4) In accordance with 101 KAR 1:350, Section 10, an employee may appeal an evaluation to the Personnel Board within thirty (30) days after he has received the written decision of the second line supervisor, excluding the day the written decision was received.

THOMAS C. GREENWELL, Commissioner
APPROVED BY AGENCY: July 14, 1986
FILED WITH LRC: July 14, 1986 at 10 a.m.

JUSTICE CABINET
(As Amended)

500 KAR 3:020. Filing and processing SLPO commissions.

RELATES TO: KRS 61.360
PURSUANT TO: KRS. 13A.100, 15A.160
EFFECTIVE: September 4, 1986
NECESSITY AND FUNCTION: This regulation states the criteria and procedures for filing and processing applications for special local peace officer commissions.

Section 1. Qualifications to Apply for Commission as a Special Local Peace Officer. To qualify for a commission as a special local peace officer, an individual shall present satisfactory evidence of compliance with the conditions and requirements set forth in KRS 61.360.

Section 2. Application for Commission as a Special Local Peace Officer. Applications from the property owner or his authorized agent shall be sent to the Justice Cabinet SLPO program administrator and comply with the following requirements:

(1) Applicants shall meet all of the requirements of KRS 61.360 before a commission shall be granted. Each individual who qualifies may hold additional commissions for different property locations, but may only be commissioned in his residential county.

(2) The applicant shall complete two (2) notarized applications with the necessary information as specified therein and in these regulations. The property owner or his agent

whose property is being protected shall be listed as indicated on the application. A certified copy of the applicant's birth certificate, along with two (2) recent photographs of the individual (full face approximately three (3) inches by five (5) inches and taken within the last thirty (30) days of the date the application is submitted) and the application fee shall be attached to the applications. If the applicant is a veteran, a copy of his military release (Form DD-214) shall also accompany the applications. The application forms shall be signed by the property owner or his agent.

(3) The ten (10) dollar application fee is non-refundable and shall be in the form of a check or money order made payable to the Kentucky State Treasurer.

(4) All arrests and convictions including traffic offenses, violations, misdemeanors or felonies shall be provided as requested on the application. Any false, misleading, or withholding of information requested on the application or by the Justice Cabinet investigator, shall be grounds for rejection without further consideration. The applicant's affidavit shall be signed and notarized.

(5) The applicant shall supply the necessary information to the SLPO program administrator for criminal history information record review. The applicant shall provide his name and detailed personal description.

(6) If the applicant's fingerprints are not on file with the Kentucky State Police Criminal Record Section, the SLPO program administrator shall make arrangements to have the applicant fingerprinted.

(7) The application shall contain the Authority to Release Information Form which allows the release of all necessary information to the SLPO program administrator. It shall be signed by the applicant and notarized or may be witnessed by a Justice Cabinet official. The applicant shall also sign the Acknowledgement Notice Form which indicates he has received a copy of the SLPO Act and that he acknowledges that his authority is limited and restricted under the Act, that it does not give him the right or authority to carry a **concealed** weapon off the premises of the said property. [, that it is his responsibility to have and/or gain the necessary knowledge and secure any training relating to the act, regulations and any/all statutes dealing with his duties of enforcement.]

(8) A Letter of Intent Form shall be filed with each application by the property owner or his agent giving the name of applicant and the specific private property to be protected. This letter is to accompany the application forms for SLPO initial application or renewals.

(9) The applicant shall arrange for an interview with the SLPO program administrator.

(10) All SLPO officers shall be familiar with the provisions of the SLPO Act (KRS 61.360), the regulations pursuant thereto, and the penalties imposed for violating the SLPO Act and its regulations. In addition, the officers shall be familiar with KRS 61.300, 61.991(2), 62.010 and 62.990.

(11) If the application is defective or in conflict with the SLPO Act or regulations, the application shall be returned to the property owner or his agent. If the application can be corrected, it may be resubmitted at no additional cost if it is resubmitted within sixty (60) days of the original submission date.

Section 3. The Grant of the Commission and the Required Oath of Office. A commission for a special local peace officer shall be validated and granted as follows:

(1) When the applicant has successfully satisfied the requirements of the act, a commission certificate and a recommendation is forwarded by the SLPO program administrator to the secretary for review. After the commission is issued by the secretary, a copy of the commission shall be placed in the officer's file.

(2) When a commission is granted, the commission and the applications shall be forwarded by the Justice Cabinet to the property owner or his agent whose property is to be protected. The appointed applicant shall promptly take both applications to the county clerk in the county where the applicant is to serve and shall take the constitutional oath of office within thirty (30) days after notice of appointment. The county clerk shall then complete and sign the clerk's attestation on the applications and retain one (1) copy for filing purposes in the county clerk's office in accordance with the statute. The applicant shall return the second application signed by the clerk to the property owner or his agent. The property owner or his agent shall then return the second copy of the application to the Justice Cabinet SLPO program administrator for the purpose of indicating that the oath was administered and that it is filed with the county clerk. The property owner or his agent shall be allowed thirty (30) days to arrange for the appointed applicant to take the oath of office and return the application to the Justice Cabinet program administrator, otherwise, the commission shall be revoked in accordance with KRS 62.010 and 62.990. The commission certificate shall be kept by the property owner or his agent so long as the officer is employed or until such time that his authority is terminated by action of the property owner or his agent and/or the Justice Cabinet Secretary.

(3) The SLPO Commissions are issued for a period of two (2) years, provided that the officer continues to meet all statutory and regulatory criteria.

(4) When the SLPO officer has taken the constitutional oath of office, the property owner or his agent shall issue an identification card which is to be carried by the SLPO officer whenever he is acting under the authority of KRS 61.360. The identification card shall be presented as required by any duly sworn peace officer or Justice Cabinet official and is subject to control by the Justice Cabinet. If for any reason a SLPO officer is terminated or otherwise relieved of his duties as a SLPO officer by the property owner or his agent or the Justice Cabinet, he shall immediately return this identification card to the officer's property owner or his agent who shall return the same to the SLPO program administrator.

(5) A notice shall be forwarded to the property owner or his agent concerning any officer whose appointment has been suspended or revoked by the secretary. The property owner or his agent shall maintain current files and make renewal applications at least thirty (30) days

prior to the commission's expiration date.

(6) The SLPO commission certificate shall be held by the property owner or his agent and shall be available for inspection by the Justice Cabinet program administrator or his designee. The commission certificate remains the property of the Justice Cabinet and is to be returned upon the officer's authority being withdrawn for any reason.

Section 4. Renewals. A letter of intent from the property owner or his authorized agent stating a request to renew a commission and a new set of applications for each individual involved shall be filed with the Justice Cabinet program administrator at least thirty (30) days before the expiration date of the existing commission. The applicant for renewal shall undergo a background investigation to bring his records up-to-date.

Section 5. The Property Owner or his Agent Employing SLPO Officers - Records, Reports and Responsibility. Each property owner, his agent, or each agency employing SLPO officers shall keep his files current as to the expiration date on each officer's commission and as follows:

(1) The property owner or his agent shall keep the individual officer's commission certificates on file, to be returned to the Justice Cabinet upon termination of the officer and/or his authority.

(2) The property owner or his agent shall post a copy of these regulations and a copy of KRS 61.360 and 61.990 in a conspicuous location in any office or building that is designated security headquarters for persons operating as SLPO officers.

(3) Complaints or unusual incidents involving SLPO officers shall be handled by the property owner or his agent whose private property is being protected by the SLPO officer involved. However, the property owner or his agent shall notify the Justice Cabinet SLPO program administrator by direct verbal communication within twenty-four (24) hours of any reported incident involving **any act as enumerated in KRS 61.360(1)(c)** [the misconduct or unlawful act] by any of its SLPO officers. A written report shall be filed with the SLPO program administrator, within thirty (30) days of the original oral report, setting forth the details of the incident and listing any action taken by the property owner or his agent. If formal charges are pending, the property owner or his agent shall advise the SLPO program administrator as to the specific charge(s), trial dates and the the final disposition of the charge(s).

(4) The property owner or his agent shall mail a current list of all active SLPO personnel to the SLPO program administrator by June 30 each year.

(5) The property owner or his agent shall issue each SLPO officer an identification card upon the individual's appointment. The identification card shall be billfold size (approximately two and one-fourth (2 1/4) inches by three and one-half (3 1/2) inches) and shall be composed as follows: contain on one (1) side a reduced copy of the officer's commission certificate (reduced by photographing or other method); and, on the other side contain a full-faced photograph of the officer, along with his name, date of birth, social security number and his signature. The identification card shall be encased in plastic.

(6) The property owner or his agent shall be responsible for obtaining the identification card from any officer terminated and remitting the same to the SLPO program administrator for destruction.

Section 6. Violations. All property owners, agents or agencies utilizing SLPO's shall be subject to inspection and investigation by the Justice Cabinet as circumstances may warrant for possible violations. Violations may result in prosecution and/or recommendation to the Secretary of Justice that the commission affected directly or indirectly be revoked.

Section 7. Revocation or Suspension of SLPO Commissions. If it is determined by the program administrator that KRS 61.360 of the SLPO Act applies to any active SLPO commissioned officer, the program administrator shall notify the secretary who shall revoke or suspend the commission of any special local peace officer whenever he shall determine:

(1) That the commission-holder does not meet, or no longer meets the requirements and conditions for the commission; or

(2) That the commission-holder has knowingly falsified an application or portion thereof, or has knowingly made any false or misleading statement of a material fact to the secretary or agents or officers thereof; or

(3) That the commission-holder has violated any statute, rule, regulation or order of the secretary, the violation of which the secretary determines to bear a reasonable relationship to eligibility for the commission. The SLPO program administrator shall notify the property owner or his agent involved to return the commission of the SLPO officer involved to the SLPO program administrator for the Justice Cabinet. The property owner or his agent responsible for the SLPO officer shall forward a letter to the SLPO officer involved stating that his commission has been revoked or suspended and that he shall immediately return the SLPO identification card to the property owner or his agent who shall forward the card to the SLPO program administrator. The program administrator shall notify the county clerk in the officer's county of jurisdiction whenever a SLPO officer's commission has been suspended or revoked.

Section 8. Procedures for Investigating Complaints or Unusual Incidents Involving SLPO Officers. (1) Complaints or unusual incidents involving SLPO officers shall be handled by the property owner or his agent whose private property is being protected by the SLPO officer involved. The property owner or his agent shall be responsible for notification to the Justice Cabinet of any/all incidents involving their SLPO personnel as indicated herein.

(2) However, the Justice Cabinet program administrator or other assigned officers may investigate any and all complaints or unusual incidents involving SLPO officers, if there is reason to believe the provisions of KRS 61.360 or other applicable laws have been violated and an investigation is necessary.

(3) Any investigation conducted by the Justice Cabinet shall become part of the official record

of the SLPO officer involved.

NORMA C. MILLER, Secretary
APPROVED BY AGENCY: July 8, 1986
FILED WITH LRC: July 8, 1986 at 1 p.m.

AMENDED AFTER HEARING

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

702 KAR 1:005. Textbook program plan.

RELATES TO: KRS 156.400 to 156.476, 157.100 to 157.190
PURSUANT TO: KRS 156.410, 156.437, 156.447, 156.474, 156.476, 157.100, 157.110, 157.120, 157.130, 157.140, 157.150, 157.160
NECESSITY AND FUNCTION: KRS 156.400 to 156.476 sets up the Kentucky Textbook Commission and the statutory policies and procedures for the adoption, purchase, use and distribution of textbooks to be utilized in the schools of the Commonwealth. KRS 157.100 to 157.190 require that the Department of Education purchase textbooks for certain grades and set up management procedures for the textbook program. This regulation establishes the standards and procedures which are necessary to carry out such statutory requirements dealing with textbooks.

Section 1. The subjects included in the "Program of Studies for Kentucky Schools" shall be arranged into six (6) groups as follows: Group I--Social Studies K-12; Group II--Language Arts K-12 (except Reading K-8 and Literature K-12); Group III--Science K-12; Group IV--Mathematics K-12; Group V--Reading K-8, Music K-12, Industrial Arts 7-12, Business Education 7-12, (except Introduction to Computers 9-11, Data Processing I 11-12, Data Processing II 12, Word Processing I 11-12, and Word Processing II 12), Vocational Education 7-12, (except Air Conditioning 10-12, Auto Body Repair 10-12, Auto Mechanics 10-12, Electricity 10-12, Electronics 10-12, Machine Shop 10-12, and Radio/TV Repair 10-12), and Trades and Industry 11-12; and Group VI--Literature K-12, Art Education K-12, Foreign Language 3-12, Driver Education 9-12, and Health and Physical Education K-12.

Section 2. (1) The Division of Textbook Services shall requisition and publishers submitting bids shall ship adequate textbook samples to the Division of Textbook Services and individual State Textbook Commission members, reviewers, and curriculum committees during the selection and adoption process. All available textbook samples, program descriptions, list of gratis items for districts adopting or purchasing books, and other pertinent bid information shall be provided before the bid opening. Samples and information not available at bid opening shall be shipped to the Division of Textbook Services, commission members, reviewers and curriculum committees as soon as possible and not later than the date of the commission hearing held under Section 3 of this regulation.

(2) When the selection process has been completed and the individual commission members, reviewers and curriculum committees have no further need for samples in their possession, such shall be disposed of in the following manner:

(a) Reclaimed by publishers;

(b) Transferred to local school districts, institutions of higher education, or other appropriate agencies; or

(c) Sold by the State Board of Education. All sales and transfers shall be properly receipted and filed in the Division of Textbook Services. Official adoption samples, however, must be disposed of in accordance with KRS 156.470.

Section 3. (1) Each adoption year before the September listing, the State Textbook Commission shall conduct a hearing for the purpose of interviewing publisher agents and representatives and providing an opportunity for agents and representatives to make presentations on textbooks submitted for listing.

(2) The commission shall hear any person or organization that may have complaints or concerns about a textbook being considered for listing at the publisher hearing or the September listing.

(3) Parties desiring to be heard shall file with the Secretary of the State Textbook Commission a request two (2) weeks prior to either meeting to assure a place on the agenda. The request need not be in any prescribed form but must clearly state:

(a) Name and address of the person or organization requesting the hearing;

(b) Title, author and copyright date of the textbook in question;

(c) Sections of the textbook being questioned and nature of concern;

(d) Anticipated problems that would be created if the textbook is placed in use; and

(e) Suggested alternatives.

(4) A reasonable amount of time shall be assigned to the agenda for the hearing and one (1) spokesperson shall represent a group or organization.

(5) The commission's position and/or action shall be forwarded to the concerned parties after the September listing has been concluded.

Section 4. (1) The Kentucky State Textbook Commission has the right to inquire into and ascertain if any publisher has violated this regulation or the Kentucky Revised Statutes; or if the publisher has used undue influence or unethical tactics to secure bids or to assure local adoption. Undue influence or unethical tactics shall include, but not necessarily be limited to, unsolicited contact by agents and representatives of individual publishers with members of the State Textbook Commission and the buying for or giving to State Textbook

Commission members and local district selection committee members meals, gifts, trips, or entertainment to assure the listing, adoption, and purchase of their textbooks. If there is sufficient evidence that publishers are guilty of any of the aforementioned, they shall be called before the State Textbook Commission to determine if violations did occur and what course of action should be taken.

(2) Publishers proposing to give local districts free-of-charge items, including but not limited to kits, duplicating masters, workbooks, and extra textbooks, if said district would adopt and purchase their textbooks, shall file a list of gratis items as an official part of their bid.

(3) In addition to textbook sampling required under KRS 156.440, publishers may sample gratis items to local districts for use in the adoption process. Gratis sampling shall be minimal and not be done in a manner to assure the adoption and purchase of a publisher's textbooks.

(4) The State Textbook Commission shall have the right to refuse to execute or to cancel a publisher contract upon discovery that said publisher has violated any part of this regulation or does not have the ability to perform all the terms and conditions of the contract.

(5) All bidders for textbook contracts shall file with the Division of Textbook Services the name of a Kentucky person, firm, or corporation upon whom process may be served. The name of the process agent, together with such other information concerning said agent, shall be made available to the proper authorities for the purpose of serving process.

Section 5. Publishers and local school districts may agree to pilot new textbook programs for one (1) school year on a selective and controlled basis to determine the effectiveness of a particular textbook program. Piloting shall not be conducted during the adoption year (July-April) for a subject being considered for adoption by the local districts. The Superintendent of Public Instruction shall approve all piloting programs. The local school district superintendent shall file the request for approval with the Superintendent of Public Instruction. The request need not be in any prescribed form but shall clearly state:

(1) The publisher that will conduct the pilot;

(2) The purpose of the pilot;

(3) The subject and grade levels in which the pilot will be conducted;

(4) The schools where the pilot will be conducted;

(5) The name of the school district staff member supervising the pilot;

(6) Beginning and ending date of pilot;

(7) Brief summary of evaluation procedures.

Section 6. Any school administrator or teacher that receives directly or indirectly any gift, reward, or promise of a reward for his influence in reviewing and selecting textbooks shall be subject to the penalties of KRS 156.480.

Section 7. (1) The "Manufacturing Standards and Specifications for Textbooks," developed and approved by the National Association of State Textbook Administrators, in consultation with the Association of American Publishers and the Book Manufacturers' Institute, as revised February, 1982, shall apply to all textbooks submitted for adoption in Kentucky. Said edition is incorporated by reference and is on file in and can be obtained from the Division of Textbook Services.

(2) Publishers who have filed an old copyright with the official bid on or before July 15 may substitute the revised edition at the commission hearing. Publishers may submit a galley proof, incomplete book, or statement of intent with the official bid; however, the book shall be complete and on file with the State Textbook Commission on or before the date of the commission hearing. Ancillary materials, including workbooks and teacher editions, shall be completed on or before the July 1 contract date.

Section 8. Defective binding, workmanship or material shall be reported as soon as detected. Publishers shall be held responsible for all defective textbooks. Textbooks that show manufacturing defects in the first or second year of use shall be replaced by the publisher on a one-for-one basis. After the first two (2) years of use, replacement agreement must be reached with the publishers. School districts shall start the replacement process as soon as it has been determined that textbooks are defective.

Section 9. (1) Request to substitute revised editions of textbooks under contract shall be considered at the regular meetings of the State Textbook Commission to be held on or before May 1 and on or before September 20.

(2) Substitutions shall not be permitted for textbooks to be used the last year of a contract.

(3) The publisher shall agree to supply either the listed or the substituted textbook in accordance with local school district's request.

(4) The revised edition shall be at the same price at which the book is bid and sold elsewhere in the United States at the date of the substitution approval and the content shall be compatible for use with the old edition.

(5) The physical materials and workmanship of the revised edition shall be of equal or better quality than the older edition.

(6) Ancillary materials for a substituted textbook or program shall be available at the time the publisher submits substitution request.

(7) Publishers shall provide thirty (30) days prior to date of the commission meeting a sample textbook and a summary description of the revised edition that compares it with the textbook and/or program presently on the State Multiple List.

Section 10. (1) Multi-volume textbook programs for a single subject or a series for more than one (1) grade level is defined as two (2) or more books initially planned, written, designed, bound, sequential and identifiable as one (1) program.

(2) A district may implement curriculum programs in grades kindergarten through twelve (12) through the purchase of adopted textbooks from one (1), two (2), or three (3) textbook programs for grades kindergarten through eight (8) and up to ten (10) programs for grades nine (9) through twelve (12).

(3) A reading program from one (1) publisher

shall consist of a basic reading program of readiness, preprimers, primers, and readers for grades kindergarten through six (6) or kindergarten through eight (8).

Section 11. (1) The wholesale and exchange prices in Kentucky shall not exceed the lowest wholesale and exchange prices at which textbooks are to be bid and sold elsewhere in the United States for the same adoption period. If reductions in prices are made elsewhere in the United States on the same textbooks being sold in Kentucky, publishers shall lower the price in Kentucky.

(2) The retail price to be used in Kentucky shall not be more than twenty (20) percent in excess of the publisher wholesale price.

(3) The publisher contract shall state that upon settlement, the lowest exchange price, except on consumable textbooks, is the price to be paid for textbooks by the state to publishers who during the term of the contract give in exchange an old textbook of corresponding kind and grade, and may be of a different series to that provided for in the contract.

Section 12. (1) Local school districts are hereby authorized, for elementary school use, to use up to thirty (30) percent of the elementary school textbook funds for the optional purchase of supplementary textbooks, print and non-print media materials and audio-visual equipment other than those selected by the State Textbook Commission. Optional textbook funds may be used to purchase basal textbooks or instructional materials to be used in lieu of a basal textbook for the following:

(a) Courses and programs appearing in the "Program of Studies for Kentucky Schools, Grades K-12" for which textbooks are not listed on the State Multiple List;

(b) Courses and programs appearing in the "Program of Studies for Kentucky Schools, Grades K-12" that have organizational patterns and teaching methodology that require a variety of instructional materials;

(c) Kindergarten programs;

(d) Special education classes; and

(e) Courses and programs requiring State Board of Education annual approval.

Basal programs for the aforementioned courses and basal textbooks for all other subjects in the State Board of Education approved "Program of Studies for Kentucky Schools, Grades K-12" shall be purchased before optional textbook funds are used to purchase supplementary materials.

(2) The following materials are eligible to be purchased with optional textbook funds:

(a) Pre-printed organized materials including reference books, pamphlets, magazines, weekly readers, workbooks, worktexts, textbooks not on the State Multiple List, kits, master units, programmed instructional materials, and similar qualifying materials.

(b) Pre-processed organized audio-visual materials including films, film loops, tapes, slides, filmstrips, recordings, graphic materials, transparencies, globes, maps, charts, art objects, and similar qualifying materials.

(c) Pre-printed or pre-processed programs including kits and materials being used in lieu of textbooks for particular curriculum areas.

(d) Minor audio-visual equipment needed to utilize the audio-visual materials being purchased with optional funds.

(3) The following materials are not eligible to be purchased with optional funds:

(a) Rebinding, equipment other than minor audio-visual, furniture, personnel services, teachers' guides and manuals, testing programs, library books, supplies and materials consumed in initial use and raw and/or blank materials.

(b) Major audio-visual installations such as public address systems, sound laboratories for language, computers, and televisions (including receiving sets and related equipment).

(4) School districts with special instructional material needs may exceed the designated optional portion of their textbook funds by making written application to the Division of Textbook Services. Annual approval must be obtained before funds are obligated if there is a need to exceed the designated thirty (30) percent option. The application signed by the district superintendent shall include a detailed description stating name of the program or course, rationale for the program, and percent of funds requested.

(5) After acquisition of eligible supplementary textbooks, materials, and equipment and payment of invoices, a request for reimbursement shall be submitted to the Division of Textbook Services on Form FT-21 before March 1. All claims submitted for the purchase of instructional materials for enrichment programs and programs not listed in the "Program of Studies for Kentucky Schools, Grades K-12" must include a copy of the State Board of Education approval of the program and instructional materials to be used.

(6) Regulations relating to the purchase of media materials, audio-visual equipment and all other instructional materials and supplies by local school districts shall contain the following requirements:

(a) Items to be purchased should be identified as consumable or non-consumable;

(b) Each local school district shall establish a per pupil allocation of funds to purchase equipment, materials and supplies, and of this allocation a portion shall be for consumable items and the remainder for non-consumable items;

(c) Local school districts may use all or a portion of student fees as part of the per pupil allocation of funds to purchase instructional equipment, materials and supplies;

(d) Each local school district shall survey teachers to determine their needs for instructional equipment, materials, and supplies. The local district board of education shall take into consideration the survey of teacher needs in the purchase of instructional equipment, materials, and supplies; and

(e) A financial report on allocations to and expenditures for instructional equipment, materials and supplies shall be prepared annually by the school district and shall be a public record.

Section 13. (1) The school districts shall make textbook adoptions for all the subjects in the six (6) adoption groups. The number of adopted textbooks, however, shall not exceed three (3) textbooks and/or programs per subject in any one (1) grade in grades kindergarten through eight (8) and ten (10) textbooks and/or programs per subject in any one (1) grade in

grades nine (9) through twelve (12).

(2) School districts shall indicate their tentative first, second and third choices in grades kindergarten through twelve (12). A summary of the choices shall be provided to the publisher for inventory purposes and shall in no way restrict purchases to any particular choice.

(3) Districts may purchase any or all adopted textbooks and/or programs in any number and combination based on identified pupil needs rather than grade level assignment.

Section 14. (1) Pupils in grades kindergarten through twelve (12) with impaired vision shall be considered eligible for the use of textbooks and materials in clear type of eighteen (18) to twenty-four (24) points upon certification by an eye specialist as follows:

(a) Pupils who cannot read more than 20/70 on a Standard Snellan Chart with the better eye after correction.

(b) Pupils with progressive eye difficulties, including those with progressive myopia, even though glasses may bring the vision nearly to normal, and pupils who suffer from noncommunicable diseases of the eye or diseases of the body that seriously affect the vision.

(2) Certification of pupils' visual impairment shall be made on forms supplied to local school districts by the Bureau of Education for Exceptional Children, Department of Education.

(3) Request for large print textbooks and material shall be directed to the Division of Materials and Curriculum.

(4) The local board of education shall assume responsibility for the care of textbooks and return them to the Resource Bank Distribution Center when no longer needed.

(5) Large print textbooks and materials purchased by the Division of Textbooks Services are not charged to the textbook account of the local school district.

Section 15. (1) The Division of Textbook Services shall prepare textbook budgets annually and allocate funds to local school districts, based upon the Kentucky General Assembly biennial appropriation, for the purpose of purchasing full basal textbook programs during the first year of each adoption and/or funding. After basal textbook needs have been met, surplus funds may be used to purchase supplementary materials.

(2) When allocating funds for the purchase of textbooks, the Division of Textbook Services shall use the pupil membership at the close of the first month of the current school year.

(3) A statement of elementary school funds allocated to each school district shall be mailed to the superintendent after March 1. The statement shall reflect the balances from the previous year, allotment for the ensuing year, sales and fines for the past year, and growth adjustments providing funds to purchase books for new pupils.

(4) School districts shall utilize their textbook allocation by March 1 of the year for which the funds were allocated.

Section 16. (1) Local school districts shall establish and maintain a textbook rental program for grades nine (9) through twelve (12) by renting to pupils all currently adopted, state-provided textbooks purchased prior to July 1, 1984, and purchasing and renting textbooks from each scheduled incoming adoption group beginning in 1984 with Adoption Group IV (Mathematics). This does not prohibit local districts from using local funds to provide a free textbook program.

(2) Local school districts not providing a free textbook program for grades nine (9) through twelve (12) [The Superintendent of Public Instruction, subject to the approval of the State Board of Education,] shall establish annually a [maximum] textbook rental fee based on the cost of the adoption group scheduled for purchase and the cost of replenishments. [Beginning with the 1984-85 school year,] The maximum rental fee shall be based on four (4) dollars per two (2) semester course that requires the use of basal textbooks. Local school districts, at their option, may charge a deposit fee not to exceed two (2) dollars per two (2) semester course to be refunded if textbooks are returned in satisfactory condition. Textbook rental fees for pupils enrolled for less than a full school year shall be prorated based on the number of days of membership.

(3) The school district shall requisition textbooks from the State Multiple List for the grades nine (9) through twelve (12) rental program from the Division of Textbook Services. The Division of Textbook Services shall process the requisitions to the different publishers. The textbooks are to be shipped to the local school districts. Publishers shall invoice the local school districts.

(4) Local school districts shall establish and maintain one (1) centralized textbook rental program account subject to audit. All textbook rental monies shall be receipted to pupils and rental monies, requisitions, and payments to publishers shall be processed through the centralized account.

(5) School districts shall purchase a complete basal textbook program for grades nine (9) through twelve (12) the first year of each scheduled adoption for each subject in the adoption group for which basal textbooks are appropriate.

(6) The Division of Textbook Services shall provide local districts with requisition forms, an annual inventory report, and the information necessary for districts to maintain an efficient textbook rental program for grades nine (9) through twelve (12).

(7) All textbook statutes and regulations governing the textbook program for elementary and secondary schools not invalidated by the textbook rental program statutes and regulations shall be applicable to the textbook rental program for grades nine (9) through twelve (12).

Section 17. (1) The Division of Textbook Services shall provide Annual Report and requisition forms to all school districts. These forms shall be prepared in duplicate. The original copy shall be sent to the Division of Textbook Services and the second copy retained by the district. The Annual Report (FT-8) and requisition (FT-9) may be filed after March 1 and shall be filed by June 30.

(2) The Division of Textbook Services, upon receipt and approval of a requisition for textbooks from any school district, shall issue

a local purchase order. A copy of the local purchase order shall be sent to the publisher, two (2) copies sent to the local district and two (2) copies retained by the Division of Textbook Services.

(3) All adopted textbooks purchased with state textbook funds shall be purchased through the office of the Division of Textbook Services.

(4) Publishers shall ship direct to local school districts by prepaid freight or United Parcel Service and issue invoices in triplicate to the Division of Textbook Services.

(5) Upon receipt of textbooks, the school district shall check items of shipment against the local purchase order (receiving report) and if all textbooks were received in satisfactory condition, certify this fact by mailing one (1) copy of the local purchase order (receiving report), dated and signed to the Division of Textbook Services. The Division of Textbook Services may then order payment.

(6) All textbooks shall be labeled as property of the Commonwealth of Kentucky. For economy in administration, the uniform label is affixed by the publishers in accordance with the "Manufacturing Standards and Specifications for Textbooks." School districts shall record the purchase date and the issue date on the uniform label.

(7) Textbook uniform labels shall not be completed until an examination of the shipment shows that it agrees in detail with the purchase order. A textbook with label completed is classified as a used textbook.

(8) A complete record shall be kept by the school district for all state-provided textbooks for grades kindergarten through eight (8) and all textbooks purchased with pupil rental fees for grades nine (9) through twelve (12) delivered to teachers or principals of the different schools. Form FT-5 or a comparable form shall be used. Form FT-5 will be furnished upon request in quantities equal to number of teachers or principals.

(9) When textbooks are issued, a requisition card shall be filled out in duplicate for each pupil. Form FT-6 or a comparable form shall be used. Form FT-6 will be furnished upon request in quantities equal to pupil membership.

Section 18. The Division of Textbook Services shall encourage and facilitate the transfer of surplus textbooks that may be in local school districts' textbook depositories. The Division of Textbook Services shall, at appropriate times during a school year, solicit from the districts a list of surplus textbooks and mail to all districts a master list of available textbooks. Districts that need textbooks on the master list will request the Division of Textbook Services to initiate a transfer. The district having possession of the surplus textbooks requested by a district shall ship the books and notify the Division of Textbook Services the number of books shipped and cost of transportation. Upon receipt of the books, the receiving district will notify the Division of Textbook Services. The Division of Textbook Services shall inter-account funds by transferring the cost of the textbooks and transportation cost from the receiving district to the shipping district's textbook account. The cost to the receiving district of all transferred textbooks shall be fifty (50) percent of the wholesale price plus transportation.

Section 19. Pupils or parents shall compensate school districts for textbooks lost, damaged, or destroyed while in their possession and the compensation shall be as follows: 100 percent of retail cost for one (1) and two (2) year old textbooks; seventy-five (75) percent of retail cost for three (3) and four (4) year old textbooks; and twenty-five (25) percent of retail cost for five (5) and six (6) year old textbooks.

Section 20. (1) Textbooks to be rebound shall not qualify for publisher replacement under Section 8 hereof. Textbooks with five (5) or more years of use shall be rebound only in extreme cases of shortages and emergencies.

(2) Textbooks in need of rebinding shall be reported on Form FT-16 to the Division of Textbook Services with the Annual Report. After approval, the request is forwarded to the bindery under contract with the Commonwealth of Kentucky. The bindery shall pick up books or instruct the districts to ship the books collect. Rebound books shall be returned to the school district by the bindery with shipping charges prepaid. The bindery shall mail the invoice to the Division of Textbook Services for payment. Such payments shall not be charged to the textbook account of local school districts.

Section 21. (1) District superintendents shall make an accurate count of all state-provided textbooks for grades kindergarten through eight (8) and all textbooks purchased with pupil rental fees for grades nine (9) through twelve (12) under adoption that are suitable for classroom instruction and report same on the Annual Report (FT-8).

(2) The Division of Textbook Services shall file an annual exchange report with publishers identifying the titles and number of textbooks purchased to replace textbooks no longer suitable for classroom instruction. A claim requesting credit memorandums in the amount of the difference between the wholesale and exchange price for each textbook purchased shall be filed with publishers. The credit memorandums shall be used in payment of invoices for textbooks purchased from said publishers during the next purchase year. Publishers shall relinquish their claim for exchange textbooks if not claimed within a reasonable period of time after replacement.

(3) The local superintendent shall assume responsibility for the disposal of unclaimed textbooks no longer suitable for classroom instruction and may dispose of them in the following manner:

(a) Make the unclaimed textbooks available to teachers for use in grouping, reference, supplementary and other classroom activities.

(b) Make the unclaimed textbooks available to pupils within the district.

(c) Publicize in the local newspaper that unclaimed textbooks are available to individual residents of the local district. Unclaimed textbooks disposed of in this manner shall not be made available to used textbook dealers.

(d) Make the unclaimed textbooks available to civic organizations for the purpose of distribution to undeveloped countries.

(e) Make the unclaimed textbooks available to

recycling operations.

(f) Destroy unclaimed textbooks in any manner that is practical and in the best interest of the state and local school district. Any funds from the sale of unclaimed textbooks shall be paid into the state treasury.

Section 22. (1) No child shall be denied full participation in any educational program due to an inability to purchase any and all necessary textbooks. Beginning with the 1986-87 school year, local school districts shall make available free textbooks to all children in grades nine (9) through twelve (12) who are unable to rent or purchase textbooks, using the guidelines for the free and reduced price lunch program. The parents of such children may be asked to contribute financially toward the rental and deposit cost of their children's textbooks the same percentage that they contribute financially toward the cost of their children's lunches.

(2) Local school districts shall adopt policies and procedures whereby, at the beginning of the school year, pupils or their parents are given written notice of the availability of, and guidelines and procedures for obtaining, free and reduced rental textbooks. Such policies and procedures shall also insure that the following occur:

(a) Any verbal or written communication with students or parents regarding payment of fees for textbooks shall include a statement that free or reduced rental textbooks will be made available to students in accordance with this section and a statement clearly explaining school procedures for obtaining such textbooks; and

(b) Any written communication regarding payment of fees for textbooks shall include a form that parents can use to request waiver or partial waiver of textbook fees.

(3) In exceptional circumstances, at the discretion of a local school district not providing free textbooks to all pupils, pupils who do not meet free or reduced price lunch guidelines may be provided free textbooks.

(4) Local districts shall keep records for documentation and compliance purposes, which shall be made available to the Department of Education upon said department's request. Such records shall include:

(a) The numbers of pupils in grades nine (9) through twelve (12) receiving free lunches and reduced price lunches;

(b) The number of pupils in grades nine (9) through twelve (12) who request or apply for, or whose parents request or apply for, free or reduced rental textbooks and the number of pupils receiving free or reduced rental textbooks.

(c) Copies of any forms, notices or instructions used by schools in the collection of textbook fees or the provision of free or reduced rental textbooks.

(5) In the provision of textbooks to indigent children, no child shall be discriminated against because of race, sex, color, national origin, age, or handicap and there shall be no overt identification of any such children. [Beginning with the 1986-87 school year, local school districts shall make available free textbooks to indigent children in grades nine (9) through twelve (12), using the guidelines for the free and reduced price lunch program. The parents of indigent students may be asked to contribute financially toward the rental and deposit cost of their children's textbooks the same percentage that they contribute financially toward the cost of their children's school lunches. The process of implementation shall be the prerogative of the local school district which shall keep adequate records for documentation and compliance purposes.

(2) In exceptional circumstances, at the discretion of a local school district, pupils who do not meet free and reduced price lunch guidelines may be provided free textbooks.

(3) Local school districts shall adopt procedures and policies whereby pupils are informed of the availability of, and guildelines and procedures for obtaining, free textbooks for pupils unable to rent or purchase them.]

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: August 27, 1986
FILED WITH LRC: September 4, 1986 at 3 p.m.

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

702 KAR 1:010. Facilities surveys and plans.

RELATES TO: KRS 157.420, 157.622
PURSUANT TO: KRS 156.070
NECESSITY AND FUNCTION: KRS 157.420(3) requires that the capital outlay portion of Foundation Program funds be used by school districts for capital outlay projects approved by the Superintendent of Public Instruction in accordance with requirements of law and based on a survey made in accordance with regulations of the State Board of Education; and KRS 157.622 sets forth certain requirements for school facilities plans relative to participation in funding by the School Facilities Construction Commission. This regulation provides for the development and adoption of a written plan describing construction and use of school facilities to guide school administrators in meeting the needs of the district.

Section 1. The Superintendent of Public Instruction shall conduct or cause to be conducted a facilities survey of each school district as a part of the periodic accreditation process [at least every five (5) years], and shall deliver to the local board of education the state board-approved [a] report which contains an assessment of existing conditions and a [recommended] facilities plan which designates an organizational pattern, classification of school centers, and a priority schedule for construction and renovation needs. This survey shall be done in conjunction with the accreditation program except for requested and justified amendments [as provided in Section 4 of this regulation, and shall be subject to the public hearing procedures required therefor by 704 KAR 10:022].

Section 2. Each school district's facilities plan, and requested amendments thereto, shall be developed in accordance with the standards and hearing procedures contained in the "School

Facilities Construction Criteria, August 27 [July], 1986," which is hereby adopted and incorporated by reference. Copies of said document can be obtained from the Division of Buildings and Grounds, Department of Education. [A facilities survey report upon adoption by the local board of education and the State Board of Education shall become the facilities plan for the district unless an appeal, in lieu of adoption by the local board, is submitted to the Superintendent of Public Instruction in accordance with the accreditation process appeal provisions set forth in 704 KAR 10:022. Each appeal shall include a proposed full facilities plan with the local board's requested priority listing of construction needs.]

Section 3. The facilities plan shall remain in effect until any changes have been approved by the State Board of Education.

[Section 4. A local board of education may at any time request the Superintendent of Public Instruction to conduct a review of a facilities plan for the district. Upon the presentation of written evidence that circumstances exist which necessitate temporary or permanent suspension or alteration of the adopted plan, the State Board of Education shall, at its next regular meeting, schedule a public hearing and designate a hearing officer to conduct the public hearing. The Superintendent of Public Instruction shall present at the public hearing such data as is appropriate to provide the hearing officer objective information upon which to make a recommendation. Members of the local school board, the general public, and interested individuals and parties shall be provided an opportunity to testify at the hearing. The hearing officer, whenever practicable, shall present his or her report at the next regularly scheduled meeting of the State Board of Education after the public hearing, at which time the State Board of Education shall make a final decision relative to the requested facility plan amendment. The Superintendent of Public Instruction shall make a recommendation to the State Board of Education relative to the requested revision of the facility plan at the time the hearing officer makes his or her report.]

Section 4. [5.] The adopted facilities plan shall become the facilities plan of the local school district and shall be implemented to the extent that the financial ability of the district will permit as determined by the Superintendent of Public Instruction or the School Facilities Construction Commission. The scope of any construction project recommended in the facilities plan shall not be changed unless the plan is amended.

ALICE McDONALD, Superintendent
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EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction
(Amended After Hearing)

704 KAR 3:005. Educational Improvement Act.

RELATES TO: KRS 158.650 to 158.740
PURSUANT TO: KRS 156.070, 158.650, 158.670, 158.700
NECESSITY AND FUNCTION: KRS 158.650 to 158.740, as amended by Senate Bill 202, the Educational Improvement Act, mandate a program of assessment, testing, annual performance reports, educational improvement plans and various sanctions to insure the right of public school students to acquire the competencies in the essential skills necessary to complete high school, pursue post secondary education, or enter the work force; and to assure such students access to programs and services appropriate to their educational needs in the areas of competencies in the essential skills, with the Department of Education to administer the act pursuant to regulations of the State Board of Education and to develop a comprehensive implementation plan. This regulation implements the duties and functions of the Educational Improvement Act of 1978, as amended by Senate Bill 202, by adopting the Department of Education's revised implementation plan.

Section 1. Each local district board of education shall prepare an Annual Performance Report which shall include local district data for the following factors: annual transportation cost per pupil transported; annual current expenses per pupil in average daily attendance; cost per pupil for instruction; cost per pupil for administration; percent of district revenue received from local, state and federal sources; local revenue per child in average daily attendance; assessed property value per child in average daily attendance; results of the state-mandated testing program; results of Scholastic Aptitude Test and American College Board Test; dropout rate; retention rate; percent average daily attendance; number and percent of students going to college or other post-secondary training; number and percent of students enrolled in special education and completing Individual Education Plans; percent of enrollment classified as economically deprived; percent attendance by professional staff; student/teacher ratio; teacher/administrator ratio; salary data by rank; the number of teachers teaching out of their field of specialty and the number of classes taught by teachers out of their field of specialty; expenditures for staff in-service; courses exceeding the state Program of Studies requirements; and an executive summary of the Master Educational Improvement Plan Progress Report. This report shall be submitted to the State Board of Education by December 15, 1984 for the 1983-84 school year, and by September 15 of each succeeding school year and shall be published in the newspaper with the largest circulation in the county by October 1.

Section 2. Each local district board of education shall identify program and service deficiencies and student achievement

deficiencies based upon the Annual Performance Report, the results of the most current review of the factors listed hereinafter and such other state-mandated performance reports as deemed appropriate. Deficiencies shall be determined as follows:

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

(a) STANDARD - Legal responsibility:

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

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

(b) STANDARD - Curriculum and learning environment:

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

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

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

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

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

a. Curriculum study;

b. Budget planning;

c. Co-operative evaluation; and

d. Accreditation study.

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

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

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

(c) STANDARD - School staff and administration:

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

2. Indicator - All teachers are teaching in their major or minor field or specific areas of concentration.

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

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

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

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

(a) STANDARD - Master Educational Improvement Plan. Indicator - The local school district shall prepare, with the involvement of local citizens, parents, students, teachers, and administrators, and implement the Master Educational Improvement Plan established jointly by the district and the Kentucky Department of Education and approved by the local board of education.

(b) STANDARD - Annual Performance Report.

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

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

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

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

(b) Indicator - Local school districts shall achieve an academic performance level at which eighty-five (85) percent of the students enrolled in each grade shall master the essential skills in the skills areas of reading and mathematics in the 1984-85 school year and in the additional skills areas of spelling, writing and library research reference skills each year thereafter. Districts achieving a performance level at which the percent of students in each grade mastering the essential skills is more than five (5) percentage points below eighty-five (85) percent shall develop and implement plans at the local level to improve the performance level by two and five-tenths (2.5) percentage points each year. Local school districts achieving an academic performance level at which the percent of students in any grade mastering the essential skills is more than five (5) percentage points below eighty-five (85) percent in three (3) or more grade levels in any one (1) skills area, or that fail to demonstrate in two (2) consecutive years the previously required rate of improvement in a grade or skills area shall be deemed to have a deficiency in the applicable skills area and shall include in the Master Educational Improvement Plan a specific goal focused on improving the percent of students mastering the essential skills by at least two and five-tenths (2.5) percentage points each year. The goal shall include both process and product objectives which establish specific action, time frames, and outcomes that systematically move the district toward achieving an eighty-five (85) percent performance level in each grade and skills area.

(4) The local school district shall be deemed

to have a deficiency [declared deficient] in product goals when one (1) or more of the following school district outcome standards are not met:

(a) STANDARD - Student Attendance.

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

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

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

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

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

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

(b) STANDARD - Student Dropout.

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

Local school districts with a dropout percentage of more than three and five-tenths (3.5) percent but less than five and five tenths (5.5) percent shall be deemed in a satisfactory range and shall develop and implement a plan at the local level which includes [in the Master Educational Implementation Plan] a specific goal focused on reducing the dropout rate. The goal shall include both process and product objectives which establish specific actions, time frames, and outcomes that systematically move the district toward reducing the dropout percentage to three and five-tenths (3.5) percent or less.

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

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

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

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

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

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

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

Section 4. (1) Each district shall report to the Kentucky Department of Education by September 15 of each school year, its progress in correcting the deficiencies addressed in its Master Educational Improvement Plan. The Kentucky Department of Education shall identify those districts failing to make satisfactory progress in correcting deficiencies. The progress reports of the identified districts and such other reports as may be requested shall be reviewed by the Educational Improvement Advisory Committee which shall recommend to the Superintendent of Public Instruction for State Board action, those districts which are

"educationally deficient" and which should be provided with technical assistance by the Kentucky Department of Education. Satisfactory progress shall be defined relative to "educationally deficient," as the district's compliance with and adherence to the time lines established in the approved Master Educational Improvement Plan which shall be submitted on an annual basis until the district is cleared of deficiencies.

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

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

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

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

ALICE McDONALD, Superintendent
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EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction
(Amended After Hearing)

704 KAR 15:080. Paraprofessional employees and volunteer personnel.

RELATES TO: KRS 161.010, 161.030, 161.044
PURSUANT TO: KRS 156.070, 161.044
NECESSITY AND FUNCTION: KRS 161.010 defines a paraprofessional, KRS 161.030 vests the certification of all teachers and other school personnel with the State Board of Education, and KRS 161.044 directs the State Board to establish a plan for the qualification and utilization of adult paraprofessional employees and adult volunteer personnel in the schools. This regulation prescribes the guidelines by which local school districts may utilize and supervise adult paraprofessional employees and adult volunteer personnel.

Section 1. Local boards of education may utilize adult volunteer and adult paraprofessional employees in accordance with KRS 161.044 and 161.010(4) and (5), and subject to the following provisions:

(1) All [instructional] teachers' aides working in kindergarten classes and all **instructional** teachers' aides **initially** hired by the local board of education after July 1, 1986, except those with teacher certification, shall be subject to the following requirements:

(a) A high school diploma or a high school equivalency certificate.

(b) A passing score on an achievement test. Beginning with the 1986-87 school year, ~~an appropriate test~~ [the Adult Basic Learning Examination (ABLE)] shall be ~~used~~ [utilized] to measure ~~competence~~ [achievement] in the areas of reading and mathematics. The Superintendent of Public Instruction shall appoint an advisory committee to assist in the selection of an appropriate test and establishing passing scores for the 1986-87 school year. The passing score shall be submitted to the State Board of Education for approval and incorporation into this regulation. [Passing score on the appropriate subtests of the ABLE shall be those scores which are equivalent to the scores obtained by the norming groups at the 22nd percentile.]

(c) Successful completion of an in-service training program. The program shall consist of a minimum of twelve (12) hours of formal, documented instruction to include training in the areas of the role of the paraprofessional, educational terminology, school practices and policies, interpersonal relationships, learning atmosphere and tutorial instruction. Local school districts shall utilize the in-service program designated by the State Board of Education or an alternative program approved by the Department of Education which meets the requirements of this subsection.

(d) An annual evaluation by the appropriate school administrator with input from the supervising teacher or teachers. Local districts shall adopt a policy which sets forth the evaluation process for teachers' aides and the use to be made of such evaluations in future employment decisions.

[(2) All full-time noninstructional teachers' aides shall achieve a passing score on an achievement test. The test shall be the same test which is administered to instructional teachers' aides and the passing scores shall be identical to those established for instructional teachers' aides.]

(2) [(3)] Local boards of education shall give preference to an applicant for the position of teacher's aide or paraprofessional who has a regular or emergency teacher certification.

(3) [(4)] [(1)] For each paraprofessional employee the local school district shall prepare and maintain an up-to-date job description which outlines the duties that the individual is authorized to perform. [and which further describes the formal preparation or professional judgments of competency that corroborate the qualifications of the individual to perform those duties. The professional administrative and teaching staff may establish formal evaluation procedures to arrive at the professional judgments of competency that are to be entered into the written job description.]

(4) [(5)] [(2)] The professional administrative and teaching staff, as well as the paraprofessional employees, shall have copies of the job descriptions of the paraprofessional personnel under their direction and shall limit the work assignment of the paraprofessional personnel to the duties outlined in the job descriptions.

(5) [(6)] [(3)] Paraprofessional employees and volunteer personnel may be assigned within the limitations of their competency to assist with classroom and any otherwise authorized community-based instruction, as appropriately directed and [personally] supervised by the professional administrative and teaching staff. Such assistance shall not include the continuing day-to-day responsibility for teaching a particular academic subject or group of pupils in the role ordinarily ascribed to a teacher in the regular, special education, and vocational education program areas, and paraprofessional employees and volunteer personnel involved in regular and remedial classroom instruction shall be personally supervised on a continuing day-to-day basis by the supervising teacher.

Section 2. In the event a local board of education is unable to fully staff an athletic program with qualified personnel under 702 KAR 7:090 Sections 1 and 2, the local district superintendent may request annual approval from the Superintendent of Public Instruction for an alternative staffing arrangement for noncertified paraprofessionals performing routine, assignments, pursuant to 702 KAR 7:090, Section 2(2). Appropriate justification shall be submitted in writing on forms provided by the head of the Office of Instruction.

ALICE McDONALD, Superintendent
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PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(Amended After Hearing)

806 KAR 1:010. Liability self-insurance groups.

RELATES TO: KRS 304.1-120, 304.39-080
PURSUANT TO: KRS 304.2-110, 304.39-300
NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.39-300 provides that the Commissioner of Insurance may adopt reasonable regulations to provide effective administration of KRS 304.39. This regulation establishes minimum standards for liability self-insurance groups to assure that such groups are providing adequate coverage for professional or public liability risks, have established a comprehensive loss prevention and risk management program coordinated with an effective claims management system, and have provided the appropriate information to the Department of Insurance.

Section 1. Scope. This regulation applies to liability self-insurance groups established or which have expanded the kinds of risks protected by such groups pursuant to KRS 304.1-120 on or after July 15, 1986. Groups which are issued a certificate of filing by the commissioner shall not be deemed to be insurers or insurance companies and shall not be subject to the provisions of the Kentucky Insurance Code and regulations except as provided in this regulation.

Section 2. Definitions. (1) "Administrator" means an individual, partnership, [or] corporation, association, or other legal entity engaged by a liability self-insurance group's board of trustees to carry out the policies established by the group's board of trustees and to provide day-to-day management of the group.

(2) "Bona fide association" as used in KRS 304.1-120 is an association which has a substantial non-insurance purpose or has other characteristics of stability in finances, membership, etc.

(3) "Commissioner" means the Commissioner of the Kentucky Department of Insurance.

(4) "Deceptive" refers to an act, practice, or statement which has the tendency or capacity to deceive, without regard to whether there is intent to deceive or whether any person has suffered loss or injury as a result of the act, practice, or statement.

(5) "Governmental entity" means the Commonwealth of Kentucky, other states, or the United States, their political subdivisions, municipal corporations, or public agencies.

(6) [(5)] "Insolvent" or "insolvency" means the inability of a liability self-insurance group to pay its outstanding lawful obligations as they mature in the regular course of business, as may be shown either by an excess of its required reserves and other liabilities over its assets or by its not having sufficient assets to reinsure all of its outstanding liabilities after paying all accrued claims owed by it.

(7) [(6)] "Liability self-insurance group" means a group established pursuant to KRS 304.1-120(6).

(8) [(7)] "Person" has the meaning set forth in KRS 304.1-120.

(9) [(8)] "Qualified actuary" means a member of the American Academy of Actuaries or a fellow of the Casualty Actuarial Society.

(10) [(9)] "Service company" means a person or entity which provides services not provided by the administrator, including, but not limited to, claims adjustment, safety engineering, compilation of statistics in preparation of contribution and assessment, loss, and tax reports, preparation of other required self-insurance reports, development of members' contributions, assessments, and fees,

and administration of a claim fund.

(11) [(10)] "Unfair" refers to an act, practice, or statement which is unconscionable.

Section 3. Filing With the Commissioner Required. No person shall act as a liability self-insurance group unless it has been issued a certificate of filing by the commissioner.

Section 4. Qualifications for Initial Filing and Continued Authority to Act as a Liability Self-insurance Group. (1) A proposed liability self-insurance group shall file with the commissioner its application for a certificate of filing accompanied by a non-refundable filing fee of five (5) dollars. The application shall include the group's name, location of its principal office, date of organization, name and address of each member (if known at the time of application - if unknown, a description of the group to be solicited for membership), identification of its fiscal year, and such other information as the commissioner may reasonably require, together with the following:

(a) Proof of compliance with the provisions of subsection (2) of this section.

(b) A copy of the articles of association.

(c) If requested by the commissioner, a copy of agreements with the administrator and with any service company.

(d) A copy of the by-laws of the proposed group.

(e) A copy of the agreement between the group and each member jointly and severally binding the group and each member thereof to comply with the provisions of this regulation and the decision of the trustees for operation of the liability self-insurance group. If the liability self-insurance group is composed of governmental entities, the agreement shall not jointly and severally bind group members to pay the debts of others. Liability self-insurance groups may limit group members' joint and several liability, such limits to be established in terms of members' annual contributions.

(f) Designation of the initial board of trustees and administrator.

(g) The address [in this state] where books and records of the group will be maintained at all times.

(h) A pro forma financial statement on a form acceptable to the commissioner showing financial ability of the group to pay the professional or public liability obligations of its members.

(2) To obtain and to maintain its certificate of filing a liability self-insurance group shall have sufficient financial strength to pay all public or professional liabilities covered by the group, including both known claims and expenses and incurred but not reported claims and expenses. If the commissioner is not satisfied with the financial strength of a liability self-insurance group, he may require any or all of the following: [comply with the following financial requirements:]

(a) Liability self-insurance groups to [shall] provide security in the form and the amount prescribed by the commissioner as follows:

1. A surety bond issued by a corporate surety authorized to transact business in Kentucky; or

2. Any financial security endorsement issued as part of an acceptable excess insurance contract issued by an authorized insurer may be used to meet all or part of the security requirement. The bond or financial security endorsement shall be for the benefit of the insured creditors solely to pay claims and associated expenses and payable upon the failure of the group to pay professional or public liability claims it is legally obligated to pay. The commissioner may establish and adjust from time to time the requirements for the amount of security based on differences among groups in their size, types or business, years in existence, or other relevant factors.

(b) Specific and aggregate excess insurance in a form, in an amount, and issued by an insurer acceptable to the commissioner.

(c) A liability self-insurance group to [shall] provide a fidelity bond for the administrator and a fidelity bond for the service company in forms and amounts prescribed by the commissioner. The commissioner may also require the service company providing claim service to furnish a performance bond in a form and amount prescribed by the commissioner.

(3) A liability self-insurance group shall notify the commissioner immediately of any change in the information required to be filed under subsection (1) of this section or in the manner of its compliance with subsection (2) of this section.

(4) The commissioner shall issue to the liability self-insurance group a certificate of filing upon finding that the proposed group has met all requirements or the commissioner shall issue a written statement refusing such certificate, setting forth the reasons for such refusal.

(5) Any liability self-insurance group accepting a certificate of filing pursuant to this regulation is deemed to have appointed the Secretary of State as its attorney to receive service of legal process issued against it in this state. Such appointment shall be irrevocable, shall bind any successor in interest, and shall remain in effect as long as there is in this state any professional or public liabilities.

Section 5. Termination of Certificate of Filing. (1) A certificate of filing remains in effect until terminated at the request of the group or suspended or revoked by the commissioner pursuant to Section 16 of this regulation.

(2) The commissioner shall not grant the request of a liability self-insurance group to terminate its certificate of filing unless the group has filed with the commissioner a statement describing what arrangements, if any, have been made to pay obligations of the group, including both known claims and expenses and incurred but not reported claims and expenses. [insured or reinsured all professional or public liabilities with an authorized insurer under an agreement filed with and approved in writing by the commissioner. Such obligations shall include both known claims and expenses and claims incurred but not reported and expenses.]

(3) Subject to filing with the commissioner, a liability self-insurance group may merge with another liability self-insurance group. As a result of any such merger, the resulting liability self-insurance group must assume in full all obligations of the constituent groups.

Section 6. Board of Trustees: Membership,

Powers, Duties, and Prohibitions. (1) Each group shall be operated by a Board of Trustees which shall consist of not less than two (2) persons selected in the manner prescribed by the liability self-insurance group. Except for liability self-insurance groups formed by governmental entities, the [whom the members of a group elect for stated terms of office. The] trustees shall not be officers, employees, or agents of an administrator or servicing organization. All trustees shall be residents of Kentucky or officers of corporations authorized to do business in Kentucky. The trustees shall have the authority to administer the operations of the liability self-insurance group, including, but not limited to, assuring that there is adequate funding to cover professional or public liabilities, assuring that all claims are paid promptly, and that all necessary precautions are taken to safeguard the assets of the group.

(2) The Board of Trustees shall:

(a) Maintain responsibility for all moneys collected or disbursed from the group and segregate all moneys into a claims fund account and an administrative fund account.

(b) Maintain minutes of its meetings and make such minutes available to the commissioner.

(c) Designate an administrator to carry out the policies established by the Board of Trustees and to provide day-to-day management of the group, and delineate in the written minutes of its meetings the areas of authority it delegates to the administrator.

(d) Retain an independent certified public accountant and a qualified actuary to prepare the statement of financial condition required by Section 9 of this regulation.

(3) The Board of Trustees shall not:

(a) Extend credit to individual group members for payment of contributions or assessments, except pursuant to payment plans filed with the commissioner.

(b) Permit the loan of any moneys to or borrow any moneys from the group or in the name of the group. However, a liability self-insurance group formed by governmental entities may borrow monies in the name of the group.

(4) In its discretion, the liability self-insurance group may refer to its trustees as directors. When this is done, the provisions of this regulation referring to trustees shall be construed as referring to such directors.

Section 7. Group Membership, Termination, and Liability. (1) An employer joining a liability self-insurance group after the group has been issued a certificate of filing shall submit an application for membership to the Board of Trustees or its administrator and enter into the indemnity agreement required by Section 4(1)(e) of this regulation. Membership takes effect no earlier than each member's date of application. The application for membership and its approval shall be maintained as permanent records of the Board of Trustees.

(2) Individual members of a liability self-insurance group shall be subject to cancellation by the group pursuant to the by-laws of the group. In addition, individual group members may elect to terminate their participation in the group.

(3) A liability self-insurance group shall pay all professional and public liabilities which are covered under the terms, conditions, and exclusions of the group's evidence of coverage for which each member incurs liability during its period of membership. Except as to liability self-insurance groups formed by governmental entities, a member who elects to terminate its membership or is cancelled by a group remains jointly and severally liable for professional or public liability obligations of the group and its members which were incurred during the cancelled or terminated group members' period of membership. A group member is not relieved of its professional or public liabilities incurred during its period of membership except through payment by the group or the member of liabilities.

(4) The insolvency or bankruptcy of a group member does not relieve the liability self-insurance group or any other group member of liability for the payment of professional or public liabilities which are covered under the terms, conditions and exclusions of the group's evidence of coverage and incurred during the insolvent or bankrupt group member's period of membership.

(5) This section does not negate any statutes or judicial decisions limiting defenses.

Section 8. Service Companies. (1) No service company or its employees, officers, or directors shall be an employee, officer, or director of, or have either a direct or indirect interest in, an administrator. No administrator or its employees, officers, or directors shall be an employee, officer, or director of, or have either a direct or indirect financial interest in, a service company.

(2) This section does not apply to liability self-insurance groups formed by public entities. [The service contract shall state that unless the commissioner permits otherwise the service company shall handle, to their conclusion, all claims and other obligations incurred during the contract period.]

Section 9. Financial Statements and Other Reports. (1) Each liability self-insurance group shall submit to the commissioner a statement of financial condition audited by an independent certified public accountant on or before sixty (60) days from the end of the group's fiscal year for the immediately preceding fiscal year [March 1 for the preceding calendar year]. The financial statement shall be on a form prescribed by the commissioner and shall include, but not be limited to, actuarially appropriate reserves for:

(a) Known claims and expenses associated therewith.

(b) Claims incurred but not reported and any expenses associated therewith.

(c) Unearned contributions and assessments.

(d) Bad debts, which reserves shall be shown as liabilities.

(e) An actuarial opinion by a qualified actuary regarding reserves for known claims and expenses associated therewith.

(f) An actuarial opinion by a qualified actuary regarding reserves for claims incurred but not reported and expenses associated therewith.

(2) No person shall make any deceptive statement or fail to make any statement which

would make a statement not deceptive in connection with the solicitation of membership of a group.

(3) The commissioner may prescribe the format and frequency of other reports which may include, but not be limited to, summary loss reports and quarterly financial statements.

Section 10. Trade Practices. (1) No person shall make any materially deceptive statement or omit material facts in connection with solicitation for membership in a liability self-insurance group.

(2) Unfair claims settlement practices. Liability self-insurance groups shall:

(a) Respond to claimant inquiries which reasonably suggest that a response is expected within fifteen (15) working days.

(b) Liability self-insurance groups shall respond to Department of Insurance inquiries concerning claims within fifteen (15) working days.

(c) Complete investigation of losses within thirty (30) days from the date the group has notice of a loss. Additional thirty (30) day periods may be taken if reasonably necessary and upon written notice to the claimant.

(d) Not continue negotiations for settlement of a claim directly with a claimant who is neither an attorney nor represented by an attorney until the claimant's rights may be affected by a statute of limitations or a policy or contract time limit without giving the claimant written notice at least sixty (60) days before the date on which such time limit may expire that the time limit may be expiring and may affect the claimant's rights.

(e) Not commit any other unfair or deceptive act or practice relating to claim settlement.

(3) Liability self-insurance groups shall not commit unfair or deceptive acts or practices under its certificate of filing from the commissioner.

Section 11. Investments. Funds not needed for current obligations may be invested by the Board of Trustees in investments recognized as sound investments.

Section 12. Rates and Underwriting Guidelines. Liability self-insurance groups shall file with the commissioner their rates, underwriting guidelines, and any changes therein prior to effectuation. Such filings shall be accompanied by a five (5) dollar filing fee per rate or guideline.

Section 13. Contribution and Assessment Payments; Reserves. (1) Liability self-insurance groups shall establish contribution and assessment payment plans.

(2) Liability self-insurance groups shall establish and maintain appropriate loss reserves which shall include reserves for:

(a) Known claims and expenses associated therewith; and

(b) Claims incurred but not reported and expenses associated therewith.

(3) Liability self-insurance groups shall establish and maintain bad debt reserves based on the historical experience of the group or other groups. The commissioner may waive this requirement for good cause shown.

Section 14. Deficits and Insolvencies. (1) If the assets of a liability self-insurance group are at any time insufficient to enable the group to discharge its legal liabilities and other obligations and to maintain the reserves required of it under this regulation, the group shall immediately levy an assessment upon its members for the amount needed to make up the deficiency.

(2) In the event of a deficiency in any fund year, such deficiency shall be made up immediately, either from surplus from a fund year other than the current fund year, administrative funds, assessment of the membership, if ordered by the group, or such alternate methods as the commissioner may approve or direct. The commissioner shall be notified prior to any transfer of surplus funds from one fund year to another.

(3) If a liability self-insurance group fails to assess its members to make up such deficit within thirty (30) days, the commissioner shall order it to do so. This subsection does not apply to liability self-insurance groups formed by governmental entities.

(4) If a liability self-insurance group fails to make the required assessment of its members within thirty (30) days after the commissioner orders it to do so, or if the deficiency is not fully made up within sixty (60) days after the date on which such assessment is made, or within such longer period of time as may be permitted by the commissioner, the group shall be deemed to be insolvent.

Section 15. Evidence of Coverage. (1) Every member of a liability self-insurance group shall receive written evidence of coverage by the group.

(2) All evidences of coverage issued pursuant to this section shall contain coverage terms, conditions, and exclusions.

(3) All evidences of coverage issued pursuant to this section, other than those issued by liability self-insurance groups formed by governmental entities, shall contain the following disclosure in prominent, contrasting type: THIS COVERAGE HAS BEEN PLACED WITH A LIABILITY SELF-INSURANCE GROUP WHICH HAS RECEIVED A CERTIFICATE OF FILING FROM THE COMMONWEALTH OF KENTUCKY. CLAIMS AGAINST GROUP MEMBERS ARE NOT COVERED BY THE KENTUCKY INSURANCE GUARANTY ASSOCIATION. GROUP MEMBERS MAY BE ASSESSED IN THE EVENT OF INSOLVENCY OF THE LIABILITY SELF-INSURANCE GROUP.

(4) All evidences of coverage issued pursuant to this section by liability self-insurance groups formed by governmental entities, shall contain the following disclosure in prominent, contrasting type: THIS COVERAGE HAS BEEN PLACED WITH A LIABILITY SELF-INSURANCE GROUP WHICH HAS RECEIVED A CERTIFICATE OF FILING FROM THE COMMONWEALTH OF KENTUCKY. CLAIMS AGAINST GROUP MEMBERS ARE NOT COVERED BY THE KENTUCKY INSURANCE GUARANTY ASSOCIATION.

Section 16. Inclusion of Motor Vehicle Liability Coverage. (1) If the liability self-insurance group is formed by governmental entities and coverage is provided for motor vehicle liability, the group is not required to comply with 806 KAR 39:050, Self insurance, unless its members elect to become obligated governments for the payment of basic reparation

benefits or are required by law to provide basic reparation benefits, in which case the group shall provide the security required by 806 KAR 39:050.

(2) If a liability self-insurance group formed by entities other than governmental entities chooses to provide coverage for motor vehicle liability and basic reparation benefits, its application shall be analyzed under both this regulation and 806 KAR 39:050 and authority to self-insure motor vehicle liability and basic reparation benefits coverages shall not be granted unless the group complies with this regulation and 806 KAR 39:050.

(3) All applications for a certificate of filing shall state whether motor vehicle liability or basic reparation benefits coverages are to be covered by the group.

Section 17. [16.] Disciplinary Measures. (1) After a hearing or upon agreement by the liability self-insurance group, the commissioner may suspend or revoke the certificate of filing of a liability self-insurance group, impose a civil penalty of up to $5,000 per violation on a liability self-insurance group, or both, for:

(a) Violations of KRS 304.1-120 or this regulation;

(b) Obtaining a certificate of filing by unfair or deceptive means;

(c) Operating in a financially hazardous manner;

(d) Misappropriation, conversion, illegal withholding, or refusal to pay over upon proper demand any moneys that belong to a member, an employee of a member, or a person otherwise entitled thereto by the group or its administrator; or

(e) Unfair or deceptive business practices.

(2) In his discretion and without advance notice or a hearing thereon, the commissioner may suspend or revoke the certificate of filing of any liability self-insurance group as to which proceedings for receivership, conservatorship, rehabilitation, or other delinquency proceedings have been commenced.

Section 18. [17.] Severability. If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 19. [18.] Effective Date. (1) This regulation shall become effective upon completion of its review pursuant to KRS Chapter 13A.

(2) As a courtesy to the Legislative Research Commission, the Department of Insurance states that it intends this regulation to be permanent. This statement does not constitute an admission of the constitutionality of 1986 Kentucky Acts c.499 (HB) 310) §§ 8 and 9.

GIL McCARTY, Commissioner
ROBERT M. DAVIS, Secretary
APPROVED BY AGENCY: September 3, 1986
FILED WITH LRC: September 3, 1986 at 3 p.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(Amended After Hearing)

806 KAR 20:010. Declination, cancellation, and nonrenewal of property and casualty insurance.

RELATES TO: KRS 304.12-020, 304.14-120, 304.14-210, 304.20-160, 304.20-300 to 304.20-350, 304.30-110

PURSUANT TO: KRS Chapter 13A, 304.2-110, 304.30-070

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.30-070 provides that the Commissioner of Insurance may make reasonable regulations necessary for the effectuation of any provision of KRS Chapter 304.30. This regulation provides certain guidelines for the declination, cancellation, and nonrenewal of property and casualty insurance pursuant to KRS 304.20-300 to 304.20-350.

Section 1. Definitions. The definitions of KRS 304.20-300 and 304.20-310 apply to this regulation.

Section 2. Application of KRS 304.20-300 to 304.20-350 to Property and Casualty Insurance Policies. (1) KRS 304.20-300 to 304.20-350 apply to declinations, cancellations, [and] nonrenewals, and twenty-five (25) percent premium increases of property and casualty insurance policies described in KRS 304.20-300 delivered, issued for delivery, or renewed after July 15, 1986.

(2) KRS 304.20-300 to 304.20-350 apply to every declination which occurs after July 15, 1986.

(3) KRS 304.20-300 to 304.20-350 apply to the cancellation, [and] nonrenewals, and twenty-five (25) percent premium increases of all property and casualty insurance policies delivered or issued for delivery after July 15, 1986.

(4) KRS 304.20-300 to 304.20-350 apply to the cancellation, [and] nonrenewals, and twenty-five (25) percent premium increases of property and casualty insurance policies in existence on July 15, 1986, only after such policies have been renewed after July 15, 1986.

Section 3. Notice of Nonrenewal. (1) Every notice of nonrenewal pursuant to KRS 304.20-320 shall contain the following statement, or a statement substantially similar to the following statement:

> Kentucky law provides that you may submit a written request to the insurer for an explanation of the reason for the nonrenewal of your policy. The insurer must respond within 15 working days of the receipt of your request. Submit your written request to: (name and address of person whom request should be directed).

(2) The statement required by subsection (1) of this section shall be printed in a manner reasonably calculated to inform the insured of the right to request in writing the reason for the nonrenewal.

(3) Written requests for explanations of the

reasons for nonrenewals shall be answered by insurers within fifteen (15) working days of receipt of such requests.

(4) The statement set forth in subsection (1) of this section is not required if the notice of nonrenewal contains the reason for the nonrenewal.

Section 4. Notice of Reason for Declination, Cancellation, or Nonrenewal. (1) In every instance where KRS 304.20-300 to 304.20-350 or this regulation require a reason for declination, cancellation, or nonrenewal to be given to an applicant or an insured, the reason given shall be a statement reasonably calculated to inform the applicant or insured of the reason for the declination, cancellation, or nonrenewal. For example, the statement that a policy was nonrenewed for "underwriting reasons" is inadequate.

(2) Subsection (1) of this section does not apply where a risk is declined or a policy terminated where there is specific information available for review by the Commissioner of Insurance that the insured has contributed to a loss by arson. A more general reason may be given to the insured in this situation.

(3) The fact that the reason for declination, cancellation, or nonrenewal has been obtained through an investigative consumer report subject to the Fair Credit Reporting Act, 15 U.S.C. §1681 et seq., does not relieve the insurer from the requirement of notifying the insured of the declination, cancellation, or nonrenewal pursuant to KRS 304.20-300 to 304.20-350. However, any insured wishing to learn the substance of an investigative consumer report must be directed to contact the consumer reporting agency and follow the procedures contained in the Fair Credit Reporting Act.

Section 5. Policy Forms. (1) Policy forms filed with and approved by the Commissioner of Insurance as of July 15, 1986, need not be amended to comply with KRS 304.20-300 to 304.20-350, but insurers using such forms shall adopt procedures which conform to KRS 304.20-300 to 304.20-350.

(2) Policy forms filed with the Commissioner of Insurance after July 15, 1986, shall contain language complying with KRS 304.20-300 to 304.20-350.

Section 6. Cancellation for Nonpayment of Premium Under Insurance Premium Finance Company Contracts Controlled by KRS Chapter 304.30. (1) If an insurance premium finance company exercises its power of attorney to cancel a policy pursuant to KRS 304.30-110, such cancellation is considered to be a cancellation at the request of the insured and shall not be subject to KRS 304.20-300 to 304.20-350.

(2) The phrases "premium finance plan" and "extension of credit" in KRS 304.20-310(2) refer to extensions of credit to pay for insurance which are made by insurers or other entities not subject to KRS Chapter 304.30.

Section 7. Effective Date. (1) This regulation shall become effective upon completion of its review pursuant to KRS Chapter 13A.

(2) As a courtesy to the Legislative Research Commission, the Department of Insurance states that this regulation is intended to be permanent. This does not constitute an admission of the constitutionality of 1986 Ky. Acts c. 499 Sections 8 and 9.

GIL McCARTY, Commissioner
ROBERT M. DAVIS, Secretary
APPROVED BY AGENCY: September 3, 1986
FILED WITH LRC: September 3, 1986 at 3 p.m.

CABINET FOR HUMAN RESOURCES
Office of the Inspector General
(Amended After Hearing)

902 KAR 20:016. Hospitals; operations and services.

RELATES TO: KRS 216B.010 to 216B.130, 216B.107, 216B.990(1)(2)
PURSUANT TO: KRS 216B.040, 216B.105, Executive Order 86-366
NECESSITY AND FUNCTION: KRS 216B.040 mandate that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. Executive Order 86-366 transferred the authority to regulate health services and health facilities from the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board to the Office of the Inspector General. This regulation provides for the minimum licensure requirements for the operation of hospitals and the basic services to be provided by hospitals.

Section 1. Scope of Operations and Services. Hospitals are establishments with organized medical staffs and permanent facilities with inpatient beds which provide medical services, including physician services and continuous nursing services for the diagnosis and treatment of patients who have a variety of medical conditions, both surgical and nonsurgical.

Section 2. Definitions. (1) "Governing authority" means the individual, agency, partnership, or corporation, in which the ultimate responsibility and authority for the conduct of the institution is vested.

(2) "Medical staff" means an organized body of physicians, and dentists when applicable, appointed to the hospital staff by the governing authority. All members of the medical staff shall be licensed to practice medicine or dentistry in Kentucky, with the exception of graduate physicians who are in the first year of hospital training.

(3) "Registered records administrator" means a person who is certified as a Registered Records Administrator by the American Medical Record Association.

(4) "Accredited record technician" means a person who has graduated from a program for medical record technicians accredited by the Council on Medical Education of the American Medical Association and the American Medical Record Association; and who is certified as an Accredited Record Technician by the American Medical Record Association.

(5) "Qualified dietitian" or "nutritionist" means:

(a) A person who has a bachelor of science degree in foods and nutrition, food service

management, institutional management or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietitian by ADA; or

(b) A person who has a master's degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) A person who has bachelor of science degree in home economics and three (3) years of work experience with a registered dietitian.

(6) "Certified radiation operator" means a person who has been certified pursuant to KRS 211.870 and 902 KAR 105:010 to 105:070 as an operator of sources of radiation.

(7) "Protective devices" means devices that are designed to protect a person from falling, to include side rails, safety vest or safety belt.

(8) "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a patient or the movement of a portion of a patient's body.

(9) "Psychiatric unit" means a department of a general acute care hospital consisting of eight (8) or more psychiatric beds organized for the purpose of providing psychiatric services.

(10) "Induration" means a firm area in the skin which develops as a reaction to injected tuberculosis proteins when a person has tuberculosis infection. The diameter of the firm area is measured to the nearest millimeter to gauge the degree of reaction. A reaction of ten (10) millimeters or more of induration is considered highly indicative of tuberculosis infection.

(11) "Skin test" means a tuberculin skin test utilizing the intradermal (Mantoux) technique using five (5) tuberculin units of purified protein derivative (PPD). The results of the test must be read forty-eight (48) to seventy-two (72) hours after injection and recorded in terms of millimeters of induration.

(12) "Two-step skin testing" means a series of two (2) tuberculin skin tests administered seven (7) to fourteen (14) days apart.

(13) "Organ procurement agency" means a federally designated organization which coordinates and performs activities which encourage the donation of organs/tissues for transplantation.

Section 3. Administration and Operation. (1) Governing authority licensee.

(a) The hospital shall have a recognized governing authority that has overall responsibility for the management and operation of the hospital and for compliance with federal, state, and local laws and regulations pertaining to its operation.

(b) The governing authority shall appoint an administrator whose qualifications, responsibilities, authority, and accountability shall be defined in writing and approved by the governing authority, and shall designate a mechanism for the periodic performance review of the administrator.

(2) Administrator.

(a) The administrator shall act as the chief executive officer and shall be responsible for the management of the hospital, and shall provide liaison between the governing authority and the medical staff.

(b) The administrator shall keep the governing authority fully informed of the conduct of the hospital through periodic reports and by attendance at meetings of the governing authority.

(c) The administrator shall develop an organizational structure including lines of authority, responsiblity, and communication, and shall organize the day-to-day functions of the hospital through appropriate departmentalization and delegation of duties.

(d) The administrator shall establish formal means of accountability on the part of subordinates to whom he has assigned duties.

(e) The administrator shall hold interdepartmental and departmental meetings (where appropriate), shall attend or be represented at such meetings on a regular basis, and shall report to such departments as well as to the governing authority the pertinent activities of the hospital.

(3) Administrative records and reports.

(a) Administrative reports shall be established, maintained and utilized as necessary to guide the operation, measure productivity, and reflect the programs of the facility. Such reports shall include: minutes of the governing authority and staff meetings, financial records and reports, personnel records, inspection reports, incident investigation reports, and other pertinent reports made in the regular course of business.

(b) The hospital shall maintain a patient admission and discharge register. Where applicable, a birth register and a surgical register shall also be maintained.

(c) Licensure inspection reports and plans of correction shall be made available to the general public upon request.

(4) Policies. The hospital shall have written policies and procedures governing all aspects of the operation of the facility and the services provided, including:

(a) A written description of the organizational structure of the facility including lines of authority, responsibility and communication, and departmental organization;

(b) Admission policies which assure that patients are admitted to the hospital in accordance with policies of the medical staff;

(c) Constraints imposed on admissions by limitations of services, physical facilities, staff coverage or other factors;

(d) Financial requirements for patients on admission;

(e) Emergency admissions;

(f) Requirements for informed consent by patient, parent, guardian or legal representative for diagnostic and treatment procedures;

(g) There shall be an effective procedure for recording accidents involving a patient, visitor, or staff, and incidents of transfusion reactions, drug reactions, medication errors, etc.; and a statistical analysis shall be reported in writing through the appropriate committee;

(h) Reporting of communicable diseases to the health department in whose jurisdiction the disease occurs pursuant to KRS Chapter 214 and 902 KAR 2:020;

(i) Use of restraints and a mechanism for monitoring and controlling their use;

(j) Internal transfer of patients from one (1)

level or type of care to another (if applicable);

(k) Discharge and termination of services; and

(l) Organ procurement for transplant protocol developed by the medical staff in consultation with the organ procurement agency.

(5) Patient identification. The hospital shall have a system for identifying each patient from time of admission to discharge (e.g., an identification bracelet imprinted with name of patient, hospital identification number, date of admission, and name of attending medical staff member).

(6) Discharge planning.

(a) The hospital shall have a discharge planning program to assure the continuity of care for patients being transferred to another health care facility or being discharged to the home.

(b) The professional staff of the facility involved in the patient's care during hospitalization shall participate in discharge planning of the patient whose illness requires a level of care outside the scope of the general hospital.

(c) The hospital shall coordinate the discharge of the patient with the patient and the person(s) or agency responsible for the post-discharge care of the patient. All pertinent information concerning post-discharge needs shall be provided to the responsible person(s) or agency.

(7) Transfer procedures and agreements.

(a) The hospital shall have written patient transfer procedures and agreements with at least one (1) of each type of other health care facilities which can provide a level of inpatient care not provided by the hospital. Any facility which does not have a transfer agreement in effect but has documented a good faith effort to enter into such an agreement shall be considered to be in compliance with this requirement. The transfer procedures and agreements shall specify the responsibilities each institution assumes in the transfer of patients and shall establish responsibility for notifying the other institution promptly of the impending transfer of a patient and arranging for appropriate and safe transportation.

(b) If the patient is transferred to another health care facility or to the care of a home health agency, a transfer form shall accompany the patient or be sent immediately to the home health agency. The transfer form shall include at least: attending medical staff member's instructions for continuing care, a current summary of the patient's medical record, information as to special supplies or equipment needed for patient care, and pertinent social information on the patient and family. When such transfer occurs, a copy of the patient's signed discharge summary shall be forwarded to another health care facility or home health agency within fifteen (15) days of the patient's discharge.

(c) When a transfer is to another level of care within the same facility, the complete medical record or a current summary thereof shall be transferred with the patient.

(8) Medical staff.

(a) The hospital shall have a medical staff organized under bylaws approved by the governing authority, which is responsible to the governing authority of the hospital for the quality of medical care provided to the patients and for the ethical and professional practice of its members.

(b) The medical staff shall develop and adopt policies or bylaws, subject to the approval of the governing authority, which shall:

1. State the necessary qualifications for medical staff membership. For purposes of this document, medical staff shall mean physicians, and dentists when applicable.

2. Define and describe the responsbilities and duties of each category of medical staff (e.g., active, associate, courtesy, consulting, or honorary), delineate the clinical privileges of staff members, and establish a procedure for granting and withdrawing staff privileges to include credentials review.

3. Provide a mechanism for appeal of decisions regarding staff membership and privileges.

4. Provide a method for the selection of officers of the medical staff.

5. Establish requirements regarding the frequency of, and attendance at, general staff and department/service meeting of the medical staff.

6. Provide for the appointment of standing and special committees, and include requirements for composition and organization, frequency of and attendance at meetings, and the minutes and reports which shall be part of the permanent records of the hospital. These committees may include: executive committee, credentials committee, medical audit committee, medical records committee, infections control committee, tissue committee, pharmacy and therapeutics committee, utilization review committee, and quality assurance committee.

(9) Personnel.

(a) The hospital shall employ a sufficient number of qualified personnel to provide effective patient care and all other related services and shall have written personnel policies and procedures which shall be available to all hospital personnel.

(b) There shall be a written job description for each position. Job descriptions shall be reviewed and revised as necessary.

(c) There shall be an employee health program for mutual protection of employees and patients including provisions for pre-employment and periodic health examination. The hospital shall comply with the following tuberculosis testing requirements:

1. The skin test status of all staff members shall be documented in the employee's personnel record. A skin test shall be initiated on all new staff members before or during the first week of employment and the results shall be documented in the employee's personnel record within the first month of employment. No skin testing is required at the time of initial employment if the employee documents a prior skin test of ten (10) or more millimeters of induration or if the employee is currently receiving or has completed one (1) year of prophylactic therapy or a course of multiple-drug chemotherapy for tuberculosis. Two (2) step skin testing is required for new employees over age forty-five (45) whose initial test shows less than ten (10) millimeters of induration, unless they can document that they have had a tuberculosis skin test within one (1) year prior to their current employment. All staff who have never had a skin test of ten (10) or more millimeters induration must be skin

tested annually within two (2) weeks before or after the anniversary of their last skin test.

2. All staff who are found to have a skin test of ten (10) or more millimeters induration, on initial employment testing or annual testing, must receive a chest x-ray unless a chest x-ray within the previous two (2) months showed no evidence of tuberculosis, or the individual can document the previous completion of a course of prophylactic treatment with isoniazid. Such employees shall be advised of the symptoms of the disease and instructed to report to their employer and seek medical attention promptly if symptoms persist.

3. The hospital administrator shall be responsible for ensuring that all skin tests and chest x-rays are done in accordance with subparagraphs 1 and 2 of this paragraph. All skin testing dates and results and all chest x-ray reports shall be recorded as a permanent part of the personnel record.

4. The following shall be reported by the hospital administrator to the local health department having jurisdiction immediately upon becoming known: names of staff who convert from a skin test of less than ten (10) to a skin test of ten (10) millimeters or more induration at the time of employment; and all chest x-rays suspicious for tuberculosis.

5. Any staff whose skin test status changes on annual testing from less than ten (10) to ten (10) or more millimeters of induration shall be considered to be recently infected with Mycobacterium tuberculosis. Such recently infected persons who have no signs or symptoms of tuberculosis disease on chest x-ray or medical history should be given preventive therapy with isoniazid for one (1) year unless medically contraindicated, as determined by a licensed physician. Medications shall be administered only upon the written order of a physician. If such individual is unable to take isoniazid therapy, the individual shall be advised of the clinical symptoms of the disease, and have an interval medical history and a chest x-ray taken and evaluated for tuberculosis disease every six (6) months during the two (2) years following conversion, for a total of five (5) chest x-rays.

6. Any staff who can document completion of preventive treatment with isoniazid shall be exempt from further screening requirements.

(d) Current personnel records shall be maintained for each employee which include the following:

1. Name, address, social security number;

2. Health records;

3. Evidence of current registration, certification, or licensure of personnel;

4. Records of training and experience;

5. Records of performance evaluation.

(10) Physical and sanitary environment.

(a) The condition of the physicial plant and the overall hospital environment shall be maintained in such a manner that the safety and well-being of patients, personnel and visitors are assured.

(b) A person shall be designated responsible for services and for the establishment of practices and procedures in each of the following areas: plant maintenance, laundry operations (if applicable), and housekeeping.

(c) There shall be an infection control committee charged with the responsibility of investigating, controlling and preventing infections in the hospital. Infection incident reports shall be filed.

(d) There shall be current written infection control measures, including:

1. Policies concerning the admission and isolation of patients with specific or suspected infectious diseases, protective isolation of appropriate patients and protective routine for personnel and visitors;

2. Written procedures for the bacteriological testing of all areas of possible infection. Results of all testing shall be recorded and reported to the infection control committee;

3. The method of control used in relation to the sterilization of supplies and water; and

4. Policies for the protection of patients from employees who have a communicable disease.

(e) The hospital shall provide inservice education programs on the cause, effect, transmission, prevention and elimination of infections.

(f) The hospital buildings, equipment, and surroundings shall be kept in a condition of good repair, neat, clean, free from all accumulations of dirt and rubbish, and free from foul, stale or musty odors.

1. An adequate number of housekeeping and maintenance personnel shall be provided.

2. Written housekeeping procedures shall be established for the cleaning of all areas and copies shall be made available to personnel.

3. Equipment and supplies shall be provided for cleaning of all surfaces. Such equipment shall be maintained in a safe, sanitary condition.

4. Hazardous cleaning solutions, compounds, and substances shall be labeled, stored in closed metal containers and kept separate from other cleaning materials.

5. The facility shall be kept free from insects and rodents with harborages and entrances for these eliminated.

6. Garbage and trash shall be stored in areas separate from those used for preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

(g) Sharp wastes, such as broken glass, scalpel blades, and hypodermic needles, shall be segregated from other wastes and aggregated in rigid containers immediately after use. After use, all needles shall also be rendered unusable. The rigid containers of sharp wastes shall either be incinerated, on site or off site, or disposed of in a sanitary landfill approved pursuant to 401 KAR 47:020.

(h) The hospital shall establish a written policy for the handling and disposal of all infectious and pathological waste. Any incinerator used for the disposal of waste shall be incompliance with 401 KAR 59:020 and 401 KAR 61:010.

1. All unpreserved tissue specimens from surgical or necropsy procedures shall be incinerated, on site or off site.

2. The following waste shall be sterilized before disposal or be disposed of by incineration if they are conbustible:

a. Dressings and materials from open or contaminated wounds;

b. Waste materials and disposable linens from isolation rooms;

c. Culture plates;

d. Test tubes;
e. Sputum cups; and
f. Contaminated sponges and swabs.

(i) The hospital shall have available at all times a quantity of linen essential to the proper care and comfort of patients.

1. Linens shall be handled, stored, and processed so as to control the spread of infection.

2. Clean linen and clothing shall be stored in clean, dry, dust-free areas designated exclusively for this purpose.

3. Soiled linen and clothing shall be placed in suitable bags or closed containers and stored in separate areas ventilated to the exterior of the buildings; this air shall not be allowed to recirculate into the facility.

(11) Medical records.

(a) The hospital shall have a medical records service with administrative responsibility for medical records. A medical record shall be maintained, in accordance with accepted professional principles, for every patient admitted to the hospital or receiving outpatient services.

1. The medical records service shall be directed by a registered records administrator, either on a full-time, part-time, or consultative basis, or by an accredited record technician on a full-time or part-time basis, and shall have available a sufficient number of regularly assigned employees so that medical record services may be provided as needed.

2. All medical records shall be retained for a minimum of five (5) years from date of discharge, or in the case of a minor three (3) years after the patient reaches the age of majority under state law, whichever is the longer.

3. Provision shall be made for written designation of specific location(s) for storage of medical records in the event the hospital ceases to operate because of disaster, or for any other resaon. It shall be the responsibility of the hospital to safeguard both the record and its informational content against loss, defacement, and tampering. Particular attention shall be given to protection from damage by fire or water.

(b) A system of identification and filing to insure the prompt location of a patient's medical record shall be maintained:

1. Index cards shall bear at least the full name of the patient, the birth date, and the medical record number.

2. There shall be a system for coordinating the inpatient and outpatient medical records of any patient whose admission is a result of or related to outpatient services.

3. All clinical information pertaining to inpatient or outpatient services shall be centralized in the patient's medical record.

4. In hospitals using automated data processing, indexes may be kept on punch cards or reproduced on sheets kept in books.

(c) Records of patients are the property of the hospital and shall not be taken from the facility except by court order. This does not preclude the routing of the patient's records, or portion thereof, including x-ray film, to physicians or dentists for consultation.

1. Only authorized personnel shall be permitted access to the patient's records.

2. Patient information shall be released only on authorization of the patient, the patient's guardian or the executor of his estate.

(d) Medical record contents shall be pertinent and current and shall include the following:

1. Identification data and signed consent forms, including name and address of next of kin, and of person or agency responsible for patient;

2. Date of admission and name of attending medical staff member;

3. Chief complaint;

4. Medical history including present illness, past history, family history and physical examination;

5. Report of special examinations or procedures, such as consultations, clinical laboratory tests, x-ray interpretations, EKG interpretations, etc.;

6. Provisional diagnosis or reason for admission;

7. Orders for diet, diagnostic tests, therapeutic procedures, and medications, including patient limitations, signed and dated by the medical staff member; and, if given verbally, undersigned by the medical staff member upon his next visit to hospital;

8. Medical, surgical and dental treatment notes and reports, signed and dated by a physician, or dentist when applicable, including records of all medication administered to the patient;

9. Complete surgical record signed by attending surgeon, or oral surgeon, to include anesthesia record signed by anesthesiologist or anesthetist, preoperative physical examination and diagnosis, description of operative procedures and findings, postoperative diagnosis, and tissue diagnosis by qualified pathologist on tissue surgically removed;

10. Physician's, or dentist's when applicable, progress notes and nurses' observations;

11. Record of temperature, pulse and respiration;

12. Final diagnosis using terminology in the current version of the International Classification of Diseases or the American Psychiatric Association's Diagnostic and Statistical Manual, as is applicable;

13. Discharge summary, including condition of patient on discharge, and date of discharge; [and]

14. In case of death, autopsy findings, if performed; and

15. In the case of death, an indication that the patient has been evaluated for organ donation in accordance with hospital protocol. [Written protocols for organ procurement.]

(e) Records shall be indexed according to disease, operation, and attending medical staff member. For indexing, any recognized system may be used.

1. The disease and operative indices shall be developed using a recognized nomenclature, and shall include each specific disease created and each operative procedure performed, and shall include all essential data on each patient having that particular condition;

2. The attending medical staff index shall include all patients attended or seen in consultation by each medical staff member;

3. Indexing shall be current, within six (6) months following discharge of the patient.

(12) Organ donation.

(a) The hospital shall establish and maintain

a written organ procurement for transplant protocol, in consultation with an organ procurement agency, which encourages organ donation and identifies potential organ donors.

(b) In cases where an individual has died or death is imminent, the patient's attending physician shall determine, in accordance with the hospital's protocol, whether the patient is a potential organ/tissue donor.

(c) The hospital protocol shall include:

1. Criteria, developed in consultation with the organ procurement agency for identifying potential donors;

2. Procedures for obtaining consent for organ donation;

3. Procedures for the hospital administrator or his designee to notify the organ procurement agency of potential organ donors;

4. Procedures by which the patient's attending physician **or designee in accordance with hospital protocol** shall document in the patient's medical record that the organ procurement agency has been notified in the case of potential donors or contraindications to donation.

(d) No patient with impending or declared brain death and/or cardiopulmonary death as **determined pursuant to KRS 446.400** should be considered as a potential [organ] donor if contraindications are identified and documented in the patient's medical record.

Section 4. Provision of Services. (1) Medical staff services.

(a) Medical care provided in the hospital shall be under the direction of a medical staff member in accordance with staff privileges granted by the governing authority.

(b) The attending medical staff member shall assume full responsibility for diagnosis and care of his/her patient. A physician, or other member of the medical staff if so designated in the hospital bylaws, shall conduct and record a complete history and physical examination for the patient within twenty-four (24) hours after admission to the hospital.

(c) The attending medical staff member shall state his final diagnosis, complete the discharge summary and sign the records within fifteen (15) days following the patient's discharge.

(d) Physician services shall be available twenty-four (24) hours a day on at least an on-call basis.

(e) There shall be sufficient medical staff coverage for all clinical services of the hospital in keeping with their size and scope of activity.

(2) Nursing service.

(a) The hospital shall have a nursing department organized to meet the nursing care needs of the patients and maintain established standards of nursing practice. A registered nurse, preferably one who has a bachelor of science degree in nursing, shall serve as director of the nursing department.

(b) There shall be a registered nurse on duty at all times.

1. There shall be registered nurse supervision and staff nursing personnel for each service or nursing unit to insure the immediate availability of a registered nurse for all patients on a twenty-four (24) hour basis.

2. There shall be other nursing personnel in sufficient numbers to provide nursing care not requiring the service of a registered nurse.

3. There shall be additional registered nurses for surgical, obstetrical, emergency, and other services of the hospital in keeping with their size and scope of activity.

4. All persons not employed by the hospital who render special duty nursing services in the hospital shall be under the supervision of the nursing supervisor of the department or service concerned.

(c) The hospital shall have written nursing care procedures and written nursing care plans for patients. Patient care shall be carried out in accordance with attending medical staff member's orders, nursing care plans, and nursing care procedures.

1. Nursing care plans shall be developed for each patient and shall be kept current daily. Plans shall indicate long and short-term goals, nursing care needed, and methods, approaches and modifications necessary to insure best results for the patient.

2. A registered nurse shall assign staff and evaluate the nursing care of each patient in accordance with the patient's need and the nursing staff available.

3. Nursing notes shall be written and signed on each shift by persons rendering care to patients. The notes shall be descriptive of the nursing care given and shall include information and observations of significance which contribute to the continuity of patient care.

4. Medications shall be administered by a registered nurse, a physican, or dentist except in the case of a licensed practical nurse under the supervision of a registered nurse.

5. No medication or treatment shall be given without a written order signed by a physician or dentist, when applicable. Telephone orders for medications shall be given only to registered nurses or a pharmacist and signed by the medical staff member within twenty-four (24) hours from the time the order is given.

6. No form of patient restraint or protective device other than bed rails shall be used, except in an emergency until the attending medical staff member can be contacted, or upon written or telephone orders of the attending medical staff member. When such restraint is necessary. the least restrictive form of protective device shall be used which affords the patient the greatest possible degree of mobility and protection. In no case shall a locking restraint be used.

7. Meetings of the nursing staff and other nursing personnel shall be held at least monthly to discuss patient care, nursing service problems, and administrative policies. Written minutes of all meetings shall be kept.

(3) Dietary services.

(a) The hospital shall have a dietary department, organized, directed and staffed to provide quality food service and optimal nutritional care.

1. The dietary department shall be directed on a full-time basis by an individual who by education or specialized training and experience is knowledgeable in food service management.

2. The dietary service shall have at least one (1) qualified dietitian or nutritionist, either full-time, part-time, or on a consultative basis, to supervise the nutritional aspects of patient care.

3. Sufficient additional personnel shall be employed to perform assigned duties to meet the dietary needs of all patients.

4. The dietary department shall have available for all dietary personnel current written policies and procedures for food storage. handling, and preparation.

5. An in-service training program, which shall include the proper handling of food, safety and personal grooming, shall be given at least quarterly for new dietary employees.

(b) Menus shall be planned, written and rotated to avoid repetition. Nutritional needs shall be met in accordance with recommended dietary allowances of the Food and Nutrition Board of the National Research Council of the National Academy of Sciences and in accordance with the medical staff member's orders.

(c) Meals shall correspond with the posted menu. When changes in menu are necessary, substitution shall provide equal nutritive value and the changes shall be recorded on the menu. Menus shall be kept on file for thirty (30) days.

(d) All diets, regular and therapeutic, shall be prescribed in writing, dated, and signed by the attending medical staff member. Information on the diet order shall be specific and complete and shall include the title of the diet, modifications in specific nutrients stating the amount to be allowed in the diet, and specific problems that may affect the diet or eating habits.

(e) Food shall be prepared by methods that conserve nutritive value, flavor, and appearance, and shall be served at the proper temperatures and in a form to meet individual needs (e.g., it shall be cut, chopped, or ground to meet individual patient needs).

(f) If a patient refuses foods served, nutritious substitutions shall be offered.

(g) At least three (3) meals or their equivalent shall be served daily with not more than a fifteen (15) hour span between a substantial evening meal and a breakfast unless otherwise directed by the attending medical staff member. Meals shall be served at regular times with between-meal or bedtime snacks of nourishing quality offered.

(h) There shall be at least a three (3) day supply of food available in the facility at all times to prepare well-balanced palatable meals for all patients.

(i) There shall be an identification system for patient trays, and methods used to assure that each patient receives the appropriate diet as ordered.

(j) The hospital shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and 902 KAR 45:005 (Kentucky's Food Service Establishment Act and Food Service Code).

(4) Laboratory services. The hospital shall have a well-organized, adequately supervised laboratory with the necessary space, facilities and equipment to perform those services commensurate with the hospital's needs for its patients. Anatomical pathology services and blood bank services shall be available either in the hospital or by arrangement with other facilities.

(a) Clinical laboratory. Basic clinical laboratory services necessary for routine examinations shall be available regardless of the size, scope and nature of the hospital.

1. Equipment necessary to perform the basic tests shall be provided by the hospital.

2. All equipment shall be in good working order, routinely checked, and precise in terms of calibration.

3. Provision shall be made to carry out adequate clinical laboratory examinations including chemistry, microbiology, hematology, serology, and clinical microscopy.

a. Some of these services may be provided through arrangements with another licensed hospital which has the appropriate laboratory facilities, or with an independent laboratory licensed pursuant to KRS 333.030 and any regulations promulgated thereunder.

b. When work is performed by an outside laboratory, the original report from this laboratory shall be contained in the patient's medical record.

4. Laboratory facilities and services shall be available at all times.

a. Adequate provision shall be made to assure the availability of emergency laboratory services twenty-four (24) hours a day, seven (7) days a week, including holidays, either in the hospital or under arrangements as specified in paragraph (a)3a of this subsection.

b. Where services are provided by an outside laboratory, the conditions, procedures, and availability of such services shall be in writing and available in the hospital.

5. There shall be a clinical laboratory director and a sufficient number of supervisors, technologists and technicians to perform promptly and proficiently the tests requested of the laboratory. Laboratory services shall be under the direction of a pathologist on a full-time, regular part-time, or a consultative basis. The laboratory shall not perform procedures and tests which are outside the scope of training of the laboratory personnel.

6. Signed reports of all laboratory services provided shall be filed with the patient's medical record and duplicate copies kept in the department.

a. The laboratory report shall be signed by the technologist who performed the test.

b. There shall be a procedure for assuring that all requests for laboratory tests are ordered and signed by a medical staff member.

(b) Anatomical pathology. Anatomical pathology services shall be provided as indicated by the needs of the hospital either in the hospital or under arrangements as specified in paragraph (a)3a of this subsection.

1. Anatomical pathology services shall be under the direct supervision of a pathologist on a full-time, regular part-time or regular consultative basis. If the latter pertains, the hospital shall provide for at least monthly consultative visits by a pathologist.

2. The pathologist shall participate in staff, departmental and clinicopathologic conference.

3. The pathologist shall be responsible for establishing the qualifications of staff and for their inservice training.

4. With exceptions of those exclusions listed in written policies of the medical staff, all tissues removed at surgury shall be macroscopically, and if necessary, microscopically examined by the pathologist.

a. A list of tissues which do not routinely require microscopic examination shall be developed in writing by the pathologist or desingated physician with the approval of the

medical staff.

b. A tissue file shall be maintained in the hospital.

c. In the absence of a pathologist, there shall be an established plan for sending to a pathologist outside the hospital all tissues requiring examination.

5. Signed reports of tissue examinations shall be promptly filed with the patient's medical record and duplicate copies kept in the department.

a. All reports of macro and microscopic examinations performed shall be signed by the pathologist.

b. Provision shall be made for the prompt filing of examination results in the patient's medical record and notification of the medical staff member requesting the examination.

c. Duplicate copies of the examination reports shall be filed in the laboratory in a manner which permits ready identification and accessibility.

(c) The laboratory shall meet the minimum proficieny testing and quality control provisions in accordance with Medicare certification requirements.

(d) Blood bank. Facilities for procurement, safekeeping and transfusion of blood and blood products shall be provided or be readily available.

1. The hospital shall maintain, as a minimum, proper blood storage facilities under adequate control and supervision of the pathologist or other authorized physician.

2. For emergency situations the hospital shall maintain at least a minimum blood supply in the hospital at all times, shall be able to obtain blood quickly from community blood banks or institutions, or shall have an up-to-date list of donors and equipment necessary to bleed them.

3. If the hospital utilizes outside blood banks, there shall be a written agreement governing the procurement, transfer and availability of blood.

4. There shall be a provision for prompt blood typing and cross-matching and for laboratory investigation of transfusion reactions, either through the hospital or by arrangements with others on a continuous basis, under the supervision of a physician.

5. Blood storage facilities in the hospital shall have an adequate alarm system, which shall be regularly inspected and tested and is otherwise safe and adequate.

6. Records shall be kept on file indicating the receipt and dispostion of all blood provided to patients in the hospital.

7. A committee of the medical staff or its equivalent shall review all transfusions of blood or blood derivatives and shall make recommendations concerning policies governing such practices.

8. Samples of each unit of blood used at the hospital shall be retained, according to the instructions of the committee indicated in subparagraph 7 of this paragraph, for futher testing in the event of reactions. Blood not so retained which has exceeded its expiration date shall be disposed of promptly.

9. The review commitee shall investigate all transfusion reactions occurring in the hospital and shall make recommendations to the medical staff regarding improvements in transfusion procedures.

(5) Pharmaceutical services.

(a) The hospital shall have adequate provisions for the handling, storing, recording, and distributing of pharmaceuticals in accordance with state and federal laws and regulations.

1. A hospital which maintains a pharmacy for the compounding and dispensing of drugs shall provide pharmaceutical services under the supervision of a registered pharmacist on a full-time or part-time basis, according to the size and demands of the hospital.

a. The pharmacist shall be responsible for supervising and coordinating all the activities of the pharmacy department.

b. Additional personnel competent in their respective duties shall be provided in keeping with the size and activity of the department.

2. Hospitals not maintaining a pharmacy shall have a drug room utilized only for the storage and distribution of drugs, drug supplies and equipment. Prescription medications shall be dispensed by a registered pharmacist elsewhere. The drug room shall be operated under the supervision of a pharmacist employed at least on a consultative basis.

a. The consulting pharmacist shall assist in drawing up correct procedures, rules for the distribution of drugs, and shall visit the hospital on a regularly scheduled basis in the course of his duties.

b. The drug room shall be kept locked and the key shall be in the possession of a responsible person on the premises designated by the administrator.

(b) Records shall be kept of the transactions of the pharmacy or drug room and correlated with other hospital records where indicated.

1. In accordance with accounting procedures of the hospital, the pharmacy shall establish and maintain a system of records and bookkeeping in accordance with policies of the hospital for maintaining adequate control over the requisitioning and dispensing of all drugs and drug supplies and charging patients for drugs and pharmaceutical supplies.

2. A record of the stock on hand and of the dispensing of all controlled substances shall be maintained in such a manner that the disposition of any particular item may be readily traced.

(c) The medical staff in cooperation with the pharmacist and other disciplines, as necessary, shall develop policies and procedures that govern the safe administration of drugs, including:

1. The administration of medications only upon the order of an individual who has been assigned clinical privileges or who is an authorized member of the house staff;

2. Review of the physician's, or dentist's when applicable, original order, or a direct copy by the pharmacist dispensing the drugs;

3. The establishment and enforcement of automatic stop orders;

4. Proper accounting for and dispostion of unused medications or special prescriptions returned to the pharmacy as a result of patient being discharged, or when such medications/prescriptions do not meet sterile and label requirements;

5. Provision for emergency pharmaceutical services; and

6. Provision for reporting adverse medication reactions to the appropriate committee of the

medical staff.

(d) Therapeutic ingredients of medications dispensed shall be included in the United States Pharmacopoeia, National Formulary, United States Homeopath-Pharmacopoeia, New Drugs, or Accepted Dental Remedies (except for any drugs unfavorably evaluated therein), or shall be approved for use by the appropriate committee of the medical staff.

1. A pharmacist shall be responsible for determining specifications and choosing acceptable sources for all drugs, with approval of the appropriate committee of the medical staff.

2. There shall be available a formulary or list of drugs accepted for use in the hospital which shall be developed and amended at regular intervals by the appropriate committee of the medical staff.

(6) Radiology services.

(a) The hospital shall have diagnostic radiology facilities. The radiology service shall have a current license or registration pursuant to KRS 211.842 to 211.852 and any regulations promulgated thereunder.

1. The hospital shall provide at least one (1) fixed diagnostic x-ray unit which is capable of general x-ray procedures.

2. The hospital shall have a radiologist on at least a consulting basis to function as medical director of the department and to interpret films that require specialized knowledge for accurate reading.

3. Personnel adequate to supervise and conduct the services shall be provided, and at least one (1) certified radiation operator shall be on duty or on call at all times.

(b) There shall be written policies and procedures governing radiologic services and administrative routines that support sound radiologic practices.

1. Signed reports shall be filed in the patient's record and duplicate copies kept in the department.

2. Radiologic services shall be performed only upon written order of a physician or dentist, and the order shall contain a concise statement of the reason for the service/examination.

3. Reports of interpretations shall be written or dictated and signed by the radiologist.

4. The use of all x-ray apparatus shall be limited to certified radiation operators, under the direction of medical staff members as necessary. The same limitation shall ap-ply to personnel applying and removing radium element, its disintegration products, and radioactive isotopes.

(c) The radiology department shall be free of hazards for patients and personnel. Proper safety precautions shall be maintained against fire and explosion hazards, electrical hazards and radiation hazards.

(7) Physical restoration/rehabilitation service.

(a) Hospitals in which physical restoration/rehabilitation services are available shall provide individualized techniques required to achieve maximum physical function normal to the patient while preventing unnecessary debilitation and immobilization.

(b) Written policies and procedures shall be developed for each rehabilitation service provided.

(c) A member of the medical staff shall be designated to have responsibility for coordinating the restorative services provided to the patients in accordance with their needs.

(d) Equipment for physical therapy shall be adequate to meet the needs of the service and shall be in good condition.

(e) Physical therapy services shall be provided only upon written orders of a medical staff member.

(f) Physical therapy services shall be provided by or under the supervision of a licensed physical therapist, on a full-time, part-time or consultative basis.

(g) Complete therapy reports shall be maintained for each patient provided such services. The reports shall be signed by the therapist who prepared it and shall be a part of the patient's medical record.

(8) Emergency services.

(a) Every hospital shall have procedures for taking care of the emergency patient with at least a registered nurse on duty to evaluate the patient and a physician on call.

(b) If the facility has an organized emergency department/service, policies and an emergency care procedures manual governing medical and nursing care provided in the emergency room shall be established by and be a continuing responsibility of the medical staff.

1. The emergency service shall be under the direction of a licensed physician. Medical staff members shall be available at all times for the emergency service, either on duty or on call. Current schedules and telephone numbers shall be posted in the emergency room.

2. Nursing personnel shall be assigned to, or designated to cover, the emergency service at all times.

3. Facilities shall be provided to assure prompt diagnosis and emergency treatment. A specific area of the hospital shall be utilized for patients requiring emergency care on arrival. The emergency area shall be located in close proximity to an exterior entrance of the facility and shall be independent of the operating room suite.

4. Diagnostic and treatment equipment, drugs, and supplies shall be readily available for the provision of emergency services and shall be adequate in terms of the scope of services provided.

5. Adequate medical records shall be kept on every patient seen in the emergency room. These records shall be under the supervision of the Medical Record Service and, where appropriate, shall be integrated with inpatient and outpatient records. Emergency room records shall include at least:

a. A log book listing chronologically the patient visits to the emergency room including patient identification, means of arrival and person(s) transporting patient, and time of arrival;

b. History of present complaint and physical findings;

c. Laboratory and x-ray reports, where applicable;

d. Diagnosis;

e. Treatment ordered and details of treatment provided;

f. Patient disposition;

g. Record of all referrals;

h. Instructions to the patient and/or family for those not admitted to the hospital; and

i. Signatures of attending medical staff member, and nurse when applicable.

(9) Outpatient services.

(a) A hospital which has an organized outpatient department shall have written policies and procedures relating to the staff, functions of service, and outpatient medical records.

(b) The outpatient department shall be organized in sections (clinics), the number of which shall depend on the size and degree of departmentalization of the medical staff, the available facilities, and the needs of the patient it serves.

(c) The outpatient department shall have appropriate cooperative arrangements and communications with community agencies such as home health agencies, the local health department, social and welfare agencies, and other outpatient departments.

(d) Services offered by the outpatient department shall be under the direction of a physician who is a member of the medical staff.

1. A registered nurse shall be responsible for the nursing services of the department.

2. The number and type of other personnel employed shall be determined by the volume and type of services provided and type of patient served in the outpatient department.

(e) Necessary laboratory and other diagnostic tests shall be available either through the hospital or a laboratory in another licensed hospital or a laboratory licensed pursuant to KRS 333.030 and any regulations promulgated thereunder.

(f) Medical records shall be maintained and, where appropriate, coordinated with other hospital medical records.

1. The outpatient medical record shall be filed in a location which insures ready accessibility to the medical staff members, nurses, and other personnel of the outpatient department.

2. Information in the medical record shall be complete and sufficiently detailed relative to the patient's history, physical examination, laboratory and other diagnostic tests, diagnosis, and treatment to facilitate continuity of care.

(10) Surgery services.

(a) Hospitals in which surgery is performed shall have an operating room(s) and a recovery room supervised by a registered nurse qualified by training, experience and ability to direct surgical nursing care.

1. Sufficient surgical equipment including suction facilities and instruments in good repair shall be provided to assure safe and aseptic treatment of all surgical cases.

2. When flammable anesthetics are used, precautions shall be taken to eliminate hazards of explosions, including use of shoes with conductive soles and prohibition of garments or other items of silk, wool, or synthetic fibers which accumulate static electricity.

(b) There shall be effective policies and procedures regarding surgical staff privileges, functions of the service, and evaluation of the surgical patient.

1. Surgical privileges shall be delineated for all members of the medical staff doing surgery in accordance with the competencies of each, and a roster shall be maintained.

2. Except in emergencies, a surgical operation or other hazardous procedures shall be performed only on written consent of the patient or his legal representative.

3. The operating room register shall be complete and up to date. It shall include the patient's name; hospital room number; preoperative and postoperative diagnosis; complications, if any; names of surgeon, first assistant, anesthesiologist or anesthetist, scrub and circulating nurse; operation performed; and type of anesthesia.

4. There shall be a complete history and physical work-up in the chart of every patient prior to surgery. If such has been transcribed but not yet recorded in the patient's chart, there shall be a statement to that effect and an admission note by the attending medical staff member in the chart. The chart of the patient shall accompany him to the operating suite and shall be returned to the patient's floor or room after the operation.

5. An operative report describing the techniques and findings shall be written or dictated immediately following surgery and signed by the surgeon.

6. All tissues removed by surgery shall be placed in suitable solutions, properly labeled, and submitted to the pathologist for macroscopic and, if necessary, microscopic examinations.

7. All infections of clean surgical cases shall be recorded and reported to the appropriate committee of the medical staff. A procedure shall exist for the investigation of such cases.

(c) Rules and policies related to the operating rooms shall be available and posted.

(11) Anesthesia services.

(a) The hospital which provides surgical or obstetrical services shall have anesthesia services available, and these services shall be organized under written policies and procedures regarding staff privileges, the administration of anesthetics, and the maintenance of safety controls.

(b) A physician member of the medical staff shall be the medical director of anesthesia services. Whenever possible, the director shall be a physician specializing in anesthesiology.

(c) If anesthetics are not administered by an anesthesiologist, the medical staff shall designate a medical staff anesthetist or a registered nurse anesthetist qualified to administer anesthetics under the supervision of the operating surgeon.

(d) Every patient requiring anesthesia services shall have a pre-anesthetic physical examination by a medical staff member with findings recorded within forty-eight (48) hours of surgery, an anesthetic record on a special form, a post-anesthetic follow-up, with findings recorded by the anesthesiologist, medical staff anesthetist, or nurse anesthetist.

(e) The post-anesthetic follow-up note shall be written within three (3) to twenty-four (24) hours after the procedures which required anesthesia. This note shall include a record of blood pressure, pulse, presence or absence of the swallowing reflex and cyanosis, any postoperative abnormalities or complications, and the general condition of the patient.

(12) Obstetrics service.

(a) Hospitals providing obstetrical care of patients shall have adequate space, necessary equipment and supplies, and a sufficient number

of nursing personnel to assure safe and aseptic treatment of mothers and newborns and provide protection from infection and cross-infection.

1. The obstetrics service shall be under the medical direction of a physician and under the supervision of a registered nurse qualified by training, experience, and ability to direct effective obstetrical and newborn nursing care. In hospitals where the obstetrical caseload does not justify a separate nursing staff, obstetrical nurses shall be designated and shall be oriented to the specific needs of obstetrical patients.

2. A registered nurse shall be on duty in the labor and delivery unit whenever any patient is in the unit. Each obstetrics patient shall be kept under close observation by professional personnel during the period of recovery after delivery, whether in the delivery room or in a recovery area, until she is transferred to the maternity unit.

3. An on-call schedule or other suitable arrangement shall be provided to ensure that a physician who is experienced in obstetrics is readily available for consultation and obstetrical emergencies.

4. Provisions shall be made for the care of patients in labor with adequately equipped labor rooms.

(b) An adequate supply of prophylaxis for the prevention of infant blindness shall be kept on hand and administered before the infant is removed from the delivery room.

(c) The hospital shall comply with the provisions of KRS 214.155 and 902 KAR 4:030 in administering tests for inborn errors of metabolism to infants.

(d) There shall be an acceptable method and procedure for the positive associative identification of the mother and infant. This shall be done in the delivery room at the time of birth and shall remain in place during the entire period of hospitalization.

(e) An up-to-date register book of all deliveries shall be maintained containing the following information:

1. Infant's full name, sex, date, time of birth and weight;

2. Mother's full name, including maiden name, address, birthplace and age at time of this birth;

3. Father's full name, birthplace, age at time of this birth; and

4. Full name of attending physician or nurse midwife.

(f) Each hospital providing maternity service shall provide a nursery which shall not be used for any other purpose. Specific routines for daily care of infants and their environment shall be prepared in writing and posted in the nursery workroom.

(g) A policy shall be established for deliveries occurring outside the delivery room and for patients who are infectious.

(h) Written policies and procedures shall be developed to cover alternative use of obstetrical beds.

(13) Pediatric services.

(a) Hospitals providing pediatric care shall have proper facilities for the care of children apart from the newborn and maternity nursing services. If there is not a separate area permanently designated as the pediatric unit, there shall be an area within an adult care unit for pediatric patient care. There shall be available beds and other equipment which are appropriate in size for pediatric patients.

(b) There shall be proper facilities and procedures for the isolation of children with infectious, contagious or communicable conditions. At least one (1) patient room shall be available for isolation use.

(c) A physician with pediatric experience shall be on call at all times for the care of pediatric patients.

(d) Pediatric nursing care shall be under the supervision of a registered nurse qualified by training, experience and ability to direct effective pediatric nursing. All nursing personnel assigned to pediatric service shall be oriented to the special care of children.

(e) Policies shall be established to cover conditions under which parents may stay with small children or ''room-in'' with their hospitalized child for moral support and assistance with care.

(14) Psychiatric services. Hospitals which have a psychiatric unit shall designate the location and number of beds to be licensed as psychiatric beds and meet the requirements of psychiatric hospitals operations and services, licensure regulation.

(15) Chemical dependency treatment services. Hospitals providing chemical dependency treatment services shall meet the requirements of 902 KAR 20:160, Chemical dependency treatment services and facility specifications, Section 3, Administrative and Operation and Section 4, Provision of Services, and designate location and the number of beds to be used for this purpose.

(16) Medical library.

(a) The hospital shall maintain appropriate medical library services according to the professional and technical needs of hospital personnel.

(b) The medical library shall be in a location accessible to the professional staff, and its contents shall be organized and available at all times to the medical and nursing staffs.

WILLIAM M. GARDNER, Inspector General
E. AUSTIN, JR., Secretary
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CABINET FOR HUMAN RESOURCES
Office of Inspector General
(Amended After Hearing)

902 KAR 20:220. Dual licensure of hospitals.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990
PURSUANT TO: KRS 216B.040, 216B.105, 216B.107, Executive Order 86-366
NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105 mandate that the Cabinet for Human Resources regulate health facilities and health services. KRS 216B.107 authorizes the dual licensure of acute care hospitals. This regulation provides for the minimum licensure requirements for the operation of licensed acute care hospitals which provide, as an identifiable part thereof, acute, skilled nursing and intermediate care services.

Section 1. Scope of Operations and Services.

Hospitals which are issued a dual license in accordance with KRS 216B.107 shall designate a specific number of beds, as an identifiable part, for acute, skilled nursing and/or intermediate care. The identifiable part of a hospital, licensed as dual, shall provide appropriate facilities and services capable of maintaining a combined resident-mix of acute and long-term care patients.

Section 2. Definitions. (1) "Administrator" means a person who is licensed as a nursing home administrator pursuant to KRS 216A.080.

(2) "Unit" means a dual licensure unit.

(3) "Identifiable part" means an entire physically distinct unit consisting of all beds within that unit (such as a separate building, floor, wing or corridor).

(4) "Medical staff" means an organized body of physicians, and dentists where applicable, appointed to the hospital staff by the governing authority. All members of the medical staff shall be licensed to practice medicine or dentistry in Kentucky, with the exception of graduate physicians who are in the first year of hospital training.

(5) "Occupational therapist" means a person who is licensed pursuant to KRS Chapter 319A.

(6) "Speech pathologist" means a person who is licensed pursuant to KRS Chapter 334A.

(7) "Qualified dietician" or "nutritionist" means:

(a) A person who has a bachelor of science degree in foods and nutrition, food service management, institutional management or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietician by ADA; or

(b) A person who has a masters degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) A person who has a bachelor of science degree in home economics and three (3) years of work experience with a registered dietician.

(8) "Qualified medical record practitioner" means a person who has graduated from a program for medical record administrators or technicians accredited by the Council on Medical Education of the American Medical Association and the American Medical Record Association; and who is certified as a Registered Records Administrator or an Accredited Record Technician by the American Record Association.

(9) "Qualified social worker" means a person who is licensed pursuant to KRS 335.090, if applicable, and who is a graduate of a school of social work accredited by the Council on Social Work Education.

(10) "Protective devices" means devices that are designed to protect a person from falling, to include side rails, safety vest or safety belt.

(11) "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a patient or the movement of a portion of a patient's body.

(12) "Physical therapist" means a person who is licensed pursuant to KRS Chapter 327.

Section 3. Applicability. (1) General acute care hospitals which have a dual licensure unit shall designate on their application for licensure the location and number of beds to be licensed as dual licensure beds and shall meet the requirements of 902 KAR 20:016 and the additional requirements contained in this regulation and shall be subject to approval by the Cabinet for Human Resources.

(2) Licensee. The hospital shall be legally responsible for the operation of dual licensed beds and for compliance with applicable federal, state and local laws and regulations.

(3) Capacity. Hospital beds, licensed as dual, shall not exceed the maximum limit established by KRS 216B.107.

Section 4. Administration and Operation. (1) General requirements.

(a) The hospital shall comply with the requirements of 902 KAR 20:016, Section 3 and the additional requirements contained in this section.

(b) The hospital shall comply with the requirements of Kentucky's Nursing Home Reform Law pursuant to KRS 216.535 to 216.593 and 900 KAR Chapter 2.

(2) Administrator. The unit within the hospital designated for dual licensure shall have a full-time administrator who is licensed as a nursing home administrator pursuant to KRS Chapter 216A. The administrator shall be responsible for the operation of all dual licensure beds and shall delegate such responsibilities in his/her absence. The administrator of the unit may be the hospital administrator, his/her assistant, or designee.

(3) Administrative records and reports. In addition to the requirements of 902 KAR 20:016, Section 3(3) the following records/reports are required:

(a) The hospital shall maintain a permanent, chronological patient registry, for the dual licensure unit, documenting the following:

1. Date of admission;
2. Name of patient;
3. Prior to admitting a patient in need of skilled or intermediate care, attempts to place the patient in any intermediate care facility or skilled nursing facility within the county of residence of the patient or of the hospital or the patient has been refused admission to such facility;
4. Date of transfers within the facility or across levels of care; and
5. Date of final discharge.

(b) The hospital shall require and maintain written recommendations or comments from consultants regarding the unit and its development on a per visit basis.

[(c) Unit menu and food purchase records shall be maintained.]

[(d) A written report of any incident or accident involving a patient (including medication errors or drug reactions), visitor or staff shall be made and signed by the administrator or nursing services supervisor, and any staff member who witnessed the incident. The report shall be filed in an incident file.]

(4) Policies. The hospital requesting dual licensure beds shall meet the requirements of 902 KAR 20:016, Section 3(4) and the additional requirements contained in this section.

(a) Notification of changes in patient status and service cost. There shall be written policies and procedures relating to notification of responsible person(s) in the event of

significant changes in patient status, patient charges, billings, and other related administrative matters.

(b) Long term care patient care policies. The unit shall have written policies to govern the skilled nursing and intermediate care patients and related medical and other services provided, which shall be developed by the medical staff. [Pharmacy policies and procedures shall be developed by the medical staff.] The medical staff shall be responsible for assuring compliance with and annual review of these policies. In addition to written policies for services, the unit shall have written policies to include:

1. Admission, transfer, and discharge policies including categories of patients accepted and not accepted to the unit;

[2. Medication stop orders;]

2. [3.] Medical records;

[4. Transfer agreement;]

3. [5.] Utilization review;

[6. Use of restraints;]

4. [7.] Coordination between nursing staff, medical staff, and business office concerning level of care changes; and

5. [8.] Update procedures for reimbursement.

(c) Adult and child protection. The unit shall have written policies which assure the reporting of cases of abuse, neglect or exploitation of adults and children to the Cabinet for Human Resources pursuant to KRS Chapter 209 and KRS 199.335.

(d) Missing patient procedures. The unit shall have a written procedure to specify in a step-by-step manner the actions which shall be taken by staff when a patient is determined to be lost, unaccounted for or on other unauthorized absence.

(5) Patient rights. Patient rights shall be provided for pursuant to KRS 216.510 to 216.525.

(6) Admission. The hospital requesting dual licensure beds shall meet the requirements established in 902 KAR 20:016, Section 3(4)(b) and the additional requirements contained in this section.

(a) Patients shall be admitted to dual licensed beds only upon the referral of a physician. The unit shall not admit persons whose care needs exceed its capabilities.

(b) Upon admission of a skilled or intermediate care patient to a dual licensed bed [the unit shall obtain] the patient's medical diagnosis, physician's orders for the care of the patient and the transfer form shall be obtained. [The unit shall obtain] A medical evaluation within forty-eight (48) hours of admission, unless an evaluation was performed within five (5) days prior to admission shall be obtained. The medical evaluation shall include current medical findings, rehabilitation potential, a summary of the course of treatment followed in the hospital or long term care facility (A current hospital discharge summary containing the above information shall be acceptable.)

(c) If physician's orders for the immediate care of a patient are unobtainable at the time of admission, the unit shall contact the physician with responsibility for emergency care to obtain temporary orders.

(d) Before admission the patient and a responsible member of his family or committee shall be informed in writing of the established policies of the hospital to include: fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services rendered.

(7) Discharge planning. The hospital shall conduct a [coordinate its] discharge planning program for skilled or intermediate care patients in dual licensed beds [, with the dual licensure unit,] to assure continuity of care for patients being transferred to another health care facility, across levels of care, or being discharged to the home.

(8) Transfer procedures and agreements. The hospital requesting dual licensure beds shall meet the requirements of 902 KAR 20:016, Section 3(7) and the additional requirements contained in this section.

(a) The unit shall have written transfer procedures and agreements for the transfer of patients to other health care facilities. Any unit which does not have a transfer agreement in effect but which documents a good faith attempt to enter into such an agreement shall be considered to be in compliance with the licensure requirement. The transfer procedures and agreements shall specify the responsibilities each institution assumes in the transfer of patients, shall establish responsibility for notifying the other institution promptly of the impending transfer or a patient and shall arrange for appropriate and safe transportation.

[(b) When the patient's condition exceeds the scope of services of the unit, the patient, upon physician's orders (except in cases of emergency), shall be transferred promptly to an appropriate level of care.]

(b) [(c)] The agreement shall provide for the transfer of personal effects, particularly money and valuables, and for the transfer of information related to these items.

(c) [(d)] When changes and progress occur which would enable the patient to function in a less structured and restrictive environment, and the less restrictive environment cannot be offered at the facility, the facility shall offer assistance in making arrangements for patients to be transferred to facilities providing appropriate services.

(d) [(e)] If the patient is transferred to another health care facility or home to be cared for by a home health agency, a transfer form shall accompany the patient. The transfer form shall include at least the following: physician's orders (if available), current information relative to diagnosis with history of problems requiring special care, a summary of the course of prior treatment, special supplies or equipment needed for patient care, and pertinent social information on the patient and his family.

(e) [(f)] Except in an emergency, the patient, his next of kin, or responsible person(s) if any, and the attending physician shall be consulted in advance of the transfer or discharge of any patient.

(9) Tuberculosis testing.

(a) All hospital personnel shall comply with the tuberculosis testing procedure outlined in 902 KAR 20:016, Section 3(9)(c)1-6.

(b) All hospital patients initially transferred to the dual licensure unit, for the purpose of obtaining acute care, skilled nursing

or intermediate care, shall be tested and monitored for tuberculosis in accordance with 902 KAR 20:200, Tuberculosis testing in long term care facilities.

(10) Personnel. The hospital requesting dual licensure beds shall meet the personnel requirements of 902 KAR 20:016, Section 3(9)(a)-(d) and the additional requirements contained in this section.

(a) Health requirements: No employee contracting an infectious disease shall appear at work until the infectious disease can no longer be transmitted.

(b) Staffing classification requirements:

1. The unit shall have adequate personnel to meet the needs of the patients on a twenty-four (24) hour basis. The number classification and assignment between the facility and the unit of personnel required shall be based on the number of patients, and the amount and kind of personal care, nursing care, supervision, and program needed to meet the needs of the patients, as determined by medical orders and by services required by this regulation.

2. If the staff/patient ratio does not meet the needs of the patients, the Division of Licensing and Regulation shall determine and inform the administrator in writing how many additional personnel are to be added and of what job classification, and shall give the basis for this determination.

3. The hospital shall provide evidence that all nursing personnel engaged in the provision of direct care to skilled or intermediate care patients in dual licensed beds as well as nurses which supervise the delivery of such care have adequate training in the provision of long term care, including rehabilitation and the social aspects of patient care. [The unit shall have a director of nursing service who is a registered nurse and who works full time during the day, and who devotes full time to the nursing service of the unit. If the director of nursing has administrative responsibility for the unit, there shall be an assistant director of nursing, who shall be a registered nurse, so that there shall be the equivalent of a full-time director of nursing service. The director of nursing shall be trained or experienced in areas of nursing service, administration, rehabilitation nursing, psychiatric or geriatric nursing. The director of the nursing unit shall be responsible for:]

[a. Developing and maintaining nursing service objectives, standards of nursing practice, nursing procedure manuals, and written job descriptions for each level of nursing personnel;]

[b. Recommending to the administrator the number and level of nursing personnel to be employed, participating in their recruitment and selection, and recommending termination of employment when necessary;]

[c. Assigning and supervising all levels of nursing personnel;]

[d. Participating in planning and budgeting for nursing care;]

[e. Participating in the development and implementation of patient care policies and bringing patient care problems requiring changes in policy to the attention of the medical staff;]

[f. Coordinating nursing services with other patient care services;]

[g. Planning and assuring that orientation programs for new nursing personnel and continuing in-service education for all nursing personnel are conducted;]

[h. Participating in the selection of prospective patients in terms of nursing services they need and nursing competencies available;]

[i. Assuring that a nursing care plan shall be established for each patient and that his/her plan shall be reviewed and modified as necessary.]

[j. Assuring that registered nurses, licensed practical nurses, nurses' aides and orderlies are assigned duties consistent with their training and experience.]

[4. Supervising nurse. Nursing care shall be provided by or under the supervision of a full-time registered nurse. The supervising nurse shall be a licensed registered nurse who may be the director of nursing or the assistant director of nursing and shall be trained or experienced in the areas of nursing administration and supervision, rehabilitative nursing, psychiatric or geriatric nursing.]

[5. Charge nurse. There shall be at least one (1) registered nurse on duty at all times who is responsible for the nursing care of patients during her tour of duty.]

4. [6.] Pharmacist. Pharmaceutical services shall be provided to the unit on a full-time, part-time or consultant basis. Separate contracting shall not be required.

5. [7.] Therapists.

a. If rehabilitative services beyond rehabilitative nursing care are offered, whether directly or through cooperative arrangements with agencies that offer therapeutic services, these services shall be provided or supervised by qualified therapists to include licensed physical therapists, speech pathologists and occupational therapists.

b. When supervision is less than full time, it shall be provided on a planned basis and shall be frequent enough, in relation to the staff therapist's training and experience, to assure sufficient review of individual treatment plans and progress.

[c. In a unit with an organized rehabilitation service using a multidisciplinary team approach to meet all the needs of the patient, and where all therapists' services are administered under the direct supervision of a physician qualified in physical medicine who will determine the goals and limits of the therapists' work, and prescribes modalities and frequency of therapy, person with qualifications other than those described in Section 4(10)(b)7a of this regulation may be assigned duties appropriate to their training and experience.]

6. [8.] The administrator shall designate a person for each of the following areas who will be responsible for:

a. Medical records. The person responsible for the records shall maintain, complete and preserve all medical records. If the person is not a qualified medical record practitioner he shall be trained by, and receive regular consultation from a qualified medical record practitioner.

b. Social services. There shall be a full-time or part-time social worker employed by the unit, or a person who has training and experience in related fields to find community resources, to

be responsible for the social services. If the unit does not have a qualified social worker on its staff, consultation shall be provided by a qualified social worker. The person responsible for this area of service shall have information promptly available on health and welfare resources in the community.

c. Patient activities. This person shall have training or experience in directing group activities.

(c) In-service educational programs.

1. There shall be an in-service education program in effect for all nursing personnel at regular intervals in addition to a thorough job orientation for new personnel. Opportunities shall be provided for nursing personnel to attend training courses in rehabilitative nursing and other educational programs related to the care of long-term patients. Skill training for non-professional nursing personnel shall begin during the orientation period, to include demonstration, practice, and supervision of simple nursing procedures applicable in the individual unit. It shall also include simple rehabilitative nursing procedures to be followed in emergencies. All patient care personnel shall be instructed and supervised in the care of emotionally disturbed and confused patients, and shall be assisted to understand the social aspects of patient care.

2. Social services training of staff. There shall be provisions for orientation and in-service training of staff directed toward understanding emotional problems and social needs of sick and infirm aged persons and recognition of social problems of patients and the means of taking appropriate action in relation to them. Either a qualified social worker on the staff, or one from outside the unit, shall participate in training programs, case conferences, and arrangements for staff orientation to community services and patient needs.

(11) Medical records. The hospital requesting dual licensure beds shall meet the medical records requirements of 902 KAR 20:016, Section 3(11), and the additional requirements contained in this subsection.

(a) Name and telephone number of patients' personal physician.

(b) Nurse's notes indicating changes in patient's condition, actions, responses, attitudes, appetite, etc. Nursing personnel shall make notation of response to medications, response to treatments, visits by physician and phone calls to the physician, medically prescribed diets and restorative nursing measures.

(c) Nursing supervisors written assessment of the patient's monthly general condition.

(d) Changes in patient's response to the activity and therapeutic recreation program.

Section 5. Provision of Services. The hospital shall comply with the requirements of 902 KAR 20:016, Section 4 and the additional requirements contained in this section.

(1) Medical staff/physician services. The hospital requesting dual licensure beds shall meet the medical staff requirements of 902 KAR 20:016, Section 4(1) and the additional requirements contained in this subsection.

(a) The health care of every patient shall be under the supervision of a physician who, based on an evaluation of the patient's immediate and long-term needs, prescribes a planned regimen of medical care which covers indicated medications, treatments, rehabilitative services, diet, special procedures recommended for the health and safety of the patient, activities, plans for continuing care and discharge.

(b) Patients requiring skilled nursing care shall be evaluated by a physician at least once every thirty (30) days for the first ninety (90) days following admission. Subsequent to the 90th day following admission, the patients shall be evaluated by a physician every sixty (60) days. There shall be evidence in the patient's medical record of the physician's visits to the patient at appropriate intervals.

(c) Patients requiring intermediate nursing care shall be evaluated by a physician as often as necessary and in no case less often than every sixty (60) days, unless justified and documented by the attending physician in the patient's medical record.

(2) Nursing services. The hospital requesting dual licensure beds shall meet the nursing service requirements of 902 KAR 20:016, **Section** 4(2), and the additional requirements contained in this subsection.

(a) Patient care plan. A written patient care plan shall be developed and maintained for each patient by the nursing staff in coordination with the attending physician.

1. Plan indicates the type of care to be provided, goals to be accomplished and who is responsible for each element of care.

2. Patient care plan is reviewed and updated as necessary by all professional personnel.

(b) Administration of medications including oral, rectal, hypodermic, and intramuscular.

(c) Written monthly assessment of the patient's general condition by licensed nursing personnel.

(d) Treatments such as: enemas, irrigations, catheterizations, applications of dressings or bandages, supervision of special diets.

(e) The recording of any changes, as they occur, in the patient's condition, actions, responses, attitudes, appetite, etc.

(f) Implementing a regular program to prevent decubiti with emphasis on the following:

1. Procedures to maintain cleanliness of the patient, his clothes and linens shall be followed each time the bed or the clothing is soiled. Rubber, plastic, or other type of linen protectors shall be properly cleaned and completely covered to prevent direct contact with the patient.

2. Special effort shall be made to assist the patient in being up and out of bed as much as his condition permits, unless medically contraindicated. If the patient cannot move himself, he shall have his position changed as often as necessary but not less than every two (2) hours.

(g) Dietary supervision. Nursing personnel shall assure that patients are served diets as prescribed. Patients needing help in eating shall be assisted promptly upon receipt of meals. Food and fluid intake of patients shall be observed and deviations from normal shall be reported to the charge nurse. Persistent unresolved problems shall be reported to the physician.

(h) Rehabilitative nursing care to achieve and maintain the highest degree of function,

self-care and independence. Rehabilitative nursing measure shall be taught to all nursing personnel and practiced on a twenty-four (24) hour, seven (7) day week basis. Those procedures requiring medical approval shall be ordered by the attending physician. Rehabilitative measure shall include:

1. Positioning and turning. Nursing personnel shall encourage and assist patients in maintaining good body alignment while standing, sitting, or lying in bed.

2. Exercises. Nursing personnel shall assist patients in maintaining maximum joint range of motion or active range of motion.

3. Bowel and bladder training. Nursing personnel shall make every effort to train incontinent patients to gain bowel and bladder control.

4. Training in activities of daily living. Nursing personnel shall encourage and when necessary teach patients to function at their maximum level in appropriate activities of daily living for as long as, and to the degree that, they are able.

5. Ambulation. Nursing personnel shall assist and encourage patients with daily ambulation unless otherwise ordered by the physician.

6. Assisting patients to adjust to their disabilities, to use their prosthetic devices, and to redirect their interests if necessary; and

7. Assisting patients to carry out prescribed physical therapy exercises between visits of the physical therapist.

(3) Specialized rehabilitative services.

(a) Rehabilitative services shall be provided upon written order of the physician which indicates anticipated goals and prescribes specific modalities to be used and frequency of physical, speech and occupational therapy services.

(b) Therapy services shall include:

1. Physical therapy which includes:

a. Assisting the physician in his/her evaluation of patients by applying muscle, nerve, joint, and functional ability tests; and/or

b. Treating patients to relieve pain, develop or restore functions, and maintain maximum performance, using physical means such as exercise, massage, heat, water, light, and electricity.

2. Speech therapy which includes:

a. Service in speech pathology or audiology;

b. Cooperation in the evaluation of patients with speech, hearing, or language disorders; and/or

c. Determination and recommendation of appropriate speech and hearing services.

3. Occupational therapy services which includes:

a. Assisting the physician in his evaluation of the patient's level of function by applying diagnostic and prognostic tests; and/or

b. Guiding the patient in his use of therapeutic creative and self-care activities for improving function.

(c) Therapists shall collaborate with the facility's medical and nursing staff in developing the patient's total plan of care.

(d) Ambulation and therapeutic equipment. Commonly used ambulation and therapeutic equipment necessary for services offered shall be available for use in the unit such as parallel bars, hand rails, wheelchairs, walkers, walkerettes, crutches and canes. The therapists shall advise the administrator concerning the purchase, rental, storage and maintenance of equipment and supplies.

(4) Personal care services.

(a) All dual licensure units shall provide services to assist patients to achieve and maintain good personal hygiene including the level of assistance necessary with:

1. Bathing of the body to maintain clean skin and freedom from offensive odors. In addition to assistance with bathing, the unit shall provide soap, clean towels, and wash cloths for each patient. Toilet articles such as brushes and combs shall not be used in common.

2. Shaving.

3. Cleaning and trimming of fingernails and toenails.

4. Cleaning of the mouth and teeth to maintain good oral hygiene as well as care of the lips to prevent dryness and cracking. All patients shall be provided with toothbrushes, a dentifrice, and denture containers, when applicable.

5. Washing, grooming, and cutting of hair.

(b) The staff shall encourage and assist the patients to dress in their own street clothing (unless otherwise indicated by the physician).

(5) Dental services. The unit shall assist patients to obtain regular and emergency dental care. An advisory dentist shall provide consultation, participate in in-service education, recommend policies concerning oral hygiene, and shall be available in case of emergency. The facility, when necessary, shall arrange for the patient to be transported to the dentist's office. Nursing personnel shall assist the patient to carry out the dentist's recommendations.

(6) Social services.

(a) Provision for medically related social needs. The medically related social needs of the patient shall be identified, and services provided to meet them, in admission of the patient, during his treatment and care in the facility, and in planning for his discharge.

1. As a part of the process of evaluating a patient's need for services in a facility and whether the facility can offer appropriate care, emotional and social factors shall be considered in relation to medical and nursing requirements.

2. As soon as possible after admission, there shall be an evaluation, based on medical, nursing and social factors, of the probable duration of the patient's need for care and a plan shall be formulated and recorded for providing such care.

3. Where there are indications that financial help will be needed, arrangements shall be made promptly for referral to an appropriate agency.

4. Social and emotional factors related to the patient's illness, to his response to treatment and to his adjustment to care in the facility shall be recognized and appropriate action shall be taken when necessary to obtain casework services to assist in resolving problems in these areas.

5. Knowledge of the patient's home situation, financial resources, community resources available to assist him, and pertinent information related to his medical and nursing requirements shall be used in making decisions regarding his discharge from the facility.

(b) Confidentiality of social data. Pertinent social data, and information about personal and

family problems related to the patient's illness and care shall be made available only to the attending physician, appropriate members of the nursing staff, and other key personnel who are directly involved in the patient's care, or to recognized health or welfare agencies. There shall be appropriate policies and procedures for assuring the confidentiality of such information.

1. The staff member responsible for social services shall participate in clinical staff conferences and confer with the attending physician at intervals during the patient's stay in the facility, and there shall be evidence in the record of such conferences.

2. The staff member and nurses responsible for the patient's care shall confer frequently and there shall be evidence of effective working relationships between them.

3. Records of pertinent social information and of action taken to meet social needs shall be maintained for each patient. Signed social service summaries shall be entered promptly in the patient's medical record for the benefit of all staff involved in the care of the patient.

(7) Patient activities and therapeutic recreation.

(a) All dual licensure units shall provide a program to stimulate physical and mental abilities to the fullest extent, to encourage and develop a sense of usefulness and self respect and to prevent, inhibit or correct the development of systems of physical and mental regression due to illness or old age. The program shall provide sufficient variety to meet the needs of the various types of patients in the facility. When possible, the patient shall be included in the planning of activities.

(b) All dual licensure units shall meet the following program requirements:

1. Staff. A person designated by the administrator shall be responsible for the program.

2. A program shall be developed for each patient and shall be incorporated in the patient's plan of care and revised according to the patient's needs. Changes in his response to the program shall be recorded in the medical record.

3. There shall be a planned and supervised activity period each day. The schedule shall be current and posted.

4. The program shall be planned for group and individual activities, both within and outside of the unit, weather permitting.

5. The person responsible for activities shall maintain a current list of patients on which precautions are noted regarding a patient's condition that might restrict or modify his participation in the program.

6. The unit shall provide supplies and equipment for the activities program.

7. Reading materials, radios, games and TV sets shall be provided for the patients.

8. The program may include religious activities for each patient if it is the desire of the patient to participate. Requests from a patient to be seen by a clergyman shall be acted upon as soon as possible, and an area for private consultation shall be made available.

9. The unit shall allow the patient to leave the facility to visit, shop, attend church, or other social activities provided this does not endanger his health or safety;

(8) Transportation:

(a) If transportation of patients is provided by the unit to community agencies or other activities, the following shall apply:

1. Special provision shall be made for patients who use wheelchairs.

2. An escort or assistant to the driver shall be provided in transporting patients to and from the facility if necessary for the patient's safety.

(b) The unit shall arrange for appropriate transportation in case of medical emergencies.

(9) Pharmaceutical services. The hospital requesting dual licensure beds shall meet the pharmaceutical requirements outlined in 902 KAR 20:016, Section 4(5) and the additional requirements contained in this subsection.

(a) Medication services. Conformance with physician's orders. All medications administered to patients shall be ordered in writing by the patient's physician. Telephone orders <u>for skilled or intermediate care patients</u> shall be given only to a licensed nurse or pharmacist immediately reduced to writing, signed by the nurse and countersigned by the physician within forty-eight (48) hours. Medications not specifically limited as to time or number of doses, when ordered, shall be automatically stopped in accordance with the facility's written policy on stop orders. The registered nurse or the pharmacist shall review each patient's medication profile at least monthly. The prescribing physician shall review each patient's medications at the time of the medical evaluation pursuant to Section 5(1)(b)-(c) of this regulation. The patient's attending physician shall be notified of stop order policies and contacted promptly for renewal of such orders so that continuity of the patient's therapeutic regimen is not interrupted. Medications are to be released to patients on discharge only on the written authorization of the physician.

(b) Administration of medications. All medications shall be administered by licensed medical or nursing personnel in accordance with the Medical Practice Act (KRS 311.530 to 311.620) and Nurse Practice Act of (KRS Chapter 314). Each dose administered shall be recorded in the medical record.

1. The nursing station shall have readily available items necessary for the proper administration of medications.

2. In administering medications, medication cards or other state approved systems shall be used and checked against the physician's orders.

3. Medications prescribed for one (1) patient shall not be administered to any other patient.

4. Self-administration of medications by patients shall not be permitted except on special order of the patient's physician or in a predischarge program under the supervision of a licensed nurse.

5. Medication errors and drug reactions shall be immediately reported to the patient's physician and an entry thereof made in the patient's medical record as well as on an incident report.

6. Up-to-date medication reference texts and sources of information shall be provided for use by the nursing staff, (e.g., the American Hospital Formulary Service of the American Society of Hospital Pharmacists, Physicians Desk Reference or other suitable references).

[(c) Labeling and storing medications.]

[1. All medications shall be plainly labeled with the patient's name, the name of the drug, strength, name of pharmacy, prescription number, date, physician name, caution statements and directions for use except where accepted modified unit dose systems conforming to federal and state laws are used. The medications of each patient shall be kept and stored in their original containers and transferring between containers shall be prohibited. All medicines kept by the facility shall be kept in a locked place and the persons in charge shall be responsible for giving the medicines and keeping them under lock and key. Medications requiring refrigeration shall be kept in a separate locked box of adequate size in the refrigerator in the medication area. Drugs for external use shall be stored separately from those administered by mouth and injection. Provisions shall also be made for the locked separate storage of medications of deceased and discharged patients until such medication is surrendered or destroyed in accordance with federal and state laws and regulations.]

[2. Medication containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the issuing pharmacist or pharmacy for relabeling or disposal. Containers having no labels shall be destroyed in accordance with state and federal laws.]

[3. Cabinets shall be well lighted and sufficient size to permit storage without crowding.]

[4. Medications no longer in use shall be disposed of or destroyed in accordance with federal and state laws and regulations.]

[5. Medications having an expiration date shall be removed from usage and properly disposed of after such date.]

(10) Dietary services. The hospital requesting dual licensure beds shall meet the dietary services requirements outlined in 902 KAR 20:016, Section 4(3) and the additional requirements contained in this subsection.

(a) Nutritional needs shall be met in accordance with the current recommended dietary allowances of the Food and Nutrition Board of the National Research Council adjusted for age, sex, and activity, and in accordance with physician's orders.

(b) Serving of food. When a patient cannot be served in the dining room, trays shall be provided for bedfast patients and shall rest on firm supports such as overbed tables. Sturdy tray stands of proper height shall be provided for patients able to be out of bed.

1. Correct positioning of the patient to receive his tray shall be the responsibility of the direct patient care staff. Patients requiring help in eating shall be assisted.

2. Adaptive self-help devices shall be provided to contribute to the patient's independence in eating.

Section 6. Facility Requirements and Special Conditions. (1) Patient rooms. Each patient room shall meet the following requirements:

(a) Maximum room capacity: four (4) patients;

(b) Patient rooms shall be designed to permit no more than two (2) beds side by side parallel to the window wall. Not less than a four (4) foot space shall be provided between beds, and at least a three (3) foot space between the side of a bed and the nearest wall, fixed cabinet, or heating/cooling element. A minimum of four (4) feet is required between foot of bed and opposite wall, or foot of opposite bed in multibed rooms.

(2) The number of beds in a nursing unit shall not exceed sixty (60) unless additional services are provided, as deemed necessary by the licensure agency. Al least two (2) rooms per nursing unit shall be designed for single person occupancy (one (1) bed) and shall have private toilet rooms with bath. At least sixty (60) percent of the beds shall be located in rooms designed for one (1) or two (2) beds.

(3) Patient's dining, TV viewing and recreation areas:

(a) The total areas set aside for these purposes shall be adequate to meet the needs of the facility's dual licensure program.

(b) Storage shall be provided for recreational equipment and supplies (e.g., wall cabinets and closets).

WILLIAM M. GARDNER, Inspector General
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 3, 1986
FILED WITH LRC: September 5, 1986 at 11 a.m.

CABINET FOR HUMAN RESOURCES
Department for Social Services
Division of Field Services
(Amended After Hearing)

905 KAR 1:180. DSS policy and procedures manual.

RELATES TO: KRS 194.030(8), 194.060, 199.011 to 199.375, 199.420 to 199.990, 200.080 to 200.120, 205.201 to 205.204, 205.455 to 205.465, Chapters 208 and 209

PURSUANT TO: KRS 194.050, 199.420, 200.080, 209.030

NECESSITY AND FUNCTION: P.L. 97-35, "Block Grants for Social Services - Title XX," authorizes grants to states for social services. KRS 194.050 authorizes the Cabinet for Human Resources to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this manual is to implement a statewide social services program.

Section 1. DSS Policies and Procedures Manual. For the purpose of implementing and enforcing those sections of the Kentucky Revised Statutes relating to social service programs for children and adults that apply to the Department for Social Services, the Secretary of the Cabinet for Human Resources hereby adopts, by reference, the Department for Social Services' Policy and Procedural Manual as revised through **September 1** [July 1 and July 11] [April], 1986, as the current policies and procedures of that department. The manual contains policies and procedures relating to management procedures, adult services, support services, family and children's services, and youth services. The Department for Social Services' Policy and Procedures Manual may be reviewed in any departmental field office located in each of the

120 counties or at the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky, during regular working hours.

Section 2. Summary of Amendment. (1) In Chapter I, Management Procedures, Section A.4, Receiving Report - Impressed Cash Vouchers, strike the entire section and substitute in lieu thereof the entire revised Section A.4, dated 7/86, which transmits revised instructions and form DSS-110 necessary for reimbursement of foster care expenditures as they relate to new rates as approved by the General Assembly to become effective July 1, 1986.

(2) In Chapter II, Adult Services, Section A, Adult Protective Services, strike pages 1 and 2, and pages 23 through 27, dated 12/82, along with forms 291, 292 and 292A dated 8/82, and substitute in lieu thereof pages 1 and 2, and pages 39 through 57, dated 7/86, along with forms 291 and 292 dated 7/86. These revisions reflect changes in the definitions of "adult" and "exploitation," and incorporates into the manual the forms and procedures necessary for the implementation of the automated Adult Protection Reporting System which is to begin operation on July 1, 1986.

(3) In Chapter IV, Family and Children's Services, Section C, Foster Care, strike entire section and insert in lieu thereof entire revised section dated July 1, 1986. The major changes made in this section are as follows:

(a) Incorporates foster care rate changes authorized for fiscal year 1987;

(b) Minor changes in reporting foster care information;

(c) Revises foster care contracts to reflect new per diem rates;

(d) Sets up procedures for compliance with Foster Care External Review Boards; and

(e) Defines the roles of the Recruitment and Certification staff.

(4) In Chapter I, Management Procedures, Section A.5, Fair Hearing Procedures, Civil Rights Discrimination and Service Complaints, strike the entire section dated 10/83 and 5/84, and substitute in lieu thereof Chapter I, Management Procedures, A.5, Fair Hearing Procedures, Civil Rights Discrimination and Service Complaints, dated 7/86, and revised after public hearing. This material revises the method of handling civil rights/service complaints to conform with federal regulations (45 CFR 205.10) and designates that all hearings shall be conducted by the Quality Assurance Branch.

(5) In Chapter I, Management Procedures, incorporate Section A.6, Preventative Assistance, dated 7/86, and revised after public hearing, which establishes guidelines for the utilization of emergency funds granted by the 1986 General Assembly.

(6) In Chapter I, Management Procedures, incorporate Section A.7, Aging Section, Complaint Hearing, dated 7/86, which sets forth guidelines for the conduct of hearings as they relate to contracts with the Area Agencies on Aging, service provides and applicants to provide service, and service recipients/applicants. [In Chapter V, Youth Services, Community Based, Revocation of Supervised Placement, strike pages 20 through 23 dated 6/84, and insert in lieu thereof Chapter V, Youth Services, Community Based, Revocation of Supervised Placement, pages 20 through 23 dated 4/86 which revises the procedures for the revocation hearings process. Revisions include: changing the definition of "Chairperson;" changing Juvenile Court Liaison to Juvenile Specialist and Field Office Supervisors to Family Services Office Supervisor; transportation shall be provided by appropriate staff if another source of transportation is unavailable; and rather than the Deputy Commissioner and Director of the Division of Program Management being standing chairpersons, the Commissioner will name one (1) member of the Hearing Board as Chairperson.]

Section 3. Repeals. The following regulations are hereby repealed: 905 KAR 7:020, Procedural manual for day treatment; 905 KAR 7:040, Continuum of care for children in residential facilities; 905 KAR 7:050, Group home procedural manual; 905 KAR 7:070, Children's residential staff training requirements; 905 KAR 7:080, Children's treatment services facility manual; 905 KAR 7:110, Northern Kentucky Treatment Center policy and procedures manual; 905 KAR 7:120, Lake Cumberland Boys' Camp policy and procedure manual; 905 KAR 7:130, Morehead Treatment Center policy manual; 905 KAR 7:140, Central Kentucky Treatment Center policy manual; 905 KAR 7:150, Green River Boys' Camp policy manual; 905 KAR 7:160, Woodsbend Boys' Camp policies manual; 905 KAR 7:170, Cardinal Treatment Center policy and procedural manual; 905 KAR 7:180, Rice-Audubon policy and procedural manual; 905 KAR 7:190, Lincoln Village policy and procedural manual; 905 KAR 7:200, Re-Ed Treatment policy and procedural manuals; 905 KAR 7:210, Central Kentucky Re-Ed Center policy and procedural manual; 905 KAR 7:220, Owensboro Treatment Center. [905 KAR 1:190, Conduct of hearings for revocation of supervised placement, is hereby repealed.]

ANNA GRACE DAY, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 4, 1986
FILED WITH LRC: September 5, 1986 at 11 a.m.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Amended After Hearing)

907 KAR 1:036. Amounts payable for skilled nursing and intermediate care facility services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 194.050
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the cabinet for skilled nursing care facility services and intermediate care facility services.

Section 1. Reimbursement for Skilled Nursing and Intermediate Care Facilities. All skilled

nursing or intermediate care facilities participating in the Title XIX program shall be reimbursed in accordance with this regulation. Payments made shall be in accordance with the requirements set forth in 42 CFR 447.250 through 42 CFR 447.280. A skilled nursing facility desiring to participate in Title XIX shall be required to participate in Title XVIII-A.

Section 2. Basic Principles of Reimbursement. (1) Payment shall be on the basis of rates which are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

(2) Payment amounts shall be arrived at by application of the reimbursement principles developed by the cabinet (Kentucky Medical Assistance Program Intermediate Care/Skilled Nursing Facility Reimbursement Manual, revised July 1 [April 14], 1986, and amended pursuant to a hearing, which is hereby incorporated by reference) and supplemented by the use of the Title XVIII-A reimbursement principles.

Section 3. Implementation of the Payment System. The cabinet's reimbursement system is supported by the Title XVIII-A Principles of Reimbursement, with the system utilizing such principles as guidelines in unaddressed policy areas. The cabinet's reimbursement system includes the following specific policies, components or principles:

(1) Prospective payment rates for routine services shall be set by the cabinet on a facility by facility basis, and shall not be subject to retroactive adjustment. Prospective rates shall be set annually, and may be revised on an interim basis in accordance with procedures set by the cabinet. An adjustment to the prospective rate (subject to the maximum payment for that type of facility) will be considered only if a facility's increased costs are attributable to one (1) of the following reasons: governmentally imposed minimum wage increases; the direct effect of new licensure requirements or new interpretations of existing requirements by the appropriate governmental agency as issued in regulation or written policy which affects all facilities within the class; or other governmental actions that result in an unforeseen cost increase. The amount of any prospective rate adjustment may not exceed that amount by which the cost increase resulting directly from the governmental action exceeds on an annualized basis the inflation allowance amount included in the prospective rate for the general cost area in which the increase occurs. For purposes of this determination, costs will be classified into two (2) general areas, salaries and other. The effective date of interim rate adjustment shall be the first day of the month in which the adjustment is requested or in which the cost increase occurred, whichever is later.

(2) The prospective rate shall not exceed, on a facility by facility basis, an administratively established maximum payment for that type of facility. The state will set a uniform rate year for SNFs and ICFs (July 1-June 30) by taking the latest audited cost data available as of May 16 of each year and trending the facility costs to July 1 of the rate year. (Unaudited, partial year, and/or budgeted cost data may be used if a full year's audited data is unavailable. Unaudited reports are subject to adjustment to the audited amount, and will be used when an audited cost report ending within twenty-four (24) months of the 30th of April preceding the rate year is not available. Facilities paid on the basis of partial year or budgeted cost reports shall have their reimbursement settled back to allowable cost, with usual upper limits applied. Facilities beginning program participation on or after July 1, 1984 whose rates are subject to settlement back to cost will not be included in the arrays until such time as the facilities are no longer subject to cost settlement.) After allowable costs are indexed for inflation for the rate year, freestanding (non-hospital based) facilities will be arrayed and the maximum set at 102 percent of the median for the class (SNF or ICF). In recognition of the higher costs of hospital based SNFs, their upper limit shall be set at 135 percent of 102 percent of the median of allowable trended and indexed costs of all other SNFs, however, such upper limit shall not exceed 102 percent of the median of the array of allowable trended and indexed costs of hospital based SNFs. The maximum payment amounts will be adjusted each July 1, beginning with July 1, 1985, so that the maximum payment amount for the prospective uniform rate year will be at 102 percent of the median per diem allowable costs for the class (SNF or ICF) on July 1 of that year. For purposes of administrative ease in computations normal rounding may be used in establishing the maximum payment amount, with the maximum payment amount rounded to the nearest five (5) cents. Upon being set, the arrays and upper limits will not be altered due to revisions or corrections of data. For ICF-MRs, a prospective rate will be set in the same manner as for freestanding SNFs and basic ICFs, except that the maximum (upper limit) shall be set at 110 percent of the median of the array.

(3) The reasonable direct cost of ancillary services provided by the facility as a part of total care shall be compensated on a reimbursement cost basis as an addition to the prospective rate except for ventilator therapy services which shall be paid on a prospective rate basis. Ancillary services reimbursement shall be subject to a year-end audit, retroactive adjustment and final settlement. Ancillary costs may be subject to maximum allowable cost limits under federal regulations. Any percentage reduction made in payment of current billed charges shall not exceed twenty-five (25) percent, except in the instance of individual facilities where the actual retroactive adjustment for a facility for the previous year reveals an overpayment by the cabinet exceeding twenty-five (25) percent of billed charges, or where an evaluation by the cabinet of an individual facility's current billed charges shows the charges to be in excess of average billed charges for other comparable facilities serving the same area by more than twenty-five (25) percent. A refund will be requested from a facility if the amount paid to the facility for legend drugs, covered legend devices and non-legend drugs, if applicable, exceeds the program's computed maximum allowable

cost. The amount of refund will be determined by conducting a statistically accurate sample of the Medicaid patients for the facility's fiscal year. The percentage that a facility is over the computed maximum allowable cost will be multiplied by the amount paid by the program for drugs for the fiscal year under review.

(4) Interest expense used in setting the prospective rate is an allowable cost if permitted under Title XVIII-A principles and if it meets these additional criteria:

(a) It represents interest on long-term debt existing at the time the vendor enters the program or represents interest on any new long-term debt, the proceeds of which are used to purchase fixed assets relating to the provision of the appropriate level of care. If the debt is subject to variable interest rates found in balloon-type financing, renegotiated interest rates will be allowable. The form of indebtedness may include mortgages, bonds, notes and debentures when the principal is to be repaid over a period in excess of one (1) year; or

(b) It is other interest for working capital and operating needs that directly relates to providing patient care. The form of such indebtedness may include, but is not limited to, notes, advances and various types of receivable financing; however, short-term interest expense on a principal amount in excess of program payments made under the prospective rate equivalent to two (2) months experience based on ninety (90) percent occupancy or actual program receivables will be disallowed in determining cost;

(c) For both paragraphs (a) and (b) of this subsection, interest on a principal amount used to purchase goodwill or other intangible assets will not be considered an allowable cost.

(5) Compensation to owner/administrators will be considered an allowable cost provided that it is reasonable, and that the services actually performed are a necessary function. Compensation includes the total benefit received by the owner for the services he renders to the institution, excluding fringe benefits routinely provided to all employees and the owner/administrator. Payment for services requiring a licensed or certified professional performed on an intermittent basis will not be considered a part of compensation. "Necessary function" means that had the owner not rendered services pertinent to the operation of the institution, the institution would have had to employ another person to perform the service. Reasonableness of compensation will be based on total licensed beds (all levels).

(6) The allowable cost for services or goods purchased by the facility from related organizations shall be the cost to the related organization, except when it can be demonstrated that the related organization is in fact equivalent to any other second party supplier, i.e., a relationship for purposes of this payment system is not considered to exist. A relationship will be considered to exist when an individual or individuals possess five (5) [twenty (20)] percent or more of ownership or equity in the facility and the supplying business; however, an exception to the relationship will be determined to exist when fifty-one (51) percent or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(7) The amount allowable for leasing costs shall not exceed the amount which would be allowable based on the computation of historical costs, except that for general intermediate care facilities entering into lease/rent arrangements prior to April 22, 1976, intermediate care facilities for the mentally retarded entering into lease/rent arrangements prior to February 23, 1977, and skilled nursing facilities entering into lease/rent arrangements prior to December 1, 1979, the cabinet will determine the allowable costs of such arrangements based on the general reasonableness of such costs.

(8) The following provisions are applicable with regard to median per diem cost center upper limits:

(a) For facilities (except ICF-MRs) beginning participation in the Medicaid program on or after April 1, 1981, (and classified as newly participating facilities for purposes of this subsection), the following upper limits (within the class) shall be applicable with regard to otherwise allowable per diem costs, by cost center: for nursing services, 125 percent of the median; for dietary services, 125 percent of the median; for capital costs, 105 percent of the median; and for all other costs, 105 percent of the median.

(b) Facilities participating in the Medicaid program prior to April 1, 1981, shall be classified as newly participating facilities (solely for purposes of this subsection) when either of the following occurs on or after April 1, 1981: first, when the facility expands its bed capacity by expansion of its currently existing plant or, second, when a multi-level facility (one providing more than one (1) type of care) converts existing personal care beds in the facility to either skilled nursing or intermediate care beds, and the number of additional or converted personal care beds equals or exceeds (in the cumulative) twenty-five (25) percent of the Medicaid certified beds in the facility as of March 31, 1981. Facilities participating in the Medicaid program prior to April 1, 1981 shall not be classified as newly participating facilities solely because of changes of ownership.

(c) For purposes of application of this subsection the facility classes are basic intermediate care and skilled nursing care. The "median per diem cost" is the midpoint of the range of all facilities' costs (for the class) which are attributable to the specific cost center, which are otherwise allowable costs for the facilities' prior fiscal year, and which are adjusted by trending, indexing and the occupancy factor. The median for each cost center for each class shall be determined annually using the same cost data for the class which was used in setting the maximum payment amount. The Department for Medicaid Services shall notify all participating facilities of the median per diem cost center upper limits currently in effect.

(d) A facility may request that the Reimbursement Review Panel grant a waiver of its status as a newly participating facility based upon a presentation of facts showing that the provider had already incurred a substantial material financial obligation or binding

commitment toward building or expanding a facility prior to April 1, 1981. The obtaining of a certificate of need shall not be construed, in itself, to be sufficient to justify approval of a waiver request, and a waiver, if granted, shall be applicable only with regard to that building or expansion for which the waiver was requested and approved.

(e) Intermediate care facilities for the mentally retarded (ICF-MRs) are not subject to the median per diem cost center upper limits shown in this subsection.

(9) Certain costs not directly associated with patient care will not be considered allowable costs. Costs which are not allowable include political contributions, travel and related costs for trips outside the state (for purposes of conventions, meetings, assemblies, conferences, or any related activities), specified vehicle costs as shown in the Reimbursement Manual, and legal fees for unsuccessful lawsuits against the cabinet. However, costs (excluding transportation costs) for training or educational purposes outside the state are allowable costs unless such costs are incurred by administrators or owners.

(10) To determine the gain or loss on the sale of a facility for purposes of determining a purchaser's cost basis in relation to depreciation and interest costs, the following methods will be used for changes of ownership occurring before July 18, 1984:

(a) Determine the actual gain on the sale of the facility.

(b) Add to the seller's depreciated basis two-thirds (2/3) of one (1) percent of the gain for each month of ownership since the date of acquisition of the facility by the seller to arrive at the purchaser's cost basis.

(c) Gain is defined as any amount in excess of the seller's depreciated basis as computed under program policies at the time of the sale, excluding the value of goodwill included in the purchase price.

(d) A sale is any bona fide transfer of legal ownership from an owner(s) to a new owner(s) for reasonable compensation, which is usually fair market value. Lease-purchase agreements and/or other similar arrangements which do not result in transfer of legal ownership from the original owner to the new owner are not considered sales until such time as legal ownership of the property is transferred.

(e) If an enforceable agreement for a change of ownership was entered into prior to July 18, 1984, the purchaser's cost basis will be determined in the manner set forth in paragraphs (a) through (d) of this subsection.

(11) Notwithstanding the provisions contained in subsection (10) of this section, or in any other section or subsection of this regulation or the "Kentucky Medical Assistance Program Intermediate Care/Skilled Nursing Facility Reimbursement Manual," the cost basis for any facility changing ownership on or after July 18, 1984 (but not including changes of ownership pursuant to an enforceable agreement entered into prior to July 18, 1984 as specified in subsection (10)(e) of this section) shall be determined in accordance with the methodology set forth herein for the reevaluation of assets of skilled nursing and intermediate care facilities.

(a) No increase will be allowed in capital costs.

(b) The allowable historical base for depreciation for the purchaser will be the lesser of the allowable historical cost of the seller less any depreciation allowed to the seller in prior periods, or the actual purchase price.

(c) The amount of interest expense allowable to the purchaser is limited to the amount that was allowable to the seller at the time of the sale.

(12) Each facility shall maintain and make available such records (in a form acceptable to the cabinet) as the cabinet may require to justify and document all costs to and services performed by the facility. The cabinet shall have access to all fiscal and service records and data maintained by the provider, including unlimited onsite access for accounting, auditing, medical review, utilization control and program planning purposes.

(13) The following shall apply with regard to the annual cost report required of the facility:

(a) The year-end cost report shall contain information relating to prior year cost, and will be used in establishing prospective rates and setting ancillary reimbursement amounts.

(b) New items or expansions representing a departure from current service levels for which the facility requests prior approval by the program are to be so indicated with a description and rationale as a supplement to the cost report.

(c) Cabinet approval or rejection of projections and/or expansions will be made on a prospective basis in the context that if such expansions and related costs are approved they will be considered when actually incurred as an allowable cost. Rejection of items or costs will represent notice that such costs will not be considered as part of the cost basis for reimbursement. Unless otherwise specified, approval will relate to the substance and intent rather than the cost projection.

(d) When a request for prior approval of projections and/or expansions is made, absence of a response by the cabinet shall not be construed as approval of the item or expansion.

(14) The cabinet shall audit each year-end cost report in the following manner: an initial desk review shall be performed of the report and the cabinet will determine the necessity for and scope of a field audit in relation to routine service cost. A field audit may be conducted for purposes of verifying cost to be used in setting the prospective rate; field audits may be conducted annually or at less frequent intervals. A field audit of ancillary cost will be conducted as needed.

(15) Year-end adjustments of the prospective rate and a retroactive cost settlement will be made when:

(a) Incorrect payments have been made due to computational errors (other than the omission of cost data) discovered in the cost basis or establishment of the prospective rate.

(b) Incorrect payments have been made due to misrepresentation on the part of the facility (whether intentional or unintentional).

(c) A facility is sold and the funded depreciation account is not transferred to the purchaser.

(16) Reimbursement paid may not exceed the facility's customary charges to the general

public for such services, except in the case of public facilities rendering inpatient services at a nominal charge (which may be reimbursed at the prospective rate established by the cabinet).

(17) The cabinet may develop and/or utilize methodology to assure an adequate level of care. Facilities determined by the cabinet to be providing less than adequate care may have penalties imposed against them in the form of reduced payment rates.

(18) Each facility shall submit the required data for determination of the prospective rate no later than sixty (60) days following the close of the facility's fiscal year. This time limit may be extended at the specific request of the facility (with the cabinet's concurrence).

(19) Each ICF which admits a recipient from an SNF during the period of September 1, 1985 through January 31, 1986 shall receive an incentive payment of seven (7) dollars and fifty (50) cents for each day of covered care rendered such recipient, subject to the following conditions:

(a) The recipient must meet SNF patient status criteria as of August 31, 1985 only because of non-availability of an ICF bed, where the recipient is on the waiting list of an ICF; and

(b) The incentive payment may be paid for more than ninety (90) covered days of care only if all such days are prior to February 1, 1986.

(20) When a recipient in a SNF changes patient status (from SNF to ICF) on or after February 1, 1986 and is admitted to an ICF within the permitted transfer period for the recipient (i.e., while the recipient still qualifies for coverage at the skilled rate), the ICF shall receive an incentive payment of seven (7) dollars and fifty (50) cents for each day of covered care rendered the recipient; such incentive payment shall be paid for no more than ninety (90) days of care.

(21) The incentive payment referenced in subsections (19) and (20) of this section shall be paid without regard to maximum payment limitations shown elsewhere in this regulation.

(22) Effective September 26, 1985 (for services provided on or after September 1, 1985), a participating skilled nursing facility may be paid for care provided to Medicaid eligible patients who meet intermediate care patient status criteria subject to the following criteria or conditions:

(a) The payment will be made at the upper limit for payments to intermediate care facilities, or the skilled nursing rate for the facility if lower;

(b) The patient must be in the skilled nursing facility bed awaiting placement to an intermediate care bed; and

(c) The patient must have been reclassified from SNF patient status to ICF patient status; or, alternatively, the patient must meet ICF patient status criteria, and the appropriate representative of the Department for Social Services must certify that no ICF bed is available and that an emergency exists so that placement in the SNF bed offers the best alternative in the circumstances. Payment made based on the certification that no ICF bed is available and that an emergency exists may be made for no more than thirty (30) days; however, the certification and declaration of emergency may be renewed by the Department for Social Services as appropriate and payment may be made pursuant to such renewal.

(23) SNF's which on February 1, 1986 continued to care for recipients who were classified as meeting SNF patient status criteria as of August 31, 1985 only because of non-availability of an ICF bed, where the recipient is on the waiting list of an ICF, may receive the usual SNF rate for those recipients subject to the following transitional reimbursement standards and criteria:

(a) The facility must file a letter of intent with the Cabinet for Human Resources, Office of the Secretary, 275 East Main Street, Fourth Floor, Frankfort, Kentucky 40621 by January 31, 1986 (receipt in the cabinet is required) for downward conversion of the bed(s) in which the recipient(s) is residing.

(b) Any facility which files a letter of intent must submit to the Certificate of Need Authority (CONA) an appropriate certificate of need application for downward conversion of the skilled bed(s), no later than February 14, 1986, in order for the transitional reimbursement payments to continue.

(c) Payment under this transitional reimbursement provision shall continue only until such time as the Certificate of Need Authority (CONA) has acted on the application and any appropriate licensure action has been effected.

Section 4. Prospective Rate Computation. The prospective rate for each facility will be set in accordance with the following:

(1) Determine allowable prior year cost for routine services.

(2) The allowable prior year cost, not including fixed or capital costs, will then be trended to the beginning of the uniform rate year and increased by a percentage so as to reasonably take into account economic conditions and trends. Such percentage increase shall be known as an inflation factor.

(3) The unadjusted basic per diem cost (defined as the unadjusted allowable cost per patient per day for routine services) will then be determined by comparison of costs with the facility's occupancy rate (i.e., the occupancy factor) as determined in accordance with procedures set by the cabinet. The occupancy rate shall not be less than actual bed occupancy, except that it shall not exceed ninety-eight (98) percent of certified bed days (or ninety-eight (98) percent of actual bed usage days, if more, based on prior year utilization rates). The minimum occupancy rate shall be ninety (90) percent of certified bed days for facilities with less than ninety (90) percent certified bed occupancy. The cabinet may impose a lower occupancy rate for newly constructed or newly participating facilities, or for existing facilities suffering a patient census decline as a result of a competing facility newly constructed or opened serving the same area. The cabinet may impose a lower occupancy rate during the first two (2) full facility fiscal years an existing skilled nursing facility participates in the program under this payment system.

(4) Cost center median related per diem upper limits will then be applied as appropriate to the unadjusted basic per diem cost. The resultant adjusted amounts (and unadjusted amounts, as applicable) will be combined (or

recombined) to arrive at the basic per diem cost (defined as the adjusted allowable cost per patient per day for routine services).

(5) To the basic per diem cost shall be added a specified dollar amount for investment risk and an incentive for cost containment in lieu of a return on equity capital, except that no return for investment risk shall be made to non-profit facilities, and publicly owned and operated facilities shall not receive the investment or incentive return.

(a) Cost incentive and investment schedule for general intermediate care facilities:

(Effective 7-1-86 [8-3-85])

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$28.99 & below	$.92	$.58
29.00 - 29.99	$.86	$.50
30.00 - 30.99	$.78	$.41
31.00 - 31.99	$.70	$.32
32.00 - 32.99	$.61	$.21
33.00 - 33.99	$.51	$.09
34.00 - 35.58 [35.06]	$.35	-

Maximum Payment $35.58 [35.06]

(b) Cost incentive and investment schedule for intermediate care facilities for the mentally retarded:

(Effective 7-1-86 [8-3-85])

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$69.99 & below [65.99]	$1.38	$.87
70.00 - 75.99 [66.00 - 71.99]	$1.29	$.75
76.00 - 81.99 [72.00 - 77.99]	$1.18	$.62
82.00 - 87.99 [78.00 - 83.99]	$1.06	$.47
88.00 - 93.99 [84.00 - 89.99]	$ .92	$.31
94.00 - 99.99 [90.00 - 95.99]	$ .76	$.13
100.00 - 106.81 [96.00 - 102.59]	$ .53	-

Maximum Payment $106.81 [102.59]

(c) Cost incentive and investment schedule for skilled nursing facilities:

(Effective 7-1-86 [8-3-85])

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$ 38.99 & below	$.92	$.58
39.00 - 40.99	.86	.50
41.00 - 42.99	.78	.41
43.00 - 44.99	.70	.32
45.00 - 46.99	.61	.21
47.00 - 48.99	.51	.09
49.00 - 51.04 [50.31]	.35	-

Maximum Payment $51.04 [50.31]*

*The maximum payment for hospital based skilled nursing facilities is set at $68.90 [67.91].

(6) The prospective rate is then compared, as appropriate, with the maximum payment. If in excess of the program maximum, the prospective rate shall be reduced to the appropriate maximum payment amount. The maximum payment amounts have been set to be at or about 102 percent of the median of adjusted basic per diem costs for the class, recognizing that hospital based skilled nursing facilities have special requirements that must be considered. The cabinet has determined that the maximum payment rates shall be reviewed annually against the criteria of 102 percent of the median for the class and that adjustments to the payment maximums will be made effective July 1, 1985 and each July 1 thereafter. This policy shall allow, but does not require lowering of the maximum payments below the current levels if application of the criteria against available cost data should show that 102 percent of the median is a lower dollar amount than has been currently set.

Section 5. Reimbursement Review and Appeal. Participating facilities may appeal cabinet decisions as to application of the general policies and procedures in accordance with the following:

(1) First recourse shall be for the facility to request in writing to the Director, Division of Reimbursement and Contracts [Medical Assistance], a re-evaluation of the point at issue. This request must be received within forty-five (45) days following notification of the prospective rate or forwarding of the audited cost report by the program. The director shall review the matter and notify the facility of any action to be taken by the cabinet (including the retention of the original application of policy) within twenty (20) days of receipt of the request for review or the date of the program/vendor conference, if one is held, except that additional time may be taken as necessary to secure further information or clarification pertinent to the resolution of the issue.

(2) Second recourse shall be for the facility to request in writing to the Commissioner, Department for Medicaid Services [Social Insurance], a review by a standing review panel to be established by the commissioner. This request must be postmarked within fifteen (15) days following notification of the decision of

the Director, Division of Reimbursement and Contracts [Medical Assistance]. Such panel shall consist of three (3) members: one (1) member from the Division of Reimbursement and Contracts [Medical Assistance], one (1) member from the Kentucky Association of Health Care Facilities, and one (1) member from the Department for Medicaid Services (but not within the Division of Reimbursement and Contracts) as designated by the Commissioner, Department for Medicaid Services, with such designated member to act as chairperson of the review panel [Division of Management and Development, Department for Social Insurance]. A date for the reimbursement review panel to convene will be established within twenty (20) days after receipt of the written request. The panel shall issue a binding decision on the issue within thirty (30) days of the hearing of the issue, except that additional time may be taken as necessary to secure further information or clarification pertinent to the resolution of the issue. In carrying out the intent and purposes of the program the panel may take into consideration extenuating circumstances which must be considered in order to provide for equitable treatment and reimbursement of the provider. The attendance of the representative of the Kentucky Association of Health Care Facilities at review panel meetings shall be at the cabinet's expense.

Section 6. Definitions. For purposes of Sections 1 through 6 of this regulation, the following definitions shall prevail unless the specific context dictates otherwise.

(1) "Allowable cost" means that portion of the facility's cost which may be allowed by the cabinet in establishing the reimbursement rate. Generally, cost is considered allowable if the item of supply or service is necessary for the provision of the appropriate level of patient care and the cost incurred by the facility is within cost limits established by the cabinet, i.e., the allowable cost is "reasonable."

(2) "Ancillary services" means those direct services for which a separate charge is customarily made, and which except for ventilator therapy services are retrospectively settled on the basis of reasonable allowable cost at the end of the facilities' fiscal year. Ancillary services are limited to the following:

(a) Legend and non-legend drugs, including indwelling catheters and syringes, and irrigation supplies and solutions utilized with those catheters regardless of how those supplies and solutions are utilized. Coverage and allowable cost payment limitations are specified in the cabinet's regulation on payment for drugs.

(b) Physical, occupational and speech therapy.

(c) Laboratory procedures.

(d) X-ray.

(e) Oxygen and other related oxygen supplies and inhalation therapy.

(f) Psychological and psychiatric therapy (for ICF/MR only).

(g) Ventilator therapy services, subject to the coverage limitations shown in the Reimbursement Manual.

(3) "Hospital based skilled nursing facilities" means those skilled nursing facilities so classified by Title XVIII-A.

(4) The "basic per diem cost" is the computed rate arrived at when otherwise allowable costs are trended and adjusted in accordance with the inflation factor, the occupancy factor, and the median cost center per diem upper limits.

(5) "Inflation factor" means the comparison of allowable routine service costs, not including fixed or capital costs, with an inflation rate to arrive at projected current year cost increases, which when added to allowable costs, including fixed or capital costs, yields projected current year allowable costs. The inflation factor shall be included for rates computed on August 3, 1985 and thereafter.

(6) "Incentive factor" means the comparison of the basic per diem cost with the incentive return schedule to arrive at the actual dollar amount of cost containment incentive return to be added to the basic per diem cost.

(7) "Investment factor" means the comparison of the basic per diem cost with the investment return schedule to arrive at the actual dollar amount of investment return to be added to the basic per diem cost.

(8) "Maximum allowable cost" means the maximum amount which may be allowed to a facility as reasonable cost for provision of an item of supply or service while complying with limitations expressed in related federal or state regulations.

(9) "Maximum payment" means the maximum amount the cabinet will reimburse, on a facility by facility basis, for routine services.

(10) "Occupancy factor" means the imposition of an assumed level of occupancy used in computing unadjusted basic per diem rates.

(11) "Prospective rate" means a payment rate of return for routine services based on allowable costs and other factors, and includes the understanding that except as specified such prospective rate shall not be retroactively adjusted, either in favor of the facility or the cabinet.

(12) "Routine services" means the regular room, dietary, medical social services, nursing services, minor medical and surgical supplies, and the use of equipment and facilities. Routine services include but are not limited to the following:

(a) All general nursing services, including administration of oxygen and related medications, handfeeding, incontinency care and tray services.

(b) Items which are furnished routinely and relatively uniformly to all patients, such as patient gowns, water pitchers, basins, and bed pans. Personal items such as paper tissues, deodorants, and mouthwashes are allowable as routine services if generally furnished to all patients.

(c) Items stocked at nursing stations or on the floor in gross supply and distributed or utilized individually in small quantities, such as alcohol, applicators, cotton balls, bandaids and tongue depressors.

(d) Items which are utilized by individual patients but which are reusable and expected to be available in an institution providing a skilled nursing or intermediate care facility level of care, such as ice bags, bed rails, canes, crutches, walkers, wheelchairs, traction equipment, and other durable medical equipment.

(e) Laundry services, including personal clothing to the extent it is the normal attire for everyday facility use, but excluding dry cleaning costs.

(f) Other items or services generally

available or needed within a facility unless specifically identified as ancillary services. (Items excluded from reimbursement include private duty nursing services and ambulance services costs.)

Section 7. Implementation Date. The provisions of this regulation, as amended, shall be effective with regard to services provided on or after July 1, 1986.

R. HUGHES WALKER, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 2, 1986
FILED WITH LRC: September 5, 1986 at 11 a.m.

PROPOSED AMENDMENTS

FINANCE AND ADMINISTRATION CABINET
Kentucky State Board of Medical Licensure
(Proposed Amendment)

201 KAR 9:081. Disciplinary proceedings.

RELATES TO: KRS 311.530 to 311.620, 311.990
PURSUANT TO: KRS 311.565
NECESSITY AND FUNCTION: KRS 311.565 empowers the State Board of Medical Licensure to exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy and authorizes the board to establish requirements and standards relating thereto. The purpose of this regulation is to set forth the procedures to be followed in handling formal and informal disciplinary proceedings before the board or before any committee to the board, such that the proceedings will be conducted with due regard for the rights and privileges of all affected parties.

Section 1. Scope. This regulation shall govern practice and procedure in regard to all disciplinary matters before the Kentucky Board of Medical License pursuant to KRS 311.530, et seq.

Section 2. Definitions. (1) "Executive director" means the executive director of the board or any assistant executive directors appointed by the board.
(2) "General counsel" means the general counsel of the board or any assistant general counsel appointed by the board.
[(3) "Committee" means the physician review advisory committee unless otherwise indicated from the context.]
(3) [(4)] "Board" means the Kentucky Board of Medical Licensure or its inquiry and/or hearing panels.
(4) [(5)] "Grievance" means any allegation in whatever form alleging misconduct by a physician.
(5) [(6)] "Charge" means a specific allegation contained in any document issued by the board or its inquiry or hearing panels [committees] alleging a violation of a specified provision of the Kentucky Medical and Osteopathic Practice Act.
(6) [(7)] "Complaint" means a formal administrative pleading authorized by the inquiry panel [board] that sets forth charges against a physician and commences a formal disciplinary proceeding.
(7) [(8)] "Show cause order" means an order directing the named physician to show cause why the board should or should not take a specified action based on specified information which the order alleges to be true.
(8) [(9)] "Hearing officer" means the person designated and given authority by the board to preside over all proceedings pursuant to the issuance of any complaint or show cause order.
(9) [(10)] "Informal proceedings" means proceedings instituted at any stage of the disciplinary process with the intent of reaching an informal dispensation of any matter without further recourse to formal disciplinary procedures.
(10) [(11)] "Act" means the Kentucky Medical and Osteopathic Practice Act.

Section 3. Reception of Grievances; Investigations. (1) Grievances may be submitted by any individual, organization or entity. The board shall retain a written form upon which grievances may be made and any party submitting a grievance may be required to complete the form and may also be required to give their affidavit acknowledging the truth and veracity to the best of their knowledge and belief of the information contained in the grievance.
(2) All grievances shall be investigated as necessary and presented to the inquiry panel [committee] for review unless the circumstances of a particular grievance make it impossible to timely present the grievance to the inquiry panel [committee]. The inquiry panel [committee] shall have the authority to direct any investigation and shall possess any and all powers possessed by the board in regard to investigations. The inquiry panel [committee] shall further be empowered to request the attendance of any person at any meeting of the inquiry panel [committee] in regard to the investigation of any grievance or consideration of any disciplinary matter. The failure, without good cause, of any physician licensed to practice medicine or osteopathy by the board to appear before the inquiry panel [committee] when requested shall be considered unprofessional conduct.
(3) The inquiry panel [committee] shall be empowered to request compliance with the reporting requirements of KRS 311.605-311.606 and may pursue investigations, on its own initiative, in regard to acts of non-compliance or any other perceived violation of the Act.

Section 4. Reports and Recommendations; Petitions. [(1) When in the opinion of the committee a grievance does not warrant the issuance of a complaint against a physician, the committee shall submit a written report to the board briefly denoting the committee's findings and recommending an appropriate course of action.]

(1) [(2)] When in the opinion of the inquiry panel [committee] a grievance warrants the issuance of a complaint against a physician, the inquiry panel [committee] shall cause a complaint to be prepared together with a petition, signed by the chairman or vice-chairman on behalf of the inquiry panel [committee], stating the inquiry panel's [committee's] belief that the charges are based upon reliable information [and requesting the board to authorize the issuance of the complaint].

(2) [(3)] When in the opinion of the executive director a grievance warrants the issuance of a complaint against a physician and circumstances do not allow the timely presentation of the grievance to the inquiry panel [committee], the executive director shall cause a complaint to be prepared together with a petition, signed by the executive director, stating the executive director's belief that the charges are based upon reliable information and requesting the inquiry panel [board] to authorize the issuance of the complaint.

(3) [(4)] When in the opinion of the executive director or the inquiry panel [committee] a disciplinary matter warrants the [board's] issuance of a show cause order against a physician, the executive director or the inquiry panel [committee] shall cause a proposed order to be prepared together with a petition briefly delineating a basis for the issuance of the show cause order [and requesting the board to issue the order].

(4) [(5)] The board, on its own initiative, may issue a show cause order against a physician in regard to any application for licensure, obtaining, retaining or reobtaining licensure.

(5) [(6)] Nothing in this subsection shall be construed to limit the board's power to deny a license to any applicant without a prior hearing upon a finding that the applicant has violated any provision of the Act.

Section 5. Complaints. (1) The complaint shall be signed and [by the party petitioning the board for its issuance and shall be] dated. The complaint shall be styled in regard to the matter of the license to practice in the Commonwealth of Kentucky held by the named physician and shall be designated with an appropriate case number.

(2) The complaint shall set forth the board's jurisdiction in regard to the subject matter of the complaint and shall further set forth, in numerical paragraphs, sufficient information to apprise the named physician of the general nature of the charges.

Section 6. Show Cause Orders. (1) The show cause order shall be signed by an officer of the board and shall be dated. The show cause order shall be styled in regard to the license, application for license or application for renewal, registration or reregistration of license to practice in the Commonwealth of Kentucky held by or submitted by the named physician, appropriately, and shall be designated with an appropriate order number.

(2) The show cause order shall set forth the board's jurisdiction in regard to the subject matter of the order and shall further set forth, in numerical paragraphs, the information which the board accepts to be true and the statutory basis for the board's finding that grounds exist for the discipline of the named physician's license or for the denial of the named physician's application for obtaining, retaining or reobtaining licensure appropriately.

(3) The show cause order shall direct the named physician to show cause why disciplinary action should not be taken in view of the matters expressed in the order. The order may direct the named physician to appear at a designated time and place, provided that the named physician receives notice at least thirty (30) days prior to the hearing.

Section 7. [Authorization of Complaint by Board;] Orders to Respond. Upon issuance of a complaint the inquiry panel shall issue an order [(1) Upon being presented with a petition requesting the issuance of a complaint, the board shall, within sixty (60) days, grant or deny the petition. If the petition is granted, the board shall issue an order authorizing the complaint's issuance,] directing the charged physician to respond within thirty (30) days after receiving notice of the complaint, and informing the physician that failure to respond may be taken by the board as an admission of the charges.

[(2) If the board denies a petition, the board may remand the matter to the committee, with or without directions, or may order that action be taken different from that requested in the petition.]

[(3) The board may, in its discretion, grant a petition only in part and may modify a requested complaint prior to authorizing its issuance.]

Section 8. [Petitions Requesting Orders of Temporary Restriction;] Orders of Temporary Restriction. (1) [Petitions requesting the board to issue] An order temporarily suspending, limiting or restricting the license held by the named physician shall set forth the grounds which the inquiry panel [petitioning party] believes support a finding [by the board] that sufficient reasonable cause exists to believe that the continued unaffected practice by the named physician would constitute a danger to the health, welfare and safety of the physician's patients or of the general public. [All petitions requesting temporary disciplinary action by the board shall be verified by the petitioning party and shall set forth the type of temporary disciplinary action which the petitioning party believes to be warranted.]

[(2) Upon being presented with a petition requesting the board to issue an order temporarily suspending, limiting or restricting the license held by the named physician, the board shall, within sixty (60) days, grant the petition and issue an order, with or without modification of the requested temporary discipline, or, shall deny the petition. If the board grants the petition, the ensuing order shall briefly set forth the grounds which the board believes support a finding that sufficient reasonable cause exists for the order's issuance.]

(2) [(3)] Except in extraordinary circumstances when the demands of time and circumstances do not allow, at least ten (10) days prior to consideration by the inquiry panel the named physician shall be notified of [the presentation of the petition the petitioning

party shall notify the named physician of] the nature of the charges. The charged physician may respond to the charges informally, either orally or in writing, and the inquiry panel [board] shall consider the response. [in determining whether to grant the petition. This requirement will be considered satisfied if the physician is given the opportunity to respond to the charges before the committee and a synopsis of his response shall be provided to the board for its consideration.]

[(4) The grant or denial of a petition requesting an order temporarily suspending, limiting or restricting the named physician's license shall not affect the board's discretion regarding the issuance of any complaint or other document and shall further not be construed as a finding of any ultimate fact in regard to charges contained in any complaint.]

Section 9. Notice and Service of Process. (1) Any notice required by the Act or this regulation shall be in writing, dated and signed by the appropriate person.

(2) Service of notice and other process shall be made by hand-delivery or delivery by certified mail to the physician's last known address of which the board has record or by such service on the named physician's attorney of record. Failure of the named physician to receive actual notice after execution of the prescribed service shall not prejudice the board from pursuing proceedings that result in the denial or discipline of the named physician's license.

Section 10. Hearings Pursuant to Order Temporarily Suspending, Limiting or Restricting a License. (1) A physician whose license has been temporarily suspended, limited or restricted shall, upon written request, be accorded hearing on the board's order within fifteen (15) days after making the request unless otherwise agreed. The hearing shall be limited to the sole purpose of determining whether the board's order was based on sufficient reasonable cause, provided, however, that the charged physician shall have the right to present evidence that indicates that the information upon which the board based its order was untrue or that the danger that existed at the time the order was issued has since been dissipated or alleviated.

(2) Any findings of fact or conclusions of law rendered by the hearing officer pursuant to a hearing on an order of temporary discipline shall not be binding upon the hearing panel [board] in its ultimate determination regarding the charges contained in the complaint, nor shall the hearing officer thereafter be prejudiced from presiding at the hearing on the complaint.

(3) At the hearing on the order of temporary discipline, the hearing officer may entertain any motion timely submitted in regard to any matter concerning the disciplinary case, provided, however, that any orders issued pursuant to such motions shall not be considered appealable.

(4) Either party to the hearing on the order of temporary discipline may petition the hearing panel [board] to review the order of the hearing officer either sustaining, modifying or withdrawing the inquiry panel's [board's] order by filing a written petition delineating those aspects of the hearing officer's determination with which the party takes exception and requesting the hearing panel [board] to review the hearing officer's determination. The hearing panel [board] may grant or deny review in its discretion.

(5) Nothing in this section shall be construed to limit either party's right to appeal an order sustaining, modifying or withdrawing an order of temporary discipline to the circuit court of the county in which the board's offices are located as provided by statute. However, the filing of an appeal shall not prejudice the board's jurisdiction to continue the proceeding in regard to the charges contained in the complaint.

Section 11. Proceedings Pursuant to the Issuance of a Complaint or Show Cause Order. (1) Appointment of hearing officer. The board shall appoint a hearing officer who is empowered to preside at any and all proceedings, to rule upon all motions and objections, to prepare and submit proposed findings of fact, conclusions of law and disciplinary measures to the board and to perform any other act necessary to the proper conduct of the proceedings.

(2) Appointment of the prosecuting attorney. The board's general counsel shall act as the prosecuting attorney in regard to any disciplinary proceeding, provided, however, that the board may appoint special prosecuting attorneys in its discretion. The prosecuting attorney shall not be present during any deliberations of the board pursuant to the issuance of a complaint, show cause order or order of temporary discipline unless otherwise agreed to by the charged physician.

(3) Appointment of advisory counsel. The board may appoint a representative of the Attorney General's office, the board's general counsel, or other attorney to act as advisory counsel to the board in regard to any deliberations of the board pursuant to the issuance of a complaint, show cause order or order of temporary discipline, provided, however, that an attorney may not act as advisory counsel if the attorney was substantively involved in the investigation or prosecution of the matter before the board.

(4) Form of pleadings; service. Pleadings may be in any neat form provided that all pleadings must be dated and signed by the offering party. The original of all pleadings must be filed with the executive director for entry into the official record and copies must be served on the hearing officer, the opposing party and any other person who might be designated by the hearing officer.

(5) Prehearing conferences. Upon motion of either party or upon his or her own initiative, the hearing officer may order that a prehearing conference be held. The prehearing conference may be the forum for consideration of any matter properly before the hearing officer including all motions, discovery, stipulations, identification of issues, dates of future proceedings and objections.

(6) Discovery. Either party may at any time after the issuance of a complaint or show cause order move the hearing officer to order that discovery from the other party be allowed by any of the following methods:

(a) Oral deposition, provided, however, that either party shall have the right to move the

hearing officer to order that the deposition be entered into the record in lieu of further testimony by the witness;

(b) Request for a more definite statement;

(c) Request for production of names of witnesses, documents and other demonstrative evidence; and

(d) Request for a brief synopsis of the testimony expected to be given by any expert witness.

The hearing officer may limit or allow discovery of any matter relevant to the issues and may issue protective orders as necessary.

(7) Hearings. Hearings shall proceed in accordance with the rules of examination applicable in courts of law in the Commonwealth. The rules of evidence applicable in courts of law in the Commonwealth shall apply, provided, however, that hearsay evidence shall be admissable unless irrelevant or grossly prejudicial. The order and burden of proof shall be established by the hearing officer, provided, however, that the burden of proof shall be upon the charged physician in any hearing on the charges contained in a show cause order. The hearing officer shall rule upon any motions or objections and may require the submission of briefs in regard to any issue. The hearing officer may allow opening and closing statements by either party, or other offers of prosecution or defense that will allow the orderly and expeditious conduct of the proceedings.

(8) Record. The hearing officer shall be charged with the responsibility of compiling a written record of the proceedings which shall contain all evidence introduced at the hearing and all pleas, motions, objections, responses, rulings and other legal documents which the hearing officer deems properly part of the record.

(9) Presentation of record, hearing officer's proposed findings, conclusions and recommendations. The hearing officer shall present the record, his or her proposed findings of fact, conclusions of law and recommendations to the executive director for deliberation by the hearing panel [board]. The hearing officer shall serve a copy of his findings, conclusions and recommendations on all parties at least twenty (20) days prior to the date set for the hearing panel's [board's] final determination. All parties shall have the right to file exceptions to the hearing officer's findings, conclusions and recommendations ten (10) days prior to the date set for the hearing panel's [board's] final determination.

(10) Briefs. Any party to the proceeding may move the hearing officer to allow briefs to be filed with the hearing panel [board] prior to the hearing panel's [board's] final determination. The hearing officer may grant the motion and establish a briefing schedule but only if the hearing officer believes that such a procedure would substantially aid the hearing panel [board] in its deliberations. Briefs shall not exceed five (5) pages in length unless otherwise allowed by the hearing officer. The hearing panel [board] may, on its own initiative, order that briefs be submitted.

(11) Oral argument. Any party to the proceeding may move the hearing panel [board] to allow oral argument [before the board sitting en banc] prior to the hearing panel's [board's] final determination. The hearing panel [board] may order oral arguments on its own initiative.

(12) Board's findings of fact, conclusions of law and final order, remand. At the conclusion of its deliberations the hearing panel [board] may adopt the hearing officer's proposed findings, conclusions and recommendations of action in whole or in part or may reject them totally and prepare its own. The hearing panel [board] shall enter a final order dated and signed by an officer of the hearing panel [board] stating its ultimate determination. Prior to, during or subsequent to any deliberations the hearing panel [board] may remand the matter to the hearing officer for further proceedings as directed.

C. WILLIAM SCHMIDT, Executive Director
APPROVED BY AGENCY: September 11, 1986
FILED WITH LRC: September 12, 1986 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on Thursday, October 23, 1986, at 1 p.m. at the offices of the Kentucky Board of Medical Licensure, 400 Sherburn Lane, Suite 222, Louisville, Kentucky 40207. Those interested in attending this hearing shall contact in writing: Mr. C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, 400 Sherburn Lane, Suite 222, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: C. William Schmidt

(1) Type and number of entities affected: Will affect only those physicians, PA's, paramedics or athletic trainers before the board pursuant to disciplinary matters.

(a) Direct and indirect costs or savings to those affected: No change expected.

1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: Same

(2) Effects on the promulgating administrative body: Expected to allow the board to more effectively and expeditiously handle disciplinary matters before the board.

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

1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: Same

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

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

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

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

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

(6) Any additional information or comments: The 1986 General Assembly amended KRS 311.591, effective July 15, 1986. As a result, 201 KAR 9:081, as it relates to disciplinary proceedings before the board, needs appropriate amendments to make this regulation compatible with the statute. This regulation will allow the board to pursue disciplinary matters in a more effective

and efficient manner and is compatible with KRS 311.591. This regulation accords sufficient and appropriate due process to physicians appearing before the board.

TIERING: Was tiering applied? Yes

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 3:010. Definitions.

RELATES TO: KRS 441.055 [441.011(6)]
PURSUANT TO: KRS 13A.350, 441.055 [441.011(6)]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth definitions.

Section 1. Definitions. (1) "Jail" means county jails and correctional or detention facilities, including correctional facilities defined in KRS 67B.020 and juvenile detention facilities, operated by and under the supervision of any county, regional jail authority, city or urban county government.

(2) "Jailer" means the duly elected or appointed official charged with the responsibility of administering the jail.

(3) "Jail staff" means deputy jailers, [matrons, cooks,] and other [food service] personnel involved in the supervision, custody, care or treatment of prisoners in the jail.

(4) "Inmate" means any person confined in the jail pursuant to any code, ordinance, law or statute of any unit of government and who is:

(a) Charged with or convicted of an offense;

(b) Held for extradition or as a material witness; or

(c) Confined for any reason.

(5) "Cabinet" means the Corrections Cabinet.

(6) "Medical authority" means the person or persons licensed and certified to provide medical care to inmates in the jail.

(7) "Security area" means a defined space whose physical boundaries have controlled ingress and egress.

(8) "Inmate living area" means a group of rooms or cells which provide housing for the inmate population.

(9) "Holding area" means an area used to hold one (1) or more persons temporarily while awaiting processing, booking, court appearance, discharge or until they can be moved to general housing areas.

(10) "Detoxification area" means an area used to temporarily hold one (1) or more chemically impaired persons during the detoxification process until they can care for themselves.

(11) "Dormitory" is an area equipped for housing not less than three (3) persons or more than fifteen (15) persons [more than one (1) person].

(12) "Dayroom" means a secure area with controlled access from the inmate living area, to which inmates may be admitted for daytime activities such as dining, bathing, and selected recreation or exercise.

(13) "Safety vestibule" is a defined space that promotes security by the use of two (2) or more doors and can be used to observe those who pass. When the vestibule is used at a cell area at least the inner door shall be remotely operated. When the vestibule is used for outside entrance at least the outer entry door shall be remotely operated.

(14) "Sallyport" is a vehicular drive-in [through] made secure by electrically or manually operated doors for entrance and exit. It is generally located in close proximity to the jail intake area.

(15) "Penal type" means furnishings approved by the Corrections Cabinet.

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts

(1) Type and number of entities affected: Counties with full service or regional jails - approximately 80-90.

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

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: Purpose was to clarify existing definitions.

TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/definitions.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change

MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 3:020. Administration; management.

RELATES TO: KRS 441.055 [441.011(6)]
PURSUANT TO: KRS 13A.350, 441.055 [441.011(6)]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures to be followed for the administration and management of jails.

Section 1. Policy and Procedure - Organization. (1) The jailer shall develop and maintain an organizational chart and an operations manual of policy and procedure which has been adopted by the fiscal court and filed with the Corrections Cabinet.
(2) The written policy and procedures manual shall be made available to employees.
(3) The operations manual shall include but not be limited to the following aspects of the jail's operation:
(a) Administration.
(b) Fiscal management.
(c) Personnel.
(d) Security and control.
(e) Sanitation and management.
(f) Medical services.
(g) Food services.
(h) Emergency and safety procedures.
(i) Classification.
(j) Inmate programs.
(k) Inmate services.
(l) Admission and release.
(4) The operations manual shall be reviewed and updated at least annually. All revisions shall be marked with the effective date and filed with the Corrections Cabinet.
[(5) The provisions of this section shall be effective as of July 1, 1983.]

Section 2. Legal Assistance. (1) The jailer shall be represented and advised by the county attorney as provided in KRS 69.210.
(2) The county attorney shall advise the fiscal court in writing when legal representation or legal advisement to the jailer by that office is inappropriate or creates a conflict of interest. The fiscal court shall provide funds for adequate legal representation for the jailer when the jailer has acted within his official capacity and is involved in civil or criminal litigation as a result. The fiscal court shall be encouraged to carry liability insurance for the jail staff and other county officials.
[(3) The provisions of this section shall be effective as of January 1, 1983.]

Section 3. Public Information. (1) The jailer shall develop and implement a procedure [plan] for the dissemination of information about the jail to the public, to government agencies, and to the media. The public and inmates shall have access to the procedures.
[(a) The plan; and]
[(b) Specific jail rules and procedures affecting inmates as developed in accordance with this plan.]
(2) With the consent of the inmate, news media shall be permitted to interview any inmate as set forth in the jail's policy and procedure manual except when the safety and security of the jail is affected.
(3) Written policy and procedure shall set forth the time and length allowable for inmate interviews.
(4) All official statements to the news media, relating to jail administration policy, shall be made by the jailer only or his designee.
(5) Release of inmate information shall include the following:
(a) All requests for information shall be addressed to the jailer;
(b) Governmental agencies shall be provided with information pertinent only to their specific function and with the consent of the inmate; and
(c) [Relatives and] Private citizens shall only be provided with information supplied to the media.
(6) No information shall be released that is detrimental to another inmate.
[(7) The provisions of this section shall be effective as of July 1, 1983.]

Section 4. Information Systems. [(1)] The jailer shall establish and maintain an information system which shall comply with the requirements of this section.
(1) [(a)] Jail information and inmate records shall be retained in written form or within computer records.
(2) [(b)] Jail information and inmate records shall be stored in a secure manner so that they are protected from theft, loss, tampering, and destruction. Written guidelines shall specify the length of time an inmate record shall be maintained after an inmate's release from custody and the conditions under which archives are maintained.
(3) [(c)] A written report shall be made of all extraordinary or unusual occurrences within forty-eight (48) hours of the occurrence. This report shall be placed in the jail record [inmate's folder]. Extraordinary or unusual occurrences shall include but not be limited to:
(a) [1.] Death of an inmate.
(b) [2.] Attempted suicide or suicide.
(c) [3.] Serious injury, whether accidental or self-inflicted.
(d) [4.] Attempted escape or escape from confinement.
(e) [5.] Fire.
(f) [6.] Riot.
(g) [7.] Battery, whether by a staff member or inmate.
(h) [8.] Sexual assaults.
(i) [9.] Occurrence of contagious or infectious disease, or illness within the facility.
(j) [10.] Violent acts or behavior by either mental inquest detainees held under KRS Chapter

202A or inmates known to be or suspected to be mentally ill or mentally retarded.

(4) [(d)] All jails shall keep a log of daily activity within the jail.

(5) [(e)] Each jail shall maintain records on the types and hours of training completed by each employee. A current and accurate personnel record shall be maintained on each employee. Each employee shall have access to his individual record.

[(2) The provisions of this section shall be effective as of July 1, 1983.]

Section 5. Inmate Records. (1) The information required by 501 KAR 3:120 and 3:130 for admission and release shall be retained for each inmate. Other information retained in each inmate's jail record shall include but not be limited to:

(a) Court orders.
(b) Personal property receipts.
(c) Infraction reports.
(d) Reports of disciplinary actions.
(e) Work record and program involvement.
(f) Unusual occurrences and in the case of death of an inmate, disposition of the inmate's property and remains.

(2) Medical records shall be maintained as required by 501 KAR 3:090.

(3) The jailer shall ensure that inmate records are safeguarded in accordance with relevant federal and state laws and regulations.

(4) The jailer shall require that inmates sign a "Release of Information Consent Form" prior to the release of information to individuals other than law enforcement or court officials. A copy of the signed consent form shall be maintained in the inmate's record. This form shall include but not be limited to:

(a) Name of person, agency or organization requesting information.
(b) Name of facility releasing information.
(c) Specific information to be disclosed.
(d) Purpose of the information.
(e) Date consent form is signed.
(f) Signature of inmate.
(g) Signature of employee witnessing the inmate's signature.

(5) Juvenile jail records shall be kept separate from adult jail records and shall be made available for examination only as provided in KRS 208.340. Upon an order of expungement pursuant to KRS 208.275, the jailer shall seal the records and the juvenile's detention shall be deemed never to have occurred.

(6) All jail records maintained on mental inquest detainees held under KRS Chapter 202A shall be kept separate from any other jail records. Mental inquest records are confidential and shall be made available for examination only as provided in KRS 202A.091. Upon an order of expungement pursuant to KRS 202A.091(2), the jailer shall seal the records and the mental inquest detainee's stay at the jail shall be deemed never to have occurred.

[(7) The provisions of this section shall be effective as of July 1, 1983.]

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts

(1) Type and number of entities affected: Counties with full service or regional jails - approximately 80-90.

(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: Requires revisions to policy manual to be filed with Corrections Cabinet.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any conflict.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: Purpose of change is to clarify existing definitions.

TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/administration; management.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 3:030. Fiscal management.

RELATES TO: KRS 441.055 [441.011(6)]
PURSUANT TO: KRS 13A.350, 441.055 [441.011(6)]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth physical management procedures to be followed in jails.

Section 1. Budgeting. (1) The jailer, county judge/executive and treasurer shall prepare and present a line item budget request to the fiscal court in accordance with KRS 441.215 [441.008].
(2) The jailer shall use the format for budget development on forms prepared by the State and Local Finance Office.
(3) The State and Local Finance Office shall submit budget forms to the jailer by March 1 of each year.
[(4) The provisions of this section shall be effective as of March 1, 1983.]

Section 2. Accounting. (1) The county treasurer shall maintain fiscal records which clearly indicate the local cost for operating the jail in accordance with KRS 68.020 and 441.235 [441.008].
(2) Fiscal records shall have an itemized breakdown of the total operating expenses including but not limited to wages, salaries, food and operating supplies.
[(3) The provisions of this section shall be effective as of March 1, 1983.]

Section 3. Canteen. [(1)] As provided in KRS 441.135 [441.067], each jailer may establish a canteen to provide inmates with approved items not supplied by the jail.
[(2) The provisions of this section shall be effective as of January 1, 1983.]

Section 4. Audits. [(1)] The county jail budget shall be audited in accordance with KRS 43.070.
[(2) The provisions of this section shall be effective as of January 1, 1983.]

Section 5. Payroll. [(1)] Jail employees shall be paid on the same dates as county employees.
[(2) The provisions of this section shall be effective as of July 1, 1983.]

Section 6. Inventory. [(1)] Each jailer shall implement and utilize the established inventory procedure of the county.
[(2) The provisions of this section shall be effective as of January 1, 1983.]

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with full service or regional jails - approximately 80-90.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any conflict.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Purpose of change is to bring language of regulations into agreement with existing statute.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/fiscal management.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 3:040. Personnel.

RELATES TO: KRS 441.055 [441.011(6)]
PURSUANT TO: KRS 13A.350, 441.055 [441.011(6)]
NECESSITY AND FUNCTION: KRS 441.055 [441.011]

requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth personnel procedures to be followed in jails.

Section 1. Staffing. (1) Each jail shall provide twenty-four (24) hour awake supervision for all inmates.

(2) When female inmates are lodged in the jail, female staff shall be made available as needed to perform sensitive procedures to include but not limited to:

(a) Admission.

(b) Searches.

[(3) The provisions of this section shall be effective as of July 1, 1983.]

Section 2. Background Checks; Qualifications. (1) Prior to employment, all employees of the jail shall be subject to thorough background investigation to include criminal, medical, and employment history.

(2) All security employees of the jail shall be at least twenty-one (21) years of age.

[(3) The provisions of this section shall be effective July 1, 1983.]

Section 3. Compensation. [(1)] All employees of the jail shall receive salaries at least equal to the State Minimum Wage Law except where Federal Minimum Wage Law has to be applied.

[(2) The provisions of this section shall be effective July 1, 1983.]

Section 4. Training; Curriculum. (1) In order to qualify for the training expense allowance under KRS 441.017, the jailer shall receive a minimum of forty (40) hours annual in-service training certified by the Corrections Cabinet.

(a) Local corrections training efforts shall be certified by the Corrections Cabinet.

(b) The Curriculum Advisory Committee shall advise the Corrections Cabinet on topics for training curriculum.

(c) Jailer training shall be delivered on a regional basis by the Corrections Cabinet.

(2) Deputy jailers, correctional officers and other employees whose jobs require supervision of inmates [The jail staff] shall receive a minimum of sixteen (16) hours annual in-service training delivered by the Corrections Cabinet on a regional or local basis.

[(3) The provisions of this section shall be effective as of January 1, 1983.]

Section 5. Policy and Procedures. [(1)] Written policy shall specify that equal employment opportunities exist for all positions.

[(2) The provisions of this section shall be effective as of July 1, 1983.]

Section 6. Physical Fitness. [(1)] The jailer shall ensure that all employees maintain a level of physical fitness that will allow the employees to satisfactorily perform their duties.

[(2) The provisions of this section shall be effective as of January 1, 1983.]

Section 7. Code of Ethics. (1) The jailer shall make available to all employees a written code of ethics.

(2) The written code of ethics shall be incorporated in the jail's policy and procedures manual and shall include but not be limited to the following:

(a) Employees shall not:

1. Exchange personal gifts or favors with inmates, their family, or friends;

2. Accept any form of bribe or unlawful inducement;

3. Perform duties under the influence of intoxicants or consume intoxicants while on duty;

4. Violate or disobey established rules, regulations, or lawful orders from a superior;

5. Discriminate against any inmate on the basis of race, religion, creed, gender, national origin, or other individual characteristics;

6. Employ corporal punishment or unnecessary physical force;

7. Subject inmates to any form of unwarranted physical or mental abuse;

8. Intentionally demean or humiliate inmates;

9. Bring any type of weapon or item declared as contraband into the jail without proper authorization;

10. Engage in critical discussion of staff members or inmates in the presence of inmates;

11. Divulge confidential information without proper authorization;

12. Withhold information which, in so doing, threatens the security of the jail, its staff, visitors, or the community;

13. Through negligence, endanger the well-being of self or others;

14. Engage in any form of business or profitable enterprise with inmates; and

15. Inquire about, disclose, or discuss details of an inmate's crime other than as may be absolutely necessary in performing official duties.

(b) Employees shall:

1. Comply with all established rules, regulations, and lawful orders from superiors;

2. Treat all inmates in a fair, impartial manner; and

3. Report all violations of the code of ethics to the jailer.

(3) Any employee violation of this code of ethics shall be made a part of that employee's personnel file.

[(4) The provisions of this section shall be effective as of January 1, 1984.]

[Section 8. Grievance Procedure. (1) Jail employees shall have access to the established grievance procedure of their respective county.]

[(2) The provisions of this section shall be effective as of January 1, 1984.]

[Section 9. Hiring Procedures. (1) The jailer shall have a written personnel plan governing the selection, training, promotion, and retention of jail personnel.]

[(2) Personnel assignments shall be based on merit.]

[(3) The provisions of this section shall be effective as of January 1, 1984.]

[Section 10. Performance Evaluation. (1) A written standardized performance evaluation shall be conducted at least annually by the jailer.]

[(2) The provisions of this section shall be effective as of January 1, 1984.]

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: September 12, 1986

FILED WITH LRC: September 15, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with full service or regional jails - approximately 80-90.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: Reduces paperwork requirements of jailer, i.e., employee evaluations and personnel plan.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Purpose was to clarify existing definitions.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/personnel.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 3:050. Physical plant.

RELATES TO: KRS 441.055 [441.011(6)]
PURSUANT TO: KRS 13A.350, 441.055 [441.011(6)]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth standards and procedures to be followed in the design and construction of jails.

Section 1. Purpose. The purpose of this regulation is to provide minimum standards for the renovation or construction of jail facilities and for measuring compliance of existing jails in accordance with KRS 441.011, 441.012, and 441.013, and Kentucky Construction/Renovation Standards.

Section 2. Consultation. The Corrections Cabinet shall provide for any county government which wishes to remodel an existing jail or construct a new jail, a consultant knowledgeable in the design, utilization, and operation of jails. The consultant shall meet with the appropriate officials of that county and advise them in matters including but not limited to:
(1) Site selection.
(2) Probable need as it relates to capacity and types of inmates to be housed.
(3) Sources of financing for constructing.
(4) Laws and regulations relating to treatment of inmates.
(5) Laws and regulations relating to facilities for inmates.
(6) Sources of revenue for operations of the jail.
(7) Probable cost for operation of the jail.
(8) Potential for shared facilities with adjoining counties.

Section 3. Site Acceptance. No jail shall be built without site acceptance by the Corrections Cabinet. The following criteria shall be considered in site selection including but not limited to:
(1) Size.
(2) Proximity to courts.
(3) Proximity to community resources.
(4) Availability of public transportation.
(5) Environmental health.
(6) Adequate parking.
(7) Provisions for future expansion.

Section 4. Construction Documents. Prior to the renovation or construction of any jail, plans and specifications shall be submitted to the Corrections Cabinet for review and approval [acceptance] as follows:
(1) Programming phase. This submission shall show:
(a) Evaluation of existing facility;
(b) Population analysis;
(c) Space requirements based on population analysis and standards for the facility and site outlined in the Kentucky Minimum Standards for Local Jails;
(d) Staffing analysis;
(e) Cost analysis;
(f) Financing alternatives, if applicable;
(g) Summary and recommendations; and

(h) This phase is submitted on major renovation or new construction only and for information review purposes.

(2) Schematic phase.

(a) Scale drawings of each floor plan with all proposed rooms and areas one-eighth (1/8) inch minimum;

(b) Scale drawings of the site, locating the building, parking and other facilities - one (1) inch equals fifty (50) feet;

(c) Documentation of site as to:

1. Size;
2. Proximity to courts;
3. Proximity to community resources;
4. Availability of public transportation;
5. Environmental health;
6. Adequate parking; and
7. Provisions of future expansion.

(d) Sections through the proposed structure indicating ceiling heights of rooms, mechanical spaces, roof slopes and other related information;

(e) Scale elevation drawings of all exterior walls; and

(f) Schematic cost estimate.

(3) Design development phase.

(a) Scale drawings on each floor plan with all proposed rooms and areas with their dimensions one-eighth (1/8) inch minimum;

(b) All necessary construction drawings including construction details;

(c) Specifications for all materials and workmanship;

(d) A proposed contract with general and special conditions;

(e) Engineering calculations for the foundations, structure, heating, ventilating, air conditioning, lighting and plumbing; and

(f) Detailed estimates of cost of land, site development, construction, financing, professional services, equipment and furnishings.

(4) Construction document phase.

(a) Revised design development construction drawings following review by all applicable agencies.

(b) Signed by an architect registered in the Commonwealth of Kentucky and revised if necessary to include all changes required by the Corrections Cabinet.

(c) Revised design development specifications of material and workmanship following review by all applicable agencies.

(5) Contract administration.

(a) Signed copies of all contracts for construction, financing and bonding;

(b) Signed copies of all construction permits;

(c) Documentation of review by all other applicable state agencies; and

(d) All change orders must be submitted to the Corrections Cabinet for review and approval.

(6) The Corrections Cabinet will review all submissions within thirty (30) days of receipt and issue a letter of approval, acceptance with required changes, or rejection with reasons. No construction shall be started until the construction document phase as required in subsection (5)(d) of this section has been approved.

(7) Depending on the site of the proposed constructions, renovation or addition the Corrections Cabinet may combine two (2) or more phases as outlined above for review and approval.

(8) All changes prior to the approval of final construction documents shall require appropriate modifications to the final construction documents including redrawing of plans and rewriting of specifications. All changes after the approval of final construction documents shall require adequate documentation which fully describes and illustrates the changes which may include written and/or graphic addenda, field orders and change orders. In addition a set of accurate as built drawings shall be submitted to Corrections within sixty (60) days of occupancy of the facility.

[(1) Schematic outline. This submission shall show:]

[(a) Control of the site.]

[(b) Acceptance of the site for a jail by the planning and zoning commission, if any, and all other interested government agencies.]

[(c) A list of all proposed rooms and areas and their dimensions.]

[(d) A circulation diagram.]

[(e) An estimate of cost of land, services, construction, and financing.]

[(f) Sources of development funds.]

[(g) Post assignment and staffing needs.]

[(2) Preliminary drawings. This submission shall include:]

[(a) Scale drawings one-eighth (1/8) inch to the foot or larger of each floor plan.]

[(b) Scale drawings (one (1) inch equals fifty (50) feet or larger) of the site, locating the buildings, parking, and other facilities.]

[(c) Sections through the proposed structure indicating ceiling heights of all rooms, mechanical spaces, roof slopes, and other related information.]

[(d) Elevation drawings (one-eighth (1/8) inch to the foot or larger) of all exterior walls.]

[(e) A current estimate of the costs.]

[(f) A statement regarding the sources of the development funds.]

[(g) A map of the community locating the proposed jail, the courts, community facilities, population centers, business districts, highways, roads, and police department.]

[(3) Final construction drawings shall be submitted to the Corrections Cabinet, the Department for Housing, Buildings and Construction, and any other applicable state agency for review and acceptance and shall include:]

[(a) All necessary construction drawings including construction details.]

[(b) Specifications for all materials and workmanship.]

[(c) A proposed contract with general conditions and special conditions.]

[(d) Engineering calculations for the foundations, structures, heating, ventilating, air conditioning, lighting, and plumbing, signed by licensed architects and engineers.]

[(e) Detailed estimates of the costs of land, land improvements, construction, financing, professional services, and building permits.]

[(f) An updated statement in detail regarding the sources of development funds.]

[(4) Construction documents. This submission shall include:]

[(a) Construction drawings and specifications signed by an architect registered in the Commonwealth of Kentucky and revised if necessary to include all changes required by the Corrections Cabinet.]

[(b) Signed copies of all contracts for construction, financing, and bonding revised as

necessary to include all changes required by the Corrections Cabinet.]

[(c) Signed copies of all construction permits.]

[(d) Documents will bear signed approvals from all other applicable state agencies.]

[(5) The Corrections Cabinet will review all submissions within thirty (30) days of receipt and issue a letter of acceptance, acceptance with required changes, or rejection with reasons. No construction shall be started until the construction documents as required in subsection (4) of this section have been accepted with required changes by the Corrections Cabinet.]

Section 5. Waiver of Compliance. (1) The Corrections Cabinet may grant a waiver of the implementation of the physical plant standards for an existing jail if the cabinet determines:

(a) That strict compliance will cause unreasonable difficulties;

(b) That a waiver will not seriously affect the security, supervision of prisoners, programs, or the safe, healthful, or efficient operation of the jail; and

(c) That compliance is to be achieved in a manner other than that which is specified, but in a manner which is sufficient to meet the intent of these standards.

(2) When a waiver from a standard is desired, the responsible local authority shall submit a written request to the Corrections Cabinet. The written request shall include the following information:

(a) Citation of the specific standard involved;

[(b) Specification of the efforts made to bring the jail into strict compliance;]

(b) [(c)] Identification and description of the specific difficulties involved in meeting strict compliance;

(c) [(d)] Description of the alternative proposed; and

(d) [(e)] Provision of sufficient documentation which will demonstrate that the waiver, if granted, will not jeopardize the security, supervision of inmates, programs, or the safe, healthful, or efficient operation of the jail.

(3) A waiver, if granted by the Corrections Cabinet, shall apply only to the petitioner for the specific situation cited and for the period of time specified and shall include any requirements imposed by the Cabinet as conditions upon the waiver. No waiver shall be granted for longer than twelve (12) months. Any waiver granted for a twelve (12) month period shall be reviewed at the end of the period for reapproval.

Section 6. Facility Design. (1) Depending upon its size and intended use, every jail shall include within its walls the following facilities and equipment:

(a) Entrances. Every jail shall have three (3) separate and distinct entrances: a public entrance, an adult inmate entrance, and a service entrance. The Corrections Cabinet may permit these entrances to be combined.

1. Public entrance: The purpose of this entrance is to divert the general public from the security area of the jail and from contact with incoming inmates. This area will be the location for the general public to conduct their business at the jail. The following design features shall be incorporated:

a. Provide a clear view of this from the control room by means of direct surveillance or closed circuit T.V.

b. Meet the requirements for handicapped persons.

2. Service entrance: The purpose of this entrance is to provide access to service vehicles and delivery trucks with minimum security risks. It may contain a loading dock and shall be located in close proximity to storage rooms and the kitchen area.

3. Adult inmate entrance: The purpose of this entrance is to provide secure and private access to the jail for incoming inmates. This entrance must [may] be serviced by a drive-in sallyport or a secure walk-in vestibule and shall incorporate the following design features:

a. Be located adjacent to the booking area.

b. Be monitored from the control room.

c. Be free of steps or other obstacles.

d. Be protected from inclement weather.

e. Have a security penal type pistol [metal] locker in sallyport or vestibule [to secure weapons separate from inmate ingress].

f. All hardware and equipment shall be of approved penal type.

(b) Exits. All openings in the security perimeter shall be secured with penal devices. [No exits other than those entrances specified above shall be permitted except for fire exits. Such] Fire exits, when possible, shall open into controlled, secured courts and exercise areas [only].

(c) Administrative areas. This area will provide space outside the secured area of the jail to house the administrative offices and to accommodate the public. This shall contain the following:

1. Waiting area: To provide space for the general public which is protected from inclement weather. This area may have toilet facilities and drinking fountains.

2. Visiting area, public side: This area shall provide for private communication with inmates and be located in close proximity to the waiting area. All furnishings of this area shall be [of approved] penal type and permanently attached.

3. Office area: This area shall be of sufficient space to house the administrative function of the jail.

4. Entrance to security area: The purpose is to provide secure access to the security area, be [of the] penal type and access shall be controlled from the security area.

(d) Security areas. The area shall enclose all facilities and services required for or used by the inmates. It shall contain the following function areas:

1. Booking area: The purpose is to provide a private and separate area, properly equipped to carry out admission and release procedures. All equipment shall be [of approved] penal type. This area shall be designed for different classes of inmates. Design features for this area shall include:

a. Close proximity to a secure area for storage of inmate personal property.

b. Close proximity to an area for photography and fingerprinting.

c. Close proximity to an area for showering, delousing, and strip searching inmates which assures privacy for the inmate.

[d. Close proximity to storage areas for jail clothing, bedding, etc.]

d. [e.] Close proximity to temporary holding and detoxification cells.

e. [f.] Located in a manner to be monitored by a [the] control room.

(e) Detoxification area. The purpose is to provide an area to separate intoxicated inmates from the general inmate population. Design features shall include:

1. A minimum of fifty (50) square feet per inmate.

2. A minimum of eight (8) feet ceiling height.

3. One (1) bunk [slab or bench] of approved material thirty (30) inches wide by seventy-two (72) inches long by four (4) inches high for each inmate.

4. A [An approved] penal commode/lavatory and a flush floor drain controlled from outside the cell.

5. A bubble-type drinking fountain.

6. All fixtures and equipment shall be [approved] penal type.

7. All surfaces inside the area shall be smooth, flush, and free of sharp edges and protrusions.

8. All horizontal surfaces (the bunk [bench] and the floor) shall be sloped (one-fourth (1/4) of an inch to the foot) to the [a] floor drain.

9. All protruding corners (except at ceiling) shall be coved.

10. Ceiling, walls, surfaces of the wall base and floors shall be of approved masonry, concrete or steel construction.

11. Each detox cell shall have sufficient penal type fixture(s) capable of providing twenty (20) foot-candles of light with a nightlight capable of providing five (5) foot-candles of light.

(f) Holding areas. The purpose of these areas are [this area is] for temporary detention not to exceed four (4) hours in secure holding or eight (8) hours in diversion/holding.

1. Design features for secure holding shall include:

a. Twenty-five (25) square feet per rated capacity; minimum size of the area shall be fifty (50) square feet. [1. A minimum of fifty (50) square feet area.]

b. [2.] Eight (8) feet ceiling height.

c. [3.] One (1) penal type [table and] bench per rated capacity.

d. [4.] All equipment shall be [of approved] penal type.

e. [5.] One (1) [approved] penal type lavatory/commode.

f. [6.] One (1) penal type light fixture capable of providing twenty (20) [fifty (50)] footcandles of light.

g. [7.] Ceilings, walls, surfaces of wall bases and floors shall be of approved masonry, concrete or steel construction.

2. If a diversion/holding area is provided, features and requirements include:

a. Twenty-five (25) square feet per rated capacity; minimum size of area shall be fifty (50) square feet;

b. Total rated capacity not to exceed twenty-four (24) persons;

c. One (1) bathroom for a rated capacity of eight (8) or less; two (2) bathrooms for a rated capacity of nine (9) or more;

d. At least one (1) water fountain shall be located in area;

e. Phone system shall be available for use by inmates;

f. Construction shall be fire-rated with penal hardware, windows and door;

g. Furnishings shall not include beds but chairs and tables per rated capacity and shall be fire rated;

h. Unobstructed view into area shall be provided;

i. Areas shall have constant in-person surveillance;

j. If inmates housed in area during normal meal times, they shall be fed. Meals do not have to be hot; and

k. Policy and procedure shall set forth criteria for placement of inmates in this area.

(g) Medical exam room. The purpose of this room is to provide a separate and secure area for medical examinations and rendering medical treatment. Design features shall include:

1. Minimum dimension shall be eight (8) feet.

2. Minimum ceiling height shall be eight (8) feet.

3. One (1) lavatory or counter sink.

4. One (1) work counter.

5. Secured lockers for medical equipment, medical instruments, medications, bandages, etc., secured to the floor or walls or a secure closet.

6. One (1) or more medical examination tables [secured to the floor].

7. Electrical power outlets shall be provided in this room.

8. All ceilings, walls, and floors shall be approved masonry, concrete or steel construction.

(h) Visiting area, inmate side. The purpose is to provide secure and private visitation for the inmates. All equipment and furnishings shall be of [approved] penal type and permanently attached.

(i) Conference room. The purpose of this room is to provide space for confidential conferences between inmates and lawyers, probation officers, clergy, etc. Design features shall include:

1. Doors, windows, and light fixtures shall be [approved] penal type.

2. Walls, floors, and ceilings shall be of approved masonry, concrete or steel construction.

3. Furnishings shall be fire-rated [of approved penal type and permanently attached].

(j) Multi-purpose room. The purpose of this area is to provide space for assembly of inmates for specific program activities. This area shall allow at least twenty-five (25) square feet per inmate in an area with a minimum of 250 square feet. Design features shall include:

1. Doors, windows, and light fixtures shall be [approved] penal type.

2. Walls, floor, and ceiling shall be of approved masonry, concrete or steel construction.

3. Furnishings shall be fire rated.

(k) Outdoor recreation. The purpose of this area is to provide secure outdoor space for recreational activities. This area shall allow [be] at least thirty-five (35) square feet per inmate in an area with a minimum of 385 square feet.

(l) Kitchen. The purpose of this area is to provide sufficient space and equipment for preparing meals for the maximum rated capacity of the jail. Design features shall include:

1. Compliance with standards of the State Food Service Code, 902 KAR 45:005.

2. Commercial type stoves and refrigeration

units.

3. Doors and windows will be [of approved] penal type.

4. Walls, floors, and ceilings will be approved fire rated masonry, concrete or steel construction.

(m) Control room. The purpose of this area is to control all movement of inmates within the jail and traffic in and out of the security area. Also, this area will be the hub for operations within the jail. Design features shall include:

1. Doors and windows shall be of [approved] penal type.

2. Walls, floors, and ceiling shall be approved masonry, concrete or steel construction.

3. Audio and video monitors shall be located in this area.

4. Gauges, indicators, and alarms shall be located in this area.

5. Central control panels shall be located in this area.

6. This area shall permit visual observation of all corridors, entrances, and exits under its supervision.

(n) When jail staff are not within normal hearing distance of inmates, an audio communication system shall be installed to allow staff to communicate with inmates.

(o) A panic button, staff call station or portable communication device shall [may] be installed or available in corridors and staff observation areas, which shall sound an alarm in the control center in the event of an emergency situation.

(p) Confinement areas. The purpose of these areas is to provide suitable living conditions for all types of inmates lodged in the jail. Design features for all living areas shall include:

1. Providing sufficient natural or artificial light to provide [fifty (50) footcandles of light for reading purposes and] twenty (20) footcandles with a nightlight capable of providing five (5) foot-candles of light [for all other purposes].

2. Providing ventilation to meet air exchange as required in the state health codes [the Kentucky Building Code].

3. Providing temperature ranges within comfort zones (sixty-five (65) degrees Fahrenheit - eighty-five (85) degrees Fahrenheit).

4. Shall be of approved masonry, concrete or steel construction.

5. All furnishings and equipment shall be [approved] penal type and permanently attached.

6. Each confinement area shall have [approved] floor drains to service each living area [outside the immediate living area].

7. Be equipped with an approved securable food pass.

8. Electrical outlets when provided shall be groundfaulted or have ground-fault circuit breakers. Receptacle and switch plate covers shall be penal type.

(q) All cells and housing areas design features shall include:

1. Prisoner living areas shall be equipped with the security hardware to meet the security requirements of the inmate(s) housed in the area. Depending on the size of the jail at least one (1) living area shall be designed at high security and be equipped with a safety vestibule to enter the living area.

2. Depending on the size of jail one (1) or more isolation single-man cells shall be provided.

3. All cells shall open into a dayroom and no cell shall be less than seventy (70) square feet. No cell shall have more than two (2) penal type bunks. When two (2) persons are housed in a cell, they shall not be detained in the cells for longer periods than twelve (12) hours.

4. Each cell shall contain:

a. A [An approved] penal type commode, lavatory and drinking fountain, penal type bunks secured to floor and/or wall, penal type table with two (2) seats, and penal type storage area for personal property [shelf with breakaway hangers].

b. A [light fixture of approved] penal type light fixture with controls non-accessible to inmates unless it has staff override.

5. The jail shall provide living space for low security inmates including work release and community service workers. This area shall be either cells opening into a dayroom or a combination of this and multiple-occupancy dorms. If dorms are used, they must include:

a. Fifty (50) feet per inmate.

b. One (1) commode/lavatory/drinking fountain per eight (8) inmates.

c. One (1) shower per fifteen (15) inmates.

d. Sufficient tables and benches to handle the number of inmates housed in the dorm.

e. One (1) penal type storage area for personal property [shelf with breakaway hangers] per inmate.

f. One (1) penal type bunk secured to the floor or wall per inmate.

6. Each dayroom area shall contain:

a. Thirty-five (35) square feet per inmate.

b. One (1) commode per eight (8) inmates.

c. One (1) lavatory per eight (8) inmates.

d. One (1) drinking fountain per fifteen (15) inmates.

e. One (1) shower per fifteen (15) inmates.

f. Tables and benches per rated capacity with space twenty-four (24) inches wide and twelve (12) [eighteen (18)] inches deep per inmate.

(2) The provisions of this section shall be effective as of January 1, 1983.

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: September 12, 1986

FILED WITH LRC: September 15, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts

(1) Type and number of entities affected: Counties with full service or regional jails - approximately 80-90.

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

1. First year: None

2. Continuing costs or savings: None

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

counties choose to add diversion/holding, could reduce need for additional beds in future.
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Clarifies what architect must submit to the Corrections Cabinet for review.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/physical plant.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 3:060. Security; control.

RELATES TO: KRS 441.055 [441.011(6)]
PURSUANT TO: KRS 13A.350, 441.055 [441.011(6)]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth security procedures to be followed in local jails.

Section 1. Policy and Procedure. (1) Each jailer shall develop a written policy and procedure governing all security aspects of the jails operations.
(2) The Corrections Cabinet shall provide technical assistance to the jailer in his efforts to formulate such written policy and procedure.
(3) These policies and procedures shall include but not be limited to:
(a) Inmate rules and regulations;
(b) Staffing;
(c) Searches of inmate and of secure areas;
(d) Visitation;
(e) Key and weapon control;
(f) Inmate head counts;
(g) Surveillance checks;
(h) [(g)] Emergency situations; and
(i) [(h)] Jail schedule;
(j) Administering medication.
[(4) The provisions of this section shall be effective as of July 1, 1983.]

Section 2. Inmate Supervision. (1) Jail personnel shall conduct and document direct in-person surveillance of each inmate on an irregular schedule, no less than every sixty (60) minutes.
(2) Jail personnel shall conduct and document direct in-person surveillance every twenty (20) minutes on the following classes of inmates:
(a) Suicidal;
(b) Assaultive;
(c) Escape risk;
(d) Mentally or emotionally disturbed;
(e) Inmates in segregation;
(f) Inmates in detox cell;
(g) Juveniles, if housed in the jail; and
(h) Mental inquest detainees.
(3) When available, closed-circuit television shall be used primarily to monitor hallways, stairwells, sallyports, perimeter security, points of egress, and common and support areas.
(4) There shall be at least three (3) documented inmate counts every twenty-four (24) hours during which each inmate's physical presence, by show of skin, or movement[, or speech] shall be observed. At least one (1) count shall be conducted per shift.
[(5) The provisions of this section shall be effective as of July 1, 1983.]

Section 3. Security Procedures. (1) Each jailer shall establish a procedure for inspecting all facility areas accessible to inmates for contraband and physical security at least weekly.
(a) Isolated security spot checks for contraband shall be conducted daily.
(b) Items considered as contraband or items permitted in the jail shall be clearly defined in the jail rules.
(c) There shall be a written procedure for reporting security irregularities.
(2) No weapon, ammunition, chemical agent, related security equipment, or any object which represents the potential of being used as a weapon shall be permitted in the security area unless authorized by the jailer under emergency circumstances so determined by the jailer.
(3) All firearms, weapons, and chemical agents assigned to the jail shall be stored in an arsenal, vault, or other secure room under lock.
(a) This area shall be inaccessible to all unauthorized persons.
(b) There shall be a written procedure for issuing and accounting for all weapons.
(4) All security devices and safety equipment shall be inspected monthly to ensure they are maintained in proper working order.
(5) All tools, toxic, corrosive, and flammable

substances, and other potentially dangerous supplies and equipment shall be stored in a locked area which is secure and located outside the security perimeter of the confinement area.

(6) Tools, supplies, and equipment which are hazardous shall be used by inmates only under the direct supervision of jail personnel.

(7) At no time shall any inmate be assigned to a position of authority over any other inmate or given the responsibility of providing inmate services such as commissary, telephone calls, or delivery of meals.

(8) Inmates shall never be permitted to perform or assist in any security duties.

(9) Jails with work release or community service programs shall establish special control procedures to minimize contact between inmates with work release privileges and other inmates.

(10) Inmates shall be thoroughly searched whenever entering or leaving the security perimeter.

(11) Written procedures shall be developed for transporting outside the jail.

(12) Each jailer shall develop written policies and procedures governing the use of physical restraints.

(13) No inmate placed in physical restraints shall be left unattended.

(14) All jails shall have key-control procedures which shall include but not be limited to:

(a) A key control center which is secure and inaccessible to unauthorized persons at all times.

(b) An accounting procedure for issuing and returning keys.

(c) A procedure for immediate reporting and repairing [of] any broken or malfunctioning key or lock.

(d) A set of duplicate keys to be maintained in a separate, secure place.

(e) No inmate shall be permitted to handle keys used to operate jail security locks.

(f) Keys operating locks to outside doors or gates shall not be permitted in the confinement area.

(g) Emergency keys and keys to critical security areas shall only be issued in accordance with written procedures established by the jailer.

(h) Precautions similar to those outlined above shall be taken to insure the security of all non-key operated locking devices such as electrical switches or levers.

(i) Locks to outside exits shall be keyed differently from interior locks. Locks to the control room shall be keyed differently from all other locks.

(15) Trusties.

(a) At no time shall a trusty have access to or control of weapons.

(b) At no time shall an unsupervised trusty be permitted in either a program, support, or housing area with inmates of the opposite sex.

(c) At no time shall an inmate trusty be permitted in either a program, support, or housing area with juvenile inmates.

[(16) The provisions of this section shall be effective as of July 1, 1983.]

Section 4. Daily Jail Log; Special Reports. [(1)] A daily jail log shall be kept current and reflect all significant occurrences within the jail. Special reports shall include [detailed written record shall be made of all significant activities occurring within the jail including but not limited to]:

[(a) Security and safety inspections.]

[(b) Inmate counts.]

(1) [(c)] Use of force.

(2) [(d)] Disciplinary actions.

[(e) Movement inside and outside the jail.]

(3) [(f)] Medical or mental health treatment.

(4) [(g)] Feeding schedule and menus.

(5) [(h)] Extraordinary occurrences.

(a) [1.] Fires.

(b) [2.] Assaults.

(c) [3.] Suicide or attempted suicide.

(d) [4.] Escape or attempted escape [suicide].

(6) [(i)] Inmate vandalism.

(a) [1.] Destruction of jail property.

(b) [2.] Flooding of plumbing fixtures.

(7) [(j)] Staff roster for each shift.

(8) [(k)] Telephone log of initial phone call(s).

(9) [(l)] Visitors log.

(10) [(m)] Fire planning sessions [drills].

[(2) The provisions of this section shall be effective as of July 1, 1983.]

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: September 12, 1986

FILED WITH LRC: September 15, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts

(1) Type and number of entities affected: Counties with full service or regional jails - approximately 80-90.

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

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: Clarifies existing language.

TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/security, control.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 3:070. Safety; emergency procedures.

RELATES TO: KRS 441.055 [441.011(6)]
PURSUANT TO: KRS 13A.350, 441.055 [441.011(6)]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth safety and emergency procedures to be followed in local jails.

Section 1. Policy and Procedure. (1) Each jail shall have a written policy and procedure which specify fire prevention regulations and practices to ensure the safety of inmates, visitors, and staff. These shall include but not be limited to:

(a) Provision for fire emergency planning sessions [drills] for staff [and inmates] at least quarterly.

(b) Written documentation of fire planning sessions [drills].

(c) A fire safety inspection by the Corrections Cabinet at least once a year [semi-annually].

(d) Inspection and testing of fire protection equipment by qualified persons at least annually with visual inspections by staff monthly.

(e) Smoking restrictions and regulations.

(f) Written evacuation plan coordinated with local fire officials.

(2) Each jail shall have written policy and procedures for emergency situations including but not limited to:

(a) Escapes.
(b) Taking of hostages.
(c) Riots.
(d) Food poisoning.
(e) Civil disturbances in the community.
(f) Natural disasters.
(g) Suicides.
(h) Other deaths and disorder.

Section 2. Physical Plant. (1) Each jail shall comply with the NFPA Life Safety Code (1981 Edition).

(2) [(1)] Each jail shall have exits which are distinctly and permanently marked, visible at all times, kept clear, and maintained in usable condition.

(3) [(2)] Each jail shall have equipment necessary to maintain essential lights, power, and communications in an emergency situation.

(4) [(3)] In all areas where an inmate may be confined, each jail shall be provided with an emergency smoke evacuation system activated by smoke detectors and be operated by emergency power[, if necessary].

(5) [(4)] Each jail shall have an approved fire alarm and smoke detection system [which meets the National Fire Safety Code (1981 edition, Chapters 14 and 15)].

[(5) Each jail shall comply with the National Fire Safety Code (1981 edition, Chapters 14 and 15).]

[Section 3. The provisions of this regulation shall be effective as of January 1, 1983.]

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with full service or regional jails - approximately 80-90.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments: Purpose was to clarify existing language.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/safety; emergency procedures.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 3:080. Sanitation; hygiene.

RELATES TO: KRS 441.055 [441.011(6)]
PURSUANT TO: KRS 13A.350, 441.055 [441.011(6)]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures to provide proper sanitation and hygiene in jails.

Section 1. Procedures. (1) The jailer shall provide for the control of vermin and pests.
(2) The jail shall provide for both solid and liquid waste disposal.
(3) The jailer shall have a written preventative maintenance plan which includes but is not limited to:
(a) A cleaning schedule for various locations and items in the jail.
(b) A schedule for inspections by the jailer.
(c) A schedule for trash and garbage removal.
(d) A schedule for periodic inspection and maintenance of specific mechanical equipment.
(4) The jail shall have fresh and purified air circulating within inmate living and activity areas consistent with the state health code [at least equivalent to ten (10) cubic feet per inmate per minute].
(5) [Except in detox cells,] The jail shall furnish clean sanitized bedding to [each] inmates except in holding areas and unless it is determined to be detrimental to a particular inmate. Issuance of bedding in detoxification is optional. Bedding shall include [including but not limited to]:
(a) One (1) mattress.
(b) One (1) mattress cover.
(c) One (1) blanket, when conditions require [and sheet].
(d) One (1) sheet.
(e) [(d)] One (1) pillow.
(f) [(e)] One (1) pillowcase.
(6) Inmate bedding shall be cleaned on a regular basis according to the following schedule:
(a) Sheets, pillowcases, and mattress cover shall be cleaned at least once per week.
(b) Blankets shall be cleaned upon reissue or quarterly, whichever is sooner.
(c) Mattresses and pillows shall be cleaned quarterly.
(7) Each inmate shall be issued a clean towel upon admission to an inmate living areas. Towels shall be laundered every fourth day.
(8) All floors, toilets, [bath tubs,] and sinks in the jail shall be washed daily or more often as necessary.
(9) All showers shall be cleaned on at least a weekly basis.
(10) All inmates assigned to inmate living areas shall be issued or permitted to obtain the following hygienic items:
(a) Soap.
(b) Toothbrush.
(c) Toothpaste.
(d) Toilet paper.
(e) Female sanitary supplies (where applicable).
Indigent inmates shall be furnished these items by the jail.
(11) All inmates shall be permitted to shave daily. If a communal razor is used, it shall be sanitized before each use. No inmate shall be forced to shave except for medical purposes and under the specific orders of the medical authority.
(12) Hair cutting services or sanitized hair cutting equipment shall be available to all inmates. Inmates shall not be forced to cut their hair except for medical purposes and under the specific orders of the medical authority.
(13) All inmates shall be provided shower [and bathing] facilities within twenty-four (24) hours of admission. Inmates shall be permitted to [bathe or] shower daily.
(14) All inmates in the jail shall be provided with hot and cold running water in showers and lavatories [for bathing].
(15) As required in KRS 441.064 [441.012], the jail shall be inspected by the Corrections Cabinet bi-annually.

[Section 2. The provisions of this regulation shall be effective as of January 1, 1983.]

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with full service or regional jails - approximately 80-90.
(a) Direct and indirect costs or savings to those affected:

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change.

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

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: Purpose was to clarify existing language.

TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 3:090. Medical services.

RELATES TO: KRS 441.055 [441.011(6)]
PURSUANT TO: KRS 13A.350, 441.055 [441.011(6)]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures for the proper delivery of medical services in jails.

Section 1. Procedure Services. (1) The jail's medical services shall be provided by contracting with a Kentucky licensed health care provider [physician or the county public health organization].

(2) The medical staff and mental health professionals shall not be restricted by the jailer in the performance of their duties except to adhere to the jail's security requirements.

[(3) The jailer shall prepare a quarterly report and an annual summary report addressing the jail's medical and mental health services.]

(3) [(4)] All health care staff working in the jail shall comply with state licensure and certificate requirements commensurate with health care personnel working elsewhere in the community. Copies of such licenses and certificates for health care staff employed by the jail shall be maintained on file within the jail.

(4) [(5)] A daily medical log shall be maintained documenting specific medical treatment rendered in the jail. This log shall be kept current to the preceding hour.

(5) [(6)] Inmates shall not perform any medical functions within the jail.

(6) [(7)] Inmates shall be informed verbally and in writing at the time of admission the methods of gaining access to medical care within the jail.

(7) [(8)] All medical procedures shall be performed according to written and standing orders issued by the responsible medical authority.

(8) [(9)] Medical screening shall be performed by the receiving officer on all inmates upon their admission to the jail and before their placement in inmate living areas. The findings of this medical screening shall be recorded on a printed screening form approved by the medical authority. The medical screening inquiry shall include but not be limited to:

(a) Current illnesses and health problems.

(b) Medications taken and special health requirements.

(c) Screening of other health problems designated by the medical authority.

(d) Behavioral observation, state of consciousness and mental status.

(e) Notation of body deformities, markings, bruises, lesions, jaundice, ease of movement, and other distinguishing characteristics.

(f) Condition of skin and body orifices, including rashes and infestations.

(g) Disposition and referral of inmates to qualified medical personnel on an emergency basis.

(9) [(10)] Sick call conducted by the medical authority shall be available to each inmate as follows:

(a) Once per week, in jails with an average daily population for the preceding month of less than fifty (50) inmates.

(b) Three (3) times per week, in jails with an average daily population for the preceding month from fifty-one (51) to 200 inmates.

(c) Five (5) times per week, in jails with an average daily population for the preceding month of more than 200 inmates.

(10) Deputy jailers and correctional officers [(11) All jail security personnel] shall have current training in basic first-aid equivalent to that defined by the American Red Cross.

(11) At least one (1) jail staff member per shift [(12) The jailer] shall be trained and certified to perform approved [in] CPR (Cardiopulmonary Resuscitation). (January 1, 1984)

(12) [(13)] Emergency medical, dental, and psychiatric care shall be available to all inmates commensurate with the level of such care available to the community.

(13) [(14)] Medical research shall not be permitted on any inmate in the jail.

(14) [(15)] Access to the inmate's medical file shall be controlled by the medical authority and the jailer. The physician-patient privilege shall apply to the medical record. The medical record is separate from custody and other administrative records of the jail.

(15) [(16)] All examinations, treatments, and procedures affected by informed consent standards in the community shall be observed for inmate care. In the case of minors, the informed consent of the parent, guardian, or legal custodian shall apply when required by law.

(16) [(17)] In accordance with KRS 72.025, a postmortem examination shall be conducted on all inmates who die while in the custody of the jailer.

(17) [(18)] The jailer shall have written delousing procedures.

(18) [(19)] All jail staff who administer medications to inmates shall be trained in the proper procedures as outlined in the Policy and Procedures Manual [by the medical authority].

(19) [(20)] The jail shall have first-aid kits available at all times.

(20) [(21)] An inmate who has been prescribed treatment by a recognized medical authority and cannot receive that treatment in the jail shall be moved to another confinement facility which can provide the treatment or may be moved to a hospital.

[Section 2. The provisions of this regulation shall be effective as of January 1, 1983.]

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with full service or regional jails - approximately 80-90.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Purpose was to clarify existing language.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/medical services.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 3:100. Food services.

RELATES TO: KRS 441.055 [441.011(6)]
PURSUANT TO: KRS 13A.350, 441.055 [441.011(6)]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures for proper food services in local jails.

Section 1. Procedures. (1) The jail shall comply with the Kentucky Food Service Establishment Act and State Food Service Code (KRS 219.011 through 219.081) and the Kentucky Occupational Safety and Health Standards for General Industry (803 KAR 2:020 and 29 CFR Part 1910).
(2) The jailer shall provide adult inmates with a nutritionally adequate diet containing at least 2,400 calories per day. Juvenile inmates shall be provided a nutritionally adequate diet containing at least 3,000 [3,800] calories per day.
(3) Inmates shall receive three (3) meals per day, two (2) of which shall be hot. Not more than fourteen (14) hours shall elapse between any two (2) meals.
(4) The jailer shall provide for religious diets.
(5) The jailer shall provide for medical diets where prescribed by a medical authority.
(6) The jailer shall maintain accurate records of all meals served.
(7) Food shall not be used for disciplinary or reward purposes.
(8) A nutritionist or dietician shall approve the nutritional value of the jail menu on an annual basis. [The jailer shall seek the assistance of a local diet specialist in preparing menus or utilize sample menus prepared by the Corrections Cabinet.]
(9) A staff member shall directly supervise all food prepared within the jail.
(10) All food shall be served under the direct supervision of a staff member.
[(11) All employees and inmates assigned to food service shall receive a V.D.R.L. and TB skin test prior to assignment.]
(11) [(12)] The jail shall have sufficient

cold and dry food storage facilities.
(12) [(13)] The jailer or his designee shall inspect the food service area daily.
(13) [(14)] Food shall not be prepared or stored in inmate living areas.

[Section 2. The provisions of this regulation shall be effective as of January 1, 1983.]

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with full service or regional jails - approximately 80-90.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Reduces calories for juveniles and requires approval of menus.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/food services.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 3:110. Classification.

RELATES TO: KRS 441.055 [441.011(6)]
PURSUANT TO: KRS 13A.350, 441.055 [441.011(6)]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures for the classification of inmates.

Section 1. Procedure. (1) Each jail shall develop an appropriate inmate classification system, which shall be included in the facility's written policy and procedure manual. The provisions of this subsection shall be effective as of July 1, 1983.
(2) The inmate classification system shall provide for the separation of the following categories of inmates:
(a) Male and female inmates except in diversion/holding;
(b) Juvenile and adult inmates. If a juvenile is housed in the jail, he shall be housed as a juvenile regardless of his criminal status. Such offenders, as those confined for traffic offenses and those whose rights as a juvenile have been waived, will be housed as juveniles;
(c) Mental inquest detainees and other inmates;
(d) Mentally ill or mentally retarded inmates and other inmates;
(e) Chemically incapacitated inmates and other inmates; [The provisions of this subsection shall be effective as of January 1, 1983.]
(f) Inmates with a tendency to harm others, be harmed by others, or requiring administrative segregation and other inmates;
(g) Inmates with communicable disease and other inmates.
(3) The criteria to be used in the classification of other inmate categories shall be as follows:
[(a) Inmates with a tendency to harm others, be harmed by others, or requiring administrative segregation such as:]
[1. Those requiring protective custody;]
[2. Those with a history of disciplinary problems; and]
[3. Those charged with or convicted of a violent offense.]
[(b) Inmates with special problems or needs including but not limited to public intoxicants, physically handicapped, emotionally disturbed, mentally disordered, inmates with communicable diseases, suicide prone inmates, and known homosexuals.]
(a) [(c)] Sentenced or unsentenced status.
(b) [(d)] Felons and misdemeanants.
(c) [(e)] Non-criminal and criminal status such as traffic violators, non-support cases or

civil contempt.

(d) [(f)] Community custody inmates such as work-release, education-release, weekenders.

(e) [(g)] Trusties. All inmates receiving trusty status shall be selected by the jailer or his designee based upon criteria including but not limited to:

1. The nature of the inmate's offense and sentence;
2. Previous escape attempts; and
3. The inmate's "day-to-day" behavior.

[The provisions of this subsection shall be effective as of January 1, 1983.]

(4) An inmate's classification [system] shall be changed to reflect changes in the inmate's status including but not limited to the following:

1. Court appearance by the inmate;
2. Disciplinary hearing and action; and
3. Re-evaluation of the inmate's physical, [or] emotional, [condition] or mental condition.

[The provisions of this subsection shall be effective as of January 1, 1983.]

(5) The inmate classification system shall prohibit discrimination or segregation based upon race, color, creed, or national origin. [The provisions of this subsection shall be effective as of January 1, 1983.]

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts

(1) Type and number of entities affected: Counties with full service or regional jails - approximately 80-90.

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

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: Purpose was to clarify existing language.

TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/classification.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 3:120. Admission; release.

RELATES TO: KRS 441.055 [441.011(6)]
PURSUANT TO: KRS 13A.350, 441.055 [441.011(6)]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth admission and release procedures.

Section 1. Policy and Procedure. [(1)] Each jail shall develop written admission, orientation, and release procedures to be included in the jail's policy and procedure manual.

[(2) The provisions of this section shall be effective as of July 1, 1983.]

Section 2. Admission. (1) Any person in need of emergency medical attention [seriously injured, seriously ill, or unconscious persons (as determined by the jailer or his designee)] shall not be admitted to the jail until a medical examination has been conducted [by a licensed physician]. A denial of admission form shall be completed which lists the reasons for the denial and shall be signed by [the arresting officer and] the jail staff member on duty. [The provisions of this subsection shall be effective as of January 1, 1983.]

(2) The jail staff shall assure that each inmate is committed under proper legal authority by a duly authorized officer. [The provisions of this subsection shall be effective as of January 1, 1983.]

(3) An intake form shall be completed on every new inmate admission and shall include but not be limited to the following:

(a) Time and date of commitment;
(b) Name, alias, nickname;

(c) Official charge - cite eight (8) digit KRS number;
(d) Authority ordering commitment;
(e) Unit of government to be billed;
(f) Signature and title of arresting or committing officer;
(g) Date of birth;
(h) Race;
(i) Sex;
(j) Height and weight;
(k) Current or last known address;
(l) Telephone number;
(m) Marital status;
(n) Spouse or next of kin;
(o) Emergency contact (name, relation, address, telephone number);
(p) Employer, place of employment, telephone number;
(q) Social Security number;
(r) Health status (including current medications, known allergies, diet or other special medical needs);
(s) Blood type, if known;
(t) The name of any known person in the jail who might be a threat to the arrestee; and
(u) Mental health history (including past hospitalizations, comprehensive care treatment, current treatment, and medication).
[The provisions of this subsection shall be effective as of July 1, 1983.]
(4) The jail staff shall conduct a search of inmates and their possessions.
(a) Each inmate shall be searched for contraband in such a manner as responsible staff reasonably determine is necessary to protect the safety of fellow inmates, staff, and institutional security. Such search shall be conducted in a private area and in a manner which protects the inmate's dignity to such extent as possible in that particular jail.
(b) When a strip search is conducted, it shall be performed by a staff person of the same sex as the inmate.
(c) When a strip search of an inmate is conducted, it shall include a thorough visual check for birthmarks, wounds, sores, cuts, bruises, scars, and injuries, "health tags," and body vermin. A less complete search shall include the same checks to the extent determined reasonably necessary.
(d) The probing of body cavities shall not be done except where there is reasonable suspicion to believe that the inmate is carrying contraband there and such search shall only be conducted by medically trained persons (physician, emergency medical technician, registered nurse, licensed practical nurse) in a private location and under sanitary conditions.
[(e) The provisions of this subsection shall be effective as of January 1, 1983.]
(5) Each jail shall develop written policies and procedures, specifying the personal property that inmates may retain in their possession.
(a) Any cash or personal property which is [shall be] taken from the inmate upon admission shall be listed by complete description on a receipt form [in duplicate], and securely stored pending the inmate's release. The receipt shall be signed by the receiving officer and the inmate[, the duplicate shall be stored with the inmate's personal property] and [the original] kept for the jail record.
(b) If the inmate is in an inebriated state, is a mental inquest detainee, or is mentally ill or mentally retarded, there shall be at least one (1) witness to verify this transaction. As soon as the inmate is able to understand and account for his actions, he shall sign the receipt [and his copy stored with his personal property].
(c) Personal property released to a third party must have the inmate's signature of approval and the signature receipt of the third party.
[(d) The provisions of this subsection shall be effective as of July 1, 1983.]

Section 3. Orientation. (1) As soon after assignment as possible, [each inmate shall receive] an oral or [and] written orientation shall be made available to each inmate.
(2) The orientation shall provide the inmate with information regarding his confinement including but not limited to the following:
(a) Information pertaining to rising and retiring, meals, mail procedures, work assignments, telephone privileges, visitation, correspondence, commissary, medical care, and other matters related to the conditions of the inmate's confinement;
(b) Rules of inmate conduct;
(c) Disciplinary procedures;
(d) Information regarding programs (work, educational and vocational training, counseling, and other social services); and
(e) Procedures for making requests or registering complaints with the jail staff, judiciary, or Corrections Cabinet personnel.
[(3) Special assistance shall be given to illiterate and non-English speaking inmates.]
[(4) The provisions of this section shall be effective as of July 1, 1983.]

Section 4. Release. (1) Written legal authorization shall be required prior to the release or removal of any inmate from confinement.
(2) When an inmate is released or removed for any legal purpose to the custody of another, the identity of receiving authority shall be verified.
(3) A written record shall be kept of the time, purpose, date, and authority for release or removal from confinement, and into whose custody the inmate is released or removed.
(4) Prior to the release or removal of an inmate, the receiving authority shall sign an authorized release form.
(5) Before the jailer releases an inmate to an out-of-state jurisdiction, he shall consult with the appropriate prosecutorial office in the county.
(6) Any property, not legally confiscated or retained, receipted from the inmate upon admission shall be returned to the inmate at the time of release.
(7) Each inmate shall sign a receipt for property returned at the time of release.
(8) Any complaint regarding property returned must be submitted in writing with specific details within twenty-four (24) hours.
[(9) The provisions of this section shall be effective as of January 1, 1983.]

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on

this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with full service or regional jails - approximately 80-90.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: Reduces distribution of paperwork.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Purpose was to clarify existing language.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/admission; release.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 3:130. Inmate programs; services.

RELATES TO: KRS 441.055 [441.011(6)]
PURSUANT TO: KRS 13A.350, 441.055 [441.011(6)]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures for inmate programs and services.

Section 1. Work Programs. (1) Written policy and procedure shall provide that inmate programs and services are available and include but are not limited to social services, religious services, recreation and leisure time activities and library services.
(2) Sentenced inmates who perform work as authorized by KRS 441.068 may receive rewards in the form of sentence reductions or other privileges, if granted by proper authority.
(3) Written policy and procedure shall provide that unsentenced inmates are not required to work except to do personal housekeeping.
[(4) The provisions of this section shall be effective as of July 1, 1983.]

Section 2. Education Programs. (1) The jail[er] shall develop a policy and procedure which encourage the implementation of education programs in the jail. The utilization of community resources in these efforts shall also be encouraged to offset the costs of such programs.
(2) Education programs may be made available in accordance with KRS 439.179.
[(3) The provisions of this section shall be effective as of January 1, 1983.]

Section 3. Library Services. [(1)] Where resources are available in the community, library services may be made available to all inmates.
[(2) Inmates shall be encouraged to use reading materials.]
[(3) The provisions of this section shall be effective as of January 1, 1983.]

Section 4. Religious Programs. [(1)] Written policy and procedure shall ensure [that] the constitutional rights of inmates to voluntarily practice their own religious activities, subject only to those limitations necessary to maintain the order and security of the jail.
[(2) The provisions of this section shall be effective as of January 1, 1983.]

Section 5. Recreation Programs. (1) Written policy and procedure shall provide all inmates with the opportunity to participate in an average of one (1) hour of physical exercise per day with at least three (3) exercise periods per week outside the cell. Where the security and safety of the jail and the weather permits, there shall be outdoor exercise.
(2) Leisure time and recreation programs shall be scheduled to permit inmates to participate in, but not be limited to, such activities as board games, arts and crafts, radio and television to relieve idleness and boredom.
[(3) The provisions of this section shall be effective as of July 1, 1983.]

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with full service or regional jails - approximately 80-90.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Purpose was to clarify existing language.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/Inmate programs; services.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 3:140. Inmate rights.

RELATES TO: KRS 441.055 [441.011(6)]
PURSUANT TO: KRS 13A.350, 441.055 [441.011(6)]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures to ensure the protection of inmate rights.

Section 1. Policy and Procedure. (1) Each jail shall a written statement of inmate rights which shall include but not be limited to:
(a) Access to courts.
(b) Access to attorney.
(c) Mail.
(d) Telephone.
(e) Grievances.
(f) Search and seizure.
(g) Disciplinary procedure.
(h) Racial segregation.
(i) Medical care.
(j) Mental health care (if possible).
(k) Religion.
The statement of inmate rights shall be posted in a conspicuous place in the booking and inmate living areas of the jail [and a copy shall be handed to the inmate upon admission].
(2) The jailer shall not prohibit an inmate's right of access to the judicial process. [The provisions of this subsection shall be effective as of July 1, 1983.]
(3) The jailer shall ensure the right of inmates to have confidential access to their attorney and their authorized representative. [The provisions of this subsection shall be effective as of January 1, 1983.]
(4) The jailer shall have a written policy which defines the jail's visitation rules and regulations; which shall include but not be limited to:
(a) A schedule identifying no fewer than two (2) visiting days each week, one (1) of which must be during the weekend.
(b) At least one (1) visit per week per inmate shall be allowed except when an inmate has been assessed a disciplinary penalty for an infraction of rules governing visitation.
(c) Visits shall not be less than fifteen (15) minutes.
(d) Two (2) or more persons permitted to visit at the same time shall count as a single visit.
(e) Children, when accompanied by an adult, shall be permitted to visit inmates.
[The provisions of this subsection shall be effective as of July 1, 1983.]
(5) Attorneys, clergy, and medical personnel shall be permitted to visit inmates at reasonable hours other than during regularly scheduled visiting hours and shall not count as an allotted visit. [The provisions of this subsection shall be effective as of January 1, 1983.]
(6) Visitors shall register before admission and may be denied admission for refusal to register, for refusal to consent to search or for any violation. [The provisions of this subsection shall be effective as of January 1, 1983.]
(7) Inmates shall not be restricted in regard to whom they may have as a visitor unless the

jailer determines that a visitor should be excluded due to the existence of one (1) or more of the following conditions:

(a) The visitor represents a clear and present danger to security.

(b) The visitor has a past history of disruptive conduct at the jail.

(c) The visitor is under the influence of alcohol or drugs.

(d) The visitor refuses to submit to search or show proper identification.

(e) The inmate refuses the visit.

[The provisions of this subsection shall be effective as of January 1, 1983.]

(8) The jailer shall not listen to visitors' conversations but may observe the visitation for security reasons. [The provisions of this subsection shall be effective as of January 1, 1983.]

Section 2. Mail. (1) The jailer shall have written policy and procedure for receiving and sending mail that protects the inmate's personal rights and provides for reasonable security practices consistent with the operation of the jail. [The provisions of this subsection shall be effective as of July 1, 1983.]

(2) Inmates shall be allowed to correspond with anyone so long as such correspondence does not violate any state or federal law except that caution shall be taken to protect the inmate's rights in accordance with court decisions regarding correspondence. [The provisions of this subsection shall be effective as of January 1, 1983.]

(3) Incoming mail may be inspected for contraband items prior to delivery, unless such mail is received from the courts, attorney of record or public officials; then it may be opened and inspected in the presence of the inmate. [The provisions of this subsection shall be effective as of January 1, 1983.]

Section 3. Telephone. (1) Newly admitted inmates shall be permitted a reasonable number of local or collect long distance telephone calls to an attorney of their choice, or to a family member, as soon as practical, generally within one (1) hour after arrival, until one (1) call has been completed. [The provisions of this subsection shall be effective as of January 1, 1983.]

(2) The jailer or his designee shall maintain a log of all telephone calls made by an inmate during the admission procedure. The log shall document the date, time and party contacted. [The provisions of this subsection shall be effective as of July 1, 1983.]

(3) Written policy and procedure shall permit each inmate to complete at least one (1) telephone call each week. Any expense incurred for calls shall be borne by the inmate or the party called. [The provisions of this subsection shall be effective as of July 1, 1983.]

(4) A minimum of five (5) minutes shall be allotted for each phone call. [The provisions of this subsection shall be effective as of January 1, 1983.]

(5) Telephone calls shall not be routinely monitored. If calls are monitored, the inmate shall be notified.

(6) Telephone privileges may be suspended for a designated period of time if telephone rules are violated.

[(7) The provisions of subsections (5) and (6) of this section shall be effective as of January 1, 1983.]

Section 4. Religion. (1) Inmates shall be granted the right to practice their religion within limits necessary to maintain institution order and security.

(2) Inmates shall be afforded an opportunity to participate in religious services and receive [receiving] religious counseling within the jail.

(3) Inmates shall not be required to attend or participate in religious services or discussions.

[(4) The provisions of this section shall be effective as of January 1, 1983.]

Section 5. Access to Programs. [(1)] The jailer shall ensure equal access to programs and services for all inmates provided the security and order of the jail are [is] not jeopardized.

[(2) The provisions of this section shall be effective as of January 1, 1983.]

Section 6. Grievance Procedure. [(1)] The jailer shall have a written inmate grievance procedure which shall be available to all inmates. These procedures shall include provisions for:

(1) [(a)] Responses, within a reasonable time limit, to all grievance complaints.

(2) [(b)] Equal access to all inmates.

(3) [(c)] Guarantees against reprisal.

(4) [(d)] Resolving legitimate complaints.

[(2) The provisions of this section shall be effective as of July 1, 1983.]

Section 7. Searches. (1) Each search of an inmate for contraband shall be done in such a manner as the jailer determines is necessary to insure [protect] the safety of inmates and [,] staff, and [jail] security of the jail.

(2) Each search shall be conducted in a private area and in a professional manner which protects the inmate's dignity to the extent possible.

(3) All strip searches shall be performed by a staff person of the same sex as the inmate.

[(4) The provisions of this section shall be effective as of January 1, 1983.]

Section 8. Disciplinary Rights. [(1)] Each jail shall have a written policy and procedure for maintaining discipline which is consistent with constitutional requirements for due process.

[(2) The provisions of this section shall be effective as of July 1, 1983.]

Section 9. Medical. [(1)] Each inmate shall be afforded access to necessary medical care.

[(2) The provisions of this section shall be effective as of January 1, 1983.]

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: September 12, 1986

FILED WITH LRC: September 15, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with full service or regional jails - approximately 80-90.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Purpose was to clarify existing language.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/Inmate rights.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 3:150. Hearings, procedures, disposition.

RELATES TO: KRS Chapter 441
PURSUANT TO: KRS 441.013
NECESSITY AND FUNCTION: The Secretary of the Kentucky Corrections Cabinet is authorized by KRS 441.013(3) to hear matters covered by the Order of the Cabinet requesting county jails, correctional or detention facilities to comply with the minimum standards for local jails pursuant to KRS 441.011 and to issue, modify or repeal the order at the conclusion of the hearing.

Section 1. Definitions. (1) "Secretary" means the Secretary of the Corrections Cabinet.
(2) "Cabinet" means the Kentucky Corrections Cabinet.
(3) "Standards" means the minimum jail standards for local jails.
(4) "Hearing officer" means a hearing officer appointed by the secretary pursuant to KRS 441.013.
(5) "Proceeding" means any proceeding before the secretary or before a hearing officer.
(6) "Day" means a calendar day.
(7) "Order" means the order of the secretary requiring the petitioner(s) to comply with the minimum jail standards for local jails as specified.
(8) "Petitioner" means the jailer or county/judge executive who requests a hearing for review of the secretary's order.
(9) "Jail" means county jails and correctional or detention facilities, including correctional facilities defined in KRS 67B.020 and juvenile detention facilities, operated by and under the supervision of any county, city or urban county government.

Section 2. Assignment of Hearing; Filings. (1) Pursuant to KRS 441.013(3), cases coming before the secretary may be assigned to a hearing officer within the discretion of the secretary for a hearing and a finding of facts, conclusions of law, and recommended order. Cases may be withdrawn by agreement, dismissed for cause, or otherwise disposed of before hearing in the discretion and judgment of the secretary.
(2) A recommended order or adjudication by the hearing officer or the initial order of the secretary, if dismissed or disposed of as provided in subsection (1) of this section, or any modification of repeal of the initial order, shall become the final order of the secretary under the provisions of KRS 441.013(3), appealable to the Franklin Circuit Court, thirty (30) days from the date of issue.
(3) Prior to the assignment of a case to a hearing officer, the county jailer or county judge/executive shall, within seventy-two (72) hours of receipt of notification of order, request in writing a public hearing before the secretary or his designee on the matters covered by said order to the Secretary of Corrections, State Office Building, Fifth Floor, Frankfort, Kentucky 40601. Subsequent to the assignment of the case to a hearing officer and prior to the issuance of his decision, all papers shall be filed with the hearing officer at the address given in the notice of hearing.
(4) All evidence and witnesses of both parties and intervenors and all proof must be presented at the time of hearing. No additional evidence will be permitted thereafter except in unusual circumstances and within the discretion of the secretary or the hearing officer. [No subpoenas will be issued.]
(5) All hearings shall be held in Frankfort, Kentucky unless otherwise ordered by the

secretary.
(6) Unless otherwise ordered, all filing may be accomplished by first class mail.
(7) Filing is deemed effective at the time of mailing.

Section 3. Scope of Rules; Applicability of Kentucky Rules of Civil Procedure. (1) These rules shall govern all proceedings before the cabinet and its hearing officers.
(2) In the absence of a specific provision, procedure shall be in accordance with the Kentucky Rules of Civil Procedure.

Section 4. Computation of Time. (1) In computing any period of time prescribed or allowed in these rules, the day from which the designated period begins to run shall be included unless it is a Saturday, Sunday, or federal or state holiday, in which event the period begins to run on the next working day. The last day of the period so computed is to be included unless it is a Saturday, Sunday or legal holiday in which event the period runs until the end of the next working day. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.
(2) Where service of a pleading or documents is by mail pursuant to Section 2 of this regulation, three (3) days shall be added to the time allowed by these rules for the filing of a responsive pleading.

Section 5. Notice and Time of Hearing. (1) Notice of hearings shall be given to all parties and intervenors within forty-five (45) days from the receipt of the request for hearing unless otherwise ordered by the secretary or his designee. No hearing shall be held later than ninety (90) days from the date of request.
(2) The notice of hearing shall include:
(a) Statement of the time and place of the hearing.
(b) The name and address of the assigned hearing officer.
(c) Statement of the legal authority and jurisdiction under which the hearing is held.

Section 6. Continuance of Hearing. (1) Continuance of a hearing ordinarily will not be allowed.
(2) Except in the case of an extreme emergency or in unusual circumstances, no such request will be considered unless received in writing at least three (3) days in advance of the time set for the hearing. The request for continuance must include the reasons therefor.
(3) Continuance of hearing not in excess of fifteen (15) days may be granted in the discretion of the hearing officer. One (1) additional continuance not in excess of fifteen (15) days may be granted by the hearing officer in extreme emergency or under unusual circumstances. No additional continuance may be granted without approval of the secretary.

Section 7. Failure to Appear. (1) Subject to the provisions of subsection (3) of this section, the failure of a party to appear at a hearing shall be deemed to be a waiver of all rights except the rights to be served with a copy of the decision of the hearing officer.
(2) Requests for a newly scheduled hearing must be made in the absence of extraordinary circumstances within five (5) days after the scheduled hearing date.
(3) The secretary or the hearing officer, upon a showing of good cause, may excuse such failure to appear. In such event, the hearing will be rescheduled.

Section 8. Consolidation. Cases may be consolidated on the motion of any party, on the hearing officer's own motion, or on the secretary's own motion, where there exist common parties, common questions of law or fact, or both, or in such other circumstances as justice and the administration of the Act require.

Section 9. Severance. Upon its own motion, or upon motion of any party or intervenor, the secretary or the hearing officer may, for good cause, order any proceeding severed with respect to some or all issues or parties.

Section 10. Intervention. (1) A petition for leave to intervene may be filed at any stage of a proceeding before commencement of the hearing, or in the event of a settlement or dismissal before issuance of a recommended order.
(2) The petition shall set forth the interest of the petitioner in the proceeding and show that participation of the petitioner will assist in the determination of the issues in question and that the intervention will not unnecessarily delay the proceeding.
(3) The secretary or the hearing officer may grant a petition for intervention to such an extent and upon such terms as the secretary or the hearing officer shall determine.
(4) The caption of all cases where intervention is allowed shall reflect such intervention by adding to the caption after the name of the respondent the name of the intervenor, followed by the designation "intervenor."

Section 11. Service. (1) At the time of filing pleadings or other documents a copy thereof shall be served by the filing party or intervenor on every other party or intervenor.
(2) Service upon a party or intervenor who has appeared through a representative shall be made only upon such representative.
(3) Unless otherwise ordered, service may be accomplished by postage prepaid first-class mail or by personal delivery. Service is deemed effected at the time of mailing (if by mail) or at the time of personal delivery (if by personal delivery).
(4) Proof of service shall be accomplished by a written statement of the same which sets forth the date and manner of service. Such statement shall be filed with the pleading or document.
(5) Where service is accomplished by posting, proof of such posting shall be filed not later than the first working day following the posting.

Section 12. Statement of Position. At any time prior to the commencement of the hearing before the hearing officer, any person entitled to appear as a party, or any person who has been granted leave to intervene, may file a statement of position with respect to any or all issues to be heard.

Section 13. Response to Motions. Any party or intervenor upon whom a motion is served shall have ten (10) days from service of the motion to file a response.

Section 14. Failure to File. Failure to file any pleading pursuant to these rules when due, may, in the discretion of the secretary or the hearing officer, constitute a waiver of right to further participation in the proceedings.

Section 15. Withdrawal of Notice of Hearing. At any stage of a proceeding, a party may withdraw his notice of hearing, subject to the approval of the secretary.

Section 16. Prehearing Conference. (1) At any time before a hearing, the secretary or the hearing officer, on their own motion or on motion of a party, may direct the parties or their representatives to exchange information or to participate in a prehearing conference for the purpose of considering matters which will tend to simplify the issues or expedite the proceedings.

(2) The secretary or the hearing officer may issue a prehearing order which includes the agreements reached by the parties. Such order shall be served on all parties and shall be a part of the record.

Section 17. Requests for Admissions. (1) At any time after the filing of responsive pleadings, any party may request of any other party admissions of facts to be made under oath. Each admission requested shall be set forth separately. The matter shall be deemed admitted unless, within fifteen (15) days after service of the request, or within such shorter or longer time as the secretary or the hearing officer may prescribe, the party to whom the request is directed serves upon the party requesting the admission of a specific written response.

(2) Copies of all requests and responses shall be served on all parties in accordance with the provisions of these rules and filed with the secretary within the time allotted and shall be a part of the record.

Section 18. Discovery Depositions and Interrogatories. (1) Except by special order of the secretary or the hearing officer, discovery depositions of parties, intervenors, or witnesses, and interrogatories directed to parties, intervenors, or witnesses shall not be allowed.

(2) In the event the secretary or the hearing officer grants an application for the conduct of such discovery proceedings, the order granting the same shall set forth appropriate time limits governing the discovery.

Section 19. Failure to Comply with Orders for Discovery. If any party or intervenor fails to comply with an order of the secretary or the hearing officer to permit discovery in accordance with the provisions of these rules, the secretary or the hearing officer may issue appropriate orders.

Section 20. Reporter's Fees. Reporter's fees shall be equally shared by all parties. This shall include the reporter's per diem costs and the cost of the original transcript. All other copies will be paid by the requesting party.

Section 21. Transcript of Testimony. Hearings shall be transcribed verbatim. A copy of the transcript of testimony taken at the hearing, duly certified by the reporter, shall be filed with the hearing officer before whom the matter was heard. The hearing officer shall promptly serve notice upon each of the parties and intervenors of such filing. Participants desiring copies of such transcripts may obtain the same from the official reporter upon payment of fees fixed therefor.

Section 22. Duties and Powers of Hearing Officers. It shall be the duty of the hearing officer to conduct a fair and impartial hearing, to assure that the facts are fully elicited, to adjudicate all issues and avoid delay. The hearing officer shall have authority with respect to cases assigned to him, between the time he is designated and the time he issues his decision, subject to the rules and regulations of the cabinet; to:

(1) Administer oaths and affirmations;

(2) Rule upon offers of proof and receive relevant evidence;

(3) Regulate the course of the hearing and, if appropriate or necessary, exclude persons or counsel from the hearing for contemptuous conduct and strike all related testimony of witnesses refusing to answer any proper questions;

(4) Hold conferences for the settlement or simplification of the issues;

(5) Dispose of procedural requests or similar matters including motions referred to the hearing officer by the secretary and motions to amend pleadings; also to dismiss complaints or portions thereof, and to order hearings reopened or, upon motion, consolidated prior to issuance of this decision;

(6) Examine witnesses and to introduce into the record documentary or other evidence;

(7) Request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof;

(8) Adjourn the hearing as the needs of justice and good administration require; and

(9) Take any other action necessary under the foregoing and authorized by the published rules and regulations of the cabinet.

Section 23. Exhibits. (1) All exhibits offered in evidence shall be numbered and marked with a designation identifying the party or intervenor by whom the exhibit is offered.

(2) In the absence of objection by another party or intervenor, exhibits shall be admitted into evidence as a part of the record, unless excluded by the hearing officer pursuant to Section 27 of this regulation.

(3) Unless the hearing officer finds it impractical, a copy of each such exhibit shall be given to the other parties and intervenors.

(4) All exhibits offered, but denied admission into evidence, shall be identified as in subsection (1) of this section and shall be placed in a separate file designed for rejected exhibits.

Section 24. Rules of Evidence. Hearings before the cabinet and its hearing officers insofar as

practicable shall be governed by the rules of evidence applicable in the courts of the Commonwealth of Kentucky.

Section 25. Burden of Proof. In all proceedings commenced by the filing of a notice of hearing, the burden of proof shall rest with the cabinet.

Section 26. Objections. (1) Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence or a ruling of the hearing officer, may be stated orally or in writing, accompanied by a short statement of the grounds for the objection, and shall be included in the record. No such objection shall be deemed waived by further participation in the hearing.

(2) Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the record of the proceeding.

Section 27. Recommendations of Hearing Officer; Exceptions; Final Order. (1) The decision of the hearing officer shall include findings of fact, conclusions of law, and a recommended order to the secretary disposing of all issues before him.

(2) Any party may file exceptions to the hearing officer's findings of fact, conclusions of law, and recommended order within ten (10) days of the date of said findings of fact, conclusions of law, and recommended order.

(3) The secretary shall, within forty-five (45) days of the date of the hearing officer's findings of fact, conclusions of law, and recommended order, issue a final order modifying, repealing, or adopting the findings of fact, conclusions of law and recommended order of the hearing officer.

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: September 12, 1986

FILED WITH LRC: September 15, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts

(1) Type and number of entities affected: Counties with full service or regional jails - approximately 80-90.

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

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: Corrects wording.

TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/Hearings, procedures, disposition.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 4:010. Definitions.

RELATES TO: KRS 441.055 [441.011(6)]

PURSUANT TO: KRS 13A.350, 441.055 [441.011]

NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth definitions.

Section 1. Definitions. (1) "Jail" means county jails and correctional or detention facilities including correctional facilities, defined in KRS 67B.020 [and juvenile detention facilities,] operated by and under the supervision of any county, regional jail authority, city or urban county government. These regulations address those jails housing inmates for a maximum period of ninety-six (96) hours.

(2) "Jailer" means the duly elected or appointed official charged with the responsibility of administering the jail.

(3) "Jail staff" means deputy jailers[, matrons, cooks,] and other [food service] personnel involved in the supervision, custody, care, or treatment of prisoners in the jail.

(4) "Inmate" means any adult person confined in the jail pursuant to any code, ordinance, law or statute of any unit of government and who is:
(a) Charged with or convicted of an offense; or
(b) Held for extradition or as a material witness; or
(c) Confined for any reason.
(5) "Cabinet" means the Corrections Cabinet.
(6) "Medical authority" means the person or persons licensed and certified to provide medical care to inmates in the jail.
(7) "Security area" means a defined space whose physical boundaries have controlled ingress and egress.
(8) "Inmate living area" means a group of rooms or cells which provide housing for the inmate population.
[(9) "Holding area" means an area used to hold one (1) or more persons temporarily while awaiting processing, booking, court appearance, discharge, or until they can be moved to general housing areas.]
(9) [(10)] "Detoxification area" means an area used to temporarily hold one (1) or more chemically impaired persons during the detoxification process until they can care for themselves.
[(11) "Dormitory" is an area equipped for housing more than one (1) person.]
[(12) "Dayroom" means a secure area with controlled access from the inmate living area, to which inmates may be admitted for daytime activities such as dining, bathing, and selected recreation or exercise.]
[(13) "Safety vestibule" is a defined space that promotes security by the use of two (2) or more doors and can be used to observe those who pass.]
[(14) "Sallyport" is a drive-through made secure by electrically or manually operated doors for entrance and exit. It is generally located in close proximity to the jail intake area.]
(10) [(15)] "Special needs inmate" is any person with a notable physical, mental or emotional handicap or any person who poses a threat to himself or other inmates; any person who requires maximum security or isolation; and any person charged with 202A [juveniles who cannot be housed out of sight and sound].
(11) "Penal type" means furnishings approved by the Corrections Cabinet.

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with ninety-six hour holdover - approximately 10.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): May allow counties with jails in poor condition an option to remain open as a ninety-six hour holdover.
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Clarifies existing language.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/definitions.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 4:020. Administration; management.

RELATES TO: KRS 441.055 [441.011(6)]
PURSUANT TO: KRS 13A.350, 441.055 [441.011]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures to be followed for the administration and management of jails.

Section 1. Policy and Procedures -

Organization. (1) The jailer shall develop and maintain an organizational chart and an operations manual of policy and procedures which has been adopted by the fiscal court and filed with the Corrections Cabinet.

(2) The written policy and procedures manual shall be made available to employees.

(3) The operations manual shall include but not be limited to the following aspects of the jail's operation:

(a) Administration;
(b) Fiscal management;
(c) Personnel;
(d) Security and control;
(e) Sanitation and management;
(f) Medical services;
(g) Food services;
(h) Emergency and safety procedures;
(i) Classification;
(j) Inmate programs;
(k) Inmate services; [and]
(l) Admission and release;
(m) Transportation.

(4) The operations manual shall be reviewed and updated at least annually. All revisions shall be marked with the effective date and filed with the Corrections Cabinet.

Section 2. Legal Assistance. (1) The jailer shall be represented and advised by the county attorney as provided in KRS 69.210.

(2) The county attorney shall advise the fiscal court in writing when legal representation or legal advisement to the jailer by that office is inappropriate or creates a conflict of interest. The fiscal court shall provide funds for adequate legal representation for the jailer when the jailer has acted within his official capacity and is involved in civil or criminal litigation as a result. The fiscal court shall be encouraged to carry liability insurance for the jail staff and other county officials.

Section 3. Public Information. (1) The jailer shall develop and implement a procedure [plan] for the dissemination of information about the jail to the public, to government agencies, and to the media. The public and inmates shall have access to the procedure. [:]

[(a) The plan; and]

[(b) Specific jail rules and procedures affecting inmates as developed in accordance with this plan.]

(2) With the consent of the inmate, news media shall be permitted to interview any inmate as set forth in the jail's policy and procedure manual except when the safety and security of the jail is affected.

(3) Written policy and procedure shall set forth the time and length allowable for inmate interviews.

(4) All official statements to the news media, relating to jail administration policy, shall be made by the jailer only or his designee.

(5) Release of inmate information shall include the following:

(a) All requests for information shall be addressed to the jailer;

(b) Governmental agencies shall be provided with information pertinent only to their specific function and with the consent of the inmate; and

(c) [Relatives and] Private citizens shall only be provided with information supplied to the media.

(6) No information shall be released that is detrimental to another inmate.

Section 4. Information Systems. (1) The jailer shall establish and maintain an information system which shall comply with the requirements of this section.

(a) Jail information and inmate records shall be retained in written form or within computer records.

(b) Jail information and inmate records shall be stored in a secure manner so that they are protected from theft, loss, tampering, and destruction. Written guidelines shall specify the length of time an inmate record shall be maintained after an inmate's release from custody and the conditions under which archives are maintained.

(c) A written report shall be made of all extraordinary or unusual occurrences within twenty-four (24) hours of the occurrence. This report shall be placed in the jail record [inmate's folder]. Extraordinary or unusual occurrences shall include but not be limited to:

1. Death of an inmate;
2. Attempted suicide or suicide;
3. Serious injury, whether accidental or self-inflicted;
4. Attempted escape or escape from confinement;
5. Fire;
6. Riot;
7. Battery, whether by a staff member or inmate;
8. Sexual assaults;
9. Occurrence of contagious or infectious disease, or illness within the facility.

[10. Violent acts or behavior by either mental inquest detainees held under KRS Chapter 202A or inmates known to be or suspected to be mentally ill or mentally retarded.]

(d) All jails shall keep a log of daily activity within the jail.

(e) Each jail shall maintain records on the types and hours of training completed by each employee. A current and accurate personnel record shall be maintained on each employee. Each employee shall have access to his individual record.

Section 5. Inmate Records. (1) The information required by 501 KAR 4:120 for admission and release shall be retained for each inmate. Other information retained in each inmate's jail record shall include but not be limited to:

(a) Court orders;
(b) Personal property receipts;
(c) Infraction reports;
(d) Reports of disciplinary actions; [and]
(e) Unusual occurrences and in the case of death of an inmate, disposition of the inmate's property and remains;
(f) Work record.

(2) Medical records shall be maintained as required by 501 KAR 4:090.

(3) The jailer shall ensure that inmate records are safeguarded in accordance with relevant federal and state laws and regulations.

(4) The jailer shall require that inmates sign a "Release of Information Consent Form" prior to the release of information to individuals other than law enforcement or court officials. A copy of the signed consent form shall be maintained

in the inmate's record. This form shall include but not be limited to:
(a) Name of person, agency or organization requesting information;
(b) Name of facility release information;
(c) Specific information to be disclosed;
(d) Purpose of this information;
(e) Date consent form is signed;
(f) Signature of inmate; and
(g) Signature of employee witnessing the inmate's signature.
[(5) Juvenile jail records shall be kept separate from adult jail records and shall be made available for examination only as provided in KRS 208.340. Upon an order of expungement pursuant to KRS 208.275, the jailer shall seal the records and the juvenile's detention shall be deemed never to have occurred.]
[(6) All jail records maintained on mental inquest detainees held under KRS Chapter 202A shall be kept separate from any other jail records. Mental inquest records are confidential and shall be made available for examination only as provided in KRS 202A.091. Upon an order of expungement pursuant to KRS 202A.091(2), the jailer shall seal the records and the mental inquest detainee's stay at the jail shall be deemed never to have occurred.]

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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with ninety-six hour holdover - approximately 10.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: Requires changes to policy manual to be filed with Corrections Cabinet.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Clarifies existing language.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/Administration; management.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 4:030. Fiscal management.

RELATES TO: KRS 441.055 [441.011]
PURSUANT TO: KRS 13A.350, 441.055 [441.011]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth fiscal management procedures to be followed in jails.

Section 1. Budgeting. (1) The jailer, county judge/executive and treasurer shall prepare and present a line item budget request to the fiscal court in accordance with KRS 441.215 [441.008].
(2) The jailer shall use the format for budget development on forms prepared by the state local finance officer.
(3) The state local finance officer shall submit budget forms to the jailer by March 1 of each year.

Section 2. Accounting. (1) The county treasurer shall maintain fiscal records which clearly indicate the local cost for operating the jail in accordance with KRS 68.020 and 441.235 [441.008].
(2) Fiscal records shall have an itemized breakdown of the total operating expenses including but not limited to wages, salaries, food, and operating supplies.

Section 3. Canteen. As provided in KRS 441.135 [441.067], each jailer may establish a canteen to provide inmates with approved items not supplied by the jail.

Section 4. Audits. The county jail budget shall be audited in accordance with KRS 43.070.

Section 5. Payroll. Jail employees shall be paid on the same dates as county employees.

Section 6. Inventory. Each jailer shall implement and utilize the established inventory procedure of the county.

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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with ninety-six hour holdover - approximately 10.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Brings language in conformity with existing statute.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/Fiscal management.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 4:040. Personnel.

RELATES TO: KRS 441.055 [441.011]
PURSUANT TO: KRS 13A.350, 441.055 [441.011]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth personnel procedures to be followed in jails.

Section 1. Staffing. (1) Each jail shall provide twenty-four (24) hour awake supervision for all inmates.
(2) When female inmates are lodged in the jail, female staff will be made available as needed to perform sensitive procedures to include but not limited to:
(a) Admission; and
(b) Searches.

Section 2. Background Checks; Qualifications. (1) Prior to employment, all employees of the jail shall be subject to thorough background investigations to include criminal, medical, and employment history.
(2) All security employees of the jail shall be at least twenty-one (21) years of age.

Section 3. Compensation. All employees of the jail shall receive salaries at least equal to the State Minimum Wage Law except where Federal Minimum Wage Law has to be applied.

Section 4. Training; Curriculum. (1) In order to qualify for the training expense allowance under KRS 441.017, the jailer shall receive a minimum of forty (40) hours annual inservice training certified by the Corrections Cabinet.
(a) Local Corrections training efforts shall be certified by the Corrections Cabinet.
(b) The Curriculum Advisory Committee shall advise the Corrections Cabinet on topics for training curriculum.
(c) Jailer training shall be delivered on a regional basis by the Corrections Cabinet.
(2) Deputy jailers, correctional officers and other employees whose jobs require supervision of inmates [The jail staff] shall receive a minimum of sixteen (16) hours annual inservice training delivered by the Corrections Cabinet on a regional or local basis.

Section 5. Physical Fitness. The jailer shall ensure that all employees maintain a level of physical fitness that will allow the employees to satisfactorily perform their duties.

Section 6. Policy Procedure. Written policy shall specify that equal employment opportunities exist for all positions.

Section 7. Code of Ethics. (1) The jailer shall make available a written code of ethics.

(2) The written code of ethics shall be incorporated in the jail's policy and procedures manual and shall include but not be limited to the following:

(a) Employees shall not:

1. Exchange personal gifts or favors with inmates, their family, or friends;
2. Accept any form of bribe or unlawful inducement;
3. Perform duties under the influence of intoxicants or consume intoxicants while on duty;
4. Violate or disobey established rules, regulations, or lawful orders from a superior;
5. Discriminate against any inmate on the basis of race, religion, creed, gender, national origin, or other individual characteristics;
6. Employ corporal punishment or unnecessary physical force;
7. Subject inmates to any form of unwarranted physical or mental abuse;
8. Intentionally demean or humiliate inmates;
9. Bring any type of weapon or item declared as contraband into the jail without proper authorization;
10. Engage in critical discussion of staff members or inmates in the presence of inmates;
11. Divulge confidential information without proper authorization;
12. Withhold information which, in so doing, threatens the security of the jail, its staff, visitors, or the community;
13. Through negligence, endanger the well-being of self or others;
14. Engage in any form of business or profitable enterprise with inmates; and
15. Inquire about, disclose, or discuss details of an inmate's crime other than as may be absolutely necessary in performing official duties.

(b) Employees shall:

1. Comply with all established rules, regulations, and lawful orders from superiors;
2. Treat all inmates in a fair, impartial manner; and
3. Report all violations of the code of ethics to the jailer.

(3) Any employee violation of this code of ethics shall be made a part of that employee's personnel file.

[Section 8. Grievance Procedure. Jail employees shall have access to the established grievance procedure of their respective county.]

[Section 9. Hiring Procedures. (1) The jailer shall have a written personnel plan governing the selection, training, promotion, and retention of jail personnel.]

[(2) Personnel assignments shall be based on merit.]

[Section 10. Performance Evaluation. A written standardized performance evaluation shall be conducted at least annually by the jailer.]

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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts

(1) Type and number of entities affected: Counties with ninety-six hour holdover - approximately 10.

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

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: Reduces paperwork requirements of jailer, i.e., employee evaluations and personnel plan.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change.

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

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: Clarifies existing language.

TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/Personnel.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 4:050. Physical plant.

RELATES TO: KRS 441.055 [441.011]
PURSUANT TO: KRS 13A.350, 441.055 [441.011]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails.

Section 1. Purpose. The purpose of this chapter is to provide minimum standards for the renovation or construction of jail facilities and for measuring compliance of existing jails in accordance with KRS 441.012 and 441.013, and Kentucky Construction/Renovation Standards.

Section 2. Consultation. The Corrections Cabinet shall provide for any county government which wishes to remodel an existing jail or construct a new jail, a consultant knowledgeable in the design, utilization, and operation of jails. The consultant shall meet with the appropriate officials of that county and advise them in matters including but not limited to:
(1) Site selection;
(2) Probable need as it relates to capacity and types of inmates to be housed;
(3) Sources of financing for construction;
(4) Laws and regulations relating to treatment of inmates;
(5) Laws and regulations relating to facilities for inmates;
(6) Sources of revenue for operations of the jail;
(7) Probable cost for operation of the jail; and
(8) Potential for shared facilities with adjoining counties.

Section 3. Site Acceptance by the Corrections Cabinet. The following criteria shall be considered in site selection including but not limited to:
(1) Size;
(2) Proximity to courts;
(3) Proximity to community resources;
(4) Availability of public transportation;
(5) Environmental health;
(6) Adequate parking; and
(7) Provisions for future expansion.

Section 4. Construction Documents. Prior to the renovation or construction of any jail, plans and specifications shall be submitted to the Corrections Cabinet for review and approval [acceptance] as follows:
(1) Programming phase. This submission shall show:
(a) Evaluation of existing facility;
(b) Population analysis;
(c) Space requirements based on population analysis and standards for the facility and site outlined in the Kentucky Minimum Standards for Local Jails;
(d) Staffing analysis;
(e) Cost analysis;
(f) Financing alternatives, if applicable;
(g) Summary and recommendations; and
(h) This phase is submitted on major renovation or new construction only and for information review purposes.
(2) Schematic phase.
(a) Scale drawings of each floor plan with all proposed rooms and areas one-eighth (1/8) inch minimum;
(b) Scale drawings of the site, locating the building, parking and other facilities - one (1) inch equals fifty (50) feet;
(c) Documentation of site as to:
1. Size;
2. Proximity to courts;
3. Proximity to community resources;
4. Availability of public transportation;
5. Environmental health;
6. Adequate parking; and
7. Provisions of future expansion.
(d) Sections through the proposed structure indicating ceiling heights of rooms, mechanical spaces, roof slopes and other related information;
(e) Scale elevation drawings of all exterior walls; and
(f) Schematic cost estimate.
(3) Design development phase.
(a) Scale drawings on each floor plan with all proposed rooms and areas with their dimensions one-eighth (1/8) inch minimum;
(b) All necessary construction drawings including construction details;
(c) Specifications for all materials and workmanship;
(d) A proposed contract with general and special conditions;
(e) Engineering calculations for the foundations, structure, heating, ventilating, air conditioning, lighting and plumbing; and
(f) Detailed estimates of cost of land, site development, construction, financing, professional services, equipment and furnishings.
(4) Construction document phase.
(a) Revised design development construction drawings following review by all applicable agencies.
(b) Signed by an architect registered in the Commonwealth of Kentucky and revised if necessary to include all changes required by the Corrections Cabinet.
(c) Revised design development specifications of material and workmanship following review by all applicable agencies.
(5) Contract administration.
(a) Signed copies of all contracts for construction, financing and bonding;
(b) Signed copies of all construction permits;
(c) Documentation of review by all other applicable state agencies; and
(d) All change orders must be submitted to the Corrections Cabinet for review and approval.
(6) The Corrections Cabinet will review all submissions within thirty (30) days of receipt and issue a letter of approval, acceptance with required changes, or rejection with reasons. No construction shall be started until the construction document phase as required in subsection (5)(d) of this section has been approved.
(7) Depending on the site of the proposed constructions, renovation or addition the Corrections Cabinet may combine two (2) or more phases as outlined above for review and approval.
(8) All changes prior to the approval of final construction documents shall require appropriate modifications to the final construction documents including redrawing of plans and rewriting of specifications. All changes after

the approval of final construction documents shall require adequate documentation which fully describes and illustrates the changes which may include written and/or graphic addenda, field orders and change orders. In addition a set of accurate as built drawings shall be submitted to Corrections within sixty (60) days of occupancy of the facility.

[(1) Schematic outline. This submission shall show:]

[(a) Control of the site;]

[(b) Acceptance of the site for a jail by the planning and zoning commission, if any, and all other interested government agencies;]

[(c) A list of all proposed rooms and areas and their dimensions;]

[(d) A circulation diagram;]

[(e) An estimate of cost of land, services, construction and financing;]

[(f) Sources of development funds; and]

[(g) Post assignment and staffing needs.]

[(2) Preliminary drawings. This submission shall include:]

[(a) Scale drawings (one (1) inch equals fifty (50) feet or larger) of the site, locating the buildings, parking, and other facilities;]

[(c) Sections through the proposed structure indicating ceiling heights of all rooms, mechanical spaces, roof slopes, and other related information;]

[(d) Elevation drawings (one-eighth (1/8) inch to the foot or larger) of all exterior walls;]

[(e) A current estimate of the costs;]

[(f) A statement regarding the sources of the development funds; and]

[(g) A map of the community locating the proposed jail, the courts, community facilities, population centers, business districts, highways, roads, and police department.]

[(3) Final construction drawings shall be submitted to the Corrections Cabinet, the Department for Housing, Buildings, and Construction, and any other applicable state agency for review and acceptance and shall include:]

[(a) All necessary construction drawings including construction details;]

[(b) Specifications for all materials and workmanship;]

[(c) A proposed contract with general conditions and special conditions;]

[(d) Engineering calculations for the foundations, structures, heating, ventilation, air conditioning, lighting, and plumbing, signed by licensed architects and engineers;]

[(e) Detailed estimates of the costs of land, land improvements, construction, financing, professional services, and building permits; and]

[(f) An updated statement in detail regarding the sources of development funds.]

[(4) Construction documents. This submission shall include:]

[(a) Construction drawings and specifications signed by the architect registered in the Commonwealth of Kentucky and revised if necessary to include all changes required by the Corrections Cabinet;]

[(b) Signed copies of all contracts for construction, financing, and bonding revised as necessary to include all changes required by the Corrections Cabinet;]

[(c) Signed copies of all construction permits; and]

[(d) Documents will bear signed approvals from all other applicable state agencies.]

[(5) The Corrections Cabinet will review all submissions within thirty (30) days of receipt and issue a letter of acceptance, acceptance with required changes, or rejection with reasons. No construction shall be started until the construction documents as required in subsection (4) of this section have been accepted with required change by the Corrections Cabinet.]

Section 5. Waiver of Compliance. (1) The Corrections Cabinet may grant a waiver of the implementation of the physical plant standards for an existing jail if the Cabinet determines:

(a) That strict compliance will cause unreasonable difficulties;

(b) That a waiver will not seriously affect the security, supervision of prisoners, programs, or the safe, healthful, or efficient operations of the jail; and

(c) That compliance is to be achieved in a manner other than that which is specified, but in a manner which is sufficient to meet the intent of these standards.

(2) When a waiver from a standard is desired, the responsible local authority shall submit a written request to the Corrections Cabinet. The written request shall include the following information:

(a) Citation of the specific standard involved;

[(b) Specification of the efforts made to bring the jail into strict compliance;]

(b) [(c)] Identification and description of the specific difficulties involved in meeting strict compliance;

(c) [(d)] Description of the alternative proposed; and

(d) [(e)] Provision of sufficient documentation which will demonstrate that the waiver, if granted, will not jeopardize the security, supervision of inmates, programs, or the safe, healthful, or efficient operation of the jail.

(3) A waiver, if granted by the Corrections Cabinet, shall apply only to the petitioner for the specific situation cited and for the period of time specified and shall include any requirements imposed by the cabinet as conditions upon the waiver. No waiver shall be granted for longer than twelve (12) months. Any waiver granted for a twelve (12) month period shall be reviewed at the end of the period for reapproval.

Section 6. Facility Design. Depending upon its size and intended use, every jail shall include within its walls the following facilities and equipment:

[(1) Entrances. Every jail shall have three (3) separate and distinct entrances; a public entrance, an adult inmate entrance, and a service entrance. The Corrections Cabinet may permit these entrances to be combined.]

[(a) Public entrance. The purpose of this entrance is to divert the general public from the security area of the jail and from contact with incoming inmates. This area will be the location for the general public to conduct their business at the jail. The following design features shall be incorporated:]

[1. Provide a clear view of this from the booking/control area; and]

[2. Meet the requirements for handicapped

persons.]

[(b) Service entrance. The purpose of this entrance is to provide access to service vehicles and delivery trucks with minimum security risks. It may contain a loading dock and shall be located in close proximity to storage rooms and the kitchen area.]

(1) Entrance. [(c) Adult inmate entrance.] The purpose of this entrance is to provide secure and private access to the jail for incoming inmates. This entrance must [may] be serviced by a walk-in vestibule [drive-in sallyport] and shall incorporate the following design features:

(a) [1.] Be located adjacent to the booking[/control] area;

(b) [2.] Be monitored from the booking[/control] area;

(c) [3.] Be free of steps or other obstacles;

(d) [4.] Be protected from inclement weather; and

(e) [5.] Have a security penal type pistol [metal] locker in the vestibule [to secure weapons separate from inmate ingress].

(2) Exits. All openings in the facility shall be secured with penal devices. [No exits other than those entrances specified in subsection (1) of this section shall be permitted except for fire exits. Such fire exits, when possible, shall open into controlled, secure courts, and exercise areas only.]

(3) Administrative areas. This area will provide space outside the secured area of the jail to house the administrative offices and to accommodate the public. The Corrections Cabinet may permit these areas to be combined. This shall contain the following:

(a) Waiting area. To provide space for the general public which is protected from inclement weather. This area may have toilet facilities and drinking fountains.

(b) Visiting area, public side. This area shall provide for private communication with inmates and be located in close proximity to the waiting area. All furnishings of this area shall be [of approved] penal type and permanently attached.

[(c) Entrance to security area. The purpose is to provide secure access to the security area of the facility and access shall be controlled from the security area.]

(4) Security area. The area shall enclose all facilities and services required for or used by the inmates. It shall contain the following function areas:

(a) Booking/operations [control] area. The purpose is to provide an operational area to carry out admission and release procedures and to control all movement within the jail. Design features shall include:

1. Doors and windows shall be [of approved] penal type;

2. Walls, floors, and ceilings shall be approved masonry, concrete or steel construction;

3. Audio and video monitors shall be located in this area;

4. Gauges, indicators, and alarms shall be located in this area;

5. Central control panels shall be located in this area, [; and]

[6. This area shall permit visual observation of all corridors, entrances and exits under its supervision.]

(b) When jail staff are not within normal hearing distance of inmates, an audio communication system shall be installed to allow staff to communicate with inmates.

(c) A panic button, staff call station or portable communication device shall [may] be installed or available in corridors and staff observation areas, which shall sound an alarm [in the booking/control area] in the event of an emergency situation.

(d) Detoxification area. The purpose is to provide an area to separate intoxicated inmates from the general inmate population. Design features shall include:

1. A minimum of fifty (50) square feet per inmate;

2. A minimum of eight (8) feet ceiling height;

3. One (1) bunk [slab or bench] of approved material thirty (30) inches wide by seventy-two (72) inches long by four (4) inches high for each inmate;

4. An approved penal commode/lavatory and a flush floor drain controlled from outside the cell;

5. A bubble-type drinking fountain;

6. All fixtures and equipment shall be [approved] penal type;

7. All surfaces inside the area shall be smooth, flush, and free of sharp edges and protrusions;

8. All horizontal surfaces (the bunk [bench] and the floor) shall be sloped (one-fourth (1/4) of an inch to the foot) to the [a] floor drain;

9. All protruding corners (except at ceiling) shall be coved; and

10. Ceiling, walls, surfaces of the wall base, and floors shall be of approved masonry, concrete or steel construction.

(11) Each detox cell shall have sufficient penal type fixture(s) capable of providing twenty (20) foot-candles of light with a nightlight capable of providing five (5) foot-candles of light.

(e) Holding areas. The purpose of this area is for temporary detention. This area is considered optional for a ninety-six (96) hour holdover. Design features shall include:

1. Twenty-five (25) square feet per rated capacity; minimum size of the area shall be fifty (50) square feet;

2. Eight (8) feet ceiling height;

3. One (1) penal bench per rated capacity;

4. All equipment shall be penal type;

5. One (1) approved penal type lavatory/commode;

6. One (1) penal type light fixture capable of providing twenty (20) footcandles of light;

7. Ceilings, walls, surfaces of wall bases and floors shall be of approved masonry, concrete or steel construction.

(f) [(e)] Multi-use [purpose] room. The purpose of this area is to provide space for medical examinations, [and] confidential conferences and other uses [between inmates and lawyers, probation officers, clergy, etc]. Design features shall include:

1. Doors, windows, and light fixtures shall be [approved] penal type; and

2. Walls, floor, and ceiling shall be of approved masonry, concrete or steel construction.

3. Furnishings shall be fire rated.

[(f) Kitchen. The purpose of this area is to provide sufficient space and equipment for preparing meals for the maximum rated capacity of the jail. Design features shall include:]

[1. Compliance with standards of the state

Food Service Code;]

[2. Commercial type stoves and refrigeration units;]

[3. Doors and windows will be of approved penal type; and]

[4. Walls, floors, ceilings will be approved fire rated masonry construction.]

(g) Visiting area, inmate side. The purpose is to provide secure and private visitation for the inmates. All equipment and furnishings shall be penal type and permanently attached. [Food distribution area. If food is not prepared in the jail, only a distribution area is required. While a separate room may not be necessary, the area shall be partitioned to ensure sanitary conditions.]

(h) Kitchen facilities and services shall comply with the Kentucky Food Service Code.

(5) Confinement areas. The purpose of these areas is to provide suitable living conditions for all types of inmates lodged in the jail. Design features for all living areas shall include:

(a) Providing sufficient natural or artificial light to provide [twenty-five (25) foot candles of light for reading purposes and] twenty (20) foot candles of light with a nightlight capable of providing five (5) foot-candles of light [for all other purposes];

(b) Providing ventilation to meet air exchange as required in the state health codes [Kentucky Building Code];

(c) Providing temperature ranges within comfort zones (sixty-five (65) degrees F to eighty-five (85) degrees F);

(d) Shall be of approved masonry, concrete or steel construction;

(e) All furnishings and equipment shall be [approved] penal type and permanently attached;

(f) Each confinement area shall have approved floor drains to service each living area [outside the immediate living area];

(g) Be equipped with an approved securable food pass; and

(h) Electrical outlets when provided shall shall be groundfaulted or have ground-fault circuit breakers. Receptacle and switch plate covers shall be penal type.

(6) All cells and housing areas design features shall include:

(a) Prisoner living areas shall be equipped with the security hardware to meet the security requirements of the inmate(s) housed in the area.

(b) Cells may open into a dayroom and no cell shall be less than seventy (70) square feet. No cell shall have more than two (2) penal type bunks. When two (2) persons are housed in a cell, they shall not be detained in the cells for longer periods than twelve (12) hours.

(c) Each cell shall contain:

1. A [An approved] penal type commode, lavatory and drinking fountain, penal type bunks secured to the floor and/or wall, penal type table with two (2) seats, and penal type storage area for personal property [storage shelf with breakaway hangers].

2. A light fixture of [approved] penal type with controls nonaccessible to inmates.

(d) Each dayroom area shall contain:

1. Thirty-five (35) square feet per inmate;

2. One (1) commode per eight (8) inmates;

3. One (1) lavatory per eight (8) inmates;

4. One (1) drinking fountain per fifteen (15) inmates;

5. One (1) shower per fifteen (15) inmates; and

6. Tables and benches per rated capacity with space twenty-four (24) inches wide and twelve (12) [eighteen (18)] inches deep per inmate.

(e) Multi-occupancy area. The jail may [shall] provide living space for low security inmates. This area shall be either cells opening into a dayroom or a combination of this and multiple occupancy dorms. If dorms are used, they must include:

1. Fifty (50) feet per inmate;

2. One (1) commode/lavatory/drinking fountain per eight (8) inmates;

3. One (1) shower per fifteen (15) inmates;

4. Sufficient tables and benches to handle the number of inmates housed in the dorm;

5. One (1) penal type storage area for personal property [shelf with breakaway hangers] per inmate; and

6. One (1) penal type bunk secured to the floor or wall per inmate.

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: September 12, 1986

FILED WITH LRC: September 15, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts

(1) Type and number of entities affected: Counties with ninety-six hour holdover - approximately 10.

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

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): Would allow more counties in the future the option of serving as a ninety-six hour holdover.

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change.

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

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

Reduce physical plant requirements.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/Physical plant.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 4:060. Security; control.

RELATES TO: KRS 441.055 [441.011]
PURSUANT TO: KRS 13A.350, 441.055 [441.011]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth security procedures to be followed in local jails.

Section 1. Policy and Procedure. (1) Each jailer shall develop a written policy and procedure governing all security aspects of the jail operations.
(2) The Corrections Cabinet shall provide technical assistance to the jailer in his efforts to formulate such written policy and procedure.
(3) These policy and procedures shall include but not be limited to:
(a) Inmate rules and regulations;
(b) Staffing;
(c) Searches of inmate and of secure areas;
(d) Visitation;
(e) Key and weapon control;
(f) Inmate head counts;
(g) Surveillance checks;
(h) [(g)] Emergency situations;
(i) [(h)] Jail schedule;
(j) Administering medication.

Section 2. Inmate Supervision. (1) Jail personnel shall conduct and document direct in-person surveillance of each inmate on an irregular schedule, no less than every sixty (60) minutes.
(2) Jail personnel shall conduct and document direct in-person surveillance every twenty (20) minutes on [the following classes of inmates:]
[(a)] inmates in detox cell. [; and]
[(b) Juveniles, if housed in the jail.]
(3) When available, closed-circuit television shall be used primarily to monitor hallways, stairwells, sallyports, perimeter security, points of egress, and common and support areas.
(4) There shall be at least three (3) documented inmate counts every twenty-four (24) hours during which each inmate's physical presence, by show of skin, or movement [or speech] shall be observed. At least one (1) count shall be conducted per shift.

Section 3. Security Procedures. (1) Each jailer shall establish a procedure for inspecting all facility area accessible to inmates for contraband and physical security at least weekly.
(a) Isolated security spot checks for contraband shall be conducted daily.
(b) Items considered as contraband or items permitted in the jail shall be clearly defined in the jail rules.
(c) There shall be a written procedure for reporting security irregularities.
(2) No weapon, ammunition, chemical agent, related security equipment, or any object which represents the potential of being used as a weapon shall be permitted in the security area unless authorized by the jailer under emergency circumstances as determined by the jailer.
(3) All firearms, weapons, and chemical agents assigned to the jail shall be stored in an arsenal, vault, or other secure room under lock.
(a) This area shall be inaccessible to all unauthorized persons.
(b) There shall be a written procedure for issuing and accounting for all weapons.
(4) All security devices and safety equipment shall be inspected monthly to ensure that they are maintained in proper working order.
(5) All tools, toxic, corrosive, and flammable substances, and other potentially dangerous supplies and equipment shall be stored in a locked area which is secure and located outside the security perimeter of the confinement area.
(6) Tools, supplies and equipment which are hazardous shall be used by inmates only under the direct supervision of jail personnel.
(7) At no time shall any inmate be assigned to a position of authority over any other inmate or given the responsibility of providing inmate services such as commissary, telephone calls, or delivery of meals.
(8) Inmates shall never be permitted to perform or assist in any security duties.
(9) Inmates shall be thoroughly searched whenever entering or leaving the security perimeter.
(10) Written procedures shall be developed for transporting outside the jail.
(11) Each jailer shall develop written policies and procedures governing the use of physical restraints.
(12) No inmate placed in physical restraints shall be left unattended.
(13) All jails shall have key control procedures which shall include but not be limited to:
(a) A key control center which is secure and inaccessible to unauthorized persons at all times;
(b) An accounting procedure for issuing and returning keys;
(c) A procedure for immediate reporting and repairing of any broken or malfunctioning key or lock;
(d) A set of duplicate keys to be maintained in a separate, secure place;

(e) No inmate shall be permitted to handle keys used to operate jail security locks;
(f) Keys operating locks to outside doors or gates shall not be permitted in the confinement area;
(g) Emergency keys and keys to critical security areas shall only be issued in accordance with written procedures established by the jailer;
(h) Precautions similar to those outlined above shall be taken to ensure the security of all non-key operated locking devices such as electrical switches or levers;
(i) Locks to outside exits shall be keyed differently from interior locks.

Section 4. Daily Jail Log; Special Reports. A daily jail log shall be kept current and reflect all significant occurrences within the jail. Special reports shall include [detailed, written record shall be made of all significant activities occurring within the jail including but not limited to]:
[(1) Security and safety inspections;]
[(2) Inmate counts;]
(1) [(3)] Use of force;
(2) [(4)] Disciplinary actions;
[(5) Movement inside and outside the jail;]
(3) [(6)] Medical or mental health treatment;
(4) [(7)] Feeding schedule and menus;
(5) [(8)] Extraordinary occurrences:
(a) Fires;
(b) Assaults;
(c) Suicide or attempted suicide;
(d) Escape or attempted escape;
(6) [(9)] Inmate vandalism:
(a) Destruction of jail property;
(b) Flooding of plumbing fixtures;
(7) [(10)] Staff roster for each shift;
(8) [(11)] Telephone log of initial phone call(s);
(9) [(12)] Visitors' log;
(10) [(13)] Fire planning sessions [drills].

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with ninety-six hour holdover - approximately 10.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Clarifies existing language.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/Security; control.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 4:070. Safety; emergency procedures.

RELATES TO: KRS 441.055 [441.011]
PURSUANT TO: KRS 13A.350, 441.055 [441.011]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth safety and emergency procedures to be followed in local jails.

Section 1. Policy and Procedure. (1) Each jail shall have a written policy and procedure which specifies fire prevention regulations and practices to ensure the safety of inmates, visitors, and staff. These shall include but not be limited to:
(a) Provision for fire emergency planning sessions [drills] for staff [and inmates] at least quarterly;
(b) Written documentation of fire planning sessions [drills];
(c) A fire safety inspection by the Corrections Cabinet at least once a year

[semi-annually];
(d) Inspection and testing of fire protection equipment by qualified persons at least annually with visual inspections by staff monthly;
(e) Smoking restrictions and regulations; and
(f) Written evacuation plan coordinated with local fire officials.
(2) Each jail shall have written policy and procedures for emergency situations including but not limited to:
(a) Escapes;
(b) Taking of hostages;
(c) Riots;
(d) Food poisoning;
(e) Civil disturbances in the community;
(f) Natural disasters;
(g) Suicides; and
(h) Other death and disorder.

Section 2. Physical Plant. (1) Each jail shall comply with the NFPA Life Safety Code (1981 Edition).
(2) [(1)] Each jail shall have exits which are distinctly and permanently marked, visible at all times, kept clear, and maintained in usable condition.
(3) [(2)] Each jail shall have equipment necessary to maintain essential lights and communications in an emergency situation.
(4) [(3)] In all areas where an inmate may be confined each jail shall be provided with and emergency smoke evacuation system activated by smoke detectors.
(5) [(4)] Each jail shall have an approved fire alarm and smoke detection system which meets the National Fire Safety Code (1981 edition, Chapters 14 and 15).
[(5) Each jail shall comply with the National Fire Safety Code (1981 edition, Chapters 14 and 15).]

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with ninety-six hour holdover - approximately 10.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Clarifies existing language.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/Safety; emergency procedures.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 4:080. Sanitation; hygiene.

RELATES TO: KRS 441.055 [441.011]
PURSUANT TO: KRS 13A.350, 441.055 [441.011]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures to provide proper sanitation and hygiene in jails.

Section 1. Procedures. (1) The jailer shall provide for the control of vermin and pests.
(2) The jail shall provide for both solid and liquid waste disposal.
(3) The jailer shall have a written preventative maintenance plan which includes but is not limited to:
(a) A cleaning schedule for various locations and items in the jail;
(b) A schedule for inspections by the jailer;
(c) A schedule for trash and garbage removal; and
(d) A schedule for periodic inspection and maintenance of specific mechanical equipment.
(4) The jail shall have fresh and purified air circulating within inmate living and activity

areas consistent with the state health code [at least equivalent to ten (10) cubic feet per inmate per minute].

(5) [Except in detox cells,] The jail shall furnish clean, sanitized bedding to [each] inmates except those in detox or holding areas and unless it is determined to be detrimental to a particular inmate. Bedding shall include [including but not limited to]:

(a) One (1) mattress;

(b) One (1) mattress cover;

(c) One (1) blanket, when conditions require [and sheet];

(d) One (1) sheet;

(e) [(d)] One (1) pillow; and

(f) [(e)] One (1) pillowcase.

(6) Each inmate shall be issued a clean towel upon admission to an inmate living area.

(7) All floor, toilets, [bathtubs,] and sinks in the jail shall be washed daily or more often as necessary.

(8) All showers shall be cleaned on at least a weekly basis.

(9) All inmates assigned to inmate living areas shall be issued or permitted to obtain the following hygienic items:

(a) Soap;

(b) Toothbrush;

(c) Toothpaste;

(d) Toilet paper; and

(e) Female sanitary supplies (where applicable).

Indigent inmates shall be furnished these items by the jail.

(10) All inmates shall be permitted to shave daily. If a communal razor is used, it shall be sanitized before each use. No inmate shall be forced to shave except for medical purposes and under the specific orders of the medical authority.

(11) Inmates shall not be forced to cut their hair except for medical purposes and under the specific orders of the medical authority.

(12) All inmates shall be provided shower [and bathing] facilities within twenty-four (24) hours of admission. Inmates shall be permitted to [bathe or] shower daily.

(13) All inmates in the jail shall be provided with hot and cold running water for personal hygiene [bathing].

(14) As required in KRS 441.064 [441.012], the jail shall be inspected by the Corrections Cabinet bi-annually.

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: September 12, 1986

FILED WITH LRC: September 15, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts

(1) Type and number of entities affected: Counties with ninety-six hour holdover - approximately 10.

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

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change.

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

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: Clarifies existing language.

TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/Sanitation; hygiene.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 4:090. Medical services.

RELATES TO: KRS 441.055 [441.011]

PURSUANT TO: KRS 13A.350, 441.055 [441.011]

NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures to provide proper medical services in jails.

Section 1. Procedure Services. (1) The jail's medical services shall be provided by contracting with a Kentucky licensed health care

provider [physician or the county public health organization].

(2) The medical staff and mental health professionals shall not be restricted by the jailer in the performance of their duties except to adhere to the jail's security requirements.

[(3) The jailer shall prepare a quarterly report and an annual summary report addressing the jail's medical and mental health services.]

(3) [(4)] A daily medical log shall be maintained documenting specific medical treatment rendered in the jail. This log shall be kept current to the preceding hour.

(4) [(5)] Inmates shall not perform any medical functions within the jail.

(5) [(6)] Inmates shall be informed verbally and in writing at the time of admission the methods of gaining access to medical care within the jail.

(6) [(7)] All medical procedures shall be performed according to written and standing orders issued by the responsible medical authority.

(7) [(8)] Medical screening shall be performed by the receiving officer on all inmates upon their admission to the jail and before their placement in inmate living areas. The findings of this medical screening shall be recorded on a printed screening form approved by the medical authority. The medical screening inquiry shall include but not be limited to:

(a) Current illnesses and health problems;

(b) Medications taken and special health requirements;

(c) Screening of other health problems designated by the medical authority;

(d) Behavioral observation, state of consciousness and mental status;

(e) Notation of body deformities, markings, bruises, lesions, jaundice, ease of movement, and other distinguishing characteristics;

(f) Condition of skin and body orifices, including rashes and infestations; and

(g) Disposition and referral of inmates to qualified medical personnel on an emergency basis.

[(9) Sick call conducted by the medical authority shall be available to each inmate.]

(8) Deputy jailers and correctional officers [(10) All jail security personnel] shall have current training in basic first-aid equivalent to that defined by the American Red Cross.

(9) At least one (1) jail staff member per shift [(11) The jailer] shall be trained and certified to perform approved [in] CPR (Cardiopulmonary Resuscitation).

(10) [(12)] Emergency medical, dental, and psychiatric care shall be available to all inmates commensurate with the level of such care available to the community.

(11) [(13)] Medical research shall not be permitted on any inmate in the jail.

(12) [(14)] Access to the inmate's medical file shall be controlled by the medical authority and the jailer. The physician-patient privilege shall apply to the medical record. The medical record is separate from custody and other administrative records of the jail.

(13) [(15)] All examinations, treatments, and procedures affected by informed consent standards in the community shall be observed for inmate care. [In the case of minors, the informed consent of the parent, guardian, or legal custodian shall apply when required by law.]

(14) [(16)] In accordance with KRS 72.025, a post-mortem examination shall be conducted on all inmates who die while in the custody of the jailer.

(15) [(17)] The jailer shall have written delousing procedures.

(16) [(18)] All jail staff who administer medications to inmates shall be trained in the proper procedures as outlined in the Policy and Procedures Manual [by the medical authority].

(17) [(19)] The jail shall have first-aid kits available at all times.

(18) [(20)] An inmate who has been prescribed treatment by a recognized medical authority and cannot receive that treatment in the jail shall be moved to another confinement facility which can provide the treatment or may be moved to a hospital.

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: September 12, 1986

FILED WITH LRC: September 15, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts

(1) Type and number of entities affected: Counties with ninety-six hour holdover - approximately 10.

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

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change.

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

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: Clarifies existing language.

TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/medical services.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 4:100. Food services.

RELATES TO: KRS 441.055 [441.011(6)]
PURSUANT TO: KRS 13A.350, 441.055 [441.011]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures for the delivery of proper food services in jails.

Section 1. Procedures. (1) The jail shall comply with the Kentucky Food Services Establishment Act and State Food Service Code (KRS 219.019 through KRS 219.081) and the Kentucky Occupational Safety and Health Standards for General Industry (803 KAR 2:020 and 29 CFR Part 1910).

(2) The jailer shall provide adult inmates with a nutritionally adequate diet containing at least 2400 calories per day. [Juvenile inmates shall be provided a nutritionally adequate diet containing at least 3800 calories per day.]

(3) Inmates shall receive three (3) meals per day[, two (2) of which shall be hot]. Not more than fourteen (14) hours shall elapse between any two (2) meals.

(4) The jailer shall provide for religious diets.

(5) The jailer shall provide for medical diets where prescribed by a medical authority.

(6) The jailer shall maintain accurate records of all meals served.

(7) Food shall not be used for disciplinary or reward purposes.

(8) A nutritionist or dietician shall approve the nutritional value of the jail menu on an annual basis. [The jailer shall seek the assistance of a local diet specialist in preparing menus or utilize sample menus prepared by the Corrections Cabinet.]

(9) A staff member shall directly supervise all food prepared within the jail.

(10) All food shall be served under the direct supervision of a staff member.

(11) The jail shall have sufficient cold and dry food storage facilities if food is prepared in jail.

(12) The jailer or his designee shall inspect the food services area daily.

(13) Food shall not be prepared or stored in inmate living areas.

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with ninety-six hour holdover - approximately 10.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Clarifies existing language.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/Food services.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and

renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 4:110. Classification.

RELATES TO: KRS 441.055 [441.011]
PURSUANT TO: KRS 13A.350, 441.055 [441.011]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth the procedure for the classification of inmates.

Section 1. Procedure. (1) Each jail shall develop an appropriate inmate classification system, which shall be included in the facility's written policy and procedure.
(2) The inmate classification system shall provide for the separation of the following categories of inmates:
(a) Male and female inmates; and
(b) Chemically incapacitated and other inmates. [Juvenile and adult inmates. If a juvenile is housed in the jail, he shall be housed as a juvenile regardless of his criminal status. Such offenders, as those confined for traffic offenses and those whose rights as a juvenile have been waived, will be housed as juveniles.]
(3) The inmate classification system shall prohibit discrimination or segregation based upon race, color, creed, or national origin.

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with ninety-six hour holdover - approximately 10.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Clarifies existing language.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/Classification.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 4:120. Admission; release.

RELATES TO: KRS 441.055 [441.011]
PURSUANT TO: KRS 13A.350, 441.055 [441.011]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth admission and release procedures.

Section 1. Policy and Procedures. Each jail shall develop written admission, orientation, and release procedures to be included in the jail's policy and procedure manual. The policy shall address the identification of special needs [of] offenders and their immediate transfer to a full service jail.

Section 2. Admission. (1) Any person in need of emergency medical attention [seriously injured, seriously ill, or unconscious person (as determined by the jailer or his designee)] shall not be admitted to the jail until a medical examination has been conducted [by a licensed physician]. A denial of admission form shall be completed which lists the reasons for the denial and shall be signed by [the arresting officer and] the jail staff member on duty.
(2) Special needs inmates shall not be housed

in the facility, rather they shall be transported directly to a full service facility.

(3) The jail staff shall ensure [assure] that each inmate is committed under proper legal authority by a duly authorized officer.

(4) An intake form shall be completed on every new inmate admission and shall include but not be limited to the following:

(a) Time and date of commitment;
(b) Name, alias, nickname;
(c) Official charge - cite eight (8) KRS No.;
(d) Authority ordering commitment;
(e) Unit of government to be billed:
(f) Signature and title of arresting or committing officer;
(g) Date of birth;
(h) Race;
(i) Sex;
(j) Height and weight;
(k) Current or last known address;
(l) Telephone number;
(m) Marital status;
(n) Spouse or next of kin;
(o) Emergency contact (name, relation, address, telephone number);
(p) Employer, place of employment, telephone number;
(q) Social Security Number;
(r) Health status (including current medications, known allergies, diets or other special medical needs);
(s) Blood type, if known;
(t) The name of any known person in the jail who might be a threat to the arrestee; and
(u) Mental health history (including past hospitalizations, comprehensive care treatment, current treatment and medication).

(5) The jail staff shall conduct a search of inmates and their possessions.

(a) Each inmate shall be searched for contraband in such a manner as responsible staff reasonably determine is necessary to protect the safety of fellow inmates, staff and institutional security. Such search shall be conducted in a private area and in a manner which protects the inmate's dignity to such extent as possible in that particular jail.

(b) When a strip search is conducted, it shall be performed by a staff person of the same sex as the inmate.

(c) When a strip search of an inmate is conducted it shall include a thorough visual check for birthmarks, wounds, sores, cuts, bruises, scars, and injuries, "health tags' and body vermin. A less complete search shall include the same checks to the extent determined reasonably necessary.

(d) The probing body cavities shall not be done except where there is reasonable suspicion to believe that the inmate is carrying contraband there and such search shall only be conducted by medically trained persons (physician, emergency medical technician, registered nurse, licensed practical nurse) in a private location and under sanitary conditions.

(6) Each jail shall develop written policies and procedures, specifying the personal property that inmates may retain in their possession.

(a) Any case or personal property which is [shall be] taken from the inmate upon admission shall be listed by complete description on a receipt form [in duplicate], and securely stored pending the inmate's release. The receipt shall be signed by the receiving officer and the inmate[, the duplicate shall be stored with the inmate's personal property and the original kept for the jail record].

(b) If the inmate is in an inebriated state, there shall be at least one (1) witness to verify this transaction. As soon as the inmate is able to understand and account for his actions, he shall sign the receipt [and his copy stored with his personal property].

(c) Personal property released to a third party must have the inmate's signature of approval and the signature receipt of the third party.

Section 3. Orientation. (1) As soon after assignment as possible, [each inmate shall receive] an oral or [and] written orientation shall be made available to each inmate.

(2) The orientation shall provide the inmate with information regarding his confinement including but not limited to the following:

(a) Information pertaining to rising and retiring, meals, mail procedures, telephone privileges, visitation, correspondence, commissary, medical care, and other matters related to the conditions of the inmate's confinement;
(b) Rules of inmate conduct;
(c) Disciplinary procedures; and
(d) Procedures for making requests or registering complaints with the jail staff, judiciary, or Corrections Cabinet personnel.

[(3) Special assistance shall be given to illiterate and non-English speaking inmates.]

Section 4. Release. (1) Written legal authorization shall be required prior to the release or removal of any inmate from confinement.

(2) When an inmate is released or removed for any legal purpose to the custody of another, the identity of receiving authority shall be verified and the property transferred shall be properly receipted.

(3) A written record shall be kept of the time, purpose, date, and authority for release or removal from confinement, and into whose custody the inmate is released or removed.

(4) Prior to the release or removal of an inmate, the receiving authority shall sign an authorized release form.

(5) Before the jailer releases an inmate to an out-of-state jurisdiction, he shall consult with the appropriate prosecutorial office in the county.

(6) Any property, not legally confiscated or retained, receipted from the inmate upon admission shall be returned to the inmate at the time of release from custody or to the receiving authority.

(7) Each inmate shall sign a receipt for property returned at the time of release.

(8) Any complaint regarding property returned must be submitted in writing with specific details within twenty-four (24) hours.

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least

five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with ninety-six hour holdover - approximately 10.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Clarifies existing language.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/Admission; release.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 4:130. Inmate programs; services.

RELATES TO: KRS 441.055 [441.011]
PURSUANT TO: KRS 13A.350, 441.055 [441.011]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures for inmate programs and services.

Section 1. Programs. Written policy and procedure shall indicate what [provide that] inmate programs and services are available and include, but are not limited to, religious services and leisure time activities.

Section 2. Religious Programs. Written policy and procedure shall ensure the constitutional rights of inmates to voluntarily practice their own religious activities, subject only to those limitations necessary to maintain the order and security of the jail.

[Section 3. Leisure Time Programs. Leisure time programs shall be scheduled to permit inmates to participate in but not be limited to such activities as board games, arts and crafts, radio and television to relieve idleness and boredom.]

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with ninety-six hour holdover - approximately 10.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: Reduces distribution of paperwork.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative

regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: Clarifies existing language.

TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/Inmate programs; services.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 4:140. Inmates rights.

RELATES TO: KRS 441.055 [441.011]
PURSUANT TO: KRS 13A.350, 441.055 [441.011]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures to ensure inmate rights.

Section 1. Policy and Procedure. (1) Each jail shall have a written statement of inmate rights which shall include but not be limited to:
(a) Access to courts;
(b) Access to attorney;
(c) Mail;
(d) Telephone;
(e) Grievances;
(f) Search and seizure;
(g) Disciplinary procedure;
(h) Racial segregation;
(i) Mental health care (if possible); [and]
(j) Religion; and
(k) Medical care.

The statement of inmate rights shall be posted in a conspicuous place in the booking and inmate living areas of the jail [and a copy shall be handed to the inmate upon admission].

(2) The jailer shall not prohibit an inmate's right of access to the judicial process.

(3) The jailer shall ensure the rights of inmates to have confidential access to their attorney and their authorized representative.

(4) The jailer shall have a written policy which defines the jail's visitation rules and regulations, which shall include but not be limited to:

(a) At least one (1) visit per inmate shall be allowed except when an inmate has been assessed a disciplinary penalty for an infraction of rules governing visitation.

(b) Visits shall not be less than fifteen (15) minutes.

(c) Two (2) or more persons permitted to visit at the same time shall count as a single visit.

(d) Children, when accompanied by an adult, shall be permitted to visit inmates.

(5) Attorneys, clergy, and medical personnel shall be permitted to visit inmates at reasonable hours other than during regularly scheduled visiting hours and shall not count as an allotted visit.

(6) Visitors shall register before admission and may be denied admission for refusal to register, for refusal to consent to search or for any violation.

(7) Inmates shall not be restricted in regard to whom they may have as a visitor unless the jailer determines that a visitor should be excluded due to the existence of one (1) or more of the following conditions:

(a) The visitor represents a clear and present danger to security;

(b) The visitor has a past history of disruptive conduct at the jail;

(c) The visitor is under the influence of alcohol or drugs;

(d) The visitor refuses to submit to search or show proper identification; or

(e) The inmate refuses the visit.

(8) The jailer shall not listen to visitor's conversations but may observe the visitation for security reasons.

Section 2. Mail. (1) The jailer shall have written policy and procedures for receiving and sending mail that protects the inmate's personal rights and provides for reasonable security practices consistent with the operation of the jail.

(2) Inmates shall be allowed to correspond with anyone so long as such correspondence does not violate any state or federal law except that caution shall be taken to protect the inmate's rights in accordance with court decisions regarding correspondence.

(3) Incoming mail may be inspected for contraband items prior to delivery unless such mail is received from the courts, attorney of record or public officials, then it may be opened and inspected in the presence of the inmate.

Section 3. Telephone. (1) Newly admitted inmates shall be permitted a reasonable number of local or collect long distance telephone calls to an attorney of their choice, or to a family member, as soon as practical, generally within one (1) hour after arrival, until one (1) call has been completed.

(2) The jailer or his designee shall maintain a log of all telephone calls made by an inmate during the admission procedure. The log shall document the date, time and party contacted.

(3) Written policy and procedure shall permit each inmate at least one (1) personal phone call during their stay in the jail. Any expense incurred for calls shall be borne by this inmate

or the party called.
(4) A minimum of five (5) minutes shall be allotted for each phone call.
(5) Telephone calls shall not be routinely monitored. If calls are monitored, the inmate shall be notified.
(6) Telephone privileges may be suspended for a designated period of time if telephone rules are violated.

Section 4. Religion. (1) Inmates shall be granted the right to practice their religion within limits necessary to maintain institution order and security.
(2) Inmates shall be afforded an opportunity to participate in religious services and receive religious counseling within the jail.
(3) Inmates shall not be required to attend or participate in religious services or discussions.

Section 5. Access to Programs and Services. The jailer shall ensure equal access to programs and services for all inmates provided the security and order of the jail are [is] not jeopardized.

Section 6. Grievance Procedure. The jailer shall have a written inmate grievance procedure whereby an inmate may express his grievance to the jailer. These procedures shall include provisions for:
(1) Responses, within a reasonable time limit, to all grievance complaints;
(2) Equal access to all inmates;
(3) Guarantees against reprisal; and
(4) Resolving legitimate complaints.

Section 7. Searches. (1) Each search of an inmate for contraband shall be done in such a manner as the jailer determines is necessary to insure [protect] the safety of inmates and [,] staff and [jail] security of the jail.
(2) Each search shall be conducted in a private area and in a professional manner which protects the inmate's dignity to the extent possible.
(3) All strip searches shall be performed by a staff person of the same sex.

Section 8. Disciplinary Rights. Each jail shall have a written policy and procedure for maintaining a discipline which is consistent with constitutional requirements for due process.

Section 9. Medical. Each inmate shall be afforded access to necessary medical care.]

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with ninety-six hour holdover - approximately 10.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: Reduces distribution of paperwork.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Clarifies existing language.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/Inmate rights.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 5:010. Definitions.

RELATES TO: KRS 441.055 [441.011]
PURSUANT TO: KRS 13A.350, 441.055 [441.011]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth definitions.

Section 1. Definitions. (1) "Jail" means county jails and correctional or detention

facilities including correctional facilities, defined in KRS 67B.020 [and juvenile detention facilities,] operated by and under the supervision of any county, regional jail authority, city or urban county government. These regulations address those jails housing inmates for a maximum period of twelve (12) hours.

(2) "Jailer" means the duly elected or appointed official charged with the responsibility of administering the jail.

(3) "Jail staff" means deputy jailers[, matrons, cooks,] and other [food service] personnel involved in the supervision, custody, care, or treatment of prisoners in the jail.

(4) "Inmate" means any adult [person] confined in the jail pursuant to any code, ordinance, law or statute of any unit of government and who is:

(a) Charged with or convicted of an offense; or

(b) Held for extradition or as a material witness; or

(c) Confined for any reason.

(5) "Cabinet" means the Corrections Cabinet.

(6) "Medical authority" means the person or persons licensed and certified to provide medical care to inmates in the jail.

(7) "Security area" means a defined space whose physical boundaries have controlled ingress and egress.

(8) "Inmate living area" means the area of the jail used for [a group of rooms or cells which provide] housing for the inmate population.

[(9) "Holding area" means an area used to hold one (1) or more persons temporarily while awaiting processing, booking, court appearance, discharge, or until they can be moved to general housing areas.]

(9) [(10)] "Detoxification area" means an area used to temporarily hold one (1) or more chemically impaired persons during the detoxification process until they can care for themselves.

[(11) "Dormitory" is an area equipped for housing more than one (1) person.]

[(12) "Dayroom" means a secure area with controlled access from the inmate living area, to which inmates may be admitted for daytime activities such as dining, bathing, and selected recreation or exercise.]

[(13) "Safety vestibule" is a defined space that promotes security by the use of two (2) or more doors and can be used to observe those who pass.]

[(14) "Sallyport" is a drive-through made secure by electrically or manually operated doors for entrance and exit. It is generally located in close proximity to the jail intake area.]

(10) [(15)] "Special needs inmate" is any person with a notable physical, mental or emotional handicap, or a person who poses a threat to himself or other inmates; any person who requires maximum security or isolation; and persons charged with 202A [juveniles who cannot be housed out of sight and sound].

(11) "Penal type" means furnishings approved by the Corrections Cabinet.

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: September 12, 1986

FILED WITH LRC: September 15, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts

(1) Type and number of entities affected: Counties with twelve hour holdovers - approximately one.

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

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): May allow counties with jails in poor condition an option to remain open as a twelve hour holdover.

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change.

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

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: Clarifies existing language.

TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/definitions.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 5:020. Administration; management.

RELATES TO: KRS 441.055 [441.011]
PURSUANT TO: KRS 13A.350, 441.055 [441.011]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures to be followed for the the administration and management of jails.

Section 1. Policy and Procedures - Organization. (1) The jailer shall develop and maintain an organizational chart and an operations manual of policy and procedures which has been adopted by the fiscal court and filed with the Corrections Cabinet.

(2) The written policy and procedures manual shall be made available to employees.

(3) The operations manual shall include but not be limited to the following aspects of the jail's operation:

(a) Administration;
(b) Fiscal management;
(c) Personnel;
(d) Security and control;
(e) Sanitation and management;
(f) Medical services;
(g) Food services;
(h) Emergency and safety procedures;
(i) Classification;
(j) Transportation [Inmate services];
(k) Admission and release.

(4) The operations manual shall be reviewed and updated at least annually. All revisions shall be marked with the effective date and filed with the Corrections Cabinet.

Section 2. Legal Assistance. (1) The jailer shall be represented and advised by the county attorney as provided in KRS 69.210.

(2) The county attorney shall advise the fiscal court in writing when legal representation or legal advisement to the jailer by that office is inappropriate or creates a conflict of interest. The fiscal court shall provide funds for adequate legal representation for the jailer when the jailer has acted within his official capacity and is involved in civil or criminal litigation as a result. The fiscal court shall be encouraged to carry liability insurance for the jail staff and other county officials.

Section 3. Public Information. (1) The jailer shall develop and implement a procedure [plan] for the dissemination of information about the jail to the public, to government agencies, and to the media. The public and inmates shall have access to the procedure. [:]

[(a) The plan; and]

[(b) Specific jail rules and procedures affecting inmates as developed in accordance with this plan.]

(2) With the consent of the inmate, news media shall be permitted to interview any inmate as set forth in the jail's policy and procedure manual except when the safety and security of the jail is affected.

(3) Written policy and procedure shall set forth the time and length allowable for inmate interviews.

(4) All official statements to the news media, relating to jail administration policy, shall be made by the jailer only or his designee.

(5) Release of inmate information shall include the following:

(a) All requests for information shall be addressed to the jailer;

(b) Governmental agencies shall be provided with information pertinent only to their specific function and with the consent of the inmate; and

(c) [Relatives and] Private citizens shall only be provided with information supplied to the media.

(6) No information shall be released that is detrimental to another inmate.

Section 4. Information Systems. [(1)] The jailer shall establish and maintain an information system which shall comply with the requirements of this section.

(1) [(a)] Jail information and inmate records shall be retained in written form or within computer records.

(2) [(b)] Jail information and inmate records shall be stored in a secure manner so that they are protected from theft, loss, tampering, and destruction. Written guidelines shall specify the length of time an inmate record shall be maintained after an inmate's release from custody and the conditions under which archives are maintained.

(3) [(c)] A written report shall be made of all extraordinary or unusual occurrences within twelve (12) hours of the occurrence. This report shall be placed in the jail record [inmate's folder]. Extraordinary or unusual occurrences shall include but not be limited to:

(a) [1.] Death of an inmate;
(b) [2.] Attempted suicide or suicide;
(c) [3.] Serious injury, whether accidental or self-inflicted;
(d) [4.] Attempted escape or escape from confinement;
(e) [5.] Fire;
(f) [6.] Riot;
(g) [7.] Battery, whether by a staff member or inmate;
(h) [8.] Sexual assaults; and
(i) [9.] Occurrence of contagious or infectious disease, or illness within the facility.

(4) [(d)] All jails shall keep a log of daily activity within the jail.

(5) [(e)] Each jail shall maintain records on the types and hours of training completed by each employee. A current and accurate personnel record shall be maintained on each employee. Each employee shall have access to his individual record.

Section 5. Inmate Records. (1) The information required by 501 KAR 5:120 for admission and release shall be retained for each inmate. Other information retained in each inmate's jail record shall include but not be limited to:

(a) Court orders;
(b) Personal property receipts;
(c) Infraction reports;
(d) Reports of disciplinary actions; and
(e) Unusual occurrences and in the case of death of an inmate, disposition of the inmate's property and remains.

(2) Medical records shall be maintained as required by 501 KAR 5:090.
(3) The jailer shall ensure that inmate records are safeguarded in accordance with relevant federal and state laws and regulations.
(4) The jailer shall require that inmates sign a "Release of Information Consent Form" prior to the release of information to individuals other than law enforcement or court officials. A copy of the signed consent form shall be maintained in the inmate's record. This form shall include but not be limited to:
(a) Name of person, agency or organization requesting information;
(b) Name of facility release information;
(c) Specific information to be disclosed;
(d) Purpose of the information;
(e) Date consent form is signed;
(f) Signature of inmate; and
(g) Signature of employee witnessing the inmate's signature.
[(5) Juvenile jail records shall be kept separate from adult jail records and shall be made available for examination only as provided in KRS 208.340. Upon an order of expungement pursuant to KRS 208.275, the jailer shall seal the records and the juvenile's detention shall be deemed never to have occurred.]

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with twelve hour holdovers - approximately one.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: Requires changes to policy manual to be filed with cabinet.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Clarifies existing language.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/Administration; management.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 5:030. Fiscal management.

RELATES TO: KRS 441.055 [441.011]
PURSUANT TO: KRS 13A.350, 441.055 [441.011]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth fiscal management procedures to be followed in jails.

Section 1. Budgeting. (1) The jailer, county judge/executive and treasurer shall prepare and present a line item budget request to the fiscal court in accordance with KRS 441.215 [441.008].
(2) The jailer shall use the format for budget development on forms prepared by the state local finance officer.
(3) The state local finance officer shall submit budget forms to the jailer by March 1 of each year.

Section 2. Accounting. (1) The county treasurer shall maintain fiscal records which clearly indicate the local cost for operating the jail in accordance with KRS 68.020 and 441.235 [441.008].
(2) Fiscal records shall have an itemized breakdown of the total operating expenses including but not limited to wages, salaries, food, and operating supplies.

Section 3. Canteen. As provided in KRS 441.135 [441.067], each jailer may establish a canteen to provide inmates with approved items not supplied by the jail.

Section 4. Audits. The county jail budget

shall be audited in accordance with KRS 43.070.

Section 5. Payroll. Jail employees shall be paid on the same dates as county employees.

Section 6. Inventory. Each jailer shall implement and utilize the established inventory procedure of the county.

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with twelve hour holdovers - approximately one.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Brings language in conformity with existing statute.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/Fiscal management.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 5:040. Personnel.

RELATES TO: KRS 441.055 [441.011]
PURSUANT TO: KRS 13A.350, 441.055 [441.011]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth personnel procedures to be followed in jails.

Section 1. Staffing. (1) Each jail shall provide twenty-four (24) hour awake supervision for all inmates.
(2) When female inmates are lodged in the jail, female staff will be made available as needed to perform sensitive procedures to include but not limited to:
(a) Admission; and
(b) Searches.

Section 2. Background Checks; Qualifications. (1) Prior to employment, all employees of the jail shall be subject to thorough background investigation to include criminal, medical, and employment history.
(2) All security employees of the jail shall be at least twenty-one (21) years of age.

Section 3. Compensation. All employees of the jail shall receive salaries at least equal to the State Minimum Wage Law except where Federal Minimum Wage Law has to be applied.

Section 4. Training; Curriculum. (1) In order to qualify for the training expense allowance under KRS 441.017, the jailer shall receive a minimum of forty (40) hours annual inservice training certified by the Corrections Cabinet.
(a) Local Corrections training efforts shall be certified by the Corrections Cabinet.
(b) The Curriculum Advisory Committee shall advise the Corrections Cabinet on topics for training curriculum.
(c) Jailer training shall be delivered on a regional basis by the Corrections Cabinet.
(2) Deputy jailers, correctional officers and other employees whose jobs require supervision of inmates [The jail staff] shall receive a minimum of sixteen (16) hours annual inservice training delivered by the Corrections Cabinet in a regional or local basis.

Section 5. Policy and Procedures. Written policy shall specify that equal employment opportunities exist for all positions.

Section 6. Physical Fitness. The jailer shall ensure that all employees maintain a level of

physical fitness that will allow the employees to satisfactorily perform their duties.

Section 7. Code of Ethics. (1) The jailer shall make available a written code of ethics.
(2) The written code of ethics shall be incorporated in the jail's policy and procedures manual and shall include but not be limited to the following:
(a) Employees shall not:
1. Exchange personal gifts or favors with inmates, their family, or friends;
2. Accept any form of bribe or unlawful inducement;
3. Perform duties under the influence of intoxicants or consume intoxicants while on duty;
4. Violate or disobey established rules, regulations, or lawful orders from a superior;
5. Discriminate against any inmates on the basis of race, religion, creed, gender, national origin, or other individual characteristics;
6. Employ corporal punishment or unnecessary physical force;
7. Subject inmates to any form of unwarranted physical or mental abuse;
8. Intentionally demean or humiliate inmates;
9. Bring any type of weapon or item declared as contraband into the jail without proper authorization;
10. Engage in critical discussion of staff members or inmates in the presence of inmates;
11. Divulge confidential information without proper authorization;
12. Withhold information which, in so doing, threatens the security of the jail, its staff, visitors, or the community;
13. Through negligence, endanger the well-being of self or others;
14. Engage in any form of business or profitable enterprise with inmates; and
15. Inquire about, disclose, or discuss details of an inmate's crime other than as may be absolutely necessary in performing official duties.
(b) Employees shall:
1. Comply with all established rules, regulations, and lawful orders from superiors;
2. Treat all inmates in a fair, impartial manner; and
3. Report all violations of the code of ethics to the jailer.
(3) Any employee violation of this code shall be made a part of that employee's personnel file.

[Section 8. Grievance Procedure. Jail employees shall have access to the established grievance procedure of their respective county.]

[Section 9. Hiring Procedures. (1) The jailer shall have a written personnel plan governing the selection, training, promotion, and retention of jail personnel.]
[(2) Personnel assignments shall be based on merit.]

[Section 10. Performance Evaluation. A written standardized performance evaluation shall be conducted at least annually by the jailer.]

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with twelve hour holdovers - approximately one.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: Reduces paperwork requirements of jailer, i.e., employee evaluations and personnel plan.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Clarifies existing language.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/Personnel.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 5:050. Physical plant.

RELATES TO: KRS 441.055 [441.011]
PURSUANT TO: KRS 13A.350, 441.055 [441.011]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails.

Section 1. Purpose. The purpose of this chapter is to provide minimum standards for the renovation or construction of jail facilities and for measuring compliance of existing jails in accordance with KRS 441.012 and 441.013, and Kentucky Construction/Renovation Standards.

Section 2. Consultation. The Corrections Cabinet shall provide for any county government which wishes to remodel an existing jail or construct a new jail, a consultant knowledgeable in the design, utilization, and operation of jails. The consultant shall meet with the appropriate officials of that county and advise them in matters including but not limited to:
(1) Site selection;
(2) Probable need as it relates to capacity and types of inmates to be housed;
(3) Sources of financing for construction;
(4) Laws and regulations relating to treatment of inmates;
(5) Laws and regulations relating to facilities for inmates;
(6) Sources of revenue for operations of the jail;
(7) Probable cost for operation of the jail; and
(8) Potential for shared facilities with adjoining counties.

Section 3. Site Acceptance. No jail shall be built without site acceptance by the Corrections Cabinet. The following criteria shall be considered in site selection including but not limited to:
(1) Size;
(2) Proximity to courts;
(3) Proximity to community resources;
(4) Availability of public transportation;
(5) Environmental health;
(6) Adequate parking; and
(7) Provisions for future expansion.

Section 4. Construction Documents. Prior to the renovation or construction of any jail, plans and specification shall be submitted to the Corrections Cabinet for review and approval [acceptance] as follows:
(1) Programming phase. This submission shall show:
(a) Evaluation of existing facility;
(b) Population analysis;
(c) Space requirements based on population analysis and standards for the facility and site outlined in the Kentucky Minimum Standards for Local Jails;
(d) Staffing analysis;
(e) Cost analysis;
(f) Financing alternatives, if applicable;
(g) Summary and recommendations; and
(h) This phase is submitted on major renovation or new construction only and for information review purposes.
(2) Schematic phase.
(a) Scale drawings of each floor plan with all proposed rooms and areas one-eighth (1/8) inch minimum;
(b) Scale drawings of the site, locating the building, parking and other facilities - one (1) inch equals fifty (50) feet;
(c) Documentation of site as to:
1. Size;
2. Proximity to courts;
3. Proximity to community resources;
4. Availability of public transportation;
5. Environmental health;
6. Adequate parking; and
7. Provisions of future expansion.
(d) Sections through the proposed structure indicating ceiling heights of rooms, mechanical spaces, roof slopes and other related information;
(e) Scale elevation drawings of all exterior walls; and
(f) Schematic cost estimate.
(3) Design development phase.
(a) Scale drawings on each floor plan with all proposed rooms and areas with their dimensions one-eighth (1/8) inch minimum;
(b) All necessary construction drawings including construction details;
(c) Specifications for all materials and workmanship;
(d) A proposed contract with general and special conditions;
(e) Engineering calculations for the foundations, structure, heating, ventilating, air conditioning, lighting and plumbing; and
(f) Detailed estimates of cost of land, site development, construction, financing, professional services, equipment and furnishings.
(4) Construction document phase.
(a) Revised design development construction drawings following review by all applicable agencies.
(b) Signed by an architect registered in the Commonwealth of Kentucky and revised if necessary to include all changes required by the Corrections Cabinet.
(c) Revised design development specifications of material and workmanship following review by all applicable agencies.
(5) Contract administration.
(a) Signed copies of all contracts for construction, financing and bonding;
(b) Signed copies of all construction permits;
(c) Documentation of review by all other applicable state agencies; and
(d) All change orders must be submitted to the Corrections Cabinet for review and approval.
(6) The Corrections Cabinet will review all submissions within thirty (30) days of receipt and issue a letter of approval, acceptance with required changes, or rejection with reasons. No construction shall be started until the construction document phase as required in subsection (5)(d) of this section has been approved.
(7) Depending on the site of the proposed constructions, renovation or addition the Corrections Cabinet may combine two (2) or more phases as outlined above for review and approval.
(8) All changes prior to the approval of final construction documents shall require appropriate modifications to the final construction documents including redrawing of plans and

rewriting of specifications. All changes after the approval of final construction documents shall require adequate documentation which fully describes and illustrates the changes which may include written and/or graphic addenda, field orders and change orders. In addition a set of accurate as built drawings shall be submitted to Corrections within sixty (60) days of occupancy of the facility.

[(1) Schematic outline. This submission shall show:]

[(a) Control of the site;]

[(b) Acceptance of the site for a jail by the planning and zoning commission, if any, and all other interested government agencies;]

[(c) A list of all proposed rooms and areas and their dimensions;]

[(d) A circulation diagram;]

[(e) An estimate of cost of land, services, construction and financing;]

[(f) Sources of development funds; and]

[(g) Post assignment and staffing needs.]

[(2) Preliminary drawings. This submission shall include:]

[(a) Scale drawings (one-eighth (1/8) inch to the foot or larger) of each floor plan;]

[(b) Scale drawings (one (1) inch equals fifty (50) feet or larger) of the site, locating the buildings, parking, and other facilities;]

[(c) Sections through the proposed structure indicating ceiling heights of all rooms, mechanical spaces, roof slopes, and other related information;]

[(d) Elevation drawings (one-eighth (1/8) inch to the foot or larger) of all exterior walls;]

[(e) A current estimate of the costs;]

[(f) A statement regarding the sources of the development funds; and]

[(g) A map of the community locating the proposed jail, the courts, community facilities, population centers, business districts, highways, roads, and police department.]

[(3) Final construction drawings shall be submitted to the Corrections Cabinet, the Department for Housing, Buildings, and Construction, and any other applicable state agency for review and acceptance and shall include:]

[(a) All necessary construction drawings including construction details;]

[(b) Specifications for all materials and workmanship;]

[(c) A proposed contract with general conditions and special conditions;]

[(d) Engineering calculations for the foundations, structures, heating, ventilation, air conditioning, lighting, and plumbing, signed by licensed architects and engineers;]

[(e) Detailed estimates of the costs of land, land improvements, construction, financing, professional services, and building permits; and]

[(f) An updated statement in detail regarding the sources of development funds.]

[(4) Construction documents. This submission shall include:]

[(a) Construction drawings and specifications signed by the architect registered in the Commonwealth of Kentucky and revised if necessary to include all changes required by the Corrections Cabinet;]

[(b) Signed copies of all contracts for construction, financing, and bonding revised as necessary to include all changes required by the Corrections Cabinet;]

[(c) Signed copies of all construction permits; and]

[(d) Documents will bear signed approvals from all other applicable state agencies.]

[(5) The Corrections Cabinet will review all submissions within thirty (30) days of receipt and issue letter of acceptance, acceptance with required changes, or rejection with reasons. No construction shall be started until the construction documents as required in subsection (4) of this section have been accepted with required change by the Corrections Cabinet.]

Section 5. Waiver of Compliance. (1) The Corrections Cabinet may grant a waiver of the implementation of the physical plant standards for an existing jail if the Cabinet determines:

(a) That strict compliance will cause unreasonable difficulties;

(b) That a waiver will not seriously affect the security, supervision of prisoners, programs, or the safe, healthful, or efficient operations of the jail; and

(c) That compliance is to be achieved in a manner other than that which is specified, but in a manner which is sufficient to meet the intent of these standards.

(2) When a waiver from a standard is desired, the responsible local authority shall submit a written request to the Corrections Cabinet. The written request shall include the following information:

(a) Citation of the specific standard involved;

[(b) Specification of the efforts made to bring the jail into strict compliance;]

(b) [(c)] Identification and description of the specific difficulties involved in meeting strict compliance;

(c) [(d)] Description of alternative proposed; and

(d) [(e)] Provision of sufficient documentation which will demonstrate that the waiver, if granted, will not jeopardize the security, supervision of inmates, programs, or the safe, healthful, or efficient operation of the jail.

(3) A waiver, if granted by the Corrections Cabinet, shall apply only to the petitioner for the specific situation cited and for the period of time specified and shall include any requirements imposed by the cabinet as conditions upon the waiver. No waiver shall be granted for longer than twelve (12) months. Any waiver granted for a twelve (12) month period shall be reviewed at the end of the period for reapproval.

Section 6. Facility Design. Depending upon its size and intended use, every jail shall include within its walls the following facilities and equipment:

[(1) Entrances. Every jail shall have three (3) separate and distinct entrances; a public entrance, and adult inmate entrance, and a service entrance. The Corrections Cabinet may permit these entrances to be combined.]

[(a) Public entrance. The purpose of this entrance is to divert the general public from the security area of the jail and from contact with incoming inmates. This area will be the location for the the general public to conduct their business at the jail. The following design features shall be incorporated:]

[1. Provide a clear view of this from the

booking/control area; and]

[2. Meet the requirements for handicapped persons.]

[(b) Service entrance. The purpose of this entrance is to provide access to service vehicles and delivery trucks with minimum security risks. It may contain a loading dock and shall be located in close proximity to storage rooms and the kitchen area.]

(1) Entrance. [(c) Adult inmate entrance.] The purpose of this entrance is to provide secure and private access to the jail for incoming inmates. This entrance shall [may] be serviced by a walk-in vestibule [drive-in sallyport] and shall incorporate the following design features:

(a) [1.] Be located adjacent to the booking[/control] area;

(b) [2.] Be monitored from the booking[/control] area;

(c) [3.] Be free of steps or other obstacles;

(d) [4.] Be protected from inclement weather; and

(e) [5.] Have security penal type pistol [metal] locker [to secure weapons separate from inmate ingress].

(2) Exits. All openings in the facility shall be secured with penal devices. [No exits other than those entrances specified in subsection (1) of this section shall be permitted except for fire exits. Such fire exits, when possible, shall open into controlled, secure courts, and exercise areas only.]

[(3) Administrative areas. This area will provide space outside the secured area of the jail to house th administrative offices and to accommodate the public. If space is not available within the confines of the jail, an areas for medical examinations and confidential conferences between inmates and lawyers, probation officers, clergy, etc., must be made available within close proximity to the jail.]

(3) [(4)] Security area. The area shall enclose all facilities and services required for or used by the inmates. It shall contain the following function areas:

(a) Booking/operations [control] area. The purpose is to provide an operational area to carry out admission and release procedures [and to control all movement within the jail]. Design features shall include:

1. Doors and windows shall be of [approved] penal type;

2. Walls, floors, and ceilings shall be approved masonry, concrete or steel construction;

3. Audio and video monitors shall be located in this area;

4. Gauges, indicators, and alarms shall be located in this area;

5. Central control panels shall be located in this area[; and]

[6. This area shall permit visual observation of all corridors, entrances and exits under its supervision].

(b) When jail staff are not within normal hearing distance of inmates, an audio communication system shall be installed to allow staff to communicate with inmates.

[(c) A panic button may be installed in corridors and staff observation areas, which shall sound an alarm in the booking/control area in the event of an emergency situation.]

(c) [(d)] Detoxification area. The purpose is to provide an area to separate intoxicated inmates from the general inmate population. Design features shall include:

1. A minimum of fifty (50) square feet per inmate;

2. A minimum of eight (8) feet ceiling height;

3. One (1) bunk [slab or bench] of approved material thirty (30) inches wide by seventy-two (72) inches long by four (4) inches high for each inmate;

4. An approved penal commode/lavatory and a flush floor drain controlled from outside the cell;

5. All fixtures and equipment shall be [approved] penal type;

6. All surfaces inside the area shall be smooth, flush, and free of sharp edges and protrusions;

7. All horizontal surfaces (the bunk [bench] and the floor) shall be sloped (one-fourth (1/4) of an inch to the foot) to a floor drain;

8. All protruding corners (except at ceiling) shall be coved; and

9. Ceiling, walls, surfaces of the wall base, and floors shall be of approved masonry, concrete or steel construction.

10. Each detox cell shall have sufficient penal type light fixture(s) capable of providing twenty (20) footcandles of light with a nightlight capable of providing five (5) footcandles of light.

[(e) Kitchen. The purpose of this area is to provide sufficient space and equipment for preparing meals for the maximum rated capacity of the jail. Design features shall include:]

[1. Compliance with standards of the state Food Service Code;]

[2. Commercial type stoves and refrigeration units;]

[3. Doors and windows will be of approved penal type; and]

[4. Walls, floors, ceilings will be approved fire rated masonry construction.]

[(f) Food distribution area. If food is not prepared in the jail, only a distribution area is required. While a separate room may not be necessary, the area shall be partitioned to ensure sanitary conditions.]

(4) Kitchen facilities and services shall comply with the Kentucky Food Service Code.

(5) Confinement areas. The purpose of these areas is to provide suitable living conditions for [all types of] inmates lodged in the jail. Design features for all living areas shall include:

(a) Providing sufficient natural or artificial light to provide [twenty-five (25) foot candles of light for reading purposes and] twenty (20) foot candles of light with a nightlight capable of providing five (5) foot-candles of light [for all other purposes];

(b) Providing ventilation to meet air exchange as required in state health codes [Kentucky Building Code];

(c) Providing temperature ranges within comfort zones (sixty-five (65) degrees F to eighty-five (85) degrees F);

(d) Shall be of approved masonry or steel construction;

(e) All furnishings and equipment shall be approved penal type and permanently attached;

(f) Each confinement area shall have approved floor drains outside the immediate living area;

(g) Be equipped with an approved securable food pass; and

(h) Electrical outlets when provided shall

have ground-fault circuit breakers. Receptacle and switch plate covers shall be penal type.

(6) All cells and housing areas design features shall include:

(a) Prisoner living areas shall be equipped with the security hardware to meet the security requirements of the inmate(s) housed in the area.

(b) [Cells may open into a dayroom and] No cell shall be less than seventy (70) square feet. No cell shall have more than two (2) penal type bunks.

(c) Each cell shall contain:

1. An approved penal type commode, lavatory, drinking fountain, and penal type bunks secured to floor and/or wall. [table with two (2) seats, and penal type storage shelf with breakaway hangers.]

2. A light fixture of approved penal type with controls nonaccessible to inmates.

(d) Multi-occupancy area. The jail may [shall] provide living space for low security inmates. This area shall be either cells opening into a dayroom or a combination of this and multiple occupancy dorms. If dorms are used, they must include:

1. Fifty (50) square feet per inmate;

2. One (1) commode/lavatory/drinking fountain per eight (8) inmates;

3. Sufficient tables and benches to handle the number of inmates housed in the dorm; and

[4. One (1) penal type shelf with breakaway hangers per inmate; and]

4. [5.] One (1) penal type bunk secured to the floor or wall per inmate.

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: September 12, 1986

FILED WITH LRC: September 15, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts

(1) Type and number of entities affected: Counties with twelve hour holdovers - approximately one.

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

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): Would allow more counties in the future the option of serving as a twelve hour holdover.

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change.

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

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: Reduce physical plant requirements.

TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/Physical plant.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 5:060. Security; control.

RELATES TO: KRS 441.055 [441.011]

PURSUANT TO: KRS 13A.350, 441.055 [441.011]

NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth security procedures to be followed in local jails.

Section 1. Policy and Procedure. (1) Each jailer shall develop a written policy and procedure governing all security aspects of the jail operations.

(2) The Corrections Cabinet shall provide technical assistance to the jailer in his efforts to formulate such written policy and procedure.

(3) These policy and procedures shall include but not be limited to:

(a) Inmate rules and regulations;

(b) Staffing;

(c) Searches of inmate and of secure areas;

(d) Key and weapon control;

(e) Inmate head counts;

(f) Surveillance checks;

(g) [(f)] Emergency situations;

(h) [(g)] Jail schedule; and

(i) Administering medication.

Section 2. Inmate Supervision. (1) Jail

personnel shall conduct and document direct in-person surveillance of each inmate on an irregular schedule, no less than every sixty (60) minutes.

(2) Jail personnel shall conduct and document direct in-person surveillance every twenty (20) minutes on [the following classes of inmates:]

[(a)] inmates in detox cell. [; and]

[(b) Juveniles, if housed in the jail.]

(3) When available, closed-circuit television shall be used primarily to monitor hallways, stairwells, sallyports, perimeter security, points of egress, and common and support areas.

(4) There shall be at least three (3) documented inmate counts every twenty-four (24) hours during which each inmate's physical presence, by show of skin, or movement [or speech] shall be observed. At least one (1) count shall be conducted per shift.

Section 3. Security Procedures. (1) Each jailer shall establish a procedure for inspecting all facility areas accessible to inmates for contraband and physical security at least weekly.

(a) Isolated security spot checks for contraband shall be conducted daily.

(b) Items considered as contraband or items permitted in the jail shall be clearly defined in the jail rules.

(c) There shall be a written procedure for reporting security irregularities.

(2) No weapon, ammunition, chemical agent, related security equipment, or any object which represents the potential of being used as a weapon shall be permitted in the security area unless authorized by the jailer under emergency circumstances as determined by the jailer.

(3) All firearms, weapons, and chemical agents assigned to the jail shall be stored in an arsenal, vault, or other secure room under lock.

(a) This area shall be inaccesible to all unauthorized persons.

(b) There shall be a written procedure for issuing and accounting for all weapons.

(4) All security devices and safety equipment shall be inspected monthly to ensure that they are maintained in proper working order.

(5) All tools, toxic, corrosive, and flammable substances, and other potentially dangerous supplies and equipment shall be stored in a locked area which is secure and located outside the security perimeter of the confinement are.

(6) Tools, supplies and equipment which are hazardous shall be used by inmates only under the direct supervision of jail personnel.

(7) At no time shall any inmate be assigned to a position of authority over any other inmate or given the responsibility of providing inmate services such as commissary, telephone calls, or delivery of meals.

(8) Inmates shall never be permitted to perform or assist in any security duties.

(9) Inmates shall be thoroughly searched whenever entering or leaving the security perimeter.

(10) Written procedures shall be developed for transporting outside the jail.

(11) Each jailer shall develop written policies and procedures governing the use of physical restraints.

(12) No inmate placed in physical restraints shall be left unattended.

(13) All jails shall have key control procedures which shall include but not be limited to:

(a) A key control center which is secure and inaccessible to unauthorized persons at all times;

(b) An accounting procedure for issuing and returning keys;

(c) A procedure for immediate reporting and repairing of any broken or malfunctioning key or lock;

(d) A set of duplicate keys to be maintained in a separate, secure place;

(e) No inmate shall be permitted handle keys used to operate jail security locks;

(f) Keys operating locks to outside doors or gates shall not be permitted in the confinement area;

(g) Emergency keys and keys to critical security areas shall only be issued in accordance with written procedures established by the jailer;

(h) Precautions similar to those outlined above shall be taken to ensure the security of all non-key operated locking devices such as electrical switches or levers;

(i) Locks to outside exits shall be keyed differently from interior locks.

Section 4. Daily Jail Log; Special Reports. A daily jail log shall be kept current and reflect all significant occurrences within the jail. Special reports shall include: [detailed, written record shall be made of all significant activities occurring within the jail including but not limited to:]

[(1) Security and safety inspections;]

[(2) Inmate counts;]

(1) [(3)] Use of force;

(2) [(4)] Disciplinary actions;

[(5) Movement inside and outside the jail;]

(3) [(6)] Medical or mental health treatment;

(4) [(7)] Feeding schedule and menus;

(5) [(8)] Extraordinary occurrences:

(a) Fires;

(b) Assaults;

(c) Suicide or attempted suicide;

(d) Escape or attempted escape.

(6) [(9)] Inmate vandalism:

(a) Destruction of jail property;

(b) Flooding of plumbing fixtures;

(7) [(10)] Staff roster for each shift;

(8) [(11)] Telephone log of initial phone call(s);

(9) [(12)] Fire planning sessions [drills].

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: September 12, 1986

FILED WITH LRC: September 15, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts

(1) Type and number of entities affected: Counties with twelve hour holdovers - approximately one.

(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Clarifies existing language.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/security; control.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 5:070. Safety; emergency procedures.

RELATES TO: KRS 441.055 [441.011]
PURSUANT TO: KRS 13A.350, 441.055 [441.011]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth safety and emergency procedures to be followed in local jails.

Section 1. Policy and Procedure. (1) Each jail shall have a written policy and procedure which specifies fire prevention regulations and practices to ensure the safety of inmates, visitors, and staff. These shall include but not be limited to:
(a) Provision for fire emergency planning sessions [drills] for staff [and inmates] at least quarterly;
(b) Written documentation of fire planning sessions [drills];
(c) A fire safety inspection by the Corrections Cabinet at least once a year [semi-annually];
(d) Inspection and testing of fire protection equipment by qualified persons at least annually with visual inspections by staff monthly;
(e) Smoking restrictions and regulations; and
(f) Written evacuation plan coordinated with local fire officials.
(2) Each jail shall have written policy and procedures for emergency situations including but not limited to:
(a) Escapes;
(b) Taking of hostages;
(c) Riots;
(d) Food poisoning;
(e) Civil disturbances in the community;
(f) Natural disasters;
(g) Suicides; and
(h) Other death and disorder.

Section 2. Physical Plant. (1) Each jail shall comply with NFPA Life Safety Code (1981 Edition).
(2) [(1)] Each jail shall have exits which are distinctly and permanently marked, visible at all times, kept clear, and maintained in usable condition.
(3) [(2)] Each jail shall have equipment necessary to maintain essential lights and communications in an emergency situations.
(4) [(3)] In all areas where an inmate may be confined each jail shall be provided with an emergency smoke evacuation system activated by smoke detectors.
(5) [(4)] Each jail shall have an approved fire alarm and smoke detection system which meets the National Fire Safety Code (1981 edition, Chapters 14 and 15).
[(5) Each jail shall comply with the National Fire Safety Code (1981 edition, Chapters 14 and 15).]

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with twelve hour holdovers - approximately one.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Clarifies existing language.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/emergency procedures.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 5:080. Sanitation; hygiene.

RELATES TO: KRS 441.055 [441.011]
PURSUANT TO: KRS 13A.350, 441.055 [441.011]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures to provide proper sanitation and hygiene in jails.

Section 1. Procedures. (1) The jailer shall provide for the control of vermin and pests.
(2) The jail shall provide for both solid and liquid waste disposal.
(3) The jailer shall have a written preventative maintenance plan which includes but is not limited to:
(a) A cleaning schedule for various locations and items in the jail;
(b) A schedule for inspections by the jailer;
(c) A schedule for trash and garbage removal; and
(d) A schedule for periodic inspection and maintenance of specific mechanical equipment.
(4) The jail shall have fresh and purified air circulating within inmate living and activity areas consistent with the state health code [at least equivalent to ten (10) cubic feet per inmate per minute].
(5) [Except in detox cells,] The jail shall furnish [have available] sanitized bedding to include:[.]
(a) One (1) mattress; and
(b) One (1) mattress cover. [;]
[(c) One (1) blanket and sheet;]
[(d) One (1) pillow; and]
[(e) One (1) pillowcase.]
Issuance of bedding in detox is optional.
(6) Each inmate shall be issued a clean towel upon admission to an inmate living area.
(7) All floor, toilets, [bathtubs,] and sinks in the jail shall be washed daily or more often as necessary.
(8) All inmates assigned to inmate living areas shall be issued or permitted to obtain the following hygienic items:
(a) Soap;
(b) Toilet paper; and
(c) Female sanitary supplies (where applicable).
Indigent inmates shall be furnished these items by the jail.
[(9) No inmate shall be forced to shave except for medical purposes and under the specific orders of the medical authority.]
[(10) Inmates shall not be forced to cut their hair except for medical purposes and under the specific orders of the medical authority.]
(9) [(11)] As required in KRS 441.064 [441.012], the jail shall be inspected by the Corrections Cabinet bi-annually.

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with twelve hour holdovers - approximately one.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative

body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Clarifies existing language.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/sanitation; hygiene.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 5:090. Medical services.

RELATES TO: KRS 441.055 [441.011]
PURSUANT TO: KRS 13A.350, 441.055 [441.011]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures to provide proper medical services in jails.

Section 1. Procedure Services. (1) The jail's medical services shall be provided by contracting with a Kentucky licensed health care provider [physician or the county public health organization].
[(2) The medical staff and mental health professionals shall not be restricted by the jailer in the performance of their duties except to adhere to the jail's security requirements.]
[(3) The jailer shall prepare a quarterly report and an annual summary report addressing the jail's medical and mental health services.]
(3) [(4)] A daily medical log shall be maintained documenting specific medical treatment rendered in the jail. This log shall be kept current to the preceding hour.
(4) [(5)] Inmates shall not perform any medical functions within the jail.
(5) [(6)] Inmates shall be informed verbally and in writing at the time of admission the methods of gaining access to medical care within the jail.
(6) [(7)] All medical procedures shall be performed according to written and standing orders issued by th responsible medical authority.
(7) [(8)] Medical screening shall be performed by the receiving officer on all inmates upon their admission to the jail and before their placement in inmate living areas. The findings of this medical screening shall be recorded on a printed screening form approved by the medical authority. The medical screening inquiry shall include but not be limited to:
(a) Current illnesses and health problems;
(b) Medications taken and special health requirements;
(c) Screening of other health problems designated by the medical authority;
(d) Behavioral observation, state of consciousness and mental status;
(e) Notation of body deformities, markings, bruises, lesions, jaundice, ease of movement, and other distinguishing characteristics;
(f) Condition of skin and body orifices, including rashes and infestations; and
(g) Disposition and referral of inmates to qualified medical personnel on an emergency basis.
[(9) Sick call conducted by the medical authority shall be available to each inmate.]
(8) [(10)] Deputy jailers and correctional officers [All jail security personnel] shall have current training in basic first-aid equivalent to that defined by the American Red Cross.
(9) [(11)] At least one (1) jail staff member per shift [The jailer] shall be trained and certified to perform approved [in] CPR (Cardiopulmonary Resuscitation).
(10) [(12)] Emergency medical, dental, and psychiatric care shall be available to all inmates commensurate with the level of such care available to the community.
(11) [(13)] Medical research shall not be permitted on any inmate in the jail.
(12) [(14)] Access to the inmate's medical file shall be controlled by the medical authority and the jailer. The physician-patient privilege shall apply to the medical record. The medical record is separate from custody and other administrative records of the jail.
(13) [(15)] All examinations, treatments, and procedures affected by informed consent standards in the community shall be observed for inmate care. In the case of minors, the informed consent of the parent, guardian, or legal custodian shall apply when required by law.
(14) [(16)] In accordance with KRS 72.025, a post-mortem examination shall be conducted on all inmates who die while in the custody of the jailer.
(15) [(17)] The jailer shall have written delousing procedures.
(16) [(18)] All jail staff who administer

medications to inmates shall be trained in the proper procedures as outlined in the Policy and Procedures Manual [by the medical authority].

(17) [(19)] The jail shall have first-aid kits available at all times.

(18) [(20)] An inmate who has been prescribed treatment by a recognized medical authority and cannot receive that treatment in the jail shall be moved to another confinement facility which can provide the treatment or may be moved to a hospital.

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with twelve hour holdovers - approximately one.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Clarifies existing language.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/medical services.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 5:100. Food services.

RELATES TO: KRS 441.055 [441.011]
PURSUANT TO: KRS 13A.350, 441.055 [441.011]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures for the delivery of proper food services in jails.

Section 1. Procedures. (1) The jail shall comply with the Kentucky Food Services Establishment Act and State Food Service Code (KRS 219.019 through KRS 219.081) and the Kentucky Occupational Safety and Health Standards for General Industry (803 KAR 2:020 and 29 CFR Part 1910).
(2) At least three (3) meals a day shall be served if inmates are present. Not more than fourteen (14) hours shall elapse between any two (2) meals.
(3) The jailer shall provide for religious diets.
(4) The jailer shall provide for medical diets where prescribed by a medical authority.
(5) The jailer shall maintain accurate records of all meals served.
(6) Food shall not be used for disciplinary or reward purposes.
(7) A staff member shall directly supervise all food prepared within the jail.
(8) All food shall be served under the direct supervision of a staff member.
(9) The jail shall have sufficient cold and dry food storage facilities if food is prepared in jail.
(10) The jailer or his designee shall inspect the food services area daily.
(11) Food shall not be prepared or stored in inmate living areas.

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with twelve hour holdovers - approximately one.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Clarifies existing language.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/food services.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 5:110. Classification.

RELATES TO: KRS 441.055 [441.011]
PURSUANT TO: KRS 13A.350, 441.055 [441.011]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth the procedure for the classification of inmates.

Section 1. Procedure. (1) Each jail shall develop an appropriate inmate classification system, which shall be included in the facility's written policy and procedure manual.
(2) The inmate classification system shall provide for the separation of the following categories of inmates:
(a) Male and female inmates; and
(b) Chemically incapacitated and other inmates. [Juvenile and adult inmates. If a juvenile is housed in the jail, he shall be housed as a juvenile regardless of his criminal status. Such offenders, as those confined for traffic offenses an those whose rights as a juvenile have been waived, will be housed as juveniles.]
(3) The inmate classification system shall prohibit discrimination or segregation based upon race, color, creed, or national origin.

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with twelve hour holdovers - approximately one.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:

Clarifies existing language.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/classification.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 5:120. Admission; release.

RELATES TO: KRS 441.055 [441.011]
PURSUANT TO: KRS 13A.350, 441.055 [441.011]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth admission and release procedures.

Section 1. Policy and Procedure. Each jail shall develop written admission[, orientation,] and release procedures to be included in the jail's policy and procedure manual. The policy shall address the identification of special needs [of] offenders and their immediate transfer to a full service jail.

Section 2. Admission. (1) Any person in need of emergency medical attention [seriously injured, seriously ill, or unconscious person (as determined by the jailer or his designee)] shall not be admitted to the jail until a medical examination has been conducted [by a licensed physician]. A denial of admission form shall be completed which lists the reasons for the denial and shall be signed by [the arresting officer and] the jail staff member on duty.
(2) Special needs inmates shall not be housed in the facility, rather they shall be transported directly to a full service facility.
(3) The jail staff shall ensure [assure] that each inmate is committed under proper legal authority by a duly authorized officer.
(4) An intake form shall be completed on every new inmate admission and shall include but not be limited to the following:
(a) Time and date of commitment;
(b) Name, alias, nickname;
(c) Official charge - cite eight (8) digit KRS No.;
(d) Authority ordering commitment;
(e) Unit of government to be billed;
(f) Signature and title of arresting or committing officer;
(g) Date of birth;
(h) Race;
(i) Sex;
(j) Height and weight;
(k) Current or last known address;
(l) Telephone number;
(m) Marital status;
(n) Spouse or next of kin;
(o) Emergency contact (name, relation, address, telephone number);
(p) Employer, place of employment, telephone number;
(q) Social Security Number;
(r) Health status (including current medications, known allergies, diets or other special medical needs);
(s) Blood type, if known;
(t) The name of any known person in the jail who might be a threat to the arrestee; and
(u) Mental health history (including past hospitalizations, comprehensive care treatment, current treatment and medication).
(5) The jail staff shall conduct a search of inmates and their possessions.
(a) Each inmate shall be searched for contraband in such a manner as responsible staff reasonably determine is necessary to protect the safety of fellow inmates, staff and institutional security. Such search shall be conducted in a private area and in a manner which protects the inmate's dignity to such extent as possible in that particular jail.
(b) When a strip search is conducted, it shall be performed by a staff person of the same sex as the inmate.
(c) When a strip search of an inmate is conducted it shall include a thorough visual check for birthmarks, wounds, sores, cuts, bruises, scars, and injuries, "health tags" and body vermin. A less complete search shall include the same checks to the extent determined reasonable necessary.
(d) The probing of body cavities shall not be done except where there is reasonable suspicion to believe that the inmate is carrying contraband there and such search shall only be conducted by medically trained persons (physician, emergency medical technician, registered nurse, licensed practical nurse) in a private location and under sanitary conditions.
(6) Each jail shall develop written policies and procedures, specifying the personal property that inmates may retain in their possession.
(a) Any cash or personal property which is [shall be] taken from the inmate upon admission shall be [,] listed by complete description on a receipt form [in duplicate], and securely stored pending the inmate's release. The receipt shall be signed by the receiving officer and the inmate[, the duplicate shall be stored with the inmate's personal property and the original kept for the jail record].
(b) If the inmate is in an inebriated state, there shall be at least one (1) witness to verify this transaction. As soon as the inmate is able to understand and account for his actions, he shall sign the receipt and his copy stored with his personal property.
(c) Personal property released to a third party must have the inmate's signature of approval and the signature receipt of the third party.

Section 3. Release. (1) Written legal authorization shall be required prior to the release or removal of any inmate from confinement.

(2) When an inmate is released or removed for any legal purpose to the custody of another, the identity of receiving authority shall be verified and the property transferred shall be properly receipted.

(3) A written record shall be kept of the time, purpose, date, and authority for release or removal from confinement, and into whose custody the inmate is released or removed.

(4) Prior to the release or removal of an inmate, the receiving authority shall sign an authorized release form.

(5) Before the jailer releases an inmate to an out-of-state jurisdiction, he shall consult with the appropriate prosecutorial office in the county.

(6) Any property, not legally confiscated or retained, receipted from the inmate upon admission shall be returned to the inmate at the time of release from custody or to the receiving authority.

(7) Each inmate shall sign a receipt for property returned at the time of release.

(8) Any complaint regarding property returned must be submitted in writing with specific details within twenty-four (24) hours.

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Counties with twelve hour holdovers - approximately one.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Clarifies existing language.
TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/admission; release.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 5:130. Inmate rights.

RELATES TO: KRS 441.055 [441.011]
PURSUANT TO: KRS 13A.350, 441.055 [441.011]
NECESSITY AND FUNCTION: KRS 441.055 [441.011] requires the Corrections Cabinet to promulgate regulations establishing minimum standards for jails. This regulation sets forth procedures to ensure inmate rights.

Section 1. Policy and Procedure. (1) Each jail shall have a written statement of inmate rights which shall include but not be limited to:
(a) Access to courts;
(b) Access to attorney;
(c) Telephone;
(d) Grievances;
(e) Search and seizure;
(f) Disciplinary procedure;
(g) Racial segregation;
(h) Medical care; and
(i) Mental health care (if possible).
The statement of inmate rights shall be posted in a conspicuous place in the booking and inmate living areas of the jail [and a copy shall be handed to the inmate upon admission].
(2) The jailer shall not prohibit an inmate's right of access to the judicial process.
(3) The jailer shall ensure the rights of inmates to have confidential access to their attorney and their authorized representative.
(4) Attorneys, clergy, and medical personnel shall be permitted to visit inmates.

Section 2. Telephone. (1) Newly admitted inmates shall be permitted a reasonable number of local or collect long distance telephone

calls to an attorney of their choice, or to a family member, as soon a practical, generally within one (1) hour after arrival, until one (1) call has been completed.

(2) The jailer or his designee shall maintain a log of all telephone calls made by an inmate during the admission procedure. The log shall document the date, time and party contacted.

(3) Telephone calls shall not be routinely monitored. If calls are monitored, the inmate shall be notified.

[Section 3. Religion. (1) Inmates shall be granted the right to practice their religion within limits necessary to maintain institution order and security.]

[(2) Inmates shall be afforded an opportunity to participate in religious services and receive religious counseling within the jail.]

[(3) Inmates shall not be required to attend or participate in religious services or discussions.]

[Section 4. Access to Programs and Services. The jailer shall ensure equal access to programs and services for all inmates provided the security and order of the jail is not jeopardized.]

Section 3. [5.] Grievance Procedure. the jailer shall have a written inmate grievance procedure whereby an inmate may express his grievance to the jailer. These procedures shall include provisions for:

(1) Responses, within a reasonable time limit, to all grievance complaints;

(2) Equal access to all inmates;

(3) Guarantees against reprisal; and

(4) Resolving legitimate complaints.

Section 4. [6.] Searches. (1) Each search of an inmate for contraband shall be done in such a manner as the jailer determines is necessary to protect the safety of inmates, staff and jail security.

(2) Each search shall be conducted in a private area and in professional manner which protects the inmate's dignity to the extent possible.

(3) All strip searches shall be performed by a staff person of the same sex.

Section 5. [7.] Disciplinary Rights. Each jail shall have a written policy and procedure for maintaining discipline which is consistent with constitutional requirements for due process.

Section 6. [8.] Medical. Each inmate shall be afforded access to necessary medical care.

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: September 12, 1986

FILED WITH LRC: September 15, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts

(1) Type and number of entities affected: Counties with twelve hour holdovers - approximately one.

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

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change.

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

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: Clarifies existing language.

TIERING: Was tiering applied? No. Not applied as there were already three separate categories of jail standards.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/inmate rights.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To correct errors in the standards enacted in 1983 and to clarify wording.
PROVISION/MECHANICS:
FISCAL EXPLANATION: These changes in the standards will not have a significant fiscal impact. All jails under construction and renovation will be in compliance with the standards. The older jails have been granted waivers for these items or have already completed.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:030. Kentucky State Reformatory.

RELATES TO: KRS Chapters 196, 197, 439

PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY AND FUNCTION: KRS 196.035, 197.020,

439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on September 9 [August 13], 1986 and hereinafter should be referred to as Kentucky State Reformatory Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

KSR 01-00-09 Public Information and News Media Relations
KSR 01-00-10 Entry Authorization for All Cameras and Tape Recorders Brought into the Institution (Amended 9/9/86)
KSR 01-00-14 Extraordinary Occurrence Report
KSR 01-00-15 Cooperation and Coordination with Oldham County Court
[KSR 01-00-18 Assistant Duty Officers]
KSR 01-00-19 Personal Service Contract Personnel
KSR 01-00-20 Consent Decree Notification to Inmates
KSR 02-00-01 Inmate Canteen
KSR 02-00-03 Screening Disbursements from Inmate Personal Accounts
KSR 02-00-11 Inmate Personal Accounts
KSR 02-00-12 Institutional Funds and Issuance of Checks
KSR 03-00-01 Shift Assignment/Reassignment
KSR 03-00-02 Employee Dress and Personal Appearance
KSR 03-00-05 Intra-Agency Promotional Opportunity Announcements
KSR 03-00-06 Employee Time and Attendance
KSR 03-00-07 Travel Expense Reimbursement
KSR 03-00-08 Employee Tuition Assistance Reimbursement
KSR 03-00-10 Workers' Compensation
KSR 03-00-11 Equal Employment Opportunity Complaints
KSR 03-00-12 Employee Greivance Procedure
KSR 03-00-14 Prohibited Employee Conduct, Disciplinary Actions, and Appeal Process
KSR 03-00-15 Affirmative Action Program
KSR 03-00-16 Confidentiality of Personnel Records
KSR 03-00-19 Establishment of Personnel Records and Employee Right to Challenge Information Contained Therein
KSR 03-00-20 Personnel Selection, Retention and Promotion
KSR 03-00-21 Equal Employment Opportunities for Institutional Job Assignments and Job Classification Promotions
KSR 03-00-23 Work Planning and Performance Review (WPPR)
KSR 03-00-24 Inclement Weather and Employee Work Attendance
KSR 03-00-25 Medical Examination Requirements for New Employees
KSR 04-00-02 Staff Training and Development
KSR 05-00-02 Research Activities
KSR 05-00-03 Management Information Systems
KSR 06-00-01 Inmate Master File
KSR 06-00-02 Records Audit
KSR 06-00-03 Kentucky Open Records Law
KSR 07-00-02 Institutional Tower Room Regulations
KSR 07-00-03 Guidelines for Contractors
KSR 08-00-07 Inmate Family Emergency - Life Threatening Illness or Death in Inmate's Immediate Family
KSR 08-00-08 Notification of Inmate Family in Case of Serious Injury, Critical Medical Emergency, Major Surgery, or Death of an Inmate
KSR 08-00-09 Emergency Preparedness Training [(Amended 8/13/86)]
KSR 09-00-04 Horizontal Gates/Box 1 Entry and Exit Procedure
KSR 09-00-05 Gate I Entrance and Exit Procedure
KSR 09-00-14 Use of Force
KSR 09-00-21 Crime Scene Camera
KSR 09-00-22 Collection, Preservation, and Identification of Physical Evidence
KSR 09-00-23 Drug Abuse Testing
KSR 09-00-25 Inmate Motor Vehicle Operator's License
KSR 09-00-26 Contraband Outside Institutional Perimeter
KSR 10-00-02 Special Management Inmates - Operations, Rules and Regulations for Unit D (Amended 9/9/86)
KSR 10-00-03 Special Needs Unit
KRS 10-00-04 Unit D Admission/Release Ticket
KSR 11-00-01 Meal Planning for the General Population
KSR 11-00-02 Special Diets
KSR 11-00-03 Food Service Inspections
KSR 11-00-04 Dining Room Dress Code for Inmates
KSR 11-00-06 Health Standards/Regulations for Food Service Employees
KSR 11-00-07 Early Chow Line Passes for Medically Designated Inmates
KSR 12-00-01 Inmate Summer Dress Regulations
KSR 12-00-02 Sanitation and General Living Conditions
KSR 12-00-03 State Items Issued to Inmates
KSR 12-00-07 Regulations for Inmate Barbershop
KSR 13-00-01 Identification of Mentally Retarded Inmates
KSR 13-00-02 Regulations for Hospital Patients
KSR 13-00-03 Medication for Inmates Leaving Institution Grounds
KSR 13-00-04 Dental Care for Inmates
KSR 13-00-05 Medical and Dental Sick Call
KSR 13-00-07 Referral of Inmates Considered to Have Severe Emotional Disturbances
KSR 13-00-08 Institutional Laboratory Procedures
KSR 13-00-09 Institutional Pharmacy Procedures
KSR 13-00-10 Requirements for Medical Personnel
KSR 13-00-11 Preliminary Health Evaluation and Establishment of Inmate Medical Record
KSR 13-00-12 Vision Care/Optometry Services
KSR 13-00-14 Periodic Health Examinations for Inmates
KSR 13-00-15 Medical Alert System
KSR 13-00-16 Suicide Prevention and Intervention Program
KSR 14-00-01 Inmate Rights
KSR 14-00-02 A/C Center and Unit D Inmate Access to Legal Aide Services
KSR 14-00-04 Inmate Grievance Procedure
KSR 15-00-01 Operational Procedures and Rules and Regulations for Unit A, B, and C (Amended 9/9/86)

KSR 15-00-02	Regulations Prohibiting Immate Control or Authority Over Other Inmate(s)
KSR 15-00-03	Governor's Meritorious Good Time Award
KSR 15-00-04	Restoration of Forfeited Good Time [(Amended 8/13/86)]
KSR 15-00-05	Differential Status for SU (QUIT) Inmates
KSR 15-00-06	Inmate I.D. Cards
KSR 15-00-07	Inmate Rules and Discipline - Adjustment Committee Procedures (Amended 9/9/86)
KSR 15-00-08	Firehouse Living Area
KSR 16-00-01	Visiting Regulations
KSR 16-00-02	Inmate Correspondence and Mailroom Operations (Amended 9/9/86)
KSR 16-00-03	Inmate Access to Telephones
KSR 17-00-01	Housing Unit Assignment
KSR 17-00-03	Notifying Inmates' Families of Admission and Procedures for Mail and Visiting (Amended 9/9/86)
KSR 17-00-04	Assessment/Classification Center Operations, Rules and Regulations (Amended 9/9/86)
KSR 17-00-05	Dormitory 10 Operations (Amended 9/9/86)
KSR 17-00-06	Identification Department Admission and Discharge Procedures (Amended 9/9/86)
KSR 17-00-07	Inmate Personal Property
KSR 18-00-01	Special Management Inmates - Unit D Classification
KSR 18-00-04	Returns from Other Institutions
KSR 18-00-05	Transfer of Residents to Kentucky Correctional Psychiatric Center
KSR 18-00-06	Classification
KSR 18-00-07	Special Notice Form
KSR 19-00-01	Inmate Work Incentives
KSR 19-00-02	On-the-Job Training Program (Amended 9/9/86)
KSR 19-00-03	Safety Inspections of Inmate Work Assignment Locations
KSR 20-00-01	Vocational School Referral and Release Process
KSR 20-00-03	Academic School Programs
KSR 20-00-04	Criteria for Participation in Jefferson Community College Program
KSR 20-00-08	Integration of Vocational and Academic Education Programs
KSR 21-00-01	Legal Aide Office and Law Library Services and Supervision
KSR 21-00-02	Inmate Library Services
KSR 21-00-03	Library Services for Unit D
KSR 22-00-03	Inmate Organizations
KSR 23-00-02	Chaplain's Responsibility and Inmate Access to Religious Representatives
KSR 23-00-03	Religious Programming
KSR 25-00-01	Discharge of Residents to Hospital or Nursing Home
KSR 25-00-02	Violations of Law or Code of Conduct by Inmates on Parole Furlough
KSR 25-00-03	Pre-Parole Progress Report

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 9 1986
FILED WITH LRC: September 9, 1986 at 4 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 22, 1986 at 9 a.m. on the 10th Floor, Room 4471 in the State Office Building. Those interested in attending this hearing shall notify in writing: Barbara Jones, Office of General Counsel, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Barbara W. Jones
(1) Type and number of entities affected: 484 employees of the Kentucky State Reformatory, 1,444 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None. All of the costs involved with the implementation of the regulation are included in the operational budget.
2. Continuing costs or savings: Same as (2)(a)1.
3. Additional factors increasing or decreasing costs: Same as (2)(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None

Tiering:
Was tiering applied? No. All policies are administered in a uniform manner.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:040. Kentucky State Penitentiary.

RELATES TO: KRS Chapters 196, 197, 439
PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640
NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on September 9 [August 13], 1986 and hereinafter should be referred to as Kentucky State Penitentiary Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet.

State Office Building, Frankfort, Kentucky 40601.

KSP 000000-06	Administrative Regulations
KSP 010000-04	Public Information and Media Communication
KSP 020000-01	General Guidelines for KSP Employees
KSP 020000-02	Service Regulations, Attendance, Hours of Work, Accumulation and Use of Leave
KSP 020000-03	Work Planning and Performance Review (WPPR)
KSP 020000-04	Employee Disciplinary Procedure
KSP 020000-05	Proper Dress for Uniformed and Non-Uniformed Personnel
KSP 020000-06	Employee Grievance Procedure
KSP 020000-07	Personnel Registers and Advertisements
KSP 020000-09	Maintenance, Confidentiality, and Informational Challenge of Material Contained in Personnel Files
KSP 020000-10	Overtime Policy
KSP 020000-15	Legal Assistance
KSP 020000-20	Equal Employment Opportunity Complaints
KSP 020000-23	Recruitment and Employment of Ex-Offenders
KSP 020000-24	Educational Assistance Program
KSP 020000-29	Promotional Opportunity Announcement Program
KSP 030000-01	Inventory Records and Control
KSP 030000-04	Requisition and Purchase of Supplies and Equipment
KSP 030000-05	Inmate Personal Funds
KSP 030000-06	Inmate Commissary Program
KSP 040000-02	Inmate Records [Section]
KSP 040000-08	Inmate Equal Opportunity Policy
KSP 050000-14	Searches [of Inmates, Visitors, Staff, Vehicles, Cells and Area Shakedown] and Preservation of Evidence
KSP 060000-01	Special Security Unit
KSP 060000-02	Operational Procedures for Disciplinary Segregation, Administrative Segregation, Administrative Control and Behavioral Control Units
KSP 060000-04	Protective Custody Unit
KSP 060000-11	Criteria for Disciplinary Segregation and Incentive Time Reduction Program
KSP 060000-12	Maximum Protective Custody
KSP 070000-01	Hospital Services
KSP 070000-02	Sick Call
KSP 070000-03	Health Evaluations
KSP 070000-04	Consultations
KSP 070000-05	Emergency Medical Procedure
KSP 070000-13	Pharmacy Procedures
KSP 070000-14	Medical Records
KSP 070000-16	Psychiatric and Psychological Services
KSP 070000-17	Dental Services for Special Management Units
KSP 070000-19	Optometric Services
KSP 070000-20	Menu Preparation and Planning
KSP 070000-24	Food Service, General Sanitation, Safety, and Protection Standards and Requirements [Amended 8/13/86]
KSP 070000-25	Food Service Inspections [Amended 8/13/86]
KSP 070000-30	Therapeutic Diets
KSP 090000-01	Inmate Work Programs
KSP 090000-03	Correctional Industries
KSP 100000-02	Visiting Program (Amended 9/9/86)
KSP 100000-03	Disposition of Unauthorized Property
KSP 100000-04	Inmate Grooming and Dress Code
KSP 100000-05	Procedures for Providing Clothing, Linens and Other Personal Items (Amended 6/13/86)
KSP 100000-06	Mail
KSP 100000-07	Inmate Telephone Access
KSP 100000-08	Behavioral Counseling Record
KSP 100000-09	Due Process/Disciplinary Procedures
KSP 100000-11	Authorized and Unauthorized Property for Inmates
KSP 100000-14	Property Room: Clothing Storage and Inventory
KSP 100000-15	Uniform Standards for Fire Safety, Sanitation and Security of all Cells
KSP 100000-18	Inmate Grievance Committee Hearings
KSP 100000-20	Legal Services Program
KSP 100000-21	Photocopies for Non-Indigent Inmates with Special Court Deadlines
KSP 100000-22	Special Management Unit Legal Services Program
KSP 100000-23	Inmate Legal Office/Legal Library
KSP 110000-03	Governor's Meritorious Good Time Award Committee
KSP 110000-04	Pre-Parole Progress Report
KSP 110000-06	General Guidelines of the Classification Committee
KSP 110000-07	Statutory Good Time Restoration
KSP 110000-08	Award of Meritorious Good Time
KSP 110000-10	Special Needs Inmates
KSP 110000-11	Classification Committee - Transfer Requests
KSP 110000-12	Classification Committee - Inmate Work Assignments
KSP 110000-13	Classification Document
KSP 110000-14	Vocational School Placement
KSP 110000-15	Transfers to Kentucky Correctional Psychiatric Center (KCPC)
KSP 110000-16	Consideration of Further Treatment Requirements for Inmates Prior to Release
KSP 110000-19	Custody/Security Guidelines
KSP 120000-04	Academic Education
KSP 120000-07	Community Center Program
KSP 120000-08	Inmate Furloughs
KSP 120000-11	Religious Services - Staffing
KSP 120000-18	Religious Services - Religious Programming
KSP 120000-20	Marriage of Inmates
KSP 120000-24	Muslim Services
KSP 120000-31	Extended Furloughs
KSP 120000-32	Discharge of Inmates by Shock Probation
KSP 130000-10	Execution Plan

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 8, 1986
FILED WITH LRC: September 9, 1986 at 4 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 22, 1986 at 9 a.m., on the 10th Floor, Room 4471 in the State Office Building. Those interested in attending this hearing shall notify in writing: Barbara Jones, Office of General Counsel, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Barbara W. Jones
(1) Type and number of entities affected: 311 employees of the Kentucky State Penitentiary, 798 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None. All of the costs involved with the implementation of the regulation are included in the operational budget.
2. Continuing costs or savings: Same as (2)(a)1.
3. Additional factors increasing or decreasing costs: Same as (2)(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None

Tiering:
Was tiering applied? No. All policies are administered in a uniform manner.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:050. Luther Luckett Correctional Complex.

RELATES TO: KRS Chapters 196, 197, 439
PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640
NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on September 9 [May 15], 1986 and hereinafter should be referred to as Luther Luckett Correctional Complex Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

LLCC 01-08-01	Institutional Legal Assistance
LLCC 01-09-01	Public Information and News Media Access
LLCC 01-12-01	Duty Officer Responsibilities
LLCC 02-01-02	Fiscal Management: Accounting Procedures
LLCC 02-01-03	Fiscal Management: Agency Funds
LLCC 02-01-04	Fiscal Management: Insurance
LLCC 02-03-01	Fiscal Management: Audits
LLCC 02-06-01	Property Inventory
LLCC 03-01-01	General Guidelines for LLCC Employees [(Amended 6/13/86)]
LLCC 03-01-02	Service Regulations, Attendance Accumulation and use of Leave [(May 15, 1986)]
LLCC 03-02-01	Proper Dress for Uniformed Personnel
LLCC 03-02-02	Replacement of Damaged or Destroyed Personal Property (Added 9/9/86)
LLCC 03-03-01	Employee Grievance Mechanism
LLCC 03-04-01	Employee Records [(Amended 5/15/86)]
LLCC 03-05-01	Personnel Registers [(Amended 5/15/86)]
LLCC 03-06-01	Work Planning: Employee Evaluations and Evaluation Control
LLCC 03-08-01	Shift Transfers
LLCC 03-08-02	Rotation of Correctional Officers Between Central Security and Unit Management Staff
LLCC 03-09-01	Promotion Board [(Amended 5/15/86)]
LLCC 03-10-01	Affirmative Action: EEO [(Amended 5/15/86)]
LLCC 03-12-01	Confidentiality of Information Roles and Services of Consultants, Contract Personnel and Volunteers
LLCC 08-01-01	Offender Records
LLCC 08-04-01	Storage of Expunged Records
LLCC 10-03-09	Duties and Responsibilities of Building 1 and 2 Officer
LLCC 11-03-01	LLCC Population Categories
LLCC 11-07-01	Adjustment Procedures for Minor Rule Violations
LLCC 11-09-01	Rules and Regulations of the Unit
LLCC 11-13-01	Inmate Dress and Use of Access Areas
LLCC 11-15-01	Post-Parole Furloughs
LLCC 11-16-01	Restoration of Forfeited Good Time
LLCC 11-18-02	Use of Monitor Telephone
LLCC 11-19-01	Unit Shakedowns/Control of Excess Property
LLCC 11-20-01	Program Services for "Special Needs"/Mentally Ill Inmates
LLCC 12-01-01	Special Management Inmates
LLCC 12-04-01	Guidelines for (7E) PC Unit/General Living Conditions
LLCC 13-01-01	Dining Room Guidelines (Added 9/9/86)
LLCC 13-04-01	Food Service: Meals
LLCC 13-04-02	Food Service: Menu, Nutrition and Special Diets
LLCC 13-05-02	Medical Screening of Food Handlers
LLCC 13-06-01	Food Service: Inspections and Sanitation
LLCC 13-07-01	Food Service: Purchasing, Storage and Farm Products
LLCC 14-01-01	Sanitation, Living Condition Standards, and Cloting Issue
LLCC 14-05-01	Institutional Inspections
LLCC 15-01-01	Health Maintenance Services; Sick Call and Pill Call

LLCC 15-02-01	Mental Health/Psychological Services
LLCC 15-03-01	Pharmacy
LLCC 15-03-02	Use of Psychotropic Medications
LLCC 15-04-01	Dental Services
LLCC 15-05-02	Licensure and Training Standards
LLCC 15-06-02	Specialized Health Services
LLCC 15-06-03	Emergency Medical/Dental Care Services
LLCC 15-06-04	First Aid/CPR Training Program
LLCC 15-06-05	Suicide Prevention and Intervention Program
LLCC 15-07-01	Health Records
LLCC 15-08-01	Special Diets
LLCC 15-12-01	Special Needs Unit
LLCC 15-14-01	Informed Consent
LLCC 15-15-01	Medical Restraints
LLCC 15-16-01	Health Education/Special Health Programs
LLCC 16-01-01	Inmate Rights and Responsibilities
LLCC 16-02-01	Inmate Grievance Procedure
LLCC 16-03-01	Inmate Legal Services (Amended 9/9/86)
LLCC 17-01-01	Due Process/Disciplinary Procedure
LLCC 18-01-01	Inmate Correspondence [(Amended 5/15/86)]
LLCC 18-01-02	Issuance of Legal Mail to Inmate Population
LLCC 18-02-01	Inmate Visiting
LLCC 18-02-03	Extended Visit and Furloughs (Amended 9/9/86)
LLCC 18-02-04	Meritorious Visits
LLCC 18-03-03	Inmate Visiting (DSU/ASU)
LLCC 20-01-01	Personal Property Control
LLCC 20-02-01	Authorized Inmate Personal Property [(Amended 5/15/86)]
LLCC 20-03-01	Unauthorized Items
LLCC 20-04-02	Inmate Canteen
LLCC 20-05-01	Inmate Control of Personal Funds
LLCC 20-05-02	Storage and Disposition of Monies Received on Weekends, Holidays, and Between 4 p.m. and 8 a.m. Weekdays
LLCC 20-06-01	Procedure for Sending Appliances to Outside Dealers for Repair
LLCC 21-02-01	Classification/Security Levels
LLCC 21-03-01	Classification Process
LLCC 22-01-01	OJT/Job Assignments
LLCC 23-01-01	Academic School
LLCC 26-01-01	Religious Services
LLCC 28-01-01	Privileged Trips
LLCC 28-03-01	Temporary Release/Community Center Release
LLCC 28-04-01	Pre-Parole Progress Report
LLCC 28-04-02	Parole Eligibility Dates

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 9, 1986
FILED WITH LRC: September 9, 1986 at 4 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 22, 1986 at 9 a.m., on the 10th Floor, Room 4471 in the State Office Building. Those interested in attending this hearing shall notify in writing: Barbara Jones, Office of General Counsel, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Barbara W. Jones
(1) Type and number of entities affected: 206 employees of the Luther Luckett Correctional Complex, 580 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None. All of the costs involved with the implementation of the regulation are included in the operational budget.
2. Continuing costs or savings: Same as (2)(a)1.
3. Additional factors increasing or decreasing costs: Same as (2)(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None

Tiering:
Was tiering applied? No. All policies are administered in a uniform manner.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:060. Northpoint Training Center.

RELATES TO: KRS Chapters 196, 197, 439
PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640
NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on September 9 [August 13], 1986 and hereinafter should be referred to as Northpoint Training Center Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

NTC 01-05-01	Extraordinary Occurrence Reports
NTC 01-10-01	Legal Assistance for Staff
NTC 01-11-01	Political Activities of Merit Employees
NTC 01-15-01	Establishment of the Warden as Chief Executive Officer
NTC 01-17-01	Relationships with Public, Media and Other Agencies

NTC 02-01-02 Fiscal Management: Accounting Procedures
NTC 02-01-03 Fiscal Management: Checks
NTC 02-01-04 Fiscal Management: Insurance
NTC 02-03-01 Fiscal Management: Audits
NTC 02-08-01 Inmate Canteen (Amended 9/9/86) [(Amended 8/13/86)]
NTC 02-12-01 Inmate Personal Accounts
NTC 03-01-01 Employee Dress and Personal Appearance
NTC 03-02-01 Prohibited Employee Conduct
NTC 03-03-01 Staff Members Suspected of Being Under the Influence of Intoxicants
NTC 03-04-01 Shift Assignments and Transfers
NTC 03-05-01 Work Planning and Performance Review
NTC 03-06-01 Worker's Compensation
NTC 03-07-01 Merit System Registers and Placement of Advertisements
NTC 03-08-01 Procedures for New Employees Reporting for Employment
NTC 03-09-01 Maintenance, Confidentiality and Challenge of Information Contained in Employee Personnel File
NTC 03-10-01 Employment of Ex-Offenders
NTC 03-13-01 Travel Reimbursement for Official Business and Professional Meetings
NTC 03-14-01 Selection, Retention, Promotion, and Lateral Transfer of Merit System Employees
NTC 03-14-02 Promotional Opportunities
NTC 03-15-01 Time and Attendance; Accumulation and Use of Accrued Time
NTC 03-15-02 Sick Leave Abuse
NTC 03-15-03 Inclement Weather and Emergency Conditions
NTC 03-16-01 Affirmative Action Program and the Promotion of EEO
NTC 03-17-01 Employee Grievance Procedure
[NTC 03-17-02 Review Committee (Deleted 9/9/86)]
NTC 03-18-01 Educational Assistance Program
NTC 03-19-01 Holding of Second Jobs by Employees
NTC 04-01-01 Training and Staff Development
NTC 04-04-01 Firearms and Chemical Agents Training
NTC 06-01-01 Offender Records
NTC 06-01-02 Records - Release of Information
NTC 06-01-03 Taking Offender Record Folders onto the Yard (Amended 9/9/86)
NTC 08-05-01 Duties of Fire and Safety Officer (Amended 9/9/86)
NTC 08-05-02 Fire Procedures
NTC 08-05-03 Fire Prevention
NTC 08-05-04 Storage of Flammables and Dangerous Chemicals and Their Use
NTC 08-05-05 Control of Flammables, Toxic, Caustic, and Other Hazardous Chemicals and Janitorial Supplies
NTC 10-01-01 Special Management Inmates (Amended 9/9/86) [(Amended 8/13/86)]
NTC 10-01-02 Legal Aide Visits for Special Management Inmates
NTC 11-03-01 Food Services: General Guidelines (Amended 9/9/86)
NTC 11-04-01 Food Service: Meals (Amended 9/9/86)
NTC 11-04-02 Menu, Nutrition and Special Diets (Amended 9/9/86)
NTC 11-05-02 Health Standards/Regulations for Food Service Employees
NTC 11-06-01 Inspections and Sanitation (Amended 9/9/86)
NTC 11-07-01 Purchasing, Storage and Farm Products (Amended 9/9/86)
NTC 12-01-01 Institutional Inspections
NTC 12-02-01 Personal Hygiene for Inmates; Clothing and Linens
NTC 12-02-02 Issuance of Personal Hygiene Products (Added 9/9/86)
[NTC 12-02-02 Personal Hygiene Items (Deleted 9/9/86)]
NTC 13-01-01 Emergency Medical Care Plan (Amended 9/9/86)
NTC 13-01-02 Emergency and Specialized Health Services
NTC 13-02-01 Administration and Authority for Health Services
NTC 13-03-01 Sick Call and Pill Call
NTC 13-04-01 Pharmacy
NTC 13-05-01 Dental Services
NTC 13-06-01 Licensure and Training Standards
NTC 13-07-01 Provisions for Health Care Delivery (Amended 9/9/86) [(Amended 8/13/86)]
NTC 13-08-01 Medical and Dental Records
NTC 13-09-01 Special Diets
NTC 13-11-01 Inmate Health Screening and Evaluation (Amended 9/9/86)
NTC 13-12-01 Disabled and Infirm Inmates
NTC 13-13-01 Medical Alert System
NTC 13-14-01 Management of Chemically Dependent Inmates
NTC 13-15-01 Health Education for Inmates (Amended 9/9/86)
NTC 13-16-01 Continuity of Health Care [(Amended 8/13/86)]
NTC 13-17-01 Inmates Assigned to Health Services [(Amended 8/13/86)]
NTC 13-19-01 Psychological Services [(Amended 8/13/86)]
NTC 13-19-02 Mentally Retarded Inmates
NTC 13-19-03 Suicide Prevention and Intervention Program
NTC 13-20-01 Infectious Disease (Added 9/9/86)
NTC 14-01-01 Legal Services Program (Amended 9/9/86)
NTC 14-02-01 Inmate Grievance Procedure
NTC 14-03-01 Inmate Rights and Responsibilities [(Amended 8/13/86)]
NTC 15-01-01 Restoration of Forfeited Good Time
NTC 15-02-01 Due Process/Disciplinary Procedures
NTC 15-02-02 Extra Duty Assignments
NTC 15-03-01 Rules for Inmates Assigned to Outside Detail
NTC 15-03-02 Rules and Regulations for Dormitories
NTC 15-04-01 Inmate Identification
NTC 16-01-01 Mail Regulations
NTC 16-02-01 Visiting
NTC 16-02-02 Extended and Special Visits
NTC 16-02-03 Honor Dorm Visiting (Amended 9/9/86)
NTC 16-03-01 Inmate Furloughs [(Amended 8/13/86)]
NTC 16-05-01 Telephone Use and Control
NTC 17-01-01 Personal Property Control
NTC 17-01-02 Authorized Inmate Personal Property [(Amended 8/13/86)]
NTC 17-01-03 Unauthorized Inmate Property (Amended 9/9/86)
NTC 17-01-04 Disposition of Unauthorized Property
NTC 17-03-01 Assessment/Orientation [(Amended 8/13/86)]
NTC 18-01-01 Pre-Parole Progress Report
NTC 18-01-02 Parole Eligibility Dates

NTC 18-02-01	Classification
NTC 18-02-02	Classification - 48 Hour Notification (Added 9/9/86)
NTC 18-03-01	Special Notice Form
NTC 18-05-01	Transfers to Other Institutions
NTC 18-05-02	Transfer of Inmates to Kentucky Correctional Psychiatric Center
NTC 19-01-01	Inmate Work Program [(Amended 8/13/86)]
NTC 19-01-02	Restricted Outside Work Crew (Added 9/9/86)
NTC 19-01-03	Temporary Leave from Job Assignment (Added 9/9/86)
NTC 20-01-01	Academic School Program (Amended 9/9/86) [(Amended 8/13/86)]
NTC 21-01-01	Library Services (Amended 9/9/86)
NTC 22-03-01	Conducting Inmate Organizational Meetings and Programs
NTC 23-01-01	Religious Services [(Amended 8/13/86)]
NTC 23-03-01	Marriage of Inmates
NTC 24-04-01	Honor Status
NTC 24-05-01	Unit Management (Amended 9/9/86)
NTC 25-01-01	Release Preparation Program
NTC 25-01-02	Temporary Release/Community Center Release
NTC 25-02-01	Funeral Trips and Bedside Visits
NTC 25-03-01	Inmate Release Procedure
NTC 26-01-02	Certification of Volunteers and Guests

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 9, 1986
FILED WITH LRC: September 9, 1986 at 4 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 22, 1986 at 9 a.m., on the 10th Floor, Room 4471 in the State Office Building. Those interested in attending this hearing shall notify in writing: Barbara Jones, Office of General Counsel, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Barbara W. Jones
(1) Type and number of entities affected: 221 employees of the Northpoint Training Center, 651 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None. All of the costs involved with the implementation of the regulation are included in the operational budget.
2. Continuing costs or savings: Same as (2)(a)1.
3. Additional factors increasing or decreasing costs: Same as (2)(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None

Tiering:
Was tiering applied? No. All policies are administered in a uniform manner.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:090. Frankfort Career Development Center.

RELATES TO: KRS Chapters 196, 197, 439
PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640
NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on September 9, 1986 [August 13, 1986] and hereinafter should be referred to as Frankfort Career Development Center Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

FCDC 01-04-01	Confidentiality of Information Roles and Services of Consultant, Contract Personnel, Governmental Services Supervisors and Volunteers (Added 9/9/86)
FCDC 02-10-01	Fiscal Management and Control (Amended 9/9/86)
FCDC 02-11-01	Fiscal Management: Accounting Procedures
FCDC 02-12-01	Fiscal Management: Checking Accounts [Agency Funds] (Amended 9/9/86)
FCDC 02-13-01	Purchasing and Receiving (Amended 9/9/86)
FCDC 03-01-02	Security Manual Part 1: Staff Guidelines
FCDC 03-10-01	Dress Code
FCDC 03-15-01	Travel Expense Reimbursement
FCDC 03-16-01	Employee Grievance Procedure
FCDC 03-21-01	Time and Attendance
FCDC 06-02-01	Inmate Records (Added 9/9/86)
FCDC 11-01-01	Special Diets (Amended 9/9/86) [(Added 8/13/86)]
FCDC 11-03-01	Food Services
FCDC 12-03-01	Laundry, Clothing, Hygiene and Grooming Services (Added 9/9/86)
FCDC 13-01-01	Use of Pharmaceutical Products [(Amended 8/13/86)]
FCDC 13-01-02	Medical Emergencies (Added 9/9/86)
FCDC 13-01-03	Informed Consent [(Added 8/13/86)]

FCDC 13-02-01	Inmate Medical Screenings and Health Evaluations [(Added 8/13/86)]
FCDC 13-03-01	Psychiatric and Psychological Services (Added 9/9/86)
FCDC 13-03-02	Parental Administration of Medications and Use of Psychotropic Drugs [(Added 8/13/86)]
FCDC 13-04-01	Intra-System Transfers of Medical/Psychiatric Problems [(Added 8/13/86)]
FCDC 13-06-01	Chronic and Convalescent Care [(Added 8/13/86)]
FCDC 13-10-01	Treatment Protocol Regarding First-Aid Procedures, Routine Health Care
FCDC 13-11-01	Health Education: Provision of Special Health Care Needs [(Amended 8/13/86)]
[FCDC 13-12-01	Physician's Clinic (Deleted 9/9/86)]
FCDC 13-13-01	Physicians Referrals (Added 9/9/86)
[FCDC 13-13-01	Physician Referrals, Emergency Room Visits, and Hospitalization (Deleted 9/9/86)]
FCDC 13-14-01	Health Records (Amended 9/9/86)
FCDC 13-15-01	Routine and Emergency Dental Appointments (Amended 9/9/86)
FCDC 13-16-01	Routine and Emergency Eye Examinations
FCDC 13-17-01	Health Requirements of Food Service Workers
FCDC 14-01-01	Prohibiting Inmate Authority Over Other Inmates [(Added 8/13/86)]
FCDC 14-02-01	Inmate Grievance System (Added 9/9/86)
FCDC 14-03-01	Inmates Are Not Subject to Discrimination Based on Race, Religion, National Origin, Sex, Handicap or Political Beliefs and Are Protected Against Corporal Punishment (Added 9/9/86)
FCDC 14-04-01	Legal Services Program [(Amended 8/13/86)]
FCDC 15-01-01	Good Time - Credits (Meritorious, Governor's and Statutory) [(Added 8/13/86)]
FCDC 15-03-01	Conduct of Adjustment Committee Hearings (Chairperson) (Added 9/9/86)
FCDC 16-01-01	Inmate Visiting (Amended 9/9/86)
FCDC 16-02-01	Mail Policy [(Amended 8/13/86)]
FCDC 16-03-01	Inmate Access to Telephones (Added 9/9/86)
FCDC 17-01-01	Inmate Property Control
FCDC 17-02-01	Inmate Reception, Orientation, and Discharge (Added 9/9/86)
FCDC 18-01-01	Inmate Classification (Added 9/9/86)
FCDC 18-02-01	Reclassification Document (Added 9/9/86)
FCDC 18-03-01	Instructions for Six Month Review (Added 9/9/86)
[FCDC 18-04-01	Institutional Classification/ Reclassification Committee (Deleted 9/9/86]
FCDC 19-01-01	Security and Operation of the Governmental Services Program (Added 9/9/86)
FCDC 19-02-01	Inmate Work Program (Added 9/9/86)
FCDC 22-01-01	Privilege Trips
FCDC 22-01-02	Activity Trips
FCDC 22-02-01	Recreation and Inmate Activities (Added 9/9/86)
FCDC 23-01-01	Religious Activities (Added 9/9/86)
FCDC 24-01-01	Social Service Program (Added 9/9/86)
FCDC 24-02-01	Substance Abuse Programs (Added 9/9/86)
FCDC 25-01-01	Escorted Leaves (Added 9/9/86)
FCDC 25-02-01	Temporary Release/Community Center Program (Added 9/9/86)
FCDC 25-03-01	Release Preparation Program

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 9, 1986
FILED WITH LRC: September 9, 1986 at 4 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 22, 1986, at 9 a.m. on the 10th Floor, Room 4471 in the State Office Building. Those interested in attending this hearing shall notify in writing: Barbara Jones, Office of General Counsel, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Barbara Jones
(1) Type and number of entities affected: 23 employees of the Frankfort Career Development Center, 67 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.
2. Continuing costs or savings: Same as (2)(a)1.
3. Additional factors increasing or decreasing costs: Same as (2)(a)1.
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None

Tiering: Was tiering applied? No. All policies are administered in a uniform manner.

TRANSPORTATION CABINET
Department of Vehicle Regulation
(Proposed Amendment)

601 KAR 9:040. Reciprocity.

RELATES TO: KRS Chapters 138, 186, 281
PURSUANT TO: KRS 281.600, 281.610, 281.750, 281.752
NECESSITY AND FUNCTION: KRS Chapters 138, 186 and 281 require the Transportation Cabinet to adminster and enforce motor vehicle laws and the highway use tax laws and to regulate the transportation of persons and property for hire. This administrative regulation establishes the identifying documents required, and the fees therefore, necessary to enforce and administer the requirements of these laws. [KRS 281.600 requires the Transportation Cabinet to establish reasonable requirements with regard to continuous and adequate service of transportation. This regulation specifies the requirements for uniform regulation of all motor vehicles engaged in interstate commerce.]

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

Section 2. Identification Cards for Vehicles Operating Under Reciprocity Agreements. Before any motor vehicle as described in KRS 281.011(3), (4) and (5) [(2)] and any other motor vehicle operated by a motor carrier as described in KRS 138.655(5) and (7) shall be entitled to reciprocal privileges when operating in interstate commerce in Kentucky and entitled to use the highways of this state, the owners and operators shall apply to the Transportation Cabinet for a motor vehicle identification card. Such application shall be made on forms prescribed and furnished by the cabinet and shall be accompanied by a fee of ten (10) [two (2)] dollars for each motor vehicle identification card applied for. [The motor vehicle identification card shall be completed by the motor carrier and returned to the cabinet for validation.] Such card shall be carried in the cab of the motor vehicle at all times. Failure to display this card shall constitute a violation of the cabinet's administrative [rules and] regulations.

Section 3. Identification Cards for Vehicles Licensed in Kentucky. Before any motor vehicle as described in KRS 281.011(3), (4) and (5) [(2)] and any other motor vehicle operated by a motor carrier as described in KRS 138.655(5) and (7) can be operated in intrastate commerce or interstate commerce, such vehicle must have a vehicle identification card, which card must be carried in the cab of the vehicle at all times. The owner or operator of such vehicle shall apply to the Transportation Cabinet for the motor vehicle identification card. The application shall be on forms prescribed and furnished by the cabinet. No fee shall be charged by the cabinet for the issuance of this card. The identification card will be completed by the motor carrier and returned to the cabinet for validation. Failure to display this card shall constitute a violation of the cabinet's administrative [rules and] regulations.

Section 4. Information to be Set Out on the Identification Cards. Identification cards shall be issued annually upon payment of the prescribed fee and upon compliance with all statutory requirements and appropriate administrative [rules and] regulations. The card shall contain a designation of "private carrier" or "for hire carrier"; the name and address of the holder; the identification of the vehicle [in accordance with the rules and regulations of the cabinet]; such other information as may be required; and in addition, shall have thereon the KYU license number issued to the owner or operator by the Transportation Cabinet under KRS 138.655 for the use of gasoline and special fuels on the public highways of this state.

Section 5. Temporary Identification Documents [Identification of Leased Vehicles]. (1) Notwithstanding the provisions of Sections 2 and 3 of this administrative regulation, any operator of a motor vehicle qualified to operate intrastate or interstate in Kentucky and using either a leased or owned vehicle[s] may elect to obtain a thirty (30) day emergency permit issued by the cabinet for a fee of ten (10) [two (2)] dollars each, which must be displayed in the cab of the vehicle, as identification for such vehicle.

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

(2) Effective February 1, 1987, notwithstanding the provisions of Sections 2 and 3 of this administrative regulation, any operator of a vehicle qualified to operate intrastate or interstate in Kentucky may elect to obtain a temporary authority permit in lieu of an annual vehicle identification card. The temporary permit shall be issued for a period not to exceed ten (10) days. Temporary permits may be issued in person, by mail or transmitted collect on delivery via designated wire or transmittal company. The fee for this permit is ten (10) dollars plus any applicable transmittal charges when transmitted collect on delivery via designated wire or transmittal company to a requested location. The permit shall contain the same information as set forth on the annual

vehicle identification card and must be displayed in the cab of the vehicle while it is operating in Kentucky.

(3) Any operator of a motor vehicle subject to the supplemental highway use tax imposed by KRS 138.660(4) may elect to purchase a ten (10) day supplemental highway use (SHU) tax permit in lieu of obtaining an annual supplemental highway use tax decal. The charge for the SHU tax permit is fifty (50) dollars. Such permit may be transmitted collect on delivery via designated wire or transmittal company to a requested location. This temporary tax permit may be purchased in person or by mail, provided all other pertinent requirements have been met. The tax permit must be displayed in the cab of the vehicle at all times while operating in Kentucky.

(4) For the purpose of convenience for permit applicants and of the cabinet, any and all permits requested by an applicant may be combined and transmitted in one (1) document.

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

Section 7. Violations of Kentucky Law. Any motor vehicle operating into or through Kentucky in excess of the maximum weight or size limit allowed by the provisions of KRS Chapter 189, or in excess of the maximum weight or size limits allowed by overweight or oversize permits issued pursuant to the provisions of KRS Chapter 189; any motor vehicle operating into or through Kentucky and failing to display the motor vehicle identification card [, or when said vehicle fails] to display the motor vehicle identification card required by Sections 2, 3 [and] 4 and 5 of this administrative regulation, or any vechile operating in Kentucky in intrastate commerce without a non-reciprocal trip permit unless apportioned registered in Kentucky under the provisions of the Interstate Registration Plan, may, within the discretion of the cabinet, be denied reciprocal privileges in Kentucky in addition to the other penalties provided by the Kentucky Revised Statutes.

Section 8. Non-Reciprocal Trip Permits. A non-reciprocal trip permit issued in accordance to KRS 281.838 must be obtained in advance of operations in this state. The application for such permit must at a minimum briefly describe the vehicle and include the name of the operator. [Any motor vehicle operated by a non-resident not otherwise entitled to reciprocity in the Commonwealth of Kentucky and which motor vehicle operates upon the highways of this state for ten (10) days, provided the operator, prior to the operation of the vehicle into this state, secures from the Transportation Cabinet a non-reciprocal trip permit. The application for this permit must briefly describe the vehicle and name of the operator. The operator must have a Kentucky motor carrier fuel use permit. If the operator does not have a fuel use permit, a temporary fuel permit good for ten (10) days may be secured in accordance with 601 KAR 9:060. The permit shall be issued not to exceed ten (10) days. The cost of this permit will be twenty-five (25) dollars paid in advance of the operation in this state.]

Section 9. This regulation shall be effective no earlier than January 1, 1987.

C. LESLIE DAWSON, Secretary
JOHN K. PENROD, Commissioner
APPROVED BY AGENCY: September 2, 1986
FILED WITH LRC: September 2, 1986 at 1 p.m.
PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this proposed amended administrative regulation on October 23, 1986 at 9:30 a.m., prevailing time, in the Fourth Floor Hearing Room of the State Office Building. The State Office Building is located at the corner of High and Clinton Streets, in Frankfort, Kentucky. Any person who intends to attend this meeting must in writing no later than October 18, 1986 so notify, Sandra G. Pullen, Transportation Cabinet, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen
(1) Type and number of entities affected: Approximately 33,000 motor carriers.
(a) Direct and indirect costs or savings to those affected: Increase costs to motor carrier industry of approximately $30,000,000 annually.
1. First year: Continued annual cost increases.
2. Continuing costs or savings: Same as above.
3. Additional factors increasing or decreasing costs (note any effects upon competition): Place Kentucky carriers operating interstate at competitive disadvantage through tax retaliation.
(b) Reporting and paperwork requirements: Substantial new and additional reporting requirements and permitting requirements.
(2) Effects on the promulgating administrative body: Approximately $250,000 additional costs and increased work load.
(a) Direct and indirect costs or savings: No savings.
1. First year: Approximately $250,000 additional costs.
2. Continuing costs or savings: Some increased costs annually.
3. Additional factors increasing or decreasing costs: More telephone traffic and correspondence; increased filing, postage, overtime, etc.
(b) Reporting and paperwork requirements: Substantial additional paperwork requirements.
(3) Assessment of anticipated effect on state and local revenues: Would increase both under revenue distribution formula of HB 126.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Required by Legislative enactment of HB 126.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: Regulation required to implement HB 126 and to

update regulation to comport to present procedures.

TIERING: Was tiering applied? No. Not applicable.

TRANSPORTATION CABINET
Department of Vehicle Regulation
(Proposed Amendment)

601 KAR 9:055. Seat [and mileage] taxes.

RELATES TO: KRS Chapter 186

PURSUANT TO: KRS 186.281, 281.750 [138.725, 281.600, 281.610, 281.820]

NECESSITY AND FUNCTION: This regulation sets out procedures to be followed in the filing of seat [and mileage] taxes that KRS 186.281 [the statutes] requires the Department of Vehicle Regulation to collect. KRS 281.750 authorizes the Department of Vehicle Regulation to issue identification to motor vehicles to prevent tax evasion. This regulation sets forth the form of this identification for motor carriers subject to the payment of seat taxes.

[Section 1. (1) Mileage tax, when due. The mileage tax imposed by KRS 186.281 shall be paid monthly and such payment shall be accompanied by forms prescribed and furnished by the department. The tax payment and required forms shall be due on or before the 15th day of the calendar month immediately following the month or portion thereof in which the taxable operation occurred.]

[(2) Mileage tax, period covered. Computation of the monthly tax return shall be based upon all operations during the calendar month. Should a motor carrier begin its initial operation on a day other than the first day of a calendar month, its first tax return shall be based upon its operation during the remaining portion of said month, to and including the last day thereof; and, thereafter, each monthly return shall be based upon its entire operation during each succeeding calendar month.]

[(3) Mileage tax, contents of report. Mileage reports shall clearly state the total number of miles operated on regularly conducted operations and the total number of miles operated on charter trips, these totals to be shown separately on separate reports. All reports of miles operated on charter trips shall state the origin and destination of these trips, the bus number and tag number making each trip, and the total number of miles of each trip. All mileage reports shall be sworn to by a responsible official of the carrier making the reports.]

Section 1. [2.] Seat tax, apportionment. (1) Every motor carrier of passengers for hire operating over regular routes in interstate commerce or combined interstate and intrastate commerce, a portion of which operation is over the highways of the Commonwealth of Kentucky, shall on or before January 1 of each year file with the commissioner of the Department of Vehicle Regulation a sworn statement showing the following:

(a) The total number of miles operated by the fleet of such carrier in Kentucky during the eight (8) calendar months ending August 31 of that year.

(b) The total number of miles operated by the aforementioned fleet of buses in all their operations in all of the states for the said eight (8) months' period ending August 31.

(c) The mileage as required in paragraphs (a) and (b) shall be furnished on such forms as the department may prescribe, indicating thereon the company bus number, its total miles operated for the required period and the number of these miles operated in Kentucky.

(2) Upon receipt of said information as required by subsection (1)(a) and (b) of this section, the commissioner shall determine the amount of seat tax of the fleet of such carrier in Kentucky based upon the apportionment as provided by KRS 186.281(2), i.e., the percentage of miles the fleet subject to said act operated in Kentucky as related to the total miles such fleet operated in all states. This ratio shall determine the seat tax apportioned to be the seat tax for all motor vehicles of said fleet for said license year.

(3) At the end of the license year of December 31, but not later then the following March 31, each motor carrier of persons operating equipment under KRS 186.281(2) shall resubmit to the department a full and complete accounting of the miles operated as outlined in subsection (1)(a) and (b) of this section for the preceding license year, i.e., January 1 through December 31 of the previous calendar year and the ratio or percentage figure will again be calculated by the department from said actual mileage. Using said actual miles for the previous license year, the department shall then issue a credit or impose an additional charge to the motor carrier involved so that the actual apportionment fact for each license year will be assessed against each carrier.

Section 2. [3.] Registration and Licensing of Equipment of Motor Carriers of Persons Subject to Apportionment Licensing. Any motor carrier or persons subject to the provisions of KRS 186.281(2) shall on or before January 1 of each year [register and] license only that proportion of coaches in its fleet as the estimated mileage operated by such fleet in Kentucky bears to the estimated total mileage operated by such fleet as determined under said statute. Such carriers shall list on forms prescribed by the department the required number of coaches from any of its fleet required to be licensed thereunder and the department shall issue a license [registration] plate for each such coach and shall collect the motor vehicle usage tax imposed by KRS 138.460 at such time, unless the coaches so licensed are exempt therefrom under the provisions of KRS 138.470 or KRS 154.690 and is supported by proof thereof. The department shall issue an apportionment mileage vehicle identification [cab] card for the balance of said fleet and a reproduction of such card shall be carried in any unlicensed [and unregistered] coaches operated in or through Kentucky during the license year.

Section 3. Vehicle Identification License Plate. The Department of Vehicle Regulation shall issue a distinguishing vehicle license plate evidencing the payment of the seat taxes imposed by KRS 186.281. The issuance of which shall be pursuant to administrative regulation 601 KAR 9:010.

C. LESLIE DAWSON, Secretary
JOHN K. PENROD, Commissioner
APPROVED BY AGENCY: September 2, 1986
FILED WITH LRC: September 2, 1986 at 1 p.m.
PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this proposed amended administrative regulation on October 23, 1986 at 9 a.m., prevailing time, in the Fourth Floor Hearing Room of the State Office Building. The State Office Building is located at the corner of High and Clinton Streets, in Frankfort, Kentucky. Any person who intends to attend this meeting must in writing no later than October 18, 1986 so notify, Sandra G. Pullen, Transportation Cabinet, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen
(1) Type and number of entities affected: None
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings: None
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: Regulation changed to comport to change in statute.
TIERING: Was tiering applied? No. Not applicable.

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

702 KAR 7:070. Interscholastic athletic eligibility and requirements; redshirting prohibited.

RELATES TO: KRS 156.070
PURSUANT TO: KRS 156.070
NECESSITY AND FUNCTION: KRS 156.070 gives the State Board of Education the management and control of interscholastic athletics in the common schools, and the authority to designate an organization or agency to manage such athletics. This regulation is needed to establish with the public common schools a uniform system of eligibility to participate in interscholastic athletics and to designate an organization to manage interscholastic athletics in the secondary schools.

Section 1. Eligibility to Participate in Elementary School Athletics. (1) No pupil in the public common schools repeating the sixth grade during the 1985-86 school year, or enrolled in grades seven (7) through eight (8) during said year or thereafter and not subject to subsection (2) of this section, shall be eligible to participate in interscholastic athletics the second, or any subsequent, year the pupil is enrolled in the same grade, and no public common school shall participate in an athletic contest with another school that does not adhere to this policy.
(2) Any pupil enrolling in the sixth grade of a public common school, and not repeating said grade, during the 1985-86 school year, and any subsequent sixth grade enrollee, shall have three (3) school years from the time of initial sixth grade enrollment to complete his or her eligibility in elementary school interscholastic athletics. No public common school shall participate in an athletic contest with another school that does not adhere to this policy.

Section 2. Eligibility to Participate in Secondary School Athletics. (1) The eligibility of students to participate in interscholastic athletics at the secondary level shall be governed by the current Constitution, bylaws and tournament rules of the Kentucky High School Athletic Association (KHSAA)[, 1985-86, a copy of which is presented herewith for filing with the Legislative Research Commission and incorporated by reference. A copy of said rules may be obtained from the Office of Instruction, Department of Education, Frankfort, Kentucky 40601].
(2)(a) Effective with the 1985-86 school year, pupils enrolling in the sixth grade of any school shall have seven (7) school years from the time of such enrollment to complete their eligibility in high school interscholastic athletics subject to the jurisdiction of KHSAA.
(b) No pupil enrolled in the seventh or eighth grade in 1985-86, or thereafter, and not subject to paragraph (a) of this subsection, shall be eligible for more than a total of one (1) year in each grade.
(c) No student who initially enrolled in the ninth grade during or prior to the 1985-86 school year or who is not otherwise subject to paragraph (a) of this subsection, and who has been enrolled in grades 9-12 eight (8) semesters, shall thereafter be eligible.
(d) The KHSAA shall adopt the provisions of this subsection as a part of its by-laws and shall fully implement and enforce said eligibility requirements for all high school athletics subject to its jurisdiction.

Section 3. Any public elementary or secondary school or school employee or official who knowingly allows participation of an ineligible player hereunder, or who, through reasonable diligence, should have known of such ineligibility, shall be considered in noncompliance with state accreditation standards or guilty of willful neglect of duty or breach

of contract. Such shall apply not only to coaches but also to personnel supervising coaches; such as but not limited to an athletic director, an assistant principal, a principal, an assistant superintendent, a superintendent, or a school board member.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: August 27, 1986
FILED WITH LRC: September 8, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 28, 1986, at 10 a.m., Eastern Daylight Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its August meeting. Those persons wishing to attend and testify shall contact in writing: Sheila Collins, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 23, 1986. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Gary Bale
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected: There will be no direct or indirect cost of implementing this change in regulation.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: There will not be additional reporting or paperwork required.
(2) Effects on the promulgating administrative body: This regulation will have no effect (financial/paperwork) on the promulgating administrative body.
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: State and local revenues will not be affected.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Bylaw 5 of the "Kentucky High School Athletic Association's Constitution and Bylaws."
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Tiering not applied since all school boards (school) must comply with elementary and secondary interscholastic athletics.

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

702 KAR 7:080. Recruiting of student athletes prohibited.

RELATES TO: KRS 156.070
PURSUANT TO: KRS 156.070
NECESSITY AND FUNCTION: KRS 156.070 gives the State Board of Education the management and control of interscholastic athletics in the common schools and authority to designate an organization to manage such. This regulation is needed to eliminate the practice of recruiting student athletes.

Section 1. Pupils enrolled in a private or public school (both domestic and foreign) at any grade level shall not be recruited to a public common school in the Commonwealth of Kentucky for the purpose of participating in athletics, including recruitment under the guise of academics.

Section 2. (1) Recruiting is defined as the act by a school employee or official, or anyone on behalf of or for the benefit of a school, of influencing a student, either directly or indirectly through verbal, nonverbal or written communications, during working hours or after (including the summer months), to transfer from a private or public school (both domestic and foreign) to a public common school in the Commonwealth of Kentucky for the purpose of participating in athletics. Such also includes so influencing a student to remain at a school when a bona fide change of residence is proper. A school official utilizing an intermediary, such as but not limited to a peer, another school employee, a student, a parent or a citizen, for the purpose of recruiting a student athlete shall be in noncompliance.
(2) An athletic coach also shall not influence a student even if the student, his parents or any intermediary from another school makes the initial contact. In this situation, a coach should immediately refer the person(s) to the school principal.
(3) Influencing a student shall include, but shall not be limited to the promise or instilling the expectation of an athletic advantage, playing time, employment of the student or his or her parents or relatives, housing for the student or his parents, or any other material or athletic reward.

Section 3. (1) Any common school or common school employee or official, including paraprofessionals and volunteers, knowingly allowing the recruitment of a student for the purposes of participating in athletics hereunder, or who, through reasonable diligence, should have known of such recruitment, shall be in noncompliance with state accreditation standards or guilty of willful neglect of duty or breach of contract. Such shall apply not only to coaches but also to personnel supervising coaches, such as but not limited to an athletic director, an assistant principal, a principal, an assistant superintendent, a superintendent or a school board member.
(2) This regulation shall also apply to

students or their parents and can result in the student being declared ineligible for up to one (1) year and/or the athletic program of the offending school being suspended for an appropriate period of time, both to be decided and administered by the Kentucky High School Athletic Association (KHSAA) or the State Board of Education, as appropriate.

Section 4. The KHSAA [is hereby designated to manage interscholastic athletics in the secondary schools, and said organization and any other organization or agency designated in the future to manage interscholastic athletics,] shall adopt this regulation as a part of its by-laws and fully implement and enforce the applicable requirements hereof, relative to any and all its member schools, both public and private.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: August 27, 1986
FILED WITH LRC: September 8, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 28, 1986, at 10 a.m., EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board of Education at its August meeting. Those persons wishing to attend and testify shall contact in writing: Sheila Collins, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 23, 1986. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Gary Bale
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected: There will be no direct or indirect cost of implementing this change in regulation.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: There will not be additional reporting or paperwork required.
(2) Effects on the promulgating administrative body: This regulation will have no effect (financial/paperwork) on the promulgating administrative body.
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: State and local revenues will not be affected.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Bylaw 5 of the "Kentucky High School Athletic Association's Constitution and Bylaws."
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Tiering not applied since all school boards (school) must comply with elementary and secondary interscholastic athletics.

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

704 KAR 3:304. Required program of studies.

RELATES TO: KRS 156.160
PURSUANT TO: KRS 156.070, 156.160
NECESSITY AND FUNCTION: KRS 156.160 requires the State Board of Education to establish minimum courses of study and the scope of instruction that may be offered in the different classes of common schools, and to establish the minimum requirements for graduation from the courses offered. This regulation implements that duty.

Section 1. Pursuant to the authority vested in the State Board of Education by KRS 156.070 and 156.160, the "Program of Studies for Kentucky Schools, Grades K-12," as amended on August 27 [May 7], 1986, is hereby promulgated and filed with the Legislative Research Commission and incorporated herein by reference. Copies may be obtained from the Office of Instruction, Department of Education.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: August 27, 1986
FILED WITH LRC: September 15, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 28, 1986, at 10 a.m., EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board of Education at its August meeting. Those persons wishing to attend and testify shall contact in writing: Sheila Collins, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 23, 1986. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Dr. Steve Henderson
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected: Not applicable.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: No change.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing

costs:
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Continuation of existing procedure.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not applicable.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Uniformity.

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

704 KAR 20:229. Hearing impaired, endorsement for teaching.

RELATES TO: KRS 161.020, 161.025, 161.030
PURSUANT TO: KRS 156.070, 161.030
NECESSITY AND FUNCTION: KRS 161.020 prohibits any person from holding the position of superintendent, principal, teacher, supervisor, director of pupil personnel, or other public school position for which certificates may be issued unless he holds a certificate of legal qualifications for the particular position; KRS 161.025 give the Kentucky Council on Teacher Education and Certification the duty to develop and recommend policies and standards relating to teacher preparation and certification; and KRS 161.030 rests the certification of teachers and other school personnel and the approval of teacher-preparatory colleges and universities and their curricula with the State Board of Education. This regulation establishes an appropriate certification endorsement and corresponding program of preparation for teaching the hearing impaired.

Section 1. (1) The endorsement for teaching hearing impaired pupils shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who holds either the provisional elementary certificate, the provisional certificate for teaching in the middle grades, or the provisional high school certificate and who has completed the approved program of preparation which corresponds to this endorsement at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005.
(2) The endorsement for teaching hearing impaired pupils shall be valid for the same grade levels as the teaching certificate used as a base for the endorsement and shall have the same duration period as the base certificate except that the elementary certificate shall be valid for kindergarten through grade eight (8).
(3)(a) For a person who qualifies before the deadline date of September 1, 1988, a one (1) year endorsement for teaching hearing impaired pupils, valid for the same grade level as the teaching certificate used as a base for the endorsement, may [shall] be issued to an applicant who meets the following requirements: [upon]
1. Completion of six (6) semester hours of credit from the approved curriculum; [.]
2. Supplies [As a prerequisite, the certificate application shall be accompanied by] a statement from the superintendent of the local school district declaring that an emergency exists as described in the regulations governing emergency teacher certification (704 KAR 20:120) and also describing the special supervisory services that will be provided for this teaching position.
(b) The endorsement may be renewed for no more than three (3) subsequent one (1) year periods upon completion of a minimum of six (6) semester hours additional credit each year after which time the teacher must qualify by having completed the entire curriculum.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: August 27, 1986
FILED WITH LRC: September 15, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 28, 1986, at 10 a.m., EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board of Education at its August meeting. Those persons wishing to attend and testify shall contact in writing: Sheila Collins, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 23, 1986. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Alice McDonald and James Fouche
(1) Type and number of entities affected: Approximately 200 prospective teachers of exceptional children applying for positions in 180 local school districts.
(a) Direct and indirect costs or savings to those affected: No change.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: No change.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: This is an alternative plan.
(5) Identify any statute, administrative

regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: This is essentially a professional/philosophical change in administrative procedure.

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

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: There is no federal mandate with respect to teacher certification; consequently, there is no comparison to be made.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: There is no federal mandate with respect to teacher certification; consequently, there is no comparison to be made.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: There is no federal mandate with respect to teacher certification; consequently, there is no comparison to be made.

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

704 KAR 20:230. Hearing impaired; teacher's provisional certificate.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 156.070, 161.030

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; futhermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate provisional certificate for teaching the hearing impaired and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel.

Section 1. Effective September 1, 1989, the issuance of certificates under the provisions of this section, except subsection (4)(b), shall be discontinued. Effective with the beginning of the 1986-87 academic year, new teacher candidates desiring to prepare for teaching children who are hearing impaired shall not be admitted to any program described in this section; instead, the teacher education institutions shall advise and guide them with respect to the provisions of Section 2 of this regulation.

(1) The provisional certificate for teachers of exceptional children - hearing impaired shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005, TEC 63.0.

(2) The provisional certificate for teachers of exceptional children - hearing impaired shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

(3) The provisional certificate for teachers of exceptional children - hearing impaired shall be valid at any grade level for the instruction of exceptional children who are hearing impaired and as a provisional elementary certificate valid for classroom teaching in grades one (1) through eight (8).

(4)(a) For a person who qualifies before the deadline date of September 1, 1988, the provisional certificate for teachers of exceptional children - hearing impaired may [shall] be issued for a one (1) year period to an applicant who meets the following requirements:

1. Holds the provisional elementary certificate or any other certificate of similar validity for elementary classroom teaching;

2. [and who] Has completed at least six (6) semester hours credit from the special education component of the approved curriculum under which the applicant may reasonably expect to become fully certified; [.]

3. Supplies [As a prerequisite, the certificate application shall be accompanied by] a statement from the superintendent of the local school district declaring that an emergency exists as described in the regulations governing emergency teacher certification (704 KAR 20:120) and also describing the special supervisory services that will be provided for this teaching position.

(b) The certificate may be renewed for no more than three (3) subsequent one (1) year periods upon completion of a minimum of six (6) semester hours additional credit each year after which time the teacher must qualify by having completed the entire curriculum then in effect.

Section 2. Effective July 1, 1986, the following provisions shall become applicable for teacher candidates admitted to the preparation program as described:

(1) The Provisional Certificate for Teachers of Exceptional Children - Hearing Impaired shall be issued in accordance with the pertinent Kentucky statutes and the State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate grade levels as described in the Kentucky Standards

for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005, TEC 63.2 and TEC 63.4.

(2) The certificate shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

(3) The preparation program for teachers of exceptional children - hearing impaired shall also include preparation for teaching in the regular instructional program with preparation options for grade levels as follows:

(a) Option I. Provisional Certificate for Teachers of Exceptional Children - Hearing Impaired Grades K-12, and Provisional Certificate for Teaching in the Early Elementary Grades K-4. Curriculum Standards TEC 63.2.

(b) Option II. Provisional Certificate for Teachers of Exceptional Children - Hearing Impaired Grades K-12, and Provisional Certificate for Teaching in the Middle Grades 5-8. Curriculum Standards 63.4.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: August 27, 1986

FILED WITH LRC: September 15, 1986 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 28, 1986, at 10 a.m., EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board of Education at its August meeting. Those persons wishing to attend and testify shall contact in writing: Sheila Collins, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 23, 1986. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James Fouche and Alice McDonald

(1) Type and number of entities affected: Approximately 200 prospective teachers of exceptional children applying for positions in 180 local school districts.

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: No change.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No change.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: This is an alternative plan.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: This is essentially a professional/philosophical change in administrative procedure.

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

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: There is no federal mandate with respect to teacher certification; consequently, there is no comparison to be made.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: There is no federal mandate with respect to teacher certification; consequently, there is no comparison to be made.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: There is no federal mandate with respect to teacher certification; consequently, there is no comparison to be made.

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

704 KAR 20:235. Learning and behavior disorders; teacher's provisional certificate.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 156.070, 161.030

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; futhermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate provisional certificate for teaching exceptional children with learning and behavior disorders and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel.

Section 1. Effective September 1, 1989, the issuance of certificates under the provisions of this section shall be discontinued. Effective with the beginning of the 1986-87 academic year, new teacher candidates desiring to prepare for teaching children with learning and behavior

disorders shall not be admitted to any program described in this section; instead, the teacher education institutions shall advise and guide them with respect to the provisions of Section 3 of this regulation.

(1) The provisional certificate for teachers of exceptional children - learning and behavior disorders shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005, TEC 60.0.

(2) The provisional certificate for teachers of exceptional children - learning and behavior disorders shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

(3) The provisional certificate for teachers of exceptional children - learning and behavior disorders shall be valid at any grade level for the instruction of exceptional children with learning and behavior disorders and as a provisional elementary certificate valid for classroom teaching in grades one (1) through eight (8).

Section 2. (1)(a) For a person who qualifies before the deadline date of September 1, 1988 [1986], the provisional certificate for teachers of exceptional children - learning and behavior disorders may [shall] be issued for a one (1) year period to an applicant who meets the following requirements:

1. Holds the provisional elementary certificate or any other certificate of similar validity for elementary classroom teaching;

2. [and who] Has completed at least six (6) semester hours credit from the special education component of the approved curriculum under which the applicant may reasonably expect to become fully certified; [.]

3. Supplies [As a prerequisite, the certification application shall be accompanied by] a statement from the superintendent of the local school district declaring that an emergency exists as described in the regulations governing emergency teacher certification (704 KAR 20:120) and also describing the special supervisory services that will be provided for this teaching position.

(b) The certificate may be renewed for no more than three (3) subsequent one (1) year periods upon completion of a minimum of six (6) semester hours additional credit each year after which time the teacher must qualify by having completed the entire curriculum then in effect.

(c) Three (3) years of teaching experience performed under a succession of one (1) year certificates in a full-time position requiring LBD certification shall be substituted for the special education portion of the student teaching requirement.

(2)(a) For a person who qualifies before the deadline date of September 1, 1988 [1986], the provisional certificate for teachers of exceptional children - learning and behavior disorders, valid for grades seven (7) through twelve (12), may be issued for a one (1) year period to an applicant who meets the following requirements:

1. Holds the provisional high school certificate or any other certificate of similar validity for secondary classroom teaching other than a certificate issued for the internship for first year teachers as required in KRS 161.030;

2. [and who] Has completed at least six (6) semester hours of credit from the major in exceptional children - learning and behavior disorders under which the applicant may reasonably expect to become fully certified and a three (3) semester hour course in reading; [.]

3. Supplies [As a prerequisite, the certificate application shall be accompanied by] a statement from the superintendent of the local school district declaring that an emergency exists as described in the regulations governing emergency teacher certification (704 KAR 20:120) and also describing the special supervisory services that will be provided for this teaching position.

(b) The certificate may be renewed for subsequent one (1) year periods upon completion of at least six (6) semester hours of credit each year from the applicable approved curriculum.

(c) Three (3) years of teaching experience performed under a succession of one (1) year certificates in a full-time position requiring LBD certification shall be substituted for the special education portion of the student teaching requirement.

Section 3. Effective July 1, 1986, the following provisions shall become applicable for teacher candidates admitted to the preparation programs as described:

(1) The Provisional Certificate for Teachers of Exceptional Children - Learning and Behavior Disorders shall be issued in accordance with the pertinent Kentucky statutes and the State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate grade levels as described in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005, TEC 60.2, TEC 60.4, and TEC 40.2.

(2) The certificate shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

(3) The preparation program for teachers of exceptional children - learning and behavior disorders shall also include preparation for teaching in the regular instructional program with preparation options for grade levels as follows:

(a) Option I. Provisional Certificate for Teachers of Exceptional Children - Learning and Behavior Disorders Grades K-12, Provisional Certificate for Teaching in the Early Elementary Grades K-4. Curriculum Standards 60.2.

(b) Option II. Provisional Certificate for Teachers of Exceptional Children - Learning and Behavior Disorders Grades K-12, Provisional Certificate for Teaching in the Middle Grades 5-8. Curriculum Standards 60.4.

(c) Option III. Provisional High School Certificate Grades 7-12 with a major in exceptional children - learning and behavior disorders, after September 1, 1989, Provisional Certificate for Teaching in the Secondary Grades 9-12. Curriculum Standards 40.2.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: August 27, 1986
FILED WITH LRC: September 15, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 28, 1986, at 10 a.m., EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board of Education at its August meeting. Those persons wishing to attend and testify shall contact in writing: Sheila Collins, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 23, 1986. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James Fouche and Alice McDonald
(1) Type and number of entities affected: Approximately 200 prospective teachers of exceptional children applying for positions in 180 local school districts.
(a) Direct and indirect costs or savings to those affected: No change.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: No change.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: This is an alternative plan.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: This is essentially a professional/philosophical change in administrative procedure.
TIERING: Was tiering applied? No. Regulation ultimately applies to individual teacher candidates who must satisfy the same curriculum requirements for certification.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: There is no federal mandate with respect to teacher certification; consequently, there is no comparison to be made.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: There is no federal mandate with respect to teacher certification; consequently, there is no comparison to be made.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: There is no federal mandate with respect to teacher certification; consequently, there is no comparison to be made.

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

704 KAR 20:245. Trainable mentally handicapped; teacher's provisional certificate.

RELATES TO: KRS 161.020, 161.025, 161.030
PURSUANT TO: KRS 156.070, 161.030
NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate provisional certificate for teaching exceptional children classified as trainable mentally handicapped and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel.

Section 1. Effective September 1, 1989, the issuance of certificates under the provisions of this section, except subsection (4)(b), shall be discontinued. Effective with the beginning of the 1986-87 academic year, new teacher candidates desiring to prepare for teaching children who are trainable mentally handicapped children shall not be admitted to any program described in this section; instead, the teacher education institutions shall advise and guide them with respect to the provisions of Section 2 of this regulation.
(1) The provisional certificate for teachers of exceptional children - trainable mentally handicapped shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005, TEC 61.0.
(2) The provisional certificate for teachers of exceptional children - trainable mentally handicapped shall be issued and renewed in accordance with the provisions of KRS 161.030

and 704 KAR 20:045.

(3) The provisional certificate for teachers of exceptional children - trainable mentally handicapped shall be valid at any grade level for the instruction of exceptional children who are trainable mentally handicapped and as a provisional elementary certificate valid for classroom teaching in grades one (1) through eight (8).

(4)(a) For a person who qualifies before the deadline date of September 1, 1988, the provisional certificate for teachers of exceptional children - trainable mentally handicapped may [shall] be issued for a one (1) year period to an applicant who meets the following requirements:

1. Holds the provisional elementary certificate or any other certificate of similar validity for elementary classroom teaching;

2. [and who] Has completed at least six (6) semester hours credit from the special education component of the approved curriculum under which the applicant may reasonably except to become fully certified; [.]

3. Supplies [As a prerequisite, the certificate application shall be accompanied by] a statement from the superintendent of the local school district declaring that an emergency exists as described in the regulations governing emergency teacher certification (704 KAR 20:120) and also describing the special supervisory services that will be provided for this teaching position.

(b) The certificate may be renewed for no more than three (3) subsequent one (1) year periods upon completion of a minimum of six (6) semester hours additional credit each year after which time the teacher must qualify by having completed the entire curriculum then in effect.

(c) Three (3) years of teaching experience performed under a succession of one (1) year certificates in a full-time position requiring TMH certification shall be substituted for the special education portion of the student teaching requirement.

Section 2. Effective July 1, 1986, the following provisions shall become applicable for teacher candidates admitted to the preparation program as described:

(1) The Provisional Certificate for Teachers of Exceptional Children - Trainable Mentally Handicapped shall be issued in accordance with the pertinent Kentucky statutes and the State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate grade levels as described in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005, TEC 61.2 and TEC 61.4.

(2) The certificate shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

(3) The preparation program for teachers of exceptional children - trainable mentally handicapped shall also include preparation for teaching in the regular instructional program with preparation options for grade levels as follows:

(a) Option I. Provisional Certificate for Teachers of Exceptional Children - Trainable Mentally Handicapped Grades K-12 and Provisional Certificate for Teaching in the Early Elementary Grades K-4. Curriculum Standards TEC 61.2.

(b) Option II. Provisional Certificate for Teachers of Exceptional Children - Trainable Mentally Handicapped Grades K-12, and Provisional Certificate for Teaching in the Middle Grades 5-8. Curriculum Standards TEC 61.4.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: August 27, 1986

FILED WITH LRC: September 15, 1986 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 28, 1986, at 10 a.m., EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board of Education at its August meeting. Those persons wishing to attend and testify shall contact in writing: Sheila Collins, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 23, 1986. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James Fouche and Alice McDonald

(1) Type and number of entities affected: Approximately 200 prospective teachers of exceptional children applying for positions in 180 local school districts.

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: No change.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No change.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: This is an alternative plan.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: This is essentially a professional/philosophical change in administrative procedure.

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

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: There is no federal mandate with respect to teacher certification; consequently, there is no comparison to be made.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: There is no federal mandate with respect to teacher certification; consequently, there is no comparison to be made.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: There is no federal mandate with respect to teacher certification; consequently, there is no comparison to be made.

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

704 KAR 20:255. Visually impaired; teaching endorsement.

RELATES TO: KRS 161.020, 161.025, 161.030
PURSUANT TO: KRS 156.070, 161.030
NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the council and approved by the state board. This regulation establishes an appropriate certificate endorsement for teaching the visually impaired and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel.

Section 1. (1) The endorsement for teaching visually impaired pupils shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who holds either the provisional elementary certificate, the provisional certificate for teaching in the middle grades, or the provisional high school certificate and who has completed the approved program of preparation which corresponds to this endorsement at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005.
(2) The endorsement for teaching visually impaired pupils shall be valid for the same grade levels as the teaching certificate used as a base for the endorsement and shall have the same duration period as the base certificate.
(3)(a) For a person who qualifes before the deadline date of September 1, 1988, a one (1) year endorsement for teaching visually impaired pupils, valid for the same grade level as the teaching certificate used as a base for the endorsement, may [shall] be issued to an applicant who meets the following requirements: [upon]
1. Completion of six (6) semester hours credit from the approved curriculum; [.]
2. Supplies [As a prerequisite, the certificate application shall be accompanied by] a statement from the superintendent of the local school district declaring that an emergency exists as described in the regulations governing emergency teacher certification (704 KAR 20:120) and also describing the special supervisory services that will be provided for this teaching position.
(b) The endorsement may be renewed for no more than three (3) subsequent one (1) year periods upon completion of a minimum of six (6) semester hours additional credit each year after which time the teacher must qualify by having completed the entire curriculum.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: August 27, 1986
FILED WITH LRC: September 15, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 28, 1986, at 10 a.m., EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board of Education at its August meeting. Those persons wishing to attend and testify shall contact in writing: Sheila Collins, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 23, 1986. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James Fouche and Alice McDonald
(1) Type and number of entities affected: Approximately 200 prospective teachers of exceptional children applying for positions in 180 local school districts.
(a) Direct and indirect costs or savings to those affected: No change.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: No change.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: This is an

alternative plan.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: This is essentially a professional/philosophical change in administrative procedure.
TIERING: Was tiering applied? No. Regulation ultimately applies to individual teacher candidates who must satisfy the same curriculum requirements for certification.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: There is no federal mandate with respect to teacher certification; consequently, there is no comparison to be made.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: There is no federal mandate with respect to teacher certification; consequently, there is no comparison to be made.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: There is no federal mandate with respect to teacher certification; consequently, there is no comparison to be made.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings & Construction
Division of Building Codes Enforcement
(Proposed Amendment)

815 KAR 7:020. Building code.

RELATES TO: KRS Chapter 198B
PURSUANT TO: KRS 198B.040(7), 198B.050
NECESSITY AND FUNCTION: The Kentucky Board of Housing, Buildings and Construction is required by KRS 198B.040(7) to adopt and promulgate a mandatory uniform state building code, which establishes standards for construction of buildings in the state. This regulation establishes the Kentucky Building Code basic provisions relating to new construction, including general building limitations, special use and occupancy, light, ventilation and sound transmission control, means of egress, structural and foundation loads and stresses, acceptable materials and tests, fire resistive construction and fire protection systems, safety during building operations, mechanical systems, energy conservation and electrical systems.

Section 1. The Kentucky Building Code shall include the National Electrical Code, 1984 Edition, N.F.P.A. #70, published by and copies available from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269. The National Electrical Code is hereby adopted by reference.

Section 2. The Kentucky Building Code shall include the "BOCA National Basic Building Code/1984," Ninth Edition, published by and copies available from Building Officials and Code Administrators International, Inc., 4051 W. Flossmoor Road, Country Club Hills, Illinois 60477. That code, including all standards listed in Appendices A through D are hereby adopted by reference with the following additions, exceptions and deletions:
(1) Delete Article 1 in its entirety.
(2) Change subsection 201.0 to include the following additional definitions:
(a) "Construction: The erection, fabrication, reconstruction, substantial alteration or conversion of a building, or the installation of equipment therein."
(b) "Equipment: Facilities or installations including but not limited to, heating, electrical, ventilating, air-conditioning, and refrigerating facilities or installations."
(c) "Reconstruction: The process of reproducing by new construction the exact form and detail of a vanished building, structure or object or a part thereof as it appeared at a specific period of time."
(d) "Rehabilitation: The process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use of while preserving those portions or features of the property which are significant to historical, architectural and cultural values."
(e) "Restoration: The process of accurately recovering the form and details of the property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work."
(f) "Stabilization: The process of applying measures designed to re-establish a weather-resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists."
(3) Change subsection 201.0 definitions to read as follows:
(a) "Basement: That portion of a building the average height of which is at least half below grade, which is ordinarily used for purposes such as storage, laundry facilities, household tool shops, and installation and operation of heating, cooling, ventilating facilities, but which is not ordinarily used for purposes of general household habitation." (See "Story Above Grade.")
(b) "Story: That part of the building comprised between a floor and the floor or roof next above which is not a basement or an attic."
(4) Change subsection 309.5 to read as follows: "309.5 Use group R-4 Structures: This use group shall include all detached one (1) or two (2) family dwellings not more than than three (3) stories in height, and their accessory structures as indicated in the Appendix B Standard, One- and Two-Family Dwelling Code. All such structures shall be designed and built in accordance with the requirements of this code for use group R-3 structures or shall be designed and built in accordance with all the requirements of the one (1) and two (2) family dwelling code as listed in Appendix B, except that the requirements of the state plumbing code (Article 22) shall supersede those conflicting

requirements of the one (1) and two (2) family dwelling code. This choice shall be made by the builder at the time of plans submission. Nevertheless, any builder may use exception #3 of Section 809.4 to determine minimum size of egress windows."

(5) Change subsection 505.1 to read as follows: "505.1 Limitations: These provisions shall not be deemed to prohibit alterations within the limitations of Sections 106 and 505.2 provided an unlawful change of use is not involved."

(6) Delete Sections 512.1 through 512.4.1 and substitute the following: "512.1" Requirements for accessibility of the handicapped: Please see 815 KAR 7:060 for construction requirements providing accessibility to the handicapped, Article 25 of this Code.

(7) Delete Section 513.1 in its entirety.

(8) Change Section 603.0 by creating a new subsection which shall read as follows: "603.3 Housekeeping: Periodic inspections of existing uses and occupancies shall be made by the appropriate fire and health officials to insure maintenance of good housekeeping conditions."

(9) Change Section 608.1 to read as follows: "Private garages located beneath rooms in buildings of Use Groups R-1, R-2, R-3 or I-1 shall have walls, partitions, floors and ceilings separating the garage space from the adjacent interior spaces constructed of not less than one (1) hour fire-resistance rating. Attached private garages shall be completely separated from the adjacent interior spaces and the attic area by means of one-half (1/2) inch gypsum board or equivalent applied to the garage side. The sills of all door openings between the garage and adjacent interior spaces shall be raised not less than four (4) inches (102 mm) above the garage floor. The door opening protectives shall be one and three-fourths (1 3/4) inch solid core wood doors or approved equivalent. In lieu of the required one and three quarter (1 3/4) or twenty (20) minute door, an approved automatic sprinkler head located directly above the door in the garage and properly connected to the domestic water system or an approved automatic detector located directly above the door in the garage shall be acceptable."

(10) Delete Section 702 and Section 804 in their entirety.

(11) Change Section 900.0 by creating a new subsection which shall read as follows: "900.2 Certificate of Compliance: the provisions of this article may be deemed to have been satisfied when certification of an architect or engineer registered in Kentucky to that effect is placed on drawings submitted to the building official."

(12) Delete subsections 1404.4.2, 1404.4.3, 1404.4.4 in their entirety.

(13) Change subsection 1600.2 to read as follows: "1600.2 Boilers: All boilers and associated pressure piping shall meet the standards for construction, installation and inspection as set forth in Title 815, Chapter 15, Kentucky Administrative Regulations."

(14) Add two (2) new subsections to Section 1600.0 which shall read as follows:

(a) "1600.3 Unfired Pressure Vessels. All unfired pressure vessels shall meet the standards set forth in Section VIII of the 1983 Edition of the ASME Boiler and Pressure Vessel Code, ANSI/ASME BPV-VIII-1."

(b) "1600.4 Mechanical Code: All mechanical equipment and systems not covered by 1600.2 or 1600.3 but which are required by other provisions of this code to be installed in accordance with the mechanical code listed in Appendix A, shall be constructed, installed and maintained in conformity with the BOCA Basic Mechanical Code/1984 including all applicable standards listed within Appendix A."

(15) Delete Article Nineteen (19) in its entirety.

(16) Amend Article 20 by changing, creating or deleting certain portions thereof, as follows:

(a) Create a new subsection 2000.5 which shall read as follows: "2000.5 Electrical Inspections: Inspections conducted to determine compliance with the National Electrical Code shall be conducted by a certified electrical inspector in accordance with 815 KAR 35:010."

(b) Delete Subsections 2001.3, 2004.3, and 2004.4.

(c) In Subsections 2002.1, 2002.2, 2002.3 and 2003.1 change the words "Building Official" to "Certified Electrical Inspector."

(17) Delete subsections 2200.1 through 2206.3.1 in their entirety and substitute the following: "2200.1 Scope: The design and installation of all plumbing systems, including sanitary and storm water sewage disposal in buildings shall comply with the requirements of Chapter 318 of the Kentucky Revised Statutes and the Kentucky State Plumbing Code as set out in Title 815, Chapter 20, Kentucky Administrative Regulations."

(18) Change subsection 809.4 to read as follows:

"809.4 Emergency escape: Every sleeping room below the fourth story in buildings of Use Group R and I-1 shall have at least one (1) operable window or exterior door approved for emergency egress or rescue. The units must be operable from the inside to a full clear opening without the use of separate tools. Where windows are provided as a means of egress or rescue, they shall have a sill height not more than forty-four (44) inches (1118 mm) above the floor. All egress or rescue windows from sleeping rooms must have a minimum net clear opening of five and seven-tenths (5.7) square feet (0.532). The minimum net clear opening height dimension shall be twenty-four (24) inches (610 mm). The minimum net clear opening width dimension shall be twenty (20) inches (508 mm).

Bars, grilles or screens placed over emergency escape windows shall be releasable or removable from the inside without the use of a key, tool or excessive force."

EXCEPTIONS

1. Grade floor windows may have a minimum net clear opening of five (5) square feet (0.47 m2).

2. In buildings of Use Group R-3, where the sleeping room is provided with a door to a corridor having access to two (2) remote exits in opposite directions, then an outside window or an exterior door for emergency escape from each such sleeping room is not required.

3. Egress windows located on the first and second stories in multiple family dwellings (R-2 and R-3 use groups) and one (1) and two (2) family dwellings, may have a minimum net clear opening height dimension of twenty-two (22)

inches and a minimum width dimension of twenty (20) inches; and the net clear opening area may be reduced to no less than four (4) square feet. The minimum total glazed area must be five (5) square feet in the case of a ground floor window and not less than five and seven-tenths (5.7) square feet in the case of a second story window. (This exception applies only if the sash frames can be readily broken or removed.)

Section 3. Elevator, Dumbwaiter and Conveyor Equipment, Installation and Maintenance. The following subsections of Article 21 of the BOCA Basic Building Code are deleted or changed to read as follows:

(1) Change Subsection 2103.4 of Article 21 to read as follows: "2103.4 Posting certificates of compliance: The owner or lessee shall post the last issued certificate of compliance in a conspicuous place on the elevator, available to the building official."

(2) Change Subsection 2102.4.1 of Article 21 to read as follows: "2102.4.1 Periodic Inspection Intervals: Periodic inspections shall hereafter be made at intervals of not more than twelve (12) months for all passenger elevators, manlifts and escalators."

(3) Change Subsection 2110.1 of Article 21 to read as follows: "2110.1 General: The construction of machine rooms and related construction for passenger and freight elevators and dumbwaiters shall be protected from the weather, and shall be enclosed with fire resistive enclosures. Enclosures and access doors thereto shall have a fire endurance at least equal to that required for the hoistway enclosure in Table 401."

Section 4. Elevators. Appendix A of the BOCA Basic Building Code under "Elevators, Escalators and Moving Walks," shall be changed to read as follows: Change all citations relating to the "Safety Code for" and substitute "ANSI 17.1-1981 and Supplement to Safety Code for Elevators and Escalators ANSI/ASME A17.1b-1983."

Section 5. A new subsection of Article 3 of the Kentucky Building Code is hereby added to read as follows: "310.4 Tobacco auction warehouses: Warehouses, for the sale of tobacco only, of Type 1, Type 2, or Type 3 construction, may be constructed without a sprinkler system when all the following requirements have been met:

(1) The initial submission of plans to the Department of Housing, Buildings and Construction shall include a signed certificate by the owner that the warehouse will be used solely for the sale of tobacco on a seasonal basis or for the storage of non-combustibles.

(2) A manual fire alarm and smoke detection system with notification to the local fire service shall be provided with installation in accordance with Section 1707.0 of this code.

(3) An eighteen (18) foot paved and posted fire lane surrounding the entire perimeter of the building shall be provided and be accessible from a public street.

(4) A fifty (50) foot fire separation shall be maintained between the warehouse and the lot line and the warehouse and the nearest building."

Section 6. (1) Amend Article 5 as follows:

(a) In subsection 505.1, change the number, "103.0," to read "106.0."

(b) In subsection 511.1, change the number, "124.0," to read "123.0."

(2) Delete the reference to the BOCA Fire Prevention Code listed in Appendix A and install in its place the following: "The Kentucky Fire Safety Standards (815 KAR 10:020 - Fire Safety Standards) shall be used as the fire prevention code."

(3) In subsection 612.4, change the number, "107.4" to read "110.0."

(4) Change Table 816 to read as follows:

TABLE 816
TREAD AND RISER SIZE[a,c]

Use Group	Max. riser	Min. riser	Max. tread	Min. tread
R-3 and within dwelling units in Use Group R-2	8 1/4 in.	--	--	9 in.
All others[b]	7 in.	4 in.	--	11 in.

Note a. There shall be no variation exceeding 3/16" in the depth of adjacent treads or in the height of adjacent risers, and the tolerance between the largest and smallest riser shall not exceed 3/8" in any flight.

Note b. In balconies and galleries, risers and treads shall be as shown in above table, but one tread in each seat platform width may have a greater width to accommodate access to seats. Seating platforms shall be of a uniform width.

Note c. 1 inch = 25.4 mm.

(5) Amend Figure 916 of Article 9 by adding the following list of 120 Kentucky counties showing the assigned earthquake risk zone for each.

Earthquake Risk Zone #1

Adair	Elliott	Laurel	Oldham
Allen	Estill	Lawrence	Owen
Anderson	Fayette	Lee	Owsley
Barren	Fleming	Leslie	Pendleton
Bath	Floyd	Letcher	Perry
Bell	Franklin	Lewis	Pike
Boone	Gallatin	Lincoln	Powell
Bourbon	Garrard	Logan	Pulaski
Boyd	Grant	Madison	Robertson
Boyle	Grayson	Magoffin	Rockcastle
Bracken	Greene	Marion	Rowan
Breathitt	Greenup	Martin	Russell
Breckinridge	Hancock	Mason	Scott
Bullitt	Hardin	Meade	Shelby
Butler	Harlan	Menifee	Simpson
Campbell	Harrison	Mercer	Spencer
Carroll	Hart	Metcalfe	Taylor
Carter	Henry	Monroe	Todd
Casey	Jackson	Montgomery	Trimble
Christian	Jefferson	Morgan	Warren
Clark	Jessamine	Muhlenberg	Washington
Clay	Johnson	McCreary	Wayne
Clinton	Kenton	McLean	Whitley
Cumberland	Knott	Nelson	Wolfe
Daviess	Knox	Nicholas	Woodford
Edmonson	Larue	Ohio	

Earthquake Risk Zone #2	Earthquake Risk Zone #3
Caldwell	Ballard
Calloway	Carlisle
Crittenden	Fulton
Henderson	Graves
Hopkins	Hickman
Lyon	Livingston
Trigg	Marshall
Union	McCracken
Webster	

(6) Change subsection 1301.5.6.1.7 to read as follows: "Glazing in fixed panels having a glazed area in excess of nine (9) square feet (0.84 m^2) with the lowest edge less than eighteen (18) inches (457 mm) above the finish floor level or walking surface within thirty-six (36) inches (914 mm) of such glazing, and the finish floor or walking surface are extended on both sides of said glazing. In lieu of safety glazing, such glazed panels may be protected with a horizontal member not less than one and one-half (1 1/2) inches (38 mm) in width when located between twenty-four (24) inches (610 mm) and thirty-six (36) inches (914 mm) above the walking surface."

(7) Change section 1301.0 by adding a new subsection 1301.5.6.3 which shall read as follows:

(a) "1301.5.6.3 Labeling requirements:

1. Each light of safety glazing material manufactured, distributed, imported, or sold for use in hazardous locations or installed in such a location within the Commonwealth of Kentucky shall be permanently labeled by such means as etching, sandblasting or firing ceramic material on the safety glazing material. The label shall identify the labeler, whether manufacturer, fabricator or installer, and the nominal thickness and the type of safety glazing material and the fact that said material meets the test requirements of ANSI Standard Z-97.1 and Z-97.1a listed in Appendix A and such further requirements as may be adopted by the Department of Housing, Buildings and Construction. The label must be legible and visible after installation. Such safety glazing labeling shall not be used on other than safety glazing materials."

(8) Change subsection 1410.4 and the exceptions thereto to read as follows: "1410.4 Duct and pipe shafts: In all buildings other than buildings of Use Group R-2, vertical pipes arranged in groups of two (2) or more which penetrate two (2) or more floors and occupy an area of more than one (1) square foot (0.093 m^2), and vertical ducts which penetrate two (2) or more floors, shall be enclosed by construction of not less than one (1) hour fire-resistance rating to comply with this section. All combustible pipes and ducts connecting two (2) or more stories shall be enclosed as indicated herein.

Exceptions:

1. In all buildings of Use Group R-2, vertical noncombustible ducts shall not be required to have a one (1) hour enclosure provided:

(a) the cross sectional area does not exceed thirty-five (35) square inches;

(b) the duct does not penetrate more than three (3) floors;

(c) the duct serves no more than one (1) dwelling unit and shall not join other ducts except above the top level for the purpose of utilizing a single roof penetration; and

(d) these ducts are restricted for use as a bathroom or kitchen exhaust, and combustion air supply and relief.

2. Combustible pipe shall be permitted where approved by Article 22 of this code. Noncombustible fittings shall be required where branch lines enter into or exit from rated walls, with no requirement for one (1) hour enclosure."

(9) Add the following language and NFPA Standards to Appendix A:

"These NFPA Standards are to be used for fire suppression requirements and design only, where referenced in a specific code requirement in the body of the Code."

BOCA Guide for Suppression Requirements for Specific Occupations

Installation of Sprinkler System	NFPA 13-85
Standard for Installation for Private Fire Service Mains and their Apurtenances	NFPA 24-1984
Aircraft Hangars	NFPA 409
Cellulose Nitrate Film	NFPA 40
Pyroxylin Plastics	NFPA 40C
Flammable Liquids	NFPA 30,NFPA 36
Paint Spray	NFPA 33
Dipping and Coating	NFPA 34
Laboratories	NFPA 45
Fireworks	NFPA 44A
Gaseous Oxidizing Materials	NFPA 43C
Heliports	NFPA 418
L.P. Gas Storage	NFPA 58
High Piled Storage in Excess of 12 ft. in height	NFPA 231
Rack and Palletized Storage in Excess of 12 ft. in height	NFPA 231C
Rubber Tire Storage	NFPA 231D
Baled Cotton Storage	NFPA 231E
Rolled Paper Storage	NFPA 231F
Rangehoods	NFPA 96
Computer Rooms	NFPA 75
Archives and Record Centers	NFPA 232AM
L.P. Gas Storage and Handling	NFPA 59A
Explosion Prevention Systems	NFPA 69
Fur Storage	NFPA 81
Cooling Towers	NFPA 214
Marinas and Boatyards	NFPA 303
Library Stacks	NFPA 910
Wood Working Facilities	NFPA 664

(10) Amend Article 18 as follows:

(a) In subsection 1805.2, change the words, "Section 2205.4" to read "Article 22, 815 KAR 20:090."

(b) In subsection 1807.2.1 and 1807.2.2, insert the words "two (2) feet (610 mm)" in spaces provided.

(11) Delete Article 22 in its entirety and substitute the following reference: "2200.1 General: See Kentucky State Plumbing Code for all the requirements for plumbing installations as set forth in Chapter 20, Title 815 of Kentucky Administrative Regulations. Informational copies are available from the Kentucky Division of Plumbing, U.S. 127 South, Frankfort, Kentucky 40601."

Section 7. Amend subsection 812.5.4 and add an exception to read as follows: "812.5.4 Panic hardware: All doors equipped with latching or locking devices in buildings of Use Groups A and

E or portions of buildings used for assembly or educational purposes and serving rooms or spaces with an occupant load greater than 100 shall be equipped with approved panic hardware. Acceptable panic hardware will be a door latching assembly incorporating a device which causes any door latch and lock to release and the leaf to open when a force of 15 pounds (73.23 N) is applied in the direction of egress to a bar or panel, the activating portion of which extends not less than one-half the width of the door leaf, and applied at a height greater than 30 inches (762 mm) but less than 44 inches (1118 mm) above the floor. The force shall be applied at the lock side of the door or 30 inches (762 mm) from the hinged side, whichever is farther from the hinge."

"Exception: Panic hardware for Use Group A3 is not required for the principal entrance/exit doors if (1) they are free-swinging; and (2) the calculated occupant load does not exceed 150; and (3) the latch/lock device is a thumb latch/lock or a key operated lock device in which the key cannot be removed from the side from which egress is to be made when it is locked."

Section 8. Amend Section 1715.1 to read as follows: "1715.1 Fire hydrants: Fire hydrants installed on private property as a part of a private fire protection system shall be located so as to meet the requirements of NFPA 24. Yard hydrant installation shall be coordinated with the responsible fire officials who shall not make recommendations which exceed the requirements of NFPA 24. Hydrants not addressed by NFPA 24 shall conform to the standards of the administrative authority of the jurisdiction and the fire department. Hydrants shall not be installed on a water main less than six (6) inches in diameter."

CHARLES A. COTTON, Commissioner
ROBERT M. DAVIS, Secretary
APPROVED BY AGENCY: September 11, 1986
FILED WITH LRC: September 12, 1986 at 2 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 21, 1986 at 10 a.m., in the office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by October 16, 1986, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected: N/A
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: N/A
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: N/A
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: N/A
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments: None
TIERING: Was tiering applied? N/A

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings & Construction
Division of Building Codes Enforcement
(Proposed Amendment)

815 KAR 7:060. Facilities for the physically disabled in new construction.

RELATES TO: KRS Chapter 198B
PURSUANT TO: KRS 198B.260
NECESSITY AND FUNCTION: The Board of Housing, Buildings and Construction is required by KRS 198B.260 to issue regulations establishing the requirements necessary for making buildings accessible to and usable by physically disabled persons. This regulation has been designed after and selected from various nationally recognized codes and standards. This regulation establishes the minimum new construction requirements which shall apply to buildings and facilities to provide accessibility and usability by the elimination of architectural barriers in the environment. The terms of this regulation shall be incorporated into the Kentucky Building Code.

Section 1. Purpose and Scope. It is the express intention of this regulation to achieve uniformity in the technical design criteria necessary to establish a barrier-free environment thereby allowing a physically disabled person to get to, enter and use a building or facility, so that they may have access to education, employment, living and recreational opportunities and be as self sufficient as possible.
(1) New construction. This regulation shall be mandatory to and in all new buildings and facilities, including both rooms and spaces, site improvements, exterior facilities and public walks, as follows:
(a) Storage, miscellaneous and temporary occupancies in which the total occupant load is in excess of 100 persons or 20,000 square feet or three (3) stories.
(b) Factory and industrial occupancies in which the total occupant load is in excess of 100 persons or 20,000 square feet.
(c) Business occupancies in which the total occupant load is in excess of 100 persons or 10,000 square feet.
(d) Mercantile occupancies in which the total occupant load is in excess of 100 persons, 3,000 square feet of consumer area or 10,000 square

feet of total floor area.

(e) Churches, parochial and private schools and other similar non-public assembly type occupancies in which the total occupant load is in excess of 250 persons or 3,200 square feet.

(f) Assembly occupancies (other than those in subsection (e) of this section) in which the total occupant load is in excess of fifty (50) persons or 1,500 square feet total area.

(g) Residential occupancies, with the exception of single family dwellings, duplexes and multi-family housing projects of less than twenty-five (25) units. The common areas of condominiums are required to be accessible, but not the interior of the condominium units.

(h) Institutional occupancies, with the exception of child day care facilities providing care for less than thirteen (13) children.

(i) All buildings and facilities which are leased or owned by the state, county, city or other municipal corporation, regardless of type of use, occupant load or total square footage. Only new leases will be treated as new facilities.

(j) Any establishment which is physically located within any building or facility otherwise covered by this section or within the premises of which is physically located any such covered establishment; and which also holds itself out as serving patrons of such covered establishment.

(k) All gasoline service stations, regardless of size or occupant capacity.

(l) Any building of an occupant load, occupancy type or size not listed in this section shall be exempted from the requirements of this regulation as a "small business concern."

(2) Existing buildings. This regulation shall be mandatory for existing buildings, as follows:

(a) Alterations and repairs may be made to any structure without requiring other areas of the existing structure to comply with the accessibility requirement of this regulation provided such new work conforms to that of a new structure.

(b) Additions to an existing facility shall comply with the standards established by this regulation; however, the existing portion need not comply provided such addition does not result in decreased accessibility.

(c) Remodeling involving major structural changes to a building shall require full compliance with all applicable provisions of this regulation.

(d) The restoration or authentic reconstruction of buildings designated as historic properties by the Kentucky Heritage Commission or the National Register of Historic Places are exempt from the requirements of this regulation.

(3) Modifications of the technical provisions of this regulation may be allowed where such modification provides equal facilitation.

(4) Problem sites. It is not the intent of this regulation to discourage development of sites with extreme conditions, for example, where housing would be built on steep slopes or recreation facilities provided in natural terrain, and where full accessibility might prove impractical.

(5) Interpretive decisions. Where any provision of this regulation can be shown to be clearly unreasonable or impractical as applied to a particular building or use, or if full compliance would create a safety hazard, because of a particular use or condition, any person may request to appear before the Architectural Barriers Advisory Committee of the Department of Housing, Buildings and Construction. After advice from the committee, the department shall render its decision in the matter and said decision shall be appealable to the Board of Housing, Buildings and Construction.

(6) Enforcement. It shall be the duty of the local building official or the state building official having plan review and inspection responsibility under the Kentucky Building Code to enforce the provisions of this regulation.

(7) Distribution of accessible elements. Residential units accessible to the physically handicapped must not be segregated from other units. For example, in large apartment complexes, hotels or motels, all the units or rooms for the disabled may not be placed in one (1) building but must be dispersed throughout the complex.

(8) Appendix. All figures, tables and charts which are not included under a specific section of this regulation shall be found in Appendix A which is attached hereto. Any figures or numbers not in agreement with the written language of this regulation shall be superseded by said written words or numbers.

(9) Technical provisions. Sections 3 through 35 of this regulation constitute the technical provisions of this regulation.

Section 2. Definitions. The following terms shall, for the purpose of this regulation, have the meaning indicated in this section.

(1) Access aisle. An accessible pedestrian space between elements such as parking spaces, seating, and desks, that provides clearances appropriate for use of the elements.

(2) Accessible. Describes a site, building, facility, or portion thereof that complies with this section and that can be approached, entered, and used by physically disabled people.

(3) Accessible element. Part of an accessible route or accessible functional space; an item specified by this regulation (for example, telephone, controls, and the like).

(4) Accessible route. A continuous unobstructed path connecting all accessible elements and spaces in a building or facility that can be negotiated by a severely disabled person using a wheelchair and that is also safe for and usable by people with other disabilities. Interior accessible routes may include corridors, floors, ramps, elevators, and clear floor space at fixtures. Exterior accessible routes may include parking access aisles, curb ramps, walks, and ramps.

(5) Adaptability. The ability of certain building elements, such as kitchen counters and sinks to be added to, raised, lowered, or otherwise altered so as to accommodate the needs of either the disabled or nondisabled, or to accommodate the needs of persons with different types or degrees of disability.

(6) Assembly area. A room or space accommodating fifty (50) or more individuals for religious, recreational, educational, political, social or amusement purposes, or for the consumption of food and drink, including all connected rooms or spaces with a common means of egress and ingress. Such areas as conference rooms would have to be accessible in accordance

with other parts of this standard but would not have to meet all of the criteria associated with assembly areas.

(7) Automatic door. A door equipped with a power-operated mechanism and controls that open and close the door automatically upon receipt of a momentary actuating signal. The switch that begins the automatic cycle may be a photoelectric device, floor mat, or manual switch mounted on or near the door itself (see power-assisted door).

(8) Circulation path. An exterior or interior way of passage from one place to another for pedestrians, including, but not limited to, walks, hallways, courtyards, stairways, and stair landings.

(9) Clear. Unobstructed.

(10) Common use. Refers to those interior and exterior rooms, spaces, or elements that are made available for the use of a restricted group of people (for example, residents of an apartment building, occupants of an office building, or guests of such residents or occupants).

(11) Coverage. The extent or range of accessibility that a particular administrative authority adopts and requires.

(12) Cross slope. The slope of a pedestrian way that is perpendicular to the direction of travel (see running slope).

(13) Curb ramp. A short ramp cutting through a curb or built up to it.

(14) Detectable. Perceptible by one (1) or more of the senses.

(15) Disability. A limitation or loss of use of a physical, mental, or sensory body part or function.

(16) Dwelling unit. A single unit providing complete, independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

(17) Egress, means of. A continuous and unobstructed path of travel from any point in a building or structure to a public way and consists of three (3) separate and distinct parts:

(a) The exitway access;

(b) The exitway; and

(c) The exitway discharge; a means of egress comprises the vertical and horizontal means of travel and shall include intervening room spaces, doors, hallways, corridors, passageways, balconies, ramps, stairs, enclosures, lobbies, escalators, horizontal exits, courts, and yards.

(18) Emergency. Refers to facilities resulting from or anticipating unforeseen combinations of circumstances, for example, storm shelters, bomb shelters, and comparable refuges.

(19) Functional spaces. The rooms and spaces in a building or facility that house the major activities for which the building or facility is intended.

(20) Handicapped. Those with significant limitations in using specific parts of the environment.

(21) Housing. A building, facility, or portion thereof, excluding inpatient health care facilities, that contains one (1) or more dwelling units or sleeping accommodations. Housing may include, but is not limited to, one (1) and two (2) family dwellings, apartments, group homes, hotels, motels, dormitories, and mobile homes.

(22) Marked crossing. A crosswalk or other identified path intended for pedestrian use in crossing a vehicular way.

(23) Operable part. A part of a piece of equipment or appliance used to insert or withdraw objects, or to activate, deactivate, or adjust the equipment or appliance (for example, coin slot, pushbutton, handle).

(24) Power-assisted door. A door with a mechanism that helps to open the door, or relieve the opening resistance of a door, upon the activation of a switch or a continued force applied to the door itself. If the switch or door is released, such doors immediately begin to close or close completely within three (3) to thirty (30) seconds (see automatic door).

(25) Principal entrance. An entrance intended to be used by the residents or users to enter or leave a building or facility. This may include, but is not limited to, the main entrance.

(26) Public use. Describes interior and exterior rooms or spaces that are made available to the general public. Public use may be provided at a building or facility that is privately or publicly owned.

(27) Ramp. A walking surface that has a running slope greater than 1:20.

(28) Reasonable number. A number that is sufficient to accommodate the disabled users of a site, building, facility, or element.

(29) Running slope. The slope of a pedestrian way that is parallel to the direction of travel (see cross slope).

(30) Service entrance. An entrance intended primarily for delivery or service.

(31) Signage. Verbal, symbolic, and pictorial information.

(32) Site. A parcel of land bounded by a property line or a designated portion of a public right-of-way.

(33) Site improvements. Landscaping, paving for pedestrian and vehicular ways, outdoor lighting, recreational facilities, and the like, added to a site.

(34) Sleeping accommodations. Rooms in which people sleep, for example, dormitory and hotel or motel guest rooms, but not including dwelling units.

(35) Tactile. Describes an object that can be perceived using the sense of touch.

(36) Tactile warning. A standardized surface texture applied to or built into walking surfaces or other elements to warn visually impaired people of hazards in the path of travel.

(37) Temporary. Applies to facilities that are not of permanent construction but are extensively used or essential for public use for a given (short) period of time; for example, temporary classrooms or classroom buildings at schools and colleges, or facilities around a major construction site to make passage accessible, usable, and safe for everybody. Structures directly associated with the actual processes of major construction, such as port-a-potties, scaffolding, bridging, trailers, and the like, are not included.

(38) Vehicular way. A route intended for vehicular traffic, such as a street, driveway, or parking lot.

(39) Walk. An exterior pathway with a prepared surface intended for pedestrian use, including general pedestrian areas such as plazas and courts.

(40) Walking aid. A device used by a person

who has difficulty walking (for example, a cane, crutch, walker, or brace).

Section 3. Minimum Requirements. (1) Accessible site and exterior facilities. An accessible site shall meet the following minimum requirements:

(a) At least one (1) accessible route complying with Section 5 of this regulation shall be provided from public transportation stops, accessible parking spaces, accessible passenger loading zones if provided, and public streets or sidewalks to an accessible building entrance.

(b) At least one (1) accessible route complying with Section 5 of this regulation shall connect accessible buildings, facilities, elements, and spaces that are on the same site.

(c) All objects that protrude from surfaces or posts into circulation paths shall comply with Section 5(3) of this regulation.

(d) Ground surfaces along accessible routes and in accessible spaces shall comply with Section 5(2) of this regulation.

(e) When parking is provided, parking spaces and access aisles shall comply with Section 6 of this regulation.

(f) Stairs shall comply with Section 9 of this regulation.

(g) All passenger elevators shall comply with Section 10 of this regulation.

(h) All doors or gates to accessible spaces and elements and along accessible routes shall comply with Section 13 of this regulation.

(i) All drinking fountains along accessible routes shall comply with Section 15 of this regulation.

(j) All toilet rooms provided for public use or as otherwise required by the Kentucky Building Code shall comply with Section 22 of this regulation. Bathing facilities on accessible routes shall comply with Section 23 of this regulation.

(k) Tactile warnings shall be provided at hazardous conditions as specified in Section 29 of this regulation.

(l) All signs shall comply with Section 30 of this regulation.

(m) If public telephones are provided, they shall comply with Section 31 of this regulation.

(n) If seating, tables, or work surfaces are provided in accessible spaces, they shall comply with Section 32 of this regulation.

(o) If places of assembly are provided, they shall comply with Section 33 of this regulation.

(2) Accessible buildings. Accessible buildings and facilities shall meet the following minimum requirements:

(a) At least one (1) accessible route complying with Section 5(1) shall connect accessible building or facility entrances with all accessible spaces and elements within the building or facility.

(b) All objects that overhang circulation paths shall comply with Section 5(3) of this regulation.

(c) Ground and floor surfaces along accessible routes and in accessible rooms and spaces shall comply with Section 5(2) of this regulation.

(d) Stairs shall comply with Section 9 of this regulation. This requirement is not mandatory within dwelling units.

(e) All passenger elevators shall comply with Section 10 of this regulation.

(f) If windows intended to be operated by occupants are provided, then a reasonable number, but always at least one (1), of windows in each accessible space shall comply with Section 12 of this regulation.

(g) All doors to accessible spaces along accessible routes shall comply with Section 13 of this regulation.

(h) All principal entrances shall comply with Section 14 of this regulation.

(i) All drinking fountains along accessible routes shall comply with Section 15 of this regulation.

(j) All toilet rooms provided for public use or as otherwise required by the Kentucky Building Code shall comply with Section 22 of this regulation. Bathing facilities on accessible routes shall comply with Section 23 of this regulation.

(k) If storage facilities such as cabinets, shelves, closets, and drawers are provided in accessible spaces, they shall comply with Section 25 of this regulation.

(l) Controls and operating mechanisms in accessible spaces, along accessible routes, or as parts of accessible elements (for example, light switches and dispenser controls), shall comply with Section 27 of this regulation.

(m) If emergency warning systems are provided, they shall comply with Section 28 of this regulation.

(n) Tactile warnings shall be provided at hazardous conditions as specified in Section 29 of this regulation.

(o) If signs are provided, they shall comply with Section 30 of this regulation.

(p) If public telephones are provided, they shall comply with Section 31 of this regulation.

(q) If seating tables, or work surfaces are provided in accessible spaces, they shall comply with Section 32 of this regulation.

(r) If places of assembly are provided, they shall comply with Section 33 of this regulation.

(s) If sleeping accommodations are provided, they shall comply with Section 34 of this regulation.

(3) Accessible housing. Accessible housing shall comply with the minimum requirements in subsections (1) and (2) of this section. It shall also meet the following requirements:

(a) Accessible dwelling units shall comply with Section 35 of this regulation.

(b) Each accessible dwelling unit shall be connected to an accessible entrance complying with Section 14 of this regulation by an accessible route complying with Section 5 of this regulation.

(c) Common use spaces and facilities (for example, swimming pools, playgrounds, entrances, rental offices, lobbies, elevators, mail box areas, lounges, storage rooms, halls, corridors, and the like) that serve one (1) or more accessible dwelling units shall comply with subsections (1) and (2) of this section. At least one (1) accessible route shall connect all accessible entrances to each accessible dwelling unit.

Section 4. Space Allowances and Reach Ranges. (1) Wheelchair passage width. The minimum clear width for single wheelchair passage shall be thirty-two (32) inches at a point and thirty-five (35) inches continuously.

(2) Width for wheelchair passing. The minimum

width for two (2) wheelchairs to pass is sixty (60) inches.

(3) Wheelchair turning space. The space required for a wheelchair to make a 180 degree turn is a clear space of sixty (60) inches diameter or a T-shaped space with a minimum clear width of thirty-six (36) inches.

(4) Clear floor or ground space for wheelchairs:

(a) Size and approach. The minimum clear floor or ground space required to accommodate a single, stationary wheelchair and occupant is thirty (30) inches by forty-eight (48) inches. The minimum clear floor or ground space for wheelchairs may be positioned for forward or parallel approach to an object. Clear floor or ground space for wheelchairs may be part of the knee space required under some objects.

(b) Relationship of maneuvering clearances to wheelchair spaces. One (1) full unobstructed side of the clear floor or ground space for a wheelchair shall adjoin or overlap an accessible route or adjoin another wheelchair clear floor space. If a clear floor space is located in an alcove or otherwise confined in all or part of three (3) sides, additional maneuvering clearances shall be provided (see Appendix A, Figure 1).

(c) Surfaces of wheelchair spaces. Clear floor or ground spaces for wheelchairs shall comply with Section 5(2) of this regulation.

(5) High forward reach. If the clear floor space only allows forward approach to an object, the maximum high forward reach allowed shall be forty (40) inches. If the high forward reach is over an obstruction, reach and clearances shall be as shown in Appendix A, Figure 2.

(6) Side reach. If the clear floor space allows parallel approach by a person in a wheelchair, the maximum high side reach allowed shall be forty-eight (48) inches and the low side reach shall be no less than nine (9) inches above the floor. If the side reach is over an obstruction, the reach and clearances shall be as shown in Appendix A, Figure 3.

Section 5. Accessible Route, Ground and Floor Surfaces, and Protruding Objects. (1) Accessible route. All walks, halls, corridors, aisles, and other spaces that are of an accessible route shall comply with this subsection.

(a) Location:

1. At least one (1) accessible route shall be provided from public transportation stops, accessible parking and accessible passenger loading zones, and public streets or sidewalks to the accessible building entrance they serve.

2. At least one (1) accessible route shall connect accessible buildings, facilities, elements, and spaces that are on the same site.

3. At least one (1) accessible route shall connect accessible building or facility entrances with all accessible spaces and elements and with all accessible dwelling units within the building or facility.

4. An accessible route shall connect at least one (1) accessible entrance of each accessible dwelling unit with those exterior and interior spaces and facilities that serve the accessible dwelling unit.

(b) Width. The minimum clear width of an accessible route shall be thirty-six (36) inches except at doors. (See Section 13(5) of this regulation.) If a person in a wheelchair must make a turn around an obstruction, the minimum clear width of the accessible route shall be as shown in Appendix A, Figure 4.

(c) Passing space. If an accessible route has less than sixty (60) inches clear width, then passing spaces at least sixty (60) inches by sixty (60) inches shall be located at reasonable intervals not to exceed 200 feet. A T-intersection of two (2) corridors or walks is an acceptable passing place.

(d) Head room. Accessible routes shall comply with subsection (3)(b) of this section.

(e) Surface texture. The surface of an accessible route shall comply with subsection (2) of this section.

(f) Slope. An accessible route with a running slope greater than 1:20 is a ramp and shall comply with Section 8 of this regulation. Nowhere shall the cross slope of an accessible route exceed 1:50.

(g) Changes in level. Changes in level along an accessible route shall comply with subsection (2)(b) of this section. If an accessible route has changes in level greater than one-half (1/2) inch, then a curb ramp, ramp or elevator shall be provided that complies with Sections 7, 8 and 10 of this regulation. Stairs shall not be part of an accessible route.

(h) Doors. Doors along an accessible route shall comply with Section 13 of this regulation.

(i) Egress. At least one (1) accessible route serving any accessible space or element shall also serve as a means of egress.

(2) Ground and floor surfaces. Ground and floor surfaces along accessible routes and in accessible rooms and spaces, including floors, walks, ramps, stairs, and curb ramps, shall be stable, firm, and relatively nonslip under all weather conditions and shall comply with this subsection.

(a) Changes in level. Changes in level up to one-fourth (1/4) inch may be vertical and without edge treatment. Changes in level between one-fourth (1/4) inch and one-half (1/2) inch shall be beveled with a slope no greater than 1:2. Changes in level greater than one-half (1/2) inch shall be accomplished by means of a ramp that complies with Sections 7 or 8 of this regulation.

(b) Carpet. If carpet or carpet tile is used on a ground or floor surface, then it shall be securely attached; have a firm cushion, pad, or backing or no cushion or pad; and have a level loop, textured loop, level cut pile or level cut/uncut pile texture. The maximum combined thickness of pile, cushion, and backing shall be one-half (1/2) inch. Exposed edges and trim shall be securely fastened in place and shall comply with paragraph (a) of this subsection.

(c) Gratings. If gratings are located in walking surfaces, then they shall have spaces no greater than one-half (1/2) inch wide in one (1) direction. If gratings have elongated openings, then they shall be placed so that the long dimension is perpendicular to the dominant direction of travel.

(3) Protruding objects:

(a) Objects projecting from walls (for example, telephones) with their leading edges between twenty-seven (27) inches and eighty (80) inches above the finished floor shall protrude no more than four (4) inches into walks, halls, corridors, passageways, or aisles. Objects mounted with their leading edges at or below

twenty-seven (27) inches above the finished floor may protrude any amount. Free standing objects mounted on posts or pylons may overhang twelve (12) inches maximum from twenty-seven (27) inches to eighty (80) inches above the ground or finished floor. Protruding objects shall not reduce the clear width of an accessible route or maneuvering space. (See Appendix A, Figure 5.)

(b) Head room. Walks, halls, corridors, passageways, aisles, or other circulation spaces shall have eighty (80) inches in minimum clear head room. (See Appendix A, Figure 5.)

Section 6. Parking and Passenger Loading Zones. (1) Minimum number. Where parking spaces are provided, the minimum number of spaces shall be in accordance with Table 1 and shall comply with subsections (2) through (4) of this section. Where passenger loading zones are provided, at least one (1) shall comply with subsection (5) of this section.

TABLE I

1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 or over	2% of total - 20 plus 1 for each 200 over 1000

(2) Parking spaces. Parking spaces for disabled people shall be at least ninety-six (96) inches wide and shall have an adjacent access aisle sixty (60) inches wide minimum (see Appendix A, Figure 6). Parking access aisles shall be part of the accessible route to the building or facility entrance and shall comply with Section 5(1) of this regulation. Two (2) accessible parking spaces may share a common access aisle. Parked vehicle overhangs shall not reduce the clear width of an accessible circulation route.

(3) Signage. Accessible parking spaces shall be designated as reserved for the disabled by a sign showing the international symbol of accessibility. Such signs shall be above grade.

(4) Passenger loading zones. Passenger loading zones shall provide an access aisle at least forty-eight (48) inches wide and twenty (20) feet long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with Section 7 of this regulation shall be provided.

(5) Vertical clearance. Provide minimum vertical clearance of eight (8) feet six (6) inches at accessible parking spaces, at accessible passenger loading zones and along vehicle access route to such areas from site entrances.

Section 7. Curb Ramps. (1) Location. Curb ramps complying with this section shall be provided wherever an accessible route crosses a curb.

(2) Slope. Slopes of curb ramps shall comply with Table 815 of the Kentucky Building Code. The slope shall be measured at a ratio of rise to horizontal run.

(3) Width. The minimum width of a curb ramp shall be thirty-six (36) inches, exclusive of flared sides.

(4) Surface. Surfaces of curb ramps shall comply with Section 5(2) of this regulation. Transitions from ramps to walks and ramps to gutters or streets shall be flush and free from abrupt changes.

(5) Sides of curb ramps. Curb ramps shall comply with Figure 20. If a curb ramp is located where pedestrians must walk across the ramp, then it shall have flared sides; the maximum slope of the flare shall be 1:10. Curb ramps with returned curbs may be used where pedestrians would not normally walk across the ramp. Curb ramps shall not have handrails.

(6) Built-up curb ramps. Built-up type curb ramps[, or curb ramps] that project into a vehicular way [path], shall not be permitted in new construction. They may be permitted in existing conditions only where such application is determined to be the only reasonable means of access and where the location of the built-up curb ramp is not in an uncontrolled vehicular way [path]. Built-up curb ramps shall comply with this section and Figure 20b.

(7) Warning textures. A curb ramp shall have a tactile warning texture contrasting to adjoining surfaces and complying with Section 29 of this regulation, extending the full width and depth of the curb ramp, including any flares.

(8) Obstructions. Curb ramps shall be located or protected to prevent their obstruction by parked vehicles.

(9) Location at marked crossings. Curb ramps at marked crossings shall be wholly contained within the markings, excluding any flared sides.

(10) Diagonal curb ramps. If diagonal (or corner type) curb ramps have returned curbs or other well defined edges, such edges shall be parallel to the direction of pedestrian flow. If diagonal curb ramps have flared sides, they shall also have at least a twenty-four (24) inch long segment of straight curb located on each side of the curb ramp and within the marked crossing.

(11) Islands. Any raised islands in crossings shall be cut through level with the street or have curb ramps at both sides and a level area at least forty-eight (48) inches long in the part of the island intersected by the crossings.

(12) Uncurbed intersections. If there is no curb at the intersection of a walk and an adjoining street, parking lot, or busy driveway, then the walk shall have a tactile warning texture complying with Section 29(5) of this regulation at the edge of the vehicular way.

Section 8. Ramps. Any part of an accessible route with a slope greater than 1:20 shall be considered a ramp and shall comply with Section 815 of the Kentucky Building Code as filed in 815 KAR 7:020.

Section 9. Stairs. Stairways shall comply with Section 816 of the Kentucky Building Code as filed in 815 KAR 7:020. These specifications are not mandatory for stairs within dwelling units.

Section 10. Elevators. (1) All public

passenger elevators shall be required to be accessible and shall comply with the provisions of Article 21 of the Kentucky Building Code as filed in 815 KAR 7:020.

(2) At least one (1) public passenger elevator shall be required in buildings three (3) stories or greater in height; except that residential buildings three (3) stories in height and containing no more than twenty-four (24) units shall not be required to have an elevator.

(3) Elevators are not mandatory for buildings of less than three (3) stories. If an elevator is provided, however, it shall have dimensions sufficient to accommodate a person in a wheelchair. This means the vertical access for wheelchairs from one (1) level to the other is not required except in buildings three (3) stories or more.

Section 11. Platform lifts. Platform lifts are permitted if they conform to ANSI Standards for inclined and vertical wheelchair lifts and if they are not in violation of fire safety regulations as established by the department.

Section 12. Windows. (1) General. If windows intended to be operated by occupants are provided, at least one (1) operable window in each accessible space shall comply with this section.

(2) Window hardware. Windows requiring pushing, pulling or lifting to open (for example, doublehung, sliding, or casement and awning units without cranks) shall require no more than five (5) pounds to open or close. Locks, cranks, and other window hardware shall comply with Section 27 of this regulation.

Section 13. Doors. (1) General. All doors to accessible spaces and elements and along accessible routes shall comply with the requirements of this section.

(2) Revolving doors and turnstiles. Revolving doors or turnstiles shall not be the only means of passage at an accessible entrance or along an accessible route.

(3) Gates. Gates, including ticket gates, shall meet all applicable specifications of this section.

(4) Double-leaf doorways. If doorways have two (2) door leaves, then at least one (1) leaf shall meet the specifications in subsections (5) and (6) of this section. That leaf shall be an active leaf.

(5) Clear width. Doorways shall have a minimum clear opening of thirty-two (32) inches with the door open ninety (90) degrees, measured between the face of the door and the stop. Openings more than twenty-four (24) inches in depth shall have a minimum clear opening of thirty-six (36) inches.

(6) Maneuvering clearances at doors. Minimum maneuvering clearances for doors that are not automatic shall be as shown in Appendix A, Figure 7. The floor or ground area within the required clearances shall be level and clear. Doors required to be a minimum of forty-four (44) inches in institutional buildings shall be exempt from the requirements for space at the latch side of the door.

(7) Two (2) doors in series. The minimum space between two (2) doors in series shall be forty-eight (48) inches plus the width of any door swinging into the space. Doors in series shall swing either in the same direction or away from the space between the doors.

(8) Thresholds at doorways. Thresholds at doorways shall not exceed one-half (1/2) inch in height except that thresholds at exterior sliding doors shall not exceed three-fourths (3/4) inch. Raised thresholds and floor level changes at accessible doorways shall be beveled with a slope no greater than 1:2, and shall meet the requirements of Section 5(2)(a) of this regulation.

(9) Door hardware. Handles, pulls, latches, locks and other operating devices on accessible doors shall have a shape that is easy to grasp with one (1) hand and does not require tight grasping, tight pinching, or twisting of the wrist to operate. Lever-operated mechanisms, push-type mechanisms and U-shaped handles are acceptable designs. When sliding doors are fully open, operating hardware shall be exposed and usable from both sides. Doors to hazardous areas shall have hardware complying with Section 29(3) of this regulation.

(10) Door closers. If a door has a closer, then the sweep period of the closer shall be adjusted so that from an open position of seventy (70) degrees, the door will take at least three (3) seconds to move to a point three (3) inches from the latch, measured to the leading edge of the door.

(11) Door opening force. The maximum force for pushing or pulling open a door shall be as follows:

(a) Fire doors shall have the minimum opening force of fifteen (15) pounds and as required in Section 812.5.4 of the Kentucky Building Code.

(b) Other doors: exterior hinged doors, 8.5 pounds; interior hinged doors, five (5) pounds; sliding or folding doors, five (5) pounds. These forces do not apply to the force required to retract latch bolts or disengage other devices that may hold the door in a closed position.

(12) Automatic doors and power-assisted doors. If an automatic door is used, then it shall comply with American National Standard for Power-Operated Doors, ANSI A156.10-1979. Slowly opening, low-powered, automatic doors shall be considered a type of custom design installation as described in paragraph 1.1.1 of ANSI A156.10-1979. Such doors shall not open to back check faster than three (3) seconds and shall require no more than fifteen (15) pounds to stop door movement. If a power-assisted door is used, its door opening force shall comply with subsection (11) of this section and its closing shall conform to the requirements in Section 10 of ANSI A156.10-1979.

(13) Framed glass doors. Where framed glass doors are used, the bottom rail shall be a minimum height of seven and one-half (7 1/2) inches.

Section 14. Entrances. (1) Principal entrances. Principal entrances to a building or facility shall be part of an accessible route and shall comply with Section 5(1) of this regulation. Such entrances shall be connected by an accessible route to public transportation stops, to accessible parking and passenger loading zones, and to public streets or sidewalks if available. They shall also be connected by an accessible route to all accessible spaces or elements within the building or facility.

(2) Service entrances. A service entrance shall not be the sole accessible entrance unless it is the only entrance to a building or facility (for example, in a factory or garage).

Section 15. Drinking Fountains and Water Coolers. (1) Minimum number. Where drinking fountains or water coolers are required, a reasonable number, but always at least one (1) per floor and/or wing, shall comply with this section and shall be on an accessible route.

(2) Spout height. Spouts shall be no higher than thirty-six (36) inches, measured from the floor or ground surfaces to the spout outlet.

(3) Spout location. The spouts of drinking fountains and water coolers shall be at the front of the unit and shall direct the water flow in a trajectory that is parallel or nearly parallel to the front of the unit. The spout shall provide a flow of water so as to allow the insertion of a cup or glass under the flow of water.

(4) Controls. Controls shall comply with Section 27(4) of this regulation.

(5) Clearances. Wall and post mounted cantilevered units shall have a clear knee space between the bottom of the apron and the floor or ground at least twenty-seven (27) inches high, thirty (30) inches wide, and seventeen (17) inches to nineteen (19) inches deep. Such units shall also have a minimum clear floor space thirty (30) inches by forty-eight (48) inches to allow a person in a wheelchair to make a parallel approach to the unit. This clear floor space shall comply with Section 4(4) of this regulation.

Section 16. Water Closets. Accessible water closets shall comply with this section. For water closets in adaptable dwelling units, see Section 35(4)(b) of this regulation.

(1) Clear floor space. Clear floor space for water closets not in stalls shall comply with Appendix A, Figure 9. Clear floor space may be arranged to allow either a left-handed or right-handed approach.

(2) Height. The height of water closets shall be seventeen (17) inches to nineteen (19) inches measured to the top of the toilet seat (see Appendix A, figure 10). Seats shall not be sprung to return to a lifted position when not in use.

(3) Grab bars. Grab bars for water closets shall comply with Appendix A, Figures 9 and 10, and Section 4 of this regulation. Grab bars may be mounted by any desired method as long as they have a gripping surface at the locations shown and do not obstruct the required floor area.

(4) Flush controls. Flush controls shall be hand operated and shall comply with Section 27(4) of this regulation. Controls for flush valves shall be mounted no more than forty (40) inches above the floor.

(5) Dispensers. Toilet paper dispensers shall be installed within reach as shown in Appendix A, Figure 10. Dispensers shall not control delivery and shall permit continuous paper flow.

Section 17. Toilet Stalls. (1) Location. Accessible toilet stalls shall be on an accessible route and shall meet the requirements of this section.

(2) Water closets. Water closets in stalls shall comply with Section 16 of this regulation.

(3) Size and arrangement. The size and arrangement of the toilet stalls shall comply with Appendix A, Figure 11(a). In existing buildings alternate stalls (Appendix A, Figure 11(b)) may be used where available space prohibits installation of the standard stall. Arrangements shown for stalls may be reversed to allow either a left or right-handed approach.

(4) Toe clearances. In standard stalls, the front partition and at least one (1) side partition shall provide a toe clearance of at least nine (9) inches above the floor. If the depth of the stall is greater than sixty (60) inches, then the toe clearance is not required.

(5) Doors. Toilet stall doors shall comply with Section 13 of this regulation. Doors of toilet stalls shall be out-swinging. Doors on toilet stalls shall have either a self-closing mechanism or a pull mounted on the hinged side of the stall door.

(6) Grab bars. Provide grab bars at toilet stalls as shown in Appendix A, Figures 10 and 11. Grab bars may be mounted by any desired method as long as they have a gripping surface at the locations shown and do not obstruct the required clear floor area. Grab bars shall comply with Section 26 of this regulation.

Section 18. Urinals. (1) General. Accessible urinals shall comply with this section.

(2) Heights. Urinals shall be stall-type or wallhung with an elongated rim at a maximum of seventeen (17) inches above the floor.

(3) Clear floor space. A clear floor space thirty (30) inches by forty-eight (48) inches shall be provided in front of urinals to allow forward approach. This clear space shall adjoin or overlap an accessible route and shall comply with Section 4(4) of this regulation.

(4) Flush controls. Flush controls shall be hand operated, shall comply with Section 27(4) of this regulation and shall be mounted no more than forty (40) inches above the finished floor.

(5) Urinal shields. Urinal shields that do not extend beyond the front edge of the urinal rim may be provided with twenty-nine (29) inches clearance between them.

Section 19. Lavatories and Mirrors. The requirements of this section shall apply to lavatory fixtures, vanities, and built-in lavatories.

(1) Height and clearances. Lavatories shall be mounted with a clearance of at least twenty-nine (29) inches from the floor to the bottom of the apron. Thirty-four (34) inches is the maximum height of top of the front lip of the lavatory. Knee and toe clearances shall comply with Appendix A, Figure 12.

(2) Clear floor space. A clear floor space thirty (30) inches by forty-eight (48) inches complying with Section 4(4) of this regulation shall be provided in front of a lavatory to allow a forward approach. Such clear floor space shall adjoin or overlap an accessible route and shall extend a maximum of nineteen (19) inches underneath the lavatory.

(3) Exposed pipes and surfaces. If hot water exceeds 120 degrees Fahrenheit, the hot water and drain pipes under lavatories shall be insulated or otherwise covered. There shall be no sharp or abrasive surfaces under lavatories.

(4) Faucets. Faucets shall comply with Section 27(4) of this regulation. Lever-operated,

push-type and electronically controlled mechanisms are examples of acceptable designs. Self-closing valves are allowed if the faucet remains open for at least ten (10) seconds.

(5) Mirrors. Mirrors shall be mounted with the bottom edge no higher than forty (40) inches from the floor.

Section 20. Bathtubs. (1) General. Accessible bathtubs shall comply with this section. For bathtubs in accessible dwelling units, see Section 35(4)(d) of this regulation.

(2) Floor space. Clear floor space in front of bathtubs shall be as shown in Appendix A, Figure 13.

(3) Seat. An in-tub seat or a seat at the head end of the tub shall be provided as shown in Appendix A, Figures 13 and 14. The structural strength of seats and their attachments shall comply with Section 26(3) of this regulation. Seats shall be mounted securely and shall not slip during use.

(4) Grab bars. Grab bars complying with Section 26 of this regulation shall be provided as shown in Appendix A, Figures 13 and 14.

(5) Controls. Faucets and other controls complying with Section 27(4) of this regulation shall be located as shown in Appendix A, Figure 14.

(6) Shower unit. A shower spray unit with a hose at least sixty (60) inches long that can be used as a fixed shower head or as a hand-held shower shall be provided.

(7) Bathtub enclosures. If provided, enclosures for bathtubs shall not obstruct controls or transfer from wheelchairs onto bathtub seats or into tubs. Enclosures on bathtubs shall not have tracks mounted on their rims.

Section 21. Shower Stalls. (1) General. Accessible shower stalls shall comply with this section. For shower stalls in accessible dwelling units, see Section 35(4)(e) of this regulation.

(2) Size and clearances. Shower stall size and clear floor space shall comply with Appendix A, Figure 15.

(3) Seat. A seat shall be provided in transfer shower stalls as shown in Appendix A, Figure 16. The seat shall be mounted seventeen (17) inches to nineteen (19) inches from the bathroom floor and shall extend the full depth of the stall. The seat shall be on the wall opposite the controls. The structural strength of seats and their attachments shall comply with Section 26(3) of this regulation.

(4) Grab bars. Grab bars complying with Section 26 of this regulation shall be provided as shown in Appendix A, Figure 17.

(5) Controls. Faucets and other controls complying with Section 27(4) of this regulation shall be located as shown in Appendix A, Figure 17. In transfer shower stalls all controls, faucets, and the shower unit shall be mounted on the side wall opposite the seat.

(6) Shower unit. A shower spray unit with a hose at least sixty (60) inches long that can be used as a fixed shower head or as a hand-held shower shall be provided.

(7) Curbs. If provided, curbs in transfer shower stalls shall be no higher than four (4) inches. Roll-in shower stalls shall not have curbs.

(8) Shower enclosures. If provided, enclosures for shower stalls shall not obstruct controls or obstruct transfer from wheelchairs onto shower seats.

Section 22. Toilet Rooms. (1) Minimum number. All toilet rooms provided for public use or otherwise required by the Kentucky Building Code shall be on an accessible route and shall comply with this section.

(2) Doors. All doors to accessible toilet rooms shall comply with Section 13 of this regulation. Doors shall not swing into the clear floor space required for any fixture.

(3) Clear floor space. The accessible fixtures and controls required in subsections (4), (5), (6) and (7) of this section shall be on an accessible route. An unobstructed turning space complying with Section 4(3) of this regulation shall be provided within an accessible toilet room. The clear floor space at fixtures and controls, the accessible route, and the turning space may overlap.

(4) Water closets. If toilet stalls are provided, then a reasonable number, but always at least one (1), shall comply with Section 17 of this regulation; its water closet shall comply with Section 15 of this regulation. If water closets are not in stalls, then a reasonable number, but always at least one (1), of water closets shall comply with Section 16 of this regulation.

(5) Urinals. If urinals are provided, a reasonable number, but always at least one (1), shall comply with Section 18 of this regulation.

(6) Lavatories and mirrors. If lavatories and mirrors are provided, a reasonable number, but always at least one (1) of each, shall comply with Section 19 of this regulation.

(7) Controls and dispensers. If controls, dispensers, receptacles, or other equipment is provided, at least one (1) of each shall be on an accessible route and shall comply with Section 27 of this regulation.

(8) Emergency lighting. Where emergency lighting in a building is required by Section 624 of the Kentucky Building Code, the emergency lighting shall be provided in accessible toilet rooms.

Section 23. Bathrooms, Bathing Facilities and Shower Rooms. (1) Minimum number. Bathrooms, bathing facilities, or shower rooms on an accessible route shall comply with this section. For bathrooms in accessible dwelling units, see Section 35(4) of this regulation.

(2) Doors. Doors to accessible bathrooms shall comply with Section 13 of this regulation. Doors shall not swing into the floor space required for any fixture.

(3) Clear floor space. The accessible fixtures and controls required in subsections (4), (5), (6), (7), (8), and (9) of this section shall be on an accessible route. An unobstructed turning space complying with Section 4(3) of this regulation shall be provided within an accessible bathroom. The clear floor space at fixtures and controls, the accessible route, and the turning space may overlap.

(4) Water closets. If toilet stalls are provided, then a reasonable number, but always at least one (1), shall comply with Section 17 of this regulation; its water closet shall comply with Section 16 of this regulation. If

water closets are not in stalls, then a reasonable number, but always at least one (1), shall comply with Section 16 of this regulation.

(5) Urinals. If urinals are provided, then a reasonable number, but always at least one (1), shall comply with Section 18 of this regulation.

(6) Lavatories and mirrors. If lavatories and mirrors are provided, then a reasonable number, but always at least one (1) of each, shall comply with Section 19 of this regulation.

(7) Controls and dispensers. If controls, dispensers, receptacles, or other equipment is provided, at least one (1) of each shall be on an accessible route and shall comply with Section 27 of this regulation.

(8) Bathing and shower facilities. If tubs or showers are provided, then at least one (1) accessible tub that complies with Section 20 of this regulation or at least one (1) accessible shower that complies with Section 20 of this regulation or at least one (1) accessible shower that complies with Section 21 of this regulation shall be provided.

(9) Medicine cabinets. If medicine cabinets are provided, at least one (1) shall be located with a usable shelf no higher than forty (40) inches above the floor space. The floor space shall comply with Section 4(4) of this regulation.

Section 24. Sinks. (1) General. If accessible sinks are provided, they shall comply with this section. Sinks in kitchens of accessible dwelling units shall comply with Section 35(5)(e) of this regulation.

(2) Height. Sinks shall be mounted with the counter or rim no higher than thirty-four (34) inches from the floor.

(3) Knee clearance. Knee clearance that is twenty-seven (27) inches high, thirty (30) inches wide, and nineteen (19) inches deep shall be provided underneath sinks.

(4) Depth. Each sink shall be a maximum of six and one-half (6 1/2) inches deep.

(5) Clear floor space. A clear floor space at least thirty (30) inches by forty-eight (48) inches complying with Section 4(4) of this regulation shall be provided in front of a sink to allow forward approach. The clear floor space shall be on an accessible route and shall extend a maximum of nineteen (19) inches underneath the sink.

(6) Exposed pipes and surfaces. If hot water exceeds 120 degrees Fahrenheit, hot water and drain pipes under sinks shall be insulated or otherwise covered. There shall be no sharp or abrasive surfaces under sinks.

(7) Faucets. Faucets shall comply with Section 27(4) of this regulation. Lever-operated push-type, touch-type, or electronically controlled mechanisms are acceptable designs.

Section 25. Storage. (1) General. Accessible storage facilities such as cabinets, shelves, closets, and drawers shall comply with this section.

(2) Clear floor space. A clear floor space at least thirty (30) inches by forty-eight (48) inches complying with Section 4(4) of this regulation that allows either a forward or parallel approach by a person using a wheelchair shall be provided at accessible storage facilities.

(3) Height. Accessible storage spaces shall be within at least one (1) of the reach ranges specified in Section 4(5) and (6) of this regulation. Clothes rods shall be a maximum of forty-eight (48) inches from the floor.

(4) Hardware. Hardware for accessible storage facilities shall comply with Section 27(4) of this regulation. Touch latches and U-shaped pulls are acceptable.

Section 26. Handrails, Grab Bars and Tub and Shower Seats. (1) General. All handrails, grab bars, and tub and shower seats shall comply with this section.

(2) Size and spacing of grab bars and handrails. The outside diameter or width of the gripping surfaces of handrail or grab bar shall be one and one-fourth (1 1/4) inch to one and one-half (1 1/2) inch or the shape shall provide an equivalent gripping surface. If handrails or grab bars are mounted adjacent to a wall, the space between the wall and the handrail or grab bars shall be one and one-half (1 1/2) inch (see Appendix A, Figure 18). Handrails may be located in a recess if the recess is a maximum of three (3) inches deep and extends at least eighteen (18) inches above the top of the rail (see Appendix A, Figure 18).

(3) Structural strength. Handrails, grab bars, tub and shower seats, fasteners, and mounting devices shall support a minimum concentrated load of 250 pounds and shall not rotate in their fittings.

(4) Eliminating hazards. A handrail or grab bar and any wall or other surface adjacent to it shall be free of any sharp or abrasive elements. Edges shall have a minimum radius of one-eighth (1/8) inch.

Section 27. Controls and Operating Mechanisms. (1) General. Controls and operating mechanisms in accessible spaces, along accessible routes, or as part of accessible elements (for example, light switches, dispenser controls) shall comply with this section.

(2) Clear floor space. Clear floor space complying with Section 4(4) of this regulation that allows a forward or parallel approach by a person using a wheelchair shall be provided at controls, dispensers, receptables, and other operable equipment.

(3) Height. The highest operable part of all controls, dispensers, receptacles, and other operable equipment shall be placed within at least one (1) of the reach ranges specified in Section 4(5) and (6) of this regulation. Except where the use of special equipment dictates otherwise, electrical and communications systems receptacles on walls shall be mounted no less than fifteen (15) inches above the floor.

(4) Operation. Controls and operating mechanisms shall be operable with one (1) hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than five (5) pounds of force.

Section 28. Alarms. (1) General. If emergency warning systems are provided, they shall include both audible alarms complying with subsection (2) of this section and visual alarms complying with subsection (3) of this section. In facilities with sleeping accommodations, accessible sleeping accommodations shall have an auxiliary visual alarm system complying with

subsection (4) of this section.

(2) Audible alarms. Audible emergency alarms shall produce a sound that exceeds the ambient room or space noise by at least fifteen (15) decibels or exceeds any maximum sound level with a duration of thirty (30) seconds by five (5) decibels, whichever is louder. Sound levels for alarm signals shall not exceed 120 decibels.

(3) Visual alarms. Electronically powered internally illuminated emergency exit signs or adjacent devices shall flash as a visual emergency alarm in conjunction with audible emergency alarms. The flashing frequency of visual alarm devices shall be less than five (5) Hz. If such alarms use electricity from the building as a power source, then they shall be installed on the same system as the audible emergency alarms.

(4) Auxiliary alarms. Accessible sleeping accommodations shall have a visual alarm connected to the building emergency alarm system or shall have a standard 110-volt electrical receptable into which such an alarm could be connected. Instructions for use of the auxiliary alarm or connection shall be provided.

(5) Alarm activators. Alarm activators shall comply with Section 27 of this regulation, Controls and Operating Mechanisms.

(6) Special alarm systems. Specialized alarm systems utilizing advanced technology will be considered on a case-by-case basis.

Section 29. Tactile Warnings. (1) General. Where tactile warnings are required, they shall comply with this section.

(2) Tactile warnings on walking surfaces. Tactile warning textures on walking surfaces shall contrast with that of the surrounding surface. Raised strips or grooves shall comply with Appendix A, Figure 19. Grooves may be used indoors only.

(3) Tactile warnings on doors to hazardous areas. Doors that lead to areas that might prove dangerous to a blind person (for example, doors to loading platforms, mechanical rooms, stages, and the like) shall be made identifiable to the touch by a textured surface on the door handle, knob, pull, or other operating hardware. This textured surface may be made by knurling or roughening or by a material applied to the contact surface. Such textured surfaces shall not be provided for emergency exit doors or any doors other than those to hazardous areas.

(4) Tactile warnings at stairs. All stairs (except those in dwelling units, in enclosed stair towers, or set to the side of the path of travel) shall have a tactile warning at the top of stair runs.

(5) Tactile warnings at hazardous vehicular areas. If a walk crosses or adjoins a frequently used vehicular way, and if there are no curbs, railings, or other elements detectable by a person who has a severe visual impairment separating the pedestrian and vehicular areas, then the boundary between the areas shall be defined by a continuous thirty-six (36) inch wide tactile warning texture complying with subsection (2) of this section.

(6) Tactile warnings at reflecting pools. The edges of reflecting pools shall be protected by railings, walls, curbs, or tactile warnings complying with subsection (2) of this section.

(7) Standardization. Textured surfaces for tactile warnings shall be standard within a building, facility, site, or complex of buildings.

Section 30. Signage. (1) General. All signage that provides emergency information of general circulation directions or identifies rooms and spaces shall comply with this section.

(2) Character proportion and contrast. Letters and numbers on sign systems shall:

(a) Have a width-to-height ratio of between 3:5 and 1:1.

(b) Have a stroke width-to-height ratio of between 1:5 and 1:10.

(c) Contrast in value with their backgrounds, preferably light letters on a dark background.

(d) Have a matte finish on a matte finish background.

(3) Raised or incised characters. Provide numbers and letters that are:

(a) Raised or incised from the background surface one thirty-second (1/32) inch. Also incise or raise symbols and pictographs in this manner.

(b) Between five-eighths (5/8) inch and two (2) inches high.

(c) Sans serif with sharply defined edges.

(d) If incised, provided with at least one-fourth (1/4) inch stroke width.

(4) Mounting location and height. Signage shall be placed in a standardized location throughout a building or facility as follows:

(a) Interior signage shall be located on the door or alongside of the door on the latch side and shall be mounted at between four feet, six inches (4'6") and five feet, six inches (5'6") above finished floor.

(b) Exterior signage shall be installed at entrances and walks to direct individuals to accessible routes and entrances as required.

(c) Symbols of accessibility. If accessible facilities are identified, then the international sign of accessibility shall be used.

Section 31. Telephones. (1) General. If public telephones are provided, then they shall comply with this section.

(2) Clear floor or ground space. A clear floor or ground space at least thirty (30) inches by forty-eight (48) inches that allows either a forward or parallel approach by a person using a wheelchair shall be provided at telephones. The clear floor or ground space shall comply with Section 4(4) of this regulation. Bases, enclosures, and fixed seats shall not impede approaches to telephones by people who use wheelchairs.

(3) Mounting height. The highest operable part of the telephone shall be within reach ranges specified in Section 4(5) or (6) of this section. Telephones mounted diagonally shall have the highest operable part no higher than fifty-four (54) inches above the floor.

(4) Enclosures. If telephone enclosures are provided, they may overhang the clear floor space required in subsection (2) of this section within the following limits:

(a) Side reach possible: The overhang shall be no greater than nineteen (19) inches; the height of the lowest overhanging part shall be equal to or greater than twenty-seven (27) inches.

(b) Full-height enclosures: Entrances to full-height enclosures shall be thirty (30) inches clear minimum.

(c) Forward reach required: If the overhang is greater than twelve (12) inches, then the clear width of the enclosure shall be thirty (30) inches minimum, if the clear width of the enclosure is less than thirty (30) inches, then the height of the lowest overhanging part shall be equal to or greater than twenty-seven (27) inches.

(d) Where telephone enclosures protrude into walls, halls, corridors, or aisles, they shall also comply with Section 5(3) of this regulation.

(5) Equipment for hearing impaired people. Telephones shall be equipped with a receiver that generates a magnetic field in the area of the receiver cap. If banks of public telephones are provided, a minimum of five (5) percent, but always at least one (1), in a building or facility shall be equipped with a volume control.

(6) Controls. Telephones shall have pushbutton controls where service for such equipment is available.

(7) Telephone books. Telephone books, if provided, shall be located so that they can be used by a person in a wheelchair.

(8) Cord length. The cord from the telephone to the handset shall be at least twenty-nine (29) inches long.

Section 32. Seating, Tables, and Work Surfaces. (1) Minimum number. If fixed or built-in seating, tables, or work surfaces are provided in accessible spaces, the minimum number of spaces for use by persons in wheelchairs shall be in accordance with Table II of Section 33 of this regulation.

(2) Seating. If seating spaces for people in wheelchairs are provided at tables, counters, or work surfaces, clear floor space complying with Section 4(4) of this regulation shall be provided. Such clear floor space shall not overlap knee space by more than nineteen (19) inches.

(3) Knee clearances. If seating for people in wheelchairs is provided at tables, counters, and work surfaces, knee spaces at least twenty-seven (27) inches high, thirty (30) inches wide, and nineteen (19) inches deep shall be provided.

(4) Height of work surfaces. The tops of tables and work surfaces shall be from twenty-eight (28) inches to thirty-four (34) inches from the floor to ground.

Section 33. Assembly Areas. (1) Minimum number. Assembly areas shall have designated spaces for wheelchair use in each assembly area that complies with this section and the minimum number of wheelchair spaces shall be in accordance with Table II. Assembly areas with audio-amplification systems shall have a listening system complying with subsections (6) and (7) of this section to assist persons with severe hearing loss in the appreciation of audio presentations.

TABLE II

50 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
Over 500	10 plus a reasonable number not to exceed 1% to be determined by Section 1(5).

(2) Size of wheelchair locations. Each wheelchair location shall provide minimum clear ground or floor space of sixty-six (66) inches wide by forty-eight (48) inches deep for forward or rear access and sixty-six (66) inches deep for side access and shall accommodate two (2) people in wheelchairs.

(3) Placement of wheelchair locations:

(a) Wheelchair areas shall be an integral part of any fixed seating plan and shall be dispersed throughout the seating area. They shall adjoin an accessible route that also serves as a means of egress in case of emergency and shall be located to provide lines of sight comparable to those for all viewing areas.

(b) Exception. In alteration work where it is structurally impossible to alter seating location to disperse seating throughout, seating may be located in collected areas, but must adjoin an accessible route.

(4) Surfaces. The ground or floor at wheelchair locations shall be level and shall comply with Section 5(2) of this regulation.

(5) Access to performing areas. An accessible route shall be provided to performing areas, including stages, arena floors, dressing rooms, locker rooms, and other spaces used by performers.

(6) Placement of listening systems. If the listening system provided serves individual fixed seats, then such seats shall be located within a fifty (50) foot viewing distance of the stage or playing area and shall have a complete view of the stage or playing area.

(7) Types of listening systems. Audio loops and radio frequency systems are two (2) acceptable types of listening systems. The department will rely upon the advice of the Kentucky Commission for the Deaf and Hearing Impaired in its interpretations and enforcement relative to the requirements for access to the hearing impaired.

(8) The provisions of this section are intended to apply to performing arts and movie theaters as well as public meeting places, auditoriums and gymnasiums, among others.

Section 34. Hotels and Motels. Minimum Requirements. In hotel and motel buildings, lodging houses, boarding houses, and dormitory buildings, providing sleeping accommodations for twenty (20) or more individuals, a minimum of five (5) percent of those accommodations shall be accessible to and shall comply with Section 3(1) and (2) of this regulation.

Section 35. Dwelling Units. Where multi-family housing projects are required to be accessible, a minimum of one (1) in twenty-five (25) dwelling units shall meet the requirements of

this section.

(1) An accessible dwelling unit shall be on an accessible route. An accessible dwelling unit shall have the following accessible elements and spaces as a minimum:

(a) Common spaces and facilities serving individual accessible dwelling units (for example, entry walks, trash disposal facilities, and mail boxes) shall comply with Sections 3 through 33 of this section.

(b) Accessible spaces shall have maneuvering space complying with Section 4(2) and (3) of this regulation and surfaces complying with Section 5(2) of this regulation.

(c) At least one (1) accessible route complying with Section 5(1) of this regulation shall connect the accessible entrances with all accessible spaces and elements within the dwelling units.

(d) If parking spaces are assigned for use with individual dwelling units, then at least one (1) parking space per accessible dwelling unit shall comply with Section 6(3) of this regulation.

(e) If windows intended to be operated by occupants are provided, then they shall comply with Section 12 of this regulation.

(f) Doors to and in accessible spaces that are intended for passage shall comply with Section 13 of this regulation.

(g) All entrances to accessible dwelling units shall comply with Section 14 of this regulation.

(h) Storage in accessible spaces in dwelling units, including cabinets, shelves, closets, and drawers, shall comply with Section 25 of this regulation.

(i) All controls in accessible spaces shall comply with Section 27 of this regulation. Those portions of heating, ventilating, and air conditioning equipment requiring regular, periodic maintenance and adjustment by the resident of a dwelling shall be accessible to people in wheelchairs. If air distribution registers must be placed in or close to ceilings for proper air circulation, this specification shall not apply to registers.

(j) If emergency alarms are provided, alarm connections complying with Section 28(4), (5), and (6) of this regulation shall be provided in the dwelling unit.

(k) If telephone connections are installed in the dwelling unit, a reasonable number, but always at least one (1), shall comply with Section 31(2) and (3) of this regulation.

(l) A reasonable number, but always at least one (1), of full bathrooms shall comply with subsection (4) of this section. A full bathroom shall include a water closet, a lavatory, and a bathtub or shower.

(m) The kitchen shall comply with subsection (5) of this section.

(n) If laundry facilities are provided, they shall comply with subsection (6) of this section.

(o) The following spaces shall be accessible and shall be on an accessible route:

1. The living area.

2. The dining area.

3. The sleeping area, or the bedroom in one (1) bedroom dwelling units, or at least two (2) bedrooms or sleeping spaces in dwelling units with two (2) or more bedrooms.

4. Patios, terraces, balconies, carports, and garages, if provided with the dwelling unit.

(2) Adaptability. The specifications of subsection (5) of this section are based on the concept of adaptability.

(3) Consumer information. To ensure that the existence of adaptable features will be known to the owner or occupant of a dwelling, consumer information shall be provided for each accessible dwelling unit for rent or sale.

(4) Bathrooms. Bathrooms shall be on an accessible route and shall comply with the requirements of this subsection.

(a) Minimum dimensions. Accessible bathrooms shall accommodate wheelchair turning space in accordance with Section 4(3) of this regulation. Door operation shall not interfere with maneuverability.

(b) Water closets:

1. Clear floor space at the water closet shall be as shown in Appendix A, Figure 9. The water closet may be located with the clear area at either the right or left side of the toilet.

2. The height of the water closet shall be at least seventeen (17) to nineteen (19) inches measured to the top of the toilet seat.

3. Grab bars shall be installed as shown in Appendix A, Figure 10 and shall comply with Section 26 of this regulation.

4. The toilet paper dispenser shall be installed within reach as shown in Appendix A, Figure 10.

(c) Lavatory, mirrors, and medicine cabinets:

1. The lavatory and mirrors shall comply with Section 19 of this regulation.

2. If a medicine cabinet is provided above the lavatory, then the bottom of the medicine cabinet shall be located with a usable shelf no higher than forty-four (44) inches above the floor.

(d) Bathtubs. If a bathtub is provided, then it shall have the following features:

1. Floor space. Clear floor space at bathtubs shall be as shown in Appendix A, Figure 13.

2. Seat. An in-tub seat or a seat at the head end of the tub shall be provided as shown in Appendix A, Figures 13 and 14. The structural strength of seats and their attachments shall comply with Section 26(3) of this regulation. Seats shall be mounted securely and shall not slip during use.

3. Grab bars. Grab bars shall be installed as shown in Appendix A, Figure 14 and shall comply with Section 26 of this regulation.

4. Controls. Faucets and other controls shall be located as shown in Appendix A, Figure 14 and shall comply with Section 27(4) of this regulation. Single lever and mixing devices are acceptable designs.

5. Shower unit. A shower spray unit with a hose at least sixty (60) inches long that can be used as a fixed shower head at various heights or as a hand-held shower shall be provided.

(e) Showers. If a shower is provided, it shall have the following features:

1. Size and clearances. Shower stall size and clear floor space shall comply with Appendix A, Figure 15.

2. Seat. A seat shall be provided in the transfer shower stalls as shown in Appendix A, Figure 16. The seat shall be seventeen (17) inches to nineteen (19) inches high measured from the bathroom floor and shall extend the full depth of the stall. The seat shall be on the wall opposite the controls. The structural strength of seats and their attachments shall comply with Section 26(3) of this regulation.

Seats shall be mounted securely and shall not slip during use.

3. Grab bars. Grab bars complying with Section 26 of this regulation shall be provided as shown in Appendix A, Figure 17.

4. Controls. Faucets and other controls shall be located as shown in Appendix A, Figure 17 and shall comply with Section 27(4) of this regulation. In transfer shower stalls, all controls, faucets, and the shower unit shall be mounted on the side wall opposite the seat.

5. Shower unit. A shower spray unit with a hose at least sixty (60) inches long that can be used as a fixed shower head at various heights or as a hand-held shower shall be provided.

(f) Bathtub and shower enclosures. Enclosures for bathtubs or shower stalls shall not obstruct controls or transfer from wheelchairs onto shower or bathtub seats. Enclosures on bathtubs shall not have tracks mounted on their rims.

(g) Clear floor space. Clear floor space at fixtures may overlap.

(5) Kitchens. Kitchens and their components shall be on an accessible route and shall comply with the requirements of this subsection.

(a) Clearance. Clearances between all opposing base cabinets, counter tops, appliances or walls shall accommodate wheelchair turning space in accordance with Section 4(3) of this regulation.

(b) Clear floor space. A clear floor space at least thirty (30) inches by forty-eight (48) inches complying with Section 4(4) of this regulation that allows either a forward or a parallel approach by a person in a wheelchair shall be provided at all appliances in the kitchen, including the range or cooktop, oven, refrigerator/freezer, dishwasher, and trash compactor. Laundry equipment located in the kitchen shall comply with subsection (6) of this section.

(c) Controls. All controls in kitchens shall comply with Section 27 of this regulation.

(d) Work surfaces. At least one (1) thirty (30) inch section of counter shall provide a work surface that complies with the following requirements:

1. The counter either shall be adjustable (or replaceable as a unit) to provide alternative heights of twenty-eight (28) inches to thirty-six (36) inches, or shall be fixed at thirty (30) inches measured from the floor to the top of the counter surface.

2. Base cabinets, if provided, shall be removable under the full thirty (30) inch minimum frontage of the counter. The finished floor shall extend under the counter to the wall.

3. Counter thickness and supporting structure shall be two (2) inches maximum over the required clear area.

4. A clear floor space thirty (30) inches by forty-eight (48) inches shall allow a forward approach to the counter. Nineteen (19) inches maximum of the clear floor space may extend underneath the counter. The knee space shall have a minimum clear width of thirty (30) inches and a minimum clear depth of nineteen (19) inches.

5. There shall be no sharp or abrasive surfaces under such counters.

(e) Sink. The sink and surrounding counter shall comply with the following requirements:

1. The sink and surrounding counter either shall be adjustable (or replaceable as a unit) to provide alternative heights of twenty-eight (28) inches to thirty-six (36) inches, or shall be fixed at thirty (30) inches measured from the floor to the top of the counter surface or sink rim. The total width of sink and counter area shall be thirty (30) inches minimum.

2. Where the sink is adjustable, rough-in plumbing shall be located to accept connections of supply and drain pipes for sinks mounted at the height of twenty-eight (28) inches.

3. The depth of a sink bowl shall be no greater than six and one-half (6 1/2) inches.

4. Faucets shall comply with Section 27(4) of this regulation. Lever-operated or push-type mechanisms are two (2) acceptable designs.

5. Base cabinets, where provided, shall be removable under the full thirty (30) inch minimum frontage of the sink and surrounding counter. The finished flooring shall extend under the counter to the wall.

6. Counter thickness and supporting structure shall be two (2) inches maximum over the required clear space.

7. A clear floor space thirty (30) inches by forty-eight (48) inches shall allow forward approach to the sink. Nineteen (19) inches maximum of the clear floor space may extend underneath the sink. The knee space shall have a minimum clear width of thirty (30) inches and a clear depth of nineteen (19) inches.

8. There shall be no sharp or abrasive surfaces under sinks. If hot water exceeds 120 degrees Fahrenheit, hot water and drain pipes under sinks shall be insulated or otherwise covered.

(f) Ranges and cooktops. Ranges and cooktops shall comply with subsection (5)(b) of this section and Section 27 of this regulation. If ovens or cooktops have keen spaces underneath, then they shall be insulated or otherwise protected on the exposed contact surfaces to prevent burns, abrasions, or electrical shock. The clear floor space may overlap the knee space, if provided, by nineteen (19) inches maximum. The location of controls for ranges and cooktops shall not require reaching across burners.

(g) Ovens. Ovens shall comply with subsection (5)(b) of this section and Section 27 of this regulation. Ovens shall be of the self-cleaning type or be located adjacent to a counter with knee space below. For side-opening ovens, the door latch side shall be next to the open counter space, and there shall be a pull-out shelf under the oven extending the full width of the oven and pulling out not less than ten (10) inches when fully extended. Ovens shall have controls on front panels; they may be located on either side of the door.

(h) Refrigerator/freezers. Refrigerator/freezer type shall comply with Section 27 of this regulation. Refrigerators shall be:

1. Of the vertical side-by-side refrigerator/freezer type; or

2. Of the over-and-under type and meet the following requirements:

a. Have at least fifty (50) percent of the freezer space below fifty-four (54) inches above the floor.

b. Have 100 percent of the refrigerator space and controls below fifty-four (54) inches. Freezers with less than 100 percent of the storage volume within the limits specified in subsections (5) or (6) of this section shall be

the self-defrosting type.

(i) Dishwashers. Dishwashers shall comply with subsection (5)(b) of this section and Section 27 of this regulation. Dishwashers shall have all rack space accessible from the front of the machine for loading and unloading dishes.

(j) Kitchen storage. At least fifty (50) percent of kitchen storage areas shall comply with Section 25 of this regulation. Door pulls or handles for wall cabinets shall be mounted as close to the bottom of cabinet doors as possible. Door pulls or handles for base cabinets shall be mounted as close to the top of cabinet doors as possible.

(6) Laundry facilities. If laundry equipment is provided within individual accessible dwelling units, or if separate laundry facilities serve one (1) or more accessible dwelling units, then they shall meet the requirements of this subsection.

(a) Location. Laundry facilities and laundry equipment shall be on an accessible route.

(b) Washing machines and clothes dryers. Washing machines and clothes dryers in common-use laundry rooms shall be front loading.

(c) Controls. Laundry equipment shall comply with Section 27 of this regulation.

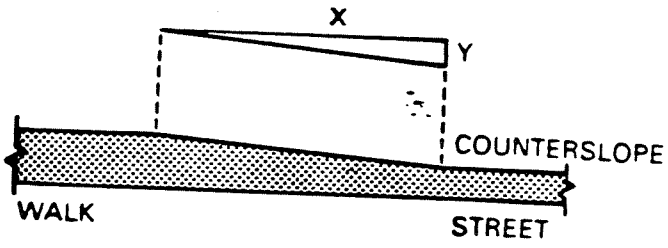
COMPILER'S NOTE: The figures on the following page are new additions to Appendix A of this regulation. Appendix A in its current effective form may be reviewed in Volume 6 of the Kentucky Administrative Regulations Service.

CHARLES A. COTTON, Commissioner
ROBERT M. DAVIS, Secretary
APPROVED BY AGENCY: September 11, 1986
FILED WITH LRC: September 12, 1986 at 2 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 21, 1986 at 10 a.m., in the office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by October 16, 1986, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected: N/A
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: N/A
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: N/A
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: N/A
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments: None
TIERING: Was tiering applied? N/A

APPENDIX A
(New Figures to be Added to Existing Appendix A)



NOTES:
(1) Slope = rise/x, where x is a level plane.
(2) Counterslope shall not exceed 1:20.

FIG. 20(a)
MEASUREMENT OF CURB RAMP SLOPES

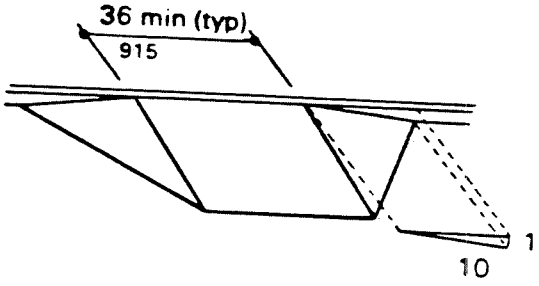
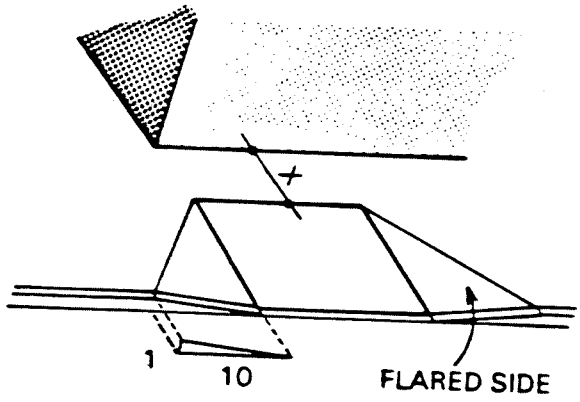


FIG. 20(b)
BUILT-UP CURB RAMP



NOTE: If $x < 48$ in (1220 mm), then the slope of the flared sides shall not exceed 1:12

FIG. 20(c)
FLARED SIDES

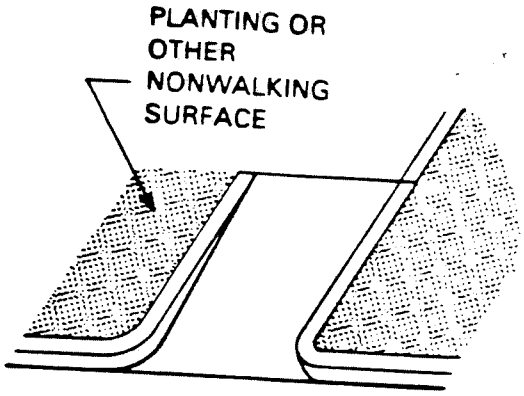


FIG. 20(d)
RETURNED CURB

FIG. 20
SIDES OF CURB RAMPS

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings & Construction
Division of Plumbing
(Proposed Amendment)

815 KAR 20:010. Definitions.

RELATES TO: KRS Chapter 318
PURSUANT TO: KRS 318.130
NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to the definitions needed to interpret other sections of the subsequent regulations or comprising the State Plumbing Code.

Section 1. Definition of Terms. (1) Air break (drainage system). A piping arrangement in which a drain from a fixture, appliance, or device discharges indirectly into another fixture, receptacle, or interceptor at a point below the flood level rim.

(2) Air gap (drainage system). The unobstructed vertical distance through the free atmosphere between the outlet of waste pipe and the flood level rim of the receptacle into which it is discharging.

(3) Air gap (water distribution system). The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device and the flood level rim of the receptacle.

(4) Anchors. (See supports.)

(5) Apprentice plumber. (See plumber's apprentice.)

(6) Approved. Accepted or acceptable under an applicable specification state or cited in this code.

(7) Area drain. A receptacle designed to collect surface or storm water from an open area.

(8) Aspirator. A fitting or device supplied with water or other fluid under positive pressure which passes through an integral orifice or "constriction" causing a vacuum. Aspirators are often referred to as "suction" apparatus, and are similar in operation to an ejector.

(9) Autopsy table. A fixture or table used for post-mortem examination of a body.

(10) Backflow. The flow of water or other liquids, mixtures, or substances into the distributing pipes of a potable supply of water from any source or sources other than its intended source. Back-siphonage is one type of backflow.

(11) Backflow connection. Any arrangement whereby backflow can occur.

(12) Backflow preventer. A device or means to prevent backflow.

(13) Backflow preventer, reduced pressure zone type. An assembly of differential valves and check valves including an automatically opened spillage port to the atmosphere.

(14) Back-siphonage. The flowing back of used, contaminated, or polluted water from a plumbing fixture or vessel or other sources into a potable water supply pipe due to a negative pressure in such pipe.

(15)(a) Basement. The basement is the lowest level of a dwelling unit which is wholly or partly below the ground level in which the entrance and exit is made by use of a stairway or other mechanical means and which may or may not have an entrance and exit at the basement floor level.

(b) Basement floor drains. A basement floor drain is a drain placed in the basement floor of a residence which may or may not receive sanitary waste water.

(16) Battery of fixtures. Any group of two (2) or more similar adjacent fixtures which discharge into a common horizontal waste or soil branch.

(17) Bedpan hopper. (See clinical sink.)

(18) Bedpan steamer or boiler. A fixture used for scalding bedpans or urinals by direct application of steam of boiling water.

(19) Bedpan unit. A small workroom in the nursing area designed and equipped for emptying, cleaning, and sometimes for steaming bedpans, and for no other purposes.

(20) Bedpan washer and sterilizer. A fixture designed to wash bedpans and to flush the contents into the sanitary drainage system. It may also provide for disinfecting utensils by scalding with steam or hot water.

(21) Bedpan washer hose. A device supplied with hot and cold water and located adjacent to a water closet or clinical sink to be used for cleaning bedpans.

(22) Boiler blow-off. An outlet on a boiler to permit emptying or discharge of sediment.

(23) Boiler blow-off tank. A vessel designed to receive the discharge from a boiler blow-off outlet and to cool the discharge to a temperature which permits its safe discharge to the drainage system.

(24) Branch. The branch of any system of piping is that part of the system which extends horizontally, at a slight grade, with or without lateral or vertical extensions or vertical arms, from the main to receive fixture outlets not directly connected to the main.

(25) Branch, fixture. (See fixture branch.)

(26) Branch interval. A distance along a soil or waste stack corresponding in general to a story height, but in no case less than eight (8) feet, within which the horizontal branches from one (1) floor or story of a building are connected to the stack.

(27) Branch vent. A vent connecting one (1) or more individual vents with a vent stack or stack vent.

(28) Building. A structure having walls and a roof designed and used for the housing, shelter, enclosure, or support of persons, animals or property.

(29) Building classification. The arrangement of buildings in classes according to occupancy.

(30) Building drain. That part of the lowest piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning two (2) feet outside the building wall.

(31) Building drain; combined. A building drain which conveys both sewage and storm water or other drainage.

(32) Building drain; sanitary. A building drain which conveys sewage only.

(33) Building drain; storm. A building drain which conveys storm water or other drainage but not sewage.

(34) Building gravity drainage system. A drainage system which drains by gravity into the building sewer.

(35) Building sewer. That part of the drainage system which extends from the end of the building drain and conveys its discharge to a public sewer, private sewer, individual sewage-disposal system, or other point of disposal.

(36) Building sewer; combined. A building sewer which conveys both sewage and storm water or other drainage.

(37) Building sewer; sanitary. A building sewer which conveys sewage only.

(38) Building sewer; storm. A building sewer which conveys storm water or other drainage but no sewage.

(39) Building subdrain. That portion of a drainage system which does not drain by gravity into the building sewer.

(40) Cesspools. A lined and covered excavation in the ground which receives a discharge of domestic sewage or other organic wastes from a drainage system, so designed as to retain the organic matter and solids, but permitting the liquids to seep through the bottom and sides.

(41) Circuit vent. A branch vent that serves two (2) or more traps and extends from the downstream side of the highest fixture connection of a horizontal branch to the vent stack.

(42) Clinical sink (bedpan hopper). A fixture for the rinsing of bedpans and soiled linens. Such fixture shall have a trap size on not less than three (3) inches.

(43) Code. Means the State Plumbing Code.

(44) Combination fixture. A fixture combining one (1) sink and laundry tray or a two (2) or three (3) compartment sink or laundry tray in one (1) unit.

(45) Combined building drain. (See building drain; combined.)

(46) Combined building sewer. (See building sewer; combined.)

(47) Combination waste and vent system. A specially designed system of waste piping embodying the horizontal wet venting of one (1) or more sinks or floor drains by means of a common waste and vent pipe adequately sized to provide free movement of air above the free water surface in the drain.

(48) Common vent. A vent connecting at the junction of two (2) fixture drains and serving as a vent for both fixture drains.

(49) Conductor. A pipe inside the building which conveys storm water from the roof to a storm or combined building drain.

(50) Continuous vent. A vertical vent that is a continuation of the drain to which it connects.

(51) Continuous waste. A drain from two (2) or more fixtures connected to a single trap.

(52) Cross connection. Any physical connection or arrangement between two (2) otherwise separate piping systems, one (1) of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical whereby there may be a flow from one (1) system to the other, the direction of flow depending on the pressure differential between the two (2) systems. (See backflow and back-siphonage.)

(53) Dead end. A branch leading from a soil, waste or vent pipe, building drain, or building sewer, and terminating at a developed length of two (2) feet or more by means of a plug, cap, or other closed fitting.

(54) Developed length. The length of a pipe line measured along the center line of the pipe and fittings.

(55) Diameter. The nominal diameter as designated commercially.

(56) Domestic sewage. The water-borne wastes derived from ordinary living processes.

(57) Double offset. Two (2) changes of direction installed in succession or series in a continuous pipe.

(58) Downspout. (See leader.)

(59) Drain. Any pipe which carries waste water or water-borne wastes in a building drainage system.

(60) Drainage pipe. (See drainage system.)

(61) Drainage system. Includes all the piping, within public or private premises, which conveys sewage, rain water, or other liquid wastes to a point of disposal. It does not include the mains of a public sewer system or private or public sewage-treatment or disposal plant. Neither does this apply to plumbing appliances.

(62) Drainage system (building gravity). A drainage system which drains by gravity into the building sewer.

(63) Drainage system (sub-building). (See building subdrain.)

(64) Dry well. (See leaching well.)

(65) Dual vent. (See common vent.)

(66) Durham system. A term used to describe soil or waste systems where all piping is of threaded pipe, tube, or other such rigid construction, using recessed drainage fittings to correspond to the types of piping.

(67) Dwelling unit. One (1) or more rooms with provision for living, sanitary and sleeping facilities arranged for the use of one (1) family or individual.

(68) Effective opening. The minimum cross-sectional area at the point of water supply discharge, measured or expressed in terms of (i) diameter of a circle, or (ii) if the opening is not circular, the diameter of a circle of equivalent cross-sectional area.

(69) Ejector. (See aspirator.)

(70) Existing work. A plumbing system or any part thereof installed prior to the effective date of this code.

(71) Farmstead. As defined in KRS 318.010(8) and determined by the following:

(a) Must have ten (10) acres or more;

(b) Must have a barn and equipment incident to producing a crop;

(c) Must have a crop basis registered with the ASC Office;

(d) Must be outside the corporate limits of a municipality;

(e) Must not be connected to or utilize a municipal or water district water supply on any portion of the property;

(f) Farming must be agricultural in nature as defined in KRS 132.010(9) and registered with the PVA in that county; and the owner must earn a substantial portion of his/her income from his property, i.e., at least:

1. 10-30 acres--$1,000 plus $60 per acre or fraction thereof over 10 acres
2. 30-60 acres--$2,200 plus $40 per acre or fraction thereof over 30 acres
3. 60-100 acres--$3,400 plus $25 per acre or fraction thereof over 60 acres

(72) Fire line. A system of pipes and equipment used exclusively to supply water for extinguishing fires.

(73) Fixture. (See plumbing fixture.)

(74) Fixture branch. A fixture branch is the piping distance between a soil, waste and vent stack and the fixture trap.

(75) Fixture drain. The drain from the trap of a fixture to the junction of that drain with any other drain pipe.

(76) Fixture supply. The water supply pipe connecting a fixture to a branch water supply pipe or directly to a main water supply pipe.

(77) Fixture unit, drainage (d.f.u.). A measure of the probable discharge into the drainage system by various types of plumbing fixtures. The drainage fixture-unit valve for a particular fixture depends on its volume rate of drainage discharge, on the time duration of a single drainage operation, and on the average time between successive operations. (Note: In general, on small systems, one (1) drainage fixture unit approximates one (1) cubic foot per minute.)

(78) Fixture unit, supply (s.f.u.). A measure of the probable hydraulic demand on the water supply by various types of plumbing fixtures. The supply fixture-unit value for a particular fixture depends on its volume rate of supply, on the time duration of a single supply operation, and on the average time between successive operations.

(79) Flood level. (See flood level rim.)

(80) Flood level rim. The edge of the receptacle from which water overflows.

(81) Flooded. The condition which results when the liquid in a container or receptacle rises to the flood-level rim.

(82) Floor drain. A floor drain is a drain placed in the floor of a building for the purpose of receiving sanitary waste water.

(83) Floor pantry. A workroom in the nursing area designed and equipped to prepare supplemental diets or beverages, and to assemble food trays at meal times if used in conjunction with decentralized food service.

(84) Flow pressure. The pressure in the water supply pipe near the faucet or water outlet while the faucet or water outlet is wide-open and flowing.

(85) Flush valve. A device located at the bottom of a tank for slushing water closets and similar fixtures.

(86) Flushing type flood drain. A drain which is equipped with an integral water supply enabling flushing of the drain receptor and trap.

(87) Flushometer valve. A device which discharges a predetermined quantity of water to fixtures for flushing purposes and is closed by direct water pressure.

(88) Frostproof closet. A hopper with no water in the bowl and with the trap and water supply control valve located below frost line.

(89) Grade. The fall (slope) of a line of pipe in reference to a horizontal plane. In drainage it is usually expressed as the fall in a fraction of an inch per foot length of pipe.

(90) Grease interceptor. (See interceptor.)

(91) Grease trap. (See interceptor.)

(92) Hangers. (See supports.)

(93) Horizontal branch drain. A drain branch pipe extending laterally from a soil or waste stack or building drain, with or without vertical sections or branches, which receives the discharge from one (1) or more fixture drains and conducts it to the soil or waste stack or to the building drain.

(94) Horizontal pipe. Any pipe or fitting which makes an angle of less than forty-five (45) degrees with the horizontal.

(95) Hot water. Water at a temperature of not less than 120 degrees F.

(96) House drain. (See building drain.)

(97) House sewer. (See building sewer.)

(98) Individual sewage disposal system. A system for disposal of domestic sewage by means of a septic tank, cesspool or mechanical treatment, designed for use apart from a public sewer to serve a single establishment or building.

(99) Indirect waste pipe. A waste pipe which does not connect directly with the drainage system, but which discharges into the drainage system through an air break or air gap into a trap, fixture, receptor or interceptor.

(100) Individual vent. A pipe installed to vent a fixture drain. It connects with the vent system above the fixture served or terminates outside the building into the open air.

(101) Individual water supply. A supply other than an approved public water supply which serves one (1) or more families.

(102) Industrial floor drain. An industrial floor drain is a drain placed in the floor of a building other than in a toilet room or shower room to receive waste water.

(103) Industrial wastes. Liquid wastes resulting from the processes employed in industrial and commercial establishments.

(104) Insanitary. Contrary to sanitary principles; injurious to health.

(105) Interceptor. A device designed and installed so as to separate and retain deleterious, hazardous, or undesirable matter from normal wastes while permitting normal sewage or liquid wastes to discharge into the drainage system by gravity.

(106) Installed. Altered, changed or a new installation.

(107) Invert. The lowest portion of the inside of any horizontal pipe.

(108) Kitchen sink unit. A kitchen sink unit is defined as a sink, double or single compartment, food waste disposer, and dishwasher placed in a unit so arranged that the dishwasher abuts the sink.

(109) Leaching well or pit. A pit or receptacle having porous walls which permit the contents to seep into the ground.

(110) Leader. An exterior drainage pipe for conveying storm water from roof or gutter drains.

(111) Liquid waste. The discharge from any fixture, appliance, area or appurtenance, which does not contain fecal matter.

(112) Load factor. The percentage of the total connected fixture unit flow which is likely to occur at any point in the drainage system.

(113) Local vent stack. A vertical pipe to which connections are made from the fixture side of traps and through which vapor and/or foul air may be removed from the fixture or device used on bedpan washers.

(114) Local ventilating pipe. A local ventilating pipe is a pipe through which foul air is removed from a room or fixture.

(115) Loop vent. A circuit vent which loops back to connect with a stack vent instead of a vent stack.

(116) Main. The main of any plumbing system is that part of such system of horizontal, vertical or continuous piping which receives the waste, soil, main or individual vents from fixture

outlets, or traps, directly or through branch pipes.

(117) Main sewer. (See public sewer.)

(118) Main vent. The principal artery of the venting system to which vent branches may be connected. (Manufacturer's Floor Drain. See industrial floor drain.)

(119) Multiple dwelling. Building containing more than two (2) dwelling units.

(120) Nominal pipe size. A standard expression in inches and fractions thereof to designate the approximate inside diameter of a pipe, conduit or tube.

(121) [(120)] Non-potable water. Water not safe for drinking, personal or culinary use.

(122) [(121)] Nuisance. Public nuisance is known in common law or in equity jurisprudence; whatever is dangerous to human life or detrimental to health; whatever building, structure, or premise is not sufficiently ventilated, sewered, drained, cleaned or lighted, in reference to its intended or actual use; and whatever renders the air or human food or drink or water supply unwholesome.

(123) [(122)] Nurses' station. An area in the nursing unit separated from the corridor by counter or desk, designed to permit nurses to record and file each patient's history and progress, observation and control of corridor, preparation of medicines and maintain contact with patients, the hospital and the outside by local and public means of communication.

(124) [(123)] Offset. A combination of elbows or bends which bring one (1) section of the pipe out of line but into a line parallel with the other section.

(125) [(124)] Oil interceptor. (See interceptor.)

(126) [(125)] Person. A natural person, his heirs, executors, administrators or assigns; and includes a firm, partnership or corporation, its or their successors or assigns. Singular includes plural; male includes female.

(127) [(126)] Pitch. (See grade.)

(128) [(127)] Plumber's apprentice. A plumber's apprentice is any person other than a journeyman or master plumber, who, as his principal occupation, is engaged in working as an employee of a master plumber under the immediate and personal supervision of either a master or journeyman plumber in learning and assisting in the installation of plumbing.

(129) [(128)] Plumbing. Plumbing means the art of installing in buildings the pipes for distributing the water supply, the fixtures for using water and drainage pipes for removing waste water and sewage, together with fittings, appurtenances, and appliances of various kinds, all within or adjacent to the building. It shall include:

(a) The water service pipe which forms the connection between the property line and the building other than piping serving fire fighting equipment;

(b) Private water supply systems;

(c) House sewers which convey the waste water and sewage from the building to the property line or other points of disposal but not including sewers located between manholes and sewers extending five (5) feet from a main or manhole on private property; and

(d) Storm sewers and rain water piping located within a building to a point two (2) feet outside of the building and private sewage disposal systems other than those which have a treated effluent.

(130) [(129)] Plumbing appliance. Any one (1) of a special class of plumbing fixture which is intended to perform a special function. Its operation and/or control may be dependent upon one (1) or more energized components, such as motors, controls, heating elements, or pressure or temperature-sensing elements. Such fixtures may operate automatically through one (1) or more of the following actions: a time cycle, a temperature range, a pressure range, a measured volume or weight; or the fixture may be manually adjusted or controlled by the user or operator.

(131) [(130)] Plumbing appurtenance. A manufactured device, or a prefabricated assembly of component parts, and which is an adjunct to the basic piping system and plumbing fixtures. An appurtenance demands no additional water supply, nor does it add any discharge load to a fixture or the drainage system. It is presumed that it performs some useful function in the operation, maintenance, servicing, economy, or safety of the plumbing system.

(132) [(131)] Plumbing fixture. A receptacle or device which is either permanently or temporarily connected to the water distribution system of the premises, and demands a supply of water therefrom, or it discharges used water, liquid-borne waste materials, or sewage either directly or indirectly to the drainage system of the premises, or which requires both a water supply connection and a discharge to the drainage system of the premises. Plumbing appliances as a special class of fixture are further defined.

(133) [(132)] Plumbing inspector. A duly authorized employee or agent of the Department of Housing, Buildings and Construction who is charged with the responsibility of inspecting plumbing installations and with the enforcement of the state plumbing laws and code.

(134) Plumbing repair. As used in the code to mean replacing a part or putting together that which is torn or broken.

(135) [(133)] Plumbing system. The plumbing system of a building includes: appliances and water heaters; the water supply distributing pipes; the fixtures and fixture traps; the soil, waste and vent pipes; the house drain and house sewer; the storm water drainage within a building with their devices, appurtenances and connections all within and adjacent to the building.

(136) [(134)] Pool. (See swimming pool.)

(137) [(135)] Potable water. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming in its bacteriological and chemical quality to the requirements of the Public Health Service Drinking Water Standards or the regulations of the Department of Housing, Buildings and Construction.

(138) [(136)] Private or private use. In the classification of plumbing fixtures, private applies to fixtures in residences and apartments and to fixtures in private bathrooms of hotels as well as similar installations in other buildings where the fixtures are interded for the use of a family or an individual.

(139) [(137)] Private sewer. A sewer, serving two (2) or more buildings, privately owned, and not directly controlled by public authority.

(140) [(138)] Public or public use. In the

classification of plumbing fixtures, public applies to fixtures in general toilet rooms of schools, gymnasiums, hotels, railroad stations, public buildings, bars, public comfort stations, and other installations (whether pay or free) where a number of fixtures are installed so that their use is similarly unrestricted.

(141) [(139)] Public sewer. A common sewer directly controlled by public authority.

(142) [(140)] Public water main. A water supply pipe for public use controlled by public authority.

(143) [(141)] Receptor. A fixture or device which receives the discharge from indirect waste pipes.

(144) [(142)] Relief vent. An auxiliary vent which permits additional circulation of air in or between drainage and vent systems.

(145) Replaced. To put something new or rebuilt in the place of.

(146) [(143)] Return offset. A double offset installed so as to return the pipe to its original alignment.

(147) [(144)] Revent pipe. (See individual vent.)

(148) [(145)] Rim. An unobstructed open edge of a fixture.

(149) [(146)] Riser. A water supply pipe which extends vertically one (1) full story or more to convey water to branches or to a group of fixtures.

(150) [(147)] Roof drain. A drain installed to receive water collecting on the surface of a roof and to discharge it into a leader or a conductor.

(151) [(148)] Roughing-in. The installation of all parts of the plumbing system which can be completed prior to the installation of fixtures. This includes drainage, water supply, and vent piping, and the necessary fixture supports.

(152) [(149)] Safe waste. (See indirect waste.)

(153) [(150)] Sand interceptor. (See interceptor.)

(154) [(151)] Sand trap. (See interceptor.)

(155) [(152)] Sanitary sewer. A sewer which carries sewage and excludes storm, surface, and ground water.

(156) [(153)] Scrub sink. A device usually located in the operating suite to enable operating personnel to scrub their hands prior to operating procedures. The hot and cold water supply is activated by a knee-action mixing valve or by wrist or pedal control.

(157) [(154)] Seepage well or pit. A covered pit with open-jointed lining into which septic tank effluent is received that will seep or leach into the surrounding porous soil.

(158) [(155)] Separator. (See interceptor.)

(159) [(156)] Setic tank. A watertight receptacle which receives the discharge of a building sanitary drainage system or part thereof, and is designed and constructed so as to digest organic matter through a period of detention and allow the liquids to discharge into the soil outside of the tank through a system of open joint or perforated piping, or a seepage pit.

(160) [(157)] Sewage. Any liquid waste containing animal or vegetable matter in suspension or solution, and may include liquids containing chemicals in solution.

(161) [(158)] Sewage ejectors. A device for lifting sewage by entraining it in a high velocity jet of steam air or water.

(162) [(159)] Side vent. A vent connecting to the drain pipe through a fitting at an angle not greater than forty-five (45) degrees to the vertical.

(163) [(160)] Size of pipe and tubing. (See diameter.)

(164) [(161)] Slope. (See grade.)

(165) [(162)] Soil pipe. A soil pipe is any pipe which conveys the discharge of water closets or similar fixtures, with or without the discharges from other fixtures, to the house drain.

(166) [(163)] Soil vent. (See stack vent.)

(167) [(164)] Special wastes. Wastes which require special treatment before entry into the normal plumbing system.

(168) [(165)] Special waste pipe. Pipes which convey special wastes.

(169) [(166)] Stack. A general term for any vertical line of soil, waste or vent piping.

(170) [(167) Stack group. A group of fixtures located adjacent to the stack so that by means of proper fittings, vents may be reduced to a minimum.

(171) [(168)] Stack vent. The extension of a soil or waste stack above the highest horizontal drain connected to the stack.

(172) [(169)] Stack venting. A method of venting a fixture or fixtures through the soil or waste stack.

(173) [(170)] Sterilizer, boiling type. A boiling type "sterilizer" is a fixture (nonpressure type), used for boiling instruments, utensils, and/or other equipment (used for disinfection). Some devices are portable, others are connected to the plumbing system.

(174) [(171)] Sterilizer, instrument. A device for the sterilization of various instruments.

(175) [(172)] Sterilizer, pressure instrument washer-sterilizer. A pressure instrument washer-sterilizer is a fixture (pressure vessel) designed to both wash and sterilize instruments during the operating cycle of the fixture.

(176) [(173)] Sterilizer, pressure (autoclave). A fixture (pressure vessel) designed to use steam under pressure for sterilizing. Also called an autoclave.

(177) [(174)] Sterilizer, utensil. A device for the sterilization of utensils as used in hospital services.

(178) [(175)] Sterilizer vent. A separate pipe or stack, indirectly connected to the building drainage system at the lower terminal, which receives the vapors from nonpressure sterilizers, or the exhaust vapors from the pressure sterilizers, and conducts the vapors directly to the outer air. Sometimes called vapor, steam, atmospheric, or exhaust vent.

(179) [(176)] Sterilizer, water. A water sterilizer is a device for sterilizing water and storing sterile water.

(180) [(177)] Still. A device used in distilling liquids.

(181) [(178)] Storm drain. (See building storm drain.)

(182) [(179)] Storm sewer. A sewer used for conveying rain water, surface water, condensate, cooling water, or similar liquid wastes.

(183) [(180)] Subsoil drain. A drain which collects subsurface water and conveys it to a place of disposal.

(184) [(181)] Sump. A tank or pit, which receives sewage or liquid waste, located below

the normal grade of the gravity system and which must be emptied by mechanical means.

(185) [(182)] Sump pump. A mechanical device other than an ejector or bucket for removing sewage or liquid waste from a sump.

(186) [(183)] Supports. Devices for supporting and securing pipe, fixtures, and equipment.

(187) [(184)] Swimming pool. Any structure, basin, chamber, or tank containing any artificial body of water for swimming, diving, wading or recreational bathing.

(188) [(185)] Trap. A fitting or device which provides a liquid seal to prevent the emission of sewer gases without materially affecting the flow of sewage of waste water through it.

(189) [(186)] Trap seal. The vertical distance between the crown weir and the top of the dip of the trap.

(190) [(187)] Utility room. A workroom in the patient nursing area, designed and equipped to facilitate preparation, cleaning and incidental sterilizing of the various supplies, instruments, utensils, etc., involved in nursing treatment and care, exclusive of medications handled in nurses' stations and bedpan cleaning and sterilizing.

(191) [(188)] Vacuum. Any pressure less than exerted by the atmosphere.

(192) [(189)] Vacuum breaker. (See backflow preventer.)

(193) [(190)] Vacuum breaker, non-pressure type (atmospheric). A vacuum breaker which is not designed to be subjected to static line pressure.

(194) [(191)] Vacuum breaker, pressure type. A vacuum breaker designed to operate under conditions of static line pressure.

(195) [(192)] Vent pipe. A vent pipe is any pipe provided to ventilate a house drainage system and to prevent tray siphonage and back pressure.

(196) [(193)] Vent system. A pipe or pipes installed to provide a flow of air to or from a drainage system or to provide a circulation of air within such system to protect trap seals from siphonage and back pressure.

(197) [(194)] Vertical pipe. Any pipe or fitting which makes an angle of forty-five (45) degrees or less with the vertical.

(198) [(195)] Wall hung water closet. A wall mounted water closet installed in such a way that no part of the water closet touches the floor.

(199) [(196)] Waste pipe and special waste. A waste pipe is any pipe which receives the discharge of any fixture (except water closets or similar fixtures) and discharges to the house drain, soil or waste stacks. When such pipe does not connect directly with a house drain, waste or soil stack, it is termed a special waste.

(200) [(197)] Water distributing pipe. A pipe within the building or on the premises which conveys water from the water-service pipe or meter to the point of usage.

(201) [(198)] Water lifts. (See sewage ejector.)

(202) [(199)] Water outlet. A discharge opening through which water is supplied to a fixture, into the atmosphere (except into an open tank which is part of the water supply), to a boiler or heating system, to any devices or equipment requiring water to operate but which are not part of the plumbing system.

(203) [(200)] Water riser pipe. (See riser.)

(204) [(201)] Water service pipe. The pipe from the water main or other source of potable water supply to the water distributing system of the building served.

(205) [(202)] Water supply stub. A vertical pipe less than one (1) story in height supplying one (1) or more fixtures.

(206) [(203)] Water supply system. The water service pipe, the water-distributing pipes, and the necessary connecting pipes, fittings, control valves, and all appurtenances in or adjacent to the building or premises.

(207) [(204)] Well, bored. A well constructed by boring a hole in the ground with an auger and installing a casing.

(208) [(205)] Well, drilled. A well constructed by making a hole in the ground with a drilling machine of any type and installing casing and screen.

(209) [(206)] Well, driven. A well constructed by driving a pipe in the ground. The drive pipe is usually fitted with a well point and screen.

(210) [(207)] Well, dug. A well constructed by excavating a large diameter shaft and installing a casing.

(211) [(208)] Wet vent. A vent which receives the discharge of wastes other than from water closets.

(212) [(209)] Yoke vent. A pipe connecting upward from a soil or waste stack to a vent stack for the purpose of preventing pressure changes in the stack.

CHARLES A. COTTON, Commissioner
ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: September 11, 1986

FILED WITH LRC: September 12, 1986 at 2 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 21, 1986, at 10 a.m., in the Office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by October 16, 1986, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carl VanCleve

(1) Type and number of entities affected: N/A

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

1. First year: N/A

2. Continuing costs or savings: N/A

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

(b) Reporting and paperwork requirements: N/A

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

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

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: N/A

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

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Not applicable.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings & Construction
Division of Plumbing
(Proposed Amendment)

815 KAR 20:070. Plumbing fixtures.

RELATES TO: KRS Chapter 318
PURSUANT TO: KRS 318.130
NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to the kind, type and quality of plumbing fixtures that are to be used in the construction of plumbing systems.

Section 1. Materials. All receptacles used as water closets, urinals, or otherwise for the disposal of human excreta, shall be of vitrified earthenware, hard natural stone, or cast-iron with a light color porcelain enameled on the inside, except as indicated in Section 4 of this regulation.

Section 2. Installation. All plumbing fixtures shall be installed free and open in a manner to afford access for cleaning. Where practical, all pipes from fixtures shall be run to the wall and no trap or pipe shall extend nearer to the floor than twelve (12) inches except laundry trays or similar fixtures.

Section 3. Water Closet Bowls. Water closet bowls shall be made of one (1) piece and of such form as to hold a sufficient quantity of water when filled to the trap overflow to prevent fouling of its interior surfaces, and it shall be provided with an integral flushing rim so constructed as to flush the entire interior of the bowl.

Section 4. Plastic Water Closet Bowl and Tank. Plastic water closet bowl and tank shall be made with a polypropylene lining inside the one (1) piece bowl and tank. The outer surface of the bowl shall be constructed of PVC material and the filler material between the two (2) surfaces shall be made of polyurethane foam. The bowl shall have a three (3) inch water seal and shall have a two and one-eighth (2 1/8) inch waste opening passage.

Section 5. Frost-Proof Closet. A frost-proof water closet may be installed only in a building that has at least a twelve (12) inch air break between it and any building used for habitation or occupancy. The room shall be tightly enclosed and accessible from the outside only. The soil pipe between the trap and hopper shall be of extra heavy cast-iron, four (4) inches in diameter and shall be light colored porcelain enamel on the inside. The building must have a non-absorbent floor. Each frost-proof water closet shall have a four (4) inch vent.

Section 6. (1) Floor drains and shower drains. A floor drain or a shower drain is considered a plumbing fixture and shall be provided with a strainer.
(2) Shower drain pan construction. Shower drain pans shall be constructed of sheet lead weighing not less than four (4) pounds per square foot, non-plasticized chlorinated polyethylene conforming to ASTM D-412-66, D-12-4-54 and D-568-61 not less than 0.040 inches, non-plasticized polyvinyl chloride (PVC) sheet material conforming to ASTM D-1004, D-2240, D-412 and D-1790 not less than 0.040 inches thick or other approved material. Shower pans shall be constructed without seams and shall extend to a minimum height of six (6) inches on all vertical walls. Shower pans shall not be required on a concrete floor below the outside grade level.
(3) Fiberglass bathtubs, showers, tub enclosures and shower stalls. Fiberglass bathtubs and tub enclosures shall conform to Commercial Standards CS 221-59. Acrylic-faced bathtubs shall conform to ASTM E-84B or E-162. Fiberglass shower stalls and shower receptors shall conform to Commercial Standards CS 222-59.
(4) Metamorphosed carbonate aggregate polyester resinous martrix-marbleoid bathtubs, lavatories and shower stalls. Metamorphosed carbonate aggregate polyester resinous martrix-marbleoid bathtubs, lavatories and shower stalls shall conform to ANSI Z-124-3.

Section 7. Floor Drains, Shower Drains or Urinal Drains in Inaccessible Places. Floor drains, shower drains or urinal drains shall have a cast-iron P trap when installed under concrete floors or in inaccessible places. They shall be either caulk or screw type.

Section 8. Fixture Strainers. All fixtures other than water closets and pedestal urinals shall be provided with a fixed strong, metallic or porcelain strainer. The total outlet area shall not be less than that of the interior area of the trap.

Section 9. Fixture Overflow. The overflow from a fixture shall be optional, but if used, shall be connected to the inlet side of a trap and be so arranged that it may be readily and effectively cleaned.

Section 10. Ventilation of Rooms Containing Fixtures. Refer to BOCA Basic Mechanical Code M-1602.9 [M-1009.3] and BOCA One and Two Family Dwelling Codes, R-204.3.

Section 11. Fixture Additions. Any fixture or fixtures added to a plumbing system shall be installed to comply with the other sections of this code, and the discharge from the additional fixture or fixtures shall enter the soil pipe below the lowest vented opening.

Section 12. Defective Fixtures. Any newly installed fixtures found defective or old fixtures found to be in any unsanitary

condition, shall be repaired, replaced, or removed within thirty (30) days upon written notice from the department.

Section 13. Water Heaters. (1) A water heater is an appliance for supplying potable hot water for domestic or commercial purposes. It may be used for space heating if the water temperature does not exceed 150 degrees Fahrenheit. Water heaters shall be properly connected to the hot and cold water supply and shall be connected to an adequate size flue or chimney, but in no case shall this be connected to a flue serving a coal burning apparatus. The flue or chimney shall extend two (2) feet above the roof and be properly flashed and shall not terminate within six (6) feet of a door or window. No fuel fired water heater, with the exception of those having direct-vent or through the wall vent systems, shall be placed in any bathroom, toilet room or a room used for sleeping. If a water heater is placed in a closed room or closet the door must be a louver door or provided with proper ventilation to provide combustion air and circulation. (See 815 KAR 20:120, Section 13.)

(2) Direct venting system location. Residential gas-fired direct vent and through the wall type water heaters shall be vented in accordance with the manufacturer's recommendations and shall have as a minimum the National Fuel Gas Association Standards as follows: (NFPA Pamphlet #54). "(a) The vent terminal of a direct vent appliance with an input of 50,000 BTU per hour or less shall be located at least nine (9) inches from any opening through which flue gases could enter a building, and such an appliance with an input over 50,000 BTU per hour shall require a twelve (12) inch vent termination clearance. The bottom of the vent terminal and the air intake shall be located at least twelve (12) inches above grade."

CHARLES A. COTTON, Commissioner
ROBERT M. DAVIS, Secretary
APPROVED BY AGENCY: September 11, 1986
FILED WITH LRC: September 12, 1986 at 2 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 21, 1986, at 10 a.m., in the Office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by October 16, 1986, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carl VanCleve
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: Only that required in time to complete impact analysis.
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings:
1. First year: Only that required in time to complete impact analysis.
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected:
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Not required.

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Maternal & Child Health
(Proposed Amendment)

902 KAR 4:030. Tests for inborn errors of metabolism.

RELATES TO: KRS 214.155
PURSUANT TO: KRS 194.050, 211.090, 214.155
NECESSITY AND FUNCTION: The Cabinet for Human Resources is authorized by KRS 214.155 to require infants to be tested for inborn errors of metabolism, including but not limited to phenylketonuria (PKU), and to establish a schedule of fees to cover the actual costs to the cabinet for testing samples for errors of inborn metabolism. The purpose of this regulation is to require infants to be tested for phenylketonuria (PKU), galactosemia, and hypothyroidism, which are inborn errors of metabolism, and to establish the schedule of fees to cover actual costs of testing.

Section 1. Tests for Inborn Errors of Metabolism for Newborn Babies. (1) Except as otherwise provided in KRS 214.155(2), the administrative officer, or other person in charge of the hospital or other institution caring for infants twenty-eight (28) days or less of age and the attending physician or midwife shall cause to have administered to every such infant in its or his care a blood test to detect phenylketonuria, galactosemia, and hypothyroidism. In the event a baby is not born in a hospital or institution, the attending physician or midwife shall be solely responsible for causing such tests to be administered.

(2) A capillary blood specimen shall [must] be obtained from each infant before he or she leaves the hospital regardless of the age of the infant. All infants screened prior to forty-eight (48) hours of life shall [must] be rescreened for phenylketonuria (PKU) and congenital hypothyroidism prior to three (3) weeks of life.

(3) A capillary blood speciman shall be obtained on the seventh day of life from all ill, premature, or infants receiving parenteral feeding still hospitalized on that day, for the

purpose of screening for phenylketonuria (PKU), galactosemia, and congenital hypothyroidism. [All infants being treated with antibiotics when the original test was taken must be re-tested seven (7) days after completing the antibiotic treatment.]

(4) A repeat capillary blood specimen shall be obtained from all infants who were being treated with antibiotics when the original specimen was obtained or within the previous five (5) days. This repeat specimen shall be obtained five (5) to seven (7) days after completing the antibiotic treatment for the purpose of screening for phenylketonuria (PKU) and galactosemia. [All ill, premature, or infants receiving parenteral feeding still hospitalized on the seventh day of life must be tested on that day. If a child is on parenteral feeding a repeat should be done following initiation of routine oral feeding.]

(5) A repeat capillary blood specimen shall be obtained for the purpose of screening for phenylketonuria (PKU) from all infants who received parenteral feeding prior to the initial screening. For formula-fed infants, the specimen shall be obtained between forty-eight (48) and seventy-two (72) hours after initiation of feedings. For breast fed infants, the specimen shall be obtained between seven (7) and fourteen (14) days after initiation of feedings.

(6) A repeat capillary blood specimen shall be obtained from all infants who received transfusions prior to the initial screening, according to the following schedule:

(a) Forty-eight (48) - seventy-two (72) hours after transfusion rescreen for phenylketonuria (PKU) and congenital hypothyroidism.

(b) Sixty (60) - sixty-five (65) days after transfusion rescreen for galactosemia.

(7) The capillary blood specimens required in subsections (1) through (6) of this section shall be obtained by a heel stick and the blood from the heel stick shall be applied directly to filter paper.

(8) All specimens obtained as directed in subsections (1) through (7) of this section shall be mailed or sent to the approved testing laboratory within twenty-four (24) hours of collection of the specimen.

(9) Hospitals and institutions may submit blood samples to the Cabinet for Human Resources, Department for Health Services, Laboratory Services, 275 East Main Street, Frankfort, Kentucky 40621. The Department for Health Services, Laboratory Services, shall report positive results of tests for inborn errors of metabolism as required by KRS 214.155 on behalf of such hospitals and institutions. Hospitals and institutions may conduct their own testing program, within the institution or through a licensed medical laboratory, in which event the cabinet shall be notified and the laboratory procedures approved. A hospital or licensed medical laboratory may be required by the cabinet to demonstrate its proficiency in the performance of such tests. Hospitals and institutions which conduct their own testing program or contract with a licensed medical laboratory shall report positive test results within twenty-four (24) hours of testing to the attending physician and shall report positive test results to the Department for Health Services no later than two (2) working days after the date of testing.

[(5) Hospitals and institutions may submit blood samples to the Cabinet for Human Resources, Department for Health Services, Laboratory Services, 275 East Main Street, Frankfort, Kentucky 40621, or in lieu thereof conduct their own testing program, in which event the cabinet shall be notified and the laboratory procedures approved. A private laboratory shall be required by the cabinet to demonstrate its proficiency in the performance of such tests. Positive results shall be reported within twenty-four (24) hours to the attending physician. Positive results shall be reported to the Cabinet for Human Resources in accordance with KRS 214.155.]

(10) [(6)] All hospitals that conduct their own testing for congenital hypothyroidism within the institution or through [or send the blood samples to] a licensed medical [private laboratory must perform a TSH on the same [all] blood samples whose initial T4 test resulted in a low value level.

(11) [(7)] All hospitals which do their own testing or send their blood specimens to a licensed medical [private] laboratory for testing shall [must] complete semi-annual or other reports concerning such testing as requested by the Division of Laboratory Services or the Division of Maternal and Child Health.

(12) [(8)] Hospitals or other authorized institutions or individuals submitting blood samples to the Cabinet for Human Resources shall be assessed for each test according to the following schedule:

PKU only	$ 2.25 per test
Galactosemia only	$ 2.00 per test
Hypothyroidism	$ 5.75 per test
Combination test for all three	$10.00

All fees due the Cabinet for Human Resources shall be collected through a monthly billing system.

C. HERNANDEZ, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 11, 1986
FILED WITH LRC: September 15, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held at 9 a.m. on October 21, 1986, in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by October 16, 1986: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Patricia Nicol

(1) Type and number of entities affected: Affects all hospitals in Kentucky that provide maternity services, physicians or midwives who deliver babies outside the hospital or persons or institutions submitting blood specimens to the Division of Laboratory Services for screening for PKU, galactosemia or congenital hypothyroidism. Sets up guidelines for submitting and testing blood specimens and the reporting of positive results of screening as follows:

1. Defines time frames for screening and

rescreening, premature or ill infants, infants on antibiotics and infants receiving parenteral feeding;

2. Specifies capillary blood specimen collection by heel stick, direct application to the filter paper, and submission to an approved laboratory within 24 hours;

3. Specifies the schedule for repeat screening of infants who have received blood transfusions;

4. The Department for Health Services, Division of Laboratory Services shall report positive results of testing. Hospitals and medical laboratories that have been approved through proficiency testing to conduct their own tests shall report positives to the physician within 24 hours and to the Department for Health Services within 2 working days.

(a) Direct and indirect costs or savings to those affected: Rescreenings are now required for infants receiving transfusions, however implementation of these regulations will lessen the possibility of a child not being diagnosed and treated for PKU and congenital hypothyroidism. It has been projected that the cost of institutional care for a child with untreated PKU or congential hypothyroidism would be approximately $35,000 per year.

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: Reporting requirements are not changed by this amendment. Hospitals and licensed medical laboratories would be required to submit positive results to the physician in 24 hours and to the Department for Health Services within two (2) working days.

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: Regulation does not change the revenues required for service provision.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Basic procedures for responsibility of screening and reporting remain the same. Specific procedures are revised to reflect current medical technology.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Not possible due to subject matter.

CABINET FOR HUMAN RESOURCES
Department for Health Services
Certificate of Need and Licensure
(Proposed Amendment)

902 KAR 20:006. Certificate of need process.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1),(2)

PURSUANT TO: KRS 216B.040, 216B.075, Executive Order 86-366

NECESSITY AND FUNCTION: KRS 216B.040 and KRS 216B.075 authorize the Certificate of Need and Licensure Board to promulgate administrative regulations respecting application and review procedures. This regulation sets forth the application and review procedures and requirements for batching, review of substantial changes in projects and cost escalations and progress reports. Executive Order 86-366 provides for the replacement of the Certificate of Need and Licensure Board with the Commission for Health Economics Control in Kentucky.

Section 1. Definitions. Except as otherwise provided, for purposes of this regulation, the following definitions shall apply:

(1) "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provides services similar to the services of the facility under review; health facilities which, prior to receipt by the agency or the proposal being reviewed, have formally indicated an intention to provide similar services in the future; the cabinet and third party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located.

(2) "Batching" means the formal review in the same review cycle and comparative consideration of all filed applications (other than those given nonsubstantive review pursuant to KRS 216B.095) pertaining to similar types of services, facilities or equipment affecting the same health service area.

(3) "Board" means the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

(4) "Capital expenditure authorized" means the amount of the capital expenditure approved by the board to implement a proposal.

(5) "Certificate of need" means an authorization by the board to proceed to acquire, to establish, to offer, to substantially change the bed capacity or to substantially change a health service as covered by KRS Chapter 216B.

(6) "Cabinet" means the Cabinet for Human Resources.

(7) "Executive director" means the executive director of the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

(8) "Formal review process" means the ninety (90) day certificate of need review conducted by the board.

(9) "Health service" means clinically related services provided within the Commonwealth to two (2) or more persons, including but not limited

to diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services.

(10) "Local health planning agency" means a health planning agency organized for a particular geographical area of the Commonwealth and designated by the governor.

(11) "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need as authorized under KRS 216B.095.

(12) "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record.

(13) "Public information channels" means the office of communications and council affairs in the Cabinet for Human Resources.

Section 2. Criteria. In determining whether to issue or deny a certificate of need, the board and the cabinet shall utilize the following criteria:

(1) Consistency with plans. The proposal should be consistent with the state health plan. Consideration should be given to the other applicable appropriately adopted plans developed by local health planning agencies. In case of inconsistency between the state health plan and other plans considered, the state health plan shall prevail. The fact that the state health plan does not address the specific type of proposal being reviewed does not constitute grounds for disapproval of the proposal. To determine conformance with this criterion the applicant and the cabinet shall address and the board shall consider the relationship of the proposal to:

(a) The state health plan;

(b) The applicable appropriately adopted plans developed by local health planning agencies.

(2) Need and accessibility. The proposal should meet an identified need in a defined geographic area and be accessible to all residents of the area. To determine conformance with this criterion the applicant shall address and the board and the cabinet shall consider:

(a) The need that the population served or to be served has for the services proposed to be offered or expanded, and the extent to which all residents of the area, and in particular low income persons, racial and ethnic minorities, women, handicapped persons and other underserved groups are likely to have access to those services.

(b) In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the need that the population presently served has for the service; the extent to which that need will be met adequately by the proposed relocation or by alternative arrangements; and the effect of the reduction, elimination, or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups to obtain needed health care.

(c) The contribution of the proposed service in meeting the health related needs of members of medically underserved groups which have traditionally experienced difficulties in obtaining equal access to health services (for example, low income persons, racial and ethnic minorities, women and handicapped persons), particularly those needs identified in the applicable appropriately adopted plans developed by local health planning agencies and the state health plan as deserving of priority. In this regard, the board and the cabinet shall consider:

1. The extent to which medically underserved populations currently use the applicant's services in comparison to the percentage of the population in the applicant's service area which is medically underserved, and the extent to which medically underserved populations will use the proposed services if approved;

2. The past performance of the applicant in meeting its obligation, if any, under any applicable federal regulations requiring provision of uncompensated care, community service, or access by minorities and handicapped persons to programs receiving federal financial assistance (including the existence of any civil rights access complaints against the applicant);

3. The extent to which physicians with admitting privileges at the applicant's facility admit Medicare and Medicaid patients; and

4. The extent to which the applicant offers alternative means, other than through admission by a physician, by which a person will have access to its services (e.g., admission through a clinic or emergency room).

(d) The effect of the means proposed for the delivery of health services on the clinical needs of health professional training programs in the area in which the services are to be provided.

(e) If proposed health services are to be available in a limited number of facilities, the extent to which the health professions schools in the area will have access to the services for training purposes.

(f) Special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas. These entities may include medical or other health professions schools, multidisciplinary clinics and specialty centers.

(g) The special needs and circumstances of biomedical-behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages.

(3) Interrelationships and linkages. The proposal should serve to accomplish appropriate and effective linkages with other services, facilities, and elements of the health care system in the region and state accompanied by assurance of effort to achieve comprehensive care, proper utilization of services and efficient functioning of the health care system. To determine conformance with this criterion the applicant shall address and the board and the cabinet shall consider:

(a) The relationship of the services to be provided to the existing health care system of the area in which the services are proposed to be provided.

(b) The relationship, including the organizational relationship, of the health services proposed to be provided to ancillary or support services.

(c) In the case of health services or facilities proposed to be provided, the efficiency and appropriateness of the use of

existing services and facilities similar to those proposed.

(4) Costs, economic feasibility, and resource availability. The proposal when measured against the cost of alternatives for meeting needs, is judged to be an effective and economical use of resources, not only in terms of capital investment, but also in terms of ongoing requirements for health manpower and operational financing. To determine conformance with this criterion the applicant shall address and the board and the cabinet shall consider:

(a) The availability of less costly or more effective alternative methods of providing the services to be offered, expanded, reduced, relocated, or eliminated.

(b) The immediate and long-term financial feasibility of the proposal, as well as the probable impact of the proposal on the cost of and charges for providing health services by the person proposing the service.

(c) The availability of resources (including health personnel, management personnel, and funds for capital and operating needs) for the provision of the services proposed to be provided and the availability of alternative uses of these resources for the provision of other health services.

(d) In the case of construction projects:

1. The costs and methods of the proposed construction, including the costs and methods of energy provision; and

2. The probable impact of the construction project reviewed on the costs of providing health services by the persons proposing the construction project and on the costs and charges to the public of providing health services by other persons.

(e) The special circumstances of health care facilities with respect to the need for conserving energy.

(f) The factors which affect the effect of competition on the supply of the health services being reviewed.

(g) Improvements or innovations in the financing and delivery of health services which foster competition, and serve to promote quality assurance and cost effectiveness.

(5) Quality of services. The applicant should be prepared to and capable of undertaking and carrying out the responsibilities involved in the proposal in a manner consistent with appropriate standards and requirements assuring the provision of quality health care services. To determine conformance with this criterion the applicant shall address and the board and the cabinet shall consider the quality of care provided by the applicant in the past.

(6) Special needs and circumstances of health maintenance organizations. In the case of a health maintenance organization (HMO) or an ambulatory care facility or health care facility controlled directly or indirectly by an HMO, the proposal should be consistent with the special need and circumstances of HMOs. The applicant shall address and the board and the cabinet shall consider only:

(a) The needs of enrolled members and reasonably anticipated new members of the health maintenance organizations for the health services proposed to be provided by the organization; and

(b) The availability of the new health services from non-health maintenance organization providers or other health maintenance organizations in a reasonable and cost effective manner which is consistent with the basic method of operation of the health maintenance organization. In assessing the availability of these health services the board and the cabinet shall consider only whether the services from these providers:

1. Would be available under a contract of at least five (5) years duration;

2. Would be available and conveniently accessible through physicians and other health professionals associated with the health maintenance organization (e.g., whether physicians associated with the health maintenance organization have or will have full staff privileges in a non-health maintenance organization hospital.);

3. Would cost no more than if the services were provided by the health maintenance organization; and

4. Would be available in a manner which is administratively feasible to the health maintenance organization.

Section 3. Required Approvals for HMOs. Nothwithstanding the general review criteria established in Section 2, if an HMO or a health facility which is controlled, directly or indirectly, by an HMO applies for a certificate of need, the board shall approve the application if it finds, in accordance with the criterion set out in Section 2(6) that:

(1) Approval of the application is required to meet the needs of the members of the HMO and the new members which the HMO can reasonably be expected to enroll; and

(2) The HMO is unable to provide, through services or facilities which can reasonably be expected to be available to the HMO, its health services in a reasonable and cost-effective manner which is consistent with the basic method of operations of the HMO and which makes these services available on a long-term basis through physicians and other health professionals associated with it.

Section 4. Exemptions. (1) A certificate of need shall not be required for any project which meets the applicable requirements of KRS 216B.065, 216B.070, or Section 14 of the 1982 Act. If a person acquires major medical equipment not located in a health facility without a certificate of need and proposes at any time to use that equipment to serve inpatients of a hospital, the proposed new use must be reviewed unless the equipment will be used to provide services to inpatients of a hospital only on a temporary basis in the case of an emergency, a natural disaster, a major accident, or an equipment failure. For the purposes of this section "temporary basis" means on an occasional and irregular basis or until the applicant's proposal for permanent acquisition or regular use by a hospital is reviewed under the formal or nonsubstantive review process.

Section 5. Formal Review. (1) At least thirty (30) days prior to submitting a certificate of need application for a construction project, a letter of intent shall be filed with the executive director. No letter of intent is required when an applicant proposes to alter an

outstanding certificate of need for a construction project. The letter of intent shall be filed on a form provided by the board.

(2) A letter of intent is valid for a period of one (1) year.

(3) The executive director shall acknowledge receipt of the letter of intent, send a copy to the respective local health planning agency, if any, and send appropriate forms and instruction sheets to the applicant.

(4) The original certificate of need application and one (1) copy shall be submitted to the executive director and two (2) copies shall be submitted to the respective local health planning agency, if any.

(5) Within fifteen (15) days of receipt of the application the executive director shall acknowledge receipt in writing to the applicant and the respective local health planning systems agency, if any, and shall notify the applicant whether or not the application is complete.

(6) If the application is not complete, the notice to the applicant shall give the applicant the option of submitting the additional information or of notifying the executive director that he elects for the application to be processed as originally submitted.

(7) All applications shall be deemed filed upon the determination of completeness by the executive director, upon receipt of the requested additional information by the executive director, or upon receipt of a letter from the applicant stating that he elects for the application to be processed as originally submitted.

(8) Applications not filed within a year from the date the application was received shall not be retained by the board.

(9) The executive director shall notify the applicant of the date the application was filed and the date public notice has been given of the commencement of the review process. Applications must be filed at least six (6) working days prior to the date of public notice in order to be included in such notice.

(10) The executive director shall give written notice to affected persons of the beginning of a review. The notice shall include the schedule for the review and the period within which a public hearing may be requested by affected persons. The review notice to members of the public and third party payors shall be provided through public information channels. Notice to all other affected persons shall be by mail.

(11) The review period shall commence on the date of public notice. No review shall take longer than ninety (90) days from the commencement of the review unless the applicant agrees to a deferral of action. Applications proposing the same or similar types of services, equipment, or facilities affecting the same health service area shall be batched in the review cycles so they can be given comparative review, if applicable. Batching review cycles commencing with the March, 1987 meeting [for formal reviews] shall be as follows:

TYPE OF PROPOSAL	MONTH OF PUBLIC NOTICE, NINETY (90) DAYS PRIOR MEETING DATE	MONTH OF CERTIFICATE OF NEED BOARD MEETING, THIRD WEDNESDAY OF:
(a) Acute, Psychiatric, Rehab, Chemical Dependency facilities and other related components in the SHP (except Specialized Equipment and Services) such as IC/CC, Neonatal, Surgical Service (including Free-standing Ambulatory Surgical Center), and ESRD. Also Birthing Center.	November, February, May, August	February, May, August November
(b) Long Term Care (Skiled, Nursing Home, Intermediate Care, IC MR/DD, Personal Care, Swing Beds), and Home Health or Home Health/Hospice.	December, March, June, September	March, June, September, December
(c) Transplantation, Magnetic Resonance Imaging, Lithotripter, Radiation Therapy, C.T. Scanner, Cardiac Catheterization, Open Heart Surgery, and new Technological Developments.	January, July	April, October
(d) Day Health Care Center, Ambulatory Care Clinic, Primary Care Center, Rural Health Clinic, Group Home, Rehab Agency, Hospice only.	December, February, June, August	March, May, September, November
(e) Ambulance, NE Health Transportation, and Air Ambulance Services.	November, December, January, February, March, May, June, July, August, September	February, March, April, May, June, August, September, October, November, December
(f) All Mobile Services except those covered under Specialized Equipment and Services.	November, January, March, May, July, September	February, April, June, August, October, December
(g) Relocation of existing facility that does not involve a change of capacity or health service.	November, December, January, February, March, May, June, July, August, September	February, March, April, May, June, August, September, October, November, December
(h) Capital expenditure only that exceeds the threshold that does not qualify for nonsubstantive review.	November, December, January, February, March, May, June, July, August, September	February, March, April, May, June, August, September, October, November, December
(i) Any proposals not listed above will be placed in the most appropriate cycle as determined by the commission.		
(j) Any proposal granted nonsubstantive review status as specified in KRS 216B.095(3)(a) through (f), plus a change of location (CON), technical modifications (CON), cost escalations that cannot be adjusted administratively, cost overrun, change of ownership when applicable, and industrial ambulance service, will be processed in accordance with KRS 216B.095(1).		

[Type of Proposal	Month of public notice, ninety (90) days prior to meeting date	Month of certificate of need board meeting, Third Wednesday of:
(a) Hospital facilities and services including: general medical, surgical psychiatric, obstetric and pediatric beds; primary care centers, renal disease facilities, and ambulatory surgical centers, and rural health clinics.	October February, June	January, May September
(b) Long term care facilities and services including: skilled nursing, intermediate care, personal care, and nursing homes; and proposals for home health services, and any other type of proposal not listed in paragraph (a) of this subsection.]	December, April, August	March, July, November

(12) Any person directly affected by the proposal may request a public hearing within thirty (30) days of the date of public notice.

(13) The local health planning agency shall notify the executive director of its recommendation for approval or disapproval within sixty (60) days from the date of public notice. The recommendation shall set forth the basis for the recommendation and findings with respect to the criteria. In the event that no recommendation is received from the local health planning agency, the board shall proceed without a recommendation.

(14) The executive director of the board shall notify the applicant, the local health planning agency and any party to the proceeding of the board's final action on a certificate of need application.

(a) If the application is approved, the written notification shall include:

1. Verification that criteria for determining need have been met and that the current accessibility of the facility as a whole has been taken into account, if applicable, as specified in the federal certificate of need regulation, except in the following cases:

a. Where the application is approved pursuant to the requirements of Section 2(6). In such case, the written findings shall verify that the conditions for required approvals under Section 3 have been met; or

b. Where the project is a proposed capital expenditure not directly related to the provision of health services or to beds or major medical equipment.

2. Amount of capital expenditure authorized, where applicable.

(b) If the application is disapproved, the written notification shall include:

1. The decision of the board.

2. Notice of appeal rights.

(c) If the board's action on a certificate of need application is inconsistent with a recommendation made by the local health planning agency, the executive director shall submit to the local health planning agency and to the applicant a written detailed statement of the reasons for the inconsistency.

Section 6. Nonsubstantive Review. (1) An applicant may waive the procedures for formal review of an application for a certificate of need and request a nonsubstantive review. In addition to the projects specified in KRS 216B.095(3)(a through f), nonsubstantive review status will be granted to[:

(a)] applications <u>for a</u> [to] change <u>of</u> [the] location of a proposed health <u>facility, technical modifications to an approved certificate of need, cost overruns, changes of ownership when applicable, and industrial ambulance services.</u> [service, so long as the application to change the location is submitted no later than one (1) year after the issuance of the original certificate of need. If a change of location of a proposed health facility is requested more than one (1) year after the certificate of need was issued, a formal review shall be required; and]

[(b) Applications pertaining to ambulance services, air ambulance services and non-emergency health transportation services until an emergency medical services component is adopted as part of the state health plan.]

(2) Procedures. Procedures for nonsubstantive review shall be as follows:

(a) The original certificate of need application and one (1) copy, with a request for nonsubstantive review shall be submitted to the executive director and two (2) copies of the application shall be submitted to the respective local health planning agency, if any.

(b) Within fifteen (15) days of the receipt of the application the executive director shall acknowledge receipt of the application in writing to the applicant and the local health planning agency, if any, and shall notify the applicant whether or not the application is complete.

(c) If the application is not complete, the notice to the applicant shall give the applicant the option of submitting the additional information or of notifying the executive director that he elects for the application to be processed as originally submitted.

(d) All applications shall be deemed filed upon the determination of completeness by the executive director, upon receipt of the requested additional information by the executive director, or upon receipt of a letter from the applicant that he elects for the application to be processed as originally submitted.

(e) Within fifteen (15) days after the application is filed, the executive director functioning as the representative of the cabinet shall determine whether the application meets the criteria for nonsubstantive review and shall notify affected persons of the decision to grant or deny nonsubstantive review status. The notice to members of the public and third party payors

shall be provided through public information channels. Notice to all other affected persons shall be by mail.

(f) Within fifteen (15) days of the cabinet's notice to conduct a nonsubstantive review any affected person other than the applicant may request a public hearing before the cabinet on an application granted nonsubstantive review status.

(g) The local health planning agency, if any, shall recommend approval or disapproval of applications granted nonsubstantive review status within thirty (30) days of the date of public notice. In the event that no recommendation is received from the local health planning agency, the cabinet shall proceed without a recommendation.

(h) The cabinet shall approve or disapprove applications for certificates of need within forty-five (45) days from the date of public notice to conduct a nonsubstantive review.

(i) If the applicant's proposed project is denied nonsubstantive review status the application will automatically be placed in the next appropriate batching cycle of the formal review process.

(j) If a certificate of need is denied following a nonsubstantive review, the applicant may request that the application be placed in the next appropriate batching cycle of the formal review process or may pursue a judicial appeal. If a formal review is requested, no letter of intent shall be required, but the filing of the request for nonsubstantive review shall be considered compliance with any requirement for a letter of intent.

Section 7. Conditions Relative to a Certificate of Need. (1) No person shall transfer an approved certificate of need for the establishment of a new health facility or the replacement of an existing facility without first obtaining a certificate of need. All other certificates of need may be transferred to the new owner of the facility or service if a change of ownership occurs prior to implementation of the project for which the certificate of need was issued.

(2) A certificate of need issued for establishment of a new health facility or the replacement of an existing facility and is issued only for the location stated on the certificate.

(3) Cost escalations. (a) A certificate of need shall not be required for an escalation of the capital expenditure authorized provided that the scope of the project as approved is not altered and the amount of the escalation does not exceed:

1. Twenty (20) percent of the capital expenditure authorized or $100,000, whichever is greater, in the case of projects with a capital expenditure of less than $500,000;

2. Twenty (20) percent of the capital expenditure authorized, in the case of projects with a capital expenditure of $500,000 or greater, but less than $5,000,000;

3. Ten (10) percent of the amount in excess of $5,000,000, plus $1,000,000, in the case of projects with a capital expenditure of $5,000,000 or greater, but less than $25,000,000;

4. Five (5) percent of the amount in excess of $25,000,000, plus $3,000,000, in the case of projects with a capital expenditure of $25,000,000 or greater, but less than $50,000,000; or

5. Two (2) percent of the amount in excess of $50,000,000, plus $4,250,000 in the case of projects with a capital expenditure of $50,000,000 or greater.

(b) The certificate of need holder shall submit, to the executive director, a standardized escalation form approved by the Board which includes the amount of the escalation, the factors pertaining to the escalation, and information to assure that the scope of the project as approved originally by the Board has not changed. The executive director shall review the form submitted and within thirty (30) days of receipt shall notify the certificate of need holder whether the proposed escalation meets the requirements of subsection (a) of this section. Capital expenditures for escalations within the limits prescribed in this section shall not be obligated until the certificate of need holder has received this notice. A certificate of need shall be required for escalations in the capital expenditure authorized which exceeds the limits prescribed in this section or entails a change in the scope of the proposal which was originally approved.

(c) The certificate of need holder shall, prior to obligating any escalation of the capital expenditure authorized, submit to the executive director any additional certificate of need application fee required by the increased capital expenditure pursuant to the requirements of 902 KAR 20:135.

Section 8. Progress Reports. (1) As one of the conditions of a certificate of need, the certificate of need holder shall submit a report of progress every six (6) months or more frequently if required by the board until the project is complete.

(2) All certificate of need holders shall be notified in writing that certificates of need will be revoked by the board if satisfactory evidence towards the implementation of a proposal is not made within the time limits set by this regulation. The applicant shall provide the necessary evidence on forms provided by the executive director. The board may revoke the certificate of need for failure to submit progress reports as required.

(3) Procedures for submission of progress reports:

(a) The executive director shall send notice to the certificate of need holder specifying the date each progress report is due. The first six-month report shall be due six (6) months from the date the certificate was issued.

(b) The applicant shall send one (1) copy of the six-month progress report form to the board and two (2) copies to the local health planning agency, if any.

(4) Criteria for review of progress:

(a) The first six-month progress report shall include the following:

1. On all projects for purchase of equipment only, a copy of the purchase order.

2. For all construction projects, a copy of the deed or the option to acquire the site.

[(b) In the event the certificate of need holder wishes to change the location of the project from the site specified on the certificate of need, the certificate of need

holder shall note the proposed change of location on the first progress report form and shall submit a certificate of need application for nonsubstantive review.]

(b) [(c)] Within one (1) year after a certificate of need is issued, the second six-month report shall include documentation that:

1. All projects for conversion of beds are complete [(ready for licensure)];

2. All projects for addition of new services, not involving construction, are complete;

3. Schematic plans have been submitted to the Department of Housing, Buildings and Construction and the Cabinet for Human Resources for construction projects. The second six-month report for all construction projects shall also include:

a. Schedule for project completion with projected dates;

b. Evidence of preliminary negotiation with financial agent;

c. Evidence of preliminary negotiation with contractors.

(c) [(d)] Within eighteen (18) months after a certificate of need has been issued, the third six-month report shall include the following information regarding all construction projects:

1. Copy of deed or lease of land;

2. Evidence that applicant has sufficient capital obligated to complete the project. If the source of capital is to be a financing agreement, the applicant must have evidence that a final enforceable agreement or note has been executed;

3. Documentation that final plans have been submitted to the Department of Housing, Buildings and Construction and the Cabinet for Human Resources;

4. Enforceable contract with construction contractor;

(d) [(e)] On all projects for purchase of equipment only, evidence that equipment has been installed.

(e) [(f)] Within two (2) years after a certificate of need has been issued, the fourth six-month report shall verify that all construction projects have the walls and roof up and plumbing roughed in.

JACK S. LESSHAFFT, SR., Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: August 25, 1986
FILED WITH LRC: September 15, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 21, 1986, at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by October 16, 1986 of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Jack S. Lesshafft, Sr.

(1) Type and number of entities affected: All future applicants for certificate of need.

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: No change

(2) Effects on the promulgating administrative body: Minimal

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No change but spread more equitably throughout the year.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The only alternative would be a different configuration of batching and the proposed cycled is considered the most suitable for applicants.

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

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

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

(6) Any additional information or comments: KRS 194.120 specifies the Certificate of Need and Licensure Board as the only statutory body attached to the Cabinet for Human Resources with the authority to issue administrative regulations. KRS 216B.040(2)(a)1. authorizes the board to issue administrative regulations through the secretary to establish the certificate of need procedures, including but not limited to, application procedures, notice provisions, procedures for review of completeness of applications, and timetables for review cycles. Executive Order 86-366, which replaced the board with the Commission for Health Economics Control, enables the commission, in Section I.E., to promulgate through the Secretary for Human Resources such administrative regulations as may be necessary to implement and administer its responsibilities. The commission approved the proposed amendments to 902 KAR 20:006 at a public hearing conducted in the auditorium at the Health Services Building on August 20, 1986.

TIERING: Was tiering applied? No. All applicants for certificates of need are required to adhere to the same process.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The health planning and resources development act, Public Law 93-641, as amended, requires in Section 1532(b)(13)(A)(iii) provision for all completed applications pertaining to similar types of services, facilities, or equipment affecting the same health service area to be considered in relation to each other (but no less than twice a year). The proposed amendment to 902 KAR 20:006 provides for applications for major medical equipment to be reviewed twice a year and for other types of applications to be reviewed, at a minimum, four times per year and, at a maximum, ten times per year.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. Currently, the Commission for Health Economics Control (successor to the Certificate of Need and Licensure Board) meets six times per year and acts on applications in accordance with two prescribed batching cycles, giving applicants three opportunities per year for review. If the proposed amendment is approved, the commission will hold ten meetings each year and, with the exception of proposals for the purchase of major medical equipment, afford applicants at least four opportunities for review.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

CABINET FOR HUMAN RESOURCES
Department for Health Services
Certificate of Need and Licensure Board
(Proposed Amendment)

902 KAR 20:132. Certificate of need expenditure minimums.

RELATES TO: KRS 216B.010 to 216B.131, 216B.990(2)

PURSUANT TO: KRS 216B.040, 216B.130, Executive Order 86-366

NECESSITY AND FUNCTION: KRS 216B.040 authorizes the Certificate of Need and Licensure Board to promulgate administrative regulations. KRS 216B.130 requires the Certificate of Need and Licensure Board to annually adjust expenditure minimums provided in KRS Chapter 216B. This regulation provides for the adjustment of expenditure minimums for capital expenditures and operating costs for the period beginning July 15, 1986 [1985] and ending July 14, 1987 [1986]. Executive Order 86-366 provides for the replacement of the Certificate of Need and Licensure Board with the Commission for Health Economics Control in Kentucky.

Section 1. (1) Expenditure minimums or limits provided in KRS Chapter 216B and regulations promulgated pursuant thereto shall be adjusted for the twelve (12) month period beginning July 15, 1986 [1985] and ending July 14, 1987 [1986] to reflect the changes in the preceding twelve (12) month period in an index designated by Federal regulation pursuant to the Health Planning and Resources Development Amendments of 1979, P.L. 96-79, as amended.

(2) Federal regulations designated the Department of Commerce Composite Construction Cost Index to be used in making these adjustments (42 CFR 123.401). The changes in the Index for the twelve (12) month period ending October 1985 represents a three and three-tenths (3.3) percent increase.

[(a) Notice published in the Federal Register on April 11, 1983, indicated that on October 1, 1981 the index was fixed at 154.9 and that on October 1, 1982, the index was fixed at 155.8, an increase of nine-tenths (0.9) points or six-tenths (0.6) percent. Accordingly, the expenditure minimums provided for in the 1982 amendments to KRS Chapter 216B were increased six-tenths (0.6) percent through this regulation for the twelve (12) month period from July 15, 1983, to July 15, 1984.]

[(b) Notice published in the Federal Register on May 3, 1984, indicated that on October 1, 1983, the index was fixed at 158.8. The three and nine-tenths (3.9) point change in the index from October 1, 1981, to October 1, 1983, represents a two and five-tenths (2.5) percent increase. Accordingly, the expenditure minimums provided for in the 1982 amendments to KRS Chapter 216B were increased two and five-tenths (2.5) percent through this regulation for the twelve (12) month period from July 15, 1984, to July 15, 1985.]

[(c) Notice published in the Federal Register on April 9, 1985, indicated that on October 1, 1984, the index was fixed at 163.7. The eight and eight-tenths (8.8) point change in the index from October 1, 1981, to October 1, 1984, represents a five and seven-tenths (5.7) percent increase.]

Section 2. The expenditure minimums provided in KRS Chapter 216B shall be increased for the twelve (12) month period from July 15, 1986 [1985] to July 14, 1987 [1986] as follows:

(1) The expenditure minimum of $634,200 [$600,000] for capital expenditures shall be increased by three and three-tenths (3.3) [five and seven-tenths (5.7)] percent, to $655,129 [$634,200];

(2) The expenditure minimum of $264,250 [$250,000] for operating costs shall be increased by three and three-tenths (3.3) [five and seven-tenths (5.7)] percent, to $272,970 [$264,250]; and

(3) The expenditure minimum of $422,800 [$400,000] for major medical equipment shall be increased by three and three-tenths (3.3) [five and seven-tenths (5.7)] percent, to $436,752 [$422,800].

JACK S. LESSHAFFT, SR., Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 2, 1986
FILED WITH LRC: September 15, 1986 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held at 9 a.m. on October 21, 1986, in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by October 16, 1986: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Jack S. Lesshafft, Sr.

(1) Type and number of entities affected: Applicants for certificates of need where proposals project expenditures in excess of specified minimums.

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: Certificates of need will not be required for certain proposals when projected expenditures fall below the minimums.

(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: Minimal
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Increased expenditure minimums have the potential for reducing the number of applications to be reviewed.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: The Federal Health Planning and Resources Development Law requires the annual adjustment of expenditure minimums.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments: KRS 194.120 specifies the Certificate of Need and Licensure Board as the only statutory body attached to the Cabinet for Human Resources with the authority to issue administrative regulations. KRS 216B.040(2)(a)1. authorizes the board to issue administrative regulations through the secretary to establish the certificate of need procedures, including but not limited to, application procedures, notice provisions, procedures for review of completeness of applications, and timetables for review cycles. Executive Order 86-366, which replaced the board with the Commission for Health Economics Control, enables the commission, in Section I.E., to promulgate through the Secretary for Human Resources such administrative regulations as may be necessary to implement and administer its responsibilities. The commission's predecessor, the Certificate of Need Authority, approved the proposed amendment of 902 KAR 20:132 at a public meeting conducted in the auditorium at the Health Services Building on March 19, 1986, and directed that the regulation be adjusted and filed when information pertaining to increases in expenditure minimums was received.
TIERING: Was tiering applied? No. Certificate of need is required for all proposals which exceed expenditure minimums.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: 42 CFR 123.401, promulgated in connection with Public Law 96-79, defines expenditure minimums as those amounts in effect on October 1, 1979, adjusted annually thereafter to reflect the changes in the preceding 12-month period in the Department of Commerce Composite Construction Cost Index.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: The proposed amendments to 902 KAR 20:123 will replace Kentucky's expenditure minimums in compliance with federal requirements.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

CABINET FOR HUMAN RESOURCES
Department for Employment Services
Division of Job Training
(Proposed Amendment)

903 KAR 6:040. Job Training Partnership Act.

RELATES TO: KRS 194.030(9)
PURSUANT TO: KRS 13A.100, 194.050(1)
NECESSITY AND FUNCTION: Public Law 97-300, the Job Training Partnership Act authorizes the states to implement a job training program. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the Kentucky Job Training Program in accordance with applicable federal laws and regulations.

Section 1. In order to facilitate the administration of the Job Training Program as authorized by Public Law 97-300 and as regulated in 20 CFR Parts 626 through 636 [638], the following CFR, Public Law and Conference Report are adopted by reference:
(1) Title 20 Code of Federal Regulations (CFR), Parts 626 through 636 [638], dated April 1, 1986 [March 15, 1983], which contains regulations regarding the implementation of the Job Training Partnership Act (JTPA) and includes operational procedures for: determining eligibility of grant recipients and funding; preparing the Governor's Coordination and Special Services Plan; involving the State Job Training Coordinating Council; implementing interstate JTPA agreements; distribution of state funds; ensuring state education coordination and awarding grants; implementing training programs for older individuals; awarding state incentive grants; designating JTPA service delivery areas (SDA) and private industry councils; selection of SDA grant recipients; preparing, reviewing and approving job training plans; prohibiting use of public service employment for JTPA purposes; determining eligiblity for need-based payments and benefits and assessing working conditions; ensuring compliance in the areas of grant payments, program income, insurance, procurement, management systems, reporting and recordkeeping, budgetary classifications and limitations, matching funds, property management standards, audits, program oversight, sanctions for Act violations, program closeout and performance standards; filing requests for and conducting grievance hearings; handling of administrative, civil and criminal complaints and reports of fraud, abuse and other criminal activity; and implementing summer youth employment and training programs, Native American employment and training programs, migrant and seasonal farmworker programs and

veterans employment programs..

(2) Public Law 97-300, the Job Training Partnership Act of 1982, which concerns the state and local service delivery system and general program and administrative issues including: the authority and program requirements of the governor, state job training coordinating councils, private industry councils and chief elected officials; processes for designating local service delivery areas; preparing local plans and selecting local service providers; development of performance standards and procedures for implementation; fiscal control; monitoring and recordkeeping; training programs for disadvantaged youth and adults, including the areas regarding funding and eligibility and summer youth training and job programs; implementing training and employment aid program for dislocated workers including consultation with private industry councils; funding and implementation of employment and training programs for Native Americans, migrant workers and veterans; Job Corps; labor market information systems; functions of the National Commission for Employment Policy; and coordination between the Work Incentive Program and the job training delivery system.

(3) Job Training Partnership Act, Conference Report, issued September 28, 1982, which is a joint explanatory statement of the Committee of Conference on the Job Training Partnership Act which explains the action agreed upon by the House and Senate managers and expresses the intent of the Congress.

(4) Interpretations of Job Training Partnership Act Rules and Regulations dated June 18, 1986, which contains interpretations pertaining to: Summer Youth Employment and Training Programs; Maximum and Minimum Limitations on Expenditures; Job Training Partnership Act, States' Responsibilities in Incident Report Procedures; and Job Training Partnership and Wagner-Peyser Acts Funds Availability. Also contained therein is an amendment to Part 629.38(e)(2)(iii) concerning Single Unit Charge Agreements Involving Training of Youth as well as 20 CFR, Volume 51, Notices; No. 22, Job Training Partnership Act, Performance Standards for Program Years (PY) 1986 and 1987; No. 88, Job Training Partnership Act, Semiannual Status Report for Titles II-A and III Programs, and Title II-B Summer Performance Report; No. 117, Job Training Partnership Act, Annual Status Report for Titles II-A and III Programs. [Job Bank/MODS Bulletin No. 1, Reissue, dated September 14, 1984, which includes procedures for completing the ES-511, Application Card, as to whether a male applicant has registered with the Selective Service, if applicable, as is required for eligiblity under Job Training Partnership Act programs.]

[(5) On-the-Job Training Programs Procedures and Implementation, dated October 9, 1984, which includes a policy statement and procedures for developing OJT contracts and determining employer eligibility and occupational eligibility.]

Section 2. In order to coordinate the Job Training Program and provide for uniform service to the public, the following plan, [and] instructions and procedures are adopted by reference:

(1) Governor's Coordination and Special Services Plan (GCSSP) for Program Years 1986 and 1987, dated May 15, 1986. This plan contains the identifying information of the applicant which includes the name and address of the grantee, date of submission, and time period covered. The program information includes the criteria for coordinating activities under the Act, including Title III activities, with programs and services provided by state and local agencies determined to have a direct interest in employment and training and human resource utilization within the state. It describes the use of resources provided to the state and its service delivery areas under the Act. It describes the projected use of resources, including education coordination, oversight, and support activities, priorities and criteria for state incentive grants, and performance standards and incentive award systems for state-supported programs. It also addresses adjustments in Kentucky's performance standards as well as incentive awards and the method used in making the adjustments. It includes information on any of the activities listed in Section 121(c) of the Act which the state intends to conduct. It provides a statement indicating that the state had adequate methods of administration to assure compliance with Section 167 of the Act. It provides for a method of modification in accordance with procedures established by the Department of Labor if major changes occur in labor market conditions, funding, or other factors during the period covered by the plan. [Governor's Coordination and Special Services Plan, dated May 15, 1984 which contains applicant identifying information, program information for state and local agencies determined to have a direct interest in employment and training and human resource utilization within the state, priorities and criteria for state-supported programs, adjustments in performance standards, modification methods if major changes occur in labor market conditions, funding or other factors covered under the plan.]

(2) Program Announcement for a Request for Proposal (RFP) for Older Individuals, dated May 30, 1986. This packet includes a letter of request seeking proposals to provide innovative employment and training programs for individuals age fifty-five (55) and older (Older Workers); also the procedures for the submission of a program request of funding for activities authorized under JTPA, Title II-A. These procedures include information on the purpose, objectives, authorized activities, approach and methodology, length of project, level of support and funding information, matching, service providers, list of Service Delivery Areas (SDAs); also, the project application that includes name of project and agency, summary, requested funds, number of slots, budget summary and detailed budget, project description and design, performance standards, staff job descriptions, DES and SDA concurrence forms, EEO statement, and deliverer of training services. [Information and Instructions for a Request for Proposal (RFP), which includes procedures for the submission of a program request of funding for job training activities under the Job Training Partnership Act, including the purpose, objectives, approach and methodology, length of program, level of support, funding, matching,

service providers, performance standards, proposal review outlines, JTPA cost classifications, cost principles for JTPA-funded activities, a list of service delivery areas, administrative entities and Department for Employment Services offices, submission instructions, application instructions and an application form.]

(3) Program Announcement for a Request for Proposal (RFP) for Post Program Data Collection dated June 23, 1986. This packet includes a letter of request seeking proposals from organizations which will gather data on former participants who received services which were funded through specific resources of JTPA, Title II-A (adults) and Title III; also, the program announcement that includes the purpose, methodology, response requirements, project scope and duration and contracts. The RFP contains the description, outline and informational attachments. Included in these three (3) items are: special conditions and requirements, content specifications, evaluation criteria, selection process, general conditions, summary sheet application, budget summary, narrative instructions, narrative proposed work plan, demonstrated effectiveness of bidder, experience of key personnel, organizational/management systems, required inclusions, SDA listing, estimate of PY 1986 trainees, required questions in the survey and data entry form.

(4) Program Announcement for a Request for Proposal (RFP) for Audit of Funds Under the Job Training Partnership Act (JTPA) dated February 20, 1986. This packet includes a letter of request seeking applications from all certified public accounting firms interested in submitting bids for the audit of funds distributed to agency contractors under JTPA. The proposal package contains five (5) enclosures, including specification schedule, application and certification, list of audits to be conducted, JTPA federal regulations, and a copy of the Job Training Partnership Act (P.L. 97-300).

(5) Job Training Partnership Act On-the-Job Training (OJT) Manual JTPA Titles II-A and III dated January 1, 1986, which contains updated information and instructions for state administered OJT Programs. This packet includes operational procedures and implementation for developing OJT contracts and determining employer and occupational eligibility for the program under JTPA, Title II-A and III. These procedures include information on: the purpose; performance standards; employer, occupational and participant eligibility; number of allowable trainees and their wages; working conditions and labor laws; apprenticeable occupations; development, negotiation, duration, completion, modification and monitoring of contracts; linkages and waiver of OJT procedures; matching funds; payment procedures (responsbility for payment, allowable costs, reimbursement procedures); copies of JTPA forms used in the program and line instructions for completing the forms.

(6) Job Training Partnership Act Financial Management Guide dated August 26, 1986. This guide sets forth minimum requirements for recipients of JTPA funds in the disbursement of, accounting for, and reporting of program funds. Included are sections pertaining to: definitions of JTPA financial terms; compliance standards for recipients in the control and accountability of assets, liabilities, funds, and expenditures by the various titles of JTPA; procedures to be followed in order to minimize the time elapsing between the receipt of JTPA funds and disbursement of those funds; the responsibilities and standards to be followed in order to ensure that a financial and compliance audit is conducted on all JTPA funds; the responsibilities of the state and the SDAs in the financial monitoring of recipients of JTPA funds, in order to identify problem areas in recipient programs; procurement policies required to be followed in order to meet minimum federal, state, and local requirements; property management standards to be used by recipients in maintaining accountability of all property purchased with JTPA funds and transferred from the CETA Program; the responsibilities of the state and service delivery areas in the purchase, maintenance, and use of the single integrated management information system for JTPA; and the instructions for completing the JTPA Quarterly Status Report and the JTPA Annual Status Report. Also included are JTPA forms and instructions for the completion thereof.

(7) JTPA Grievance Procedures (State Level) dated October 1985, which provides for a participant grievance system to be adopted by all contractors (including their subcontractors) having JTPA funded contractural agreements with the state, a mechanism for hearing complaints that have not been resolved at the SDA (Service Delivery Area) level and a formal procedure for the resolution of non-participant complaints and which includes the time frames and procedures to follow during the appeals process as well as forms to be used by the parties involved in the process.

Section 3. All documents incorporated by reference herein are on file for public inspection in the Office of the Commissioner for Employment Services, 275 East Main Street, Frankfort, Kentucky 40621, and in local service delivery area offices located throughout the state.

JAMES P. DANIELS, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 5, 1986
FILED WITH LRC: September 15, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 21, 1986, at 9 a.m. in the Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by October 16, 1986, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James P. Daniels
(1) Type and number of entities affected: 9 Service Delivery Areas; 35,000 JTPA participants; 1,500 contractors; 450 employers.
(a) Direct and indirect costs or savings to those affected: None
1. First year: N/A
2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs: N/A
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments: This regulation updates policies and procedures to comply with applicable federal laws and regulations.
TIERING: Was tiering applied? No. Tiering not applicable under JTPA (P.L. 97-300).

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: PL 97-300 and Title 20 CFR Parts 626-636 governing the Job Training Partnership Act (JTPA) Program require states to develop administrative and operational instructions and procedures to insure compliance with applicable laws. The proposed amendments are in keeping with this federal mandate.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

CABINET FOR HUMAN RESOURCES
Department for Social Insurance
Division of Management & Development
(Proposed Amendment)

904 KAR 2:006. Technical requirements; AFDC.

RELATES TO: KRS 205.010, 205.200(2),(3)
PURSUANT TO: KRS 194.050
NECESSITY AND FUNCTION: The Cabinet for Human Resources has the responsibility under the provisions of KRS Chapter 205 to administer the assistance program of Aid to Families with Dependent Children, hereinafter referred to as AFDC, in accordance with Title IV-A of the Social Security Act. KRS 205.200(2) requires that the conditions of eligibility to receive AFDC money grants be prescribed by regulations in conformity with the Social Security Act and federal regulations. This regulation sets forth the technical requirements of residence, deprivation, living with a relative, age, one (1) category of assistance, work registration, cooperation in child support activities and potential entitlement for other programs for eligibility for AFDC.

Section 1. Residence and Citizenship. Residence is determined in accordance with 45 CFR 233.40 which, in summary, provides that a resident is anyone who is living in the state, entered the state with a job commitment or seeking employment, and is not receiving AFDC benefits from another state. Citizenship is determined in accordance with 45 CFR 233.50 which states that AFDC can be provided only to citizens or aliens lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

Section 2. Deprivation. (1) To be eligible for AFDC, a child must be in need and must be deprived of parental support or care due to the death, continued absence from the home or physical or mental incapacity of a natural or adoptive parent. A married child living with her/his spouse in the home of her/his parents is not deprived of parental support or care. A married child living in the home of her/his parents but divorced or legally separated from her/his spouse is deprived of parental support if she/he is dependent on the parent and a parent is dead, incapacitated or continually absent from the home.
(2) Continued absence from the home. To be eligible for AFDC, a needy child must be physically separated from the parent and the nature of the absence of the parent is such as either to interrupt or terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child, and the known or indefinite duration of absence precludes counting on the parent's performance of his/her function in planning for the present support or care of the child. Absence may be voluntary or involuntary. Voluntary absence includes divorce, legal separation, marriage annulment, desertion of thirty (30) days or more, forced separation of seven (7) days or more, or birth out-of-wedlock. Involuntary absence includes commitment to a penal institution for thirty (30) days or more, long term hospitalization, deportation or single parent adoption. A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.
(3) Incapacity defined. Incapacity is any condition of mind or body which makes a parent physically or mentally unable to provide the necessities of life for his/her needy child. Incapacity exists when the following criteria are met:
(a) One (1) of the parents has a medically established physical or mental defect, illness or impairment.
(b) This condition substantially reduces or eliminates the parent's ability to support or care for the otherwise eligible child(ren). Ability to support and care requires consideration of the parent's age, education, training and work experience.
(c) This condition was present at the time of application and has continued or is expected to

continue for at least thirty (30) days and may be presumed to continue during a period in which the parent is undergoing planned diagnostic studies and/or evaluation of rehabilitation potential.

(d) There is a causal relationship between the parent's incapacity and the child's deprivation of parental support or care.

(e) In considering a parent's ability to provide support or care, employment opportunities must be accessible in the county or community where that parent resides.

Section 3. Living with a Specified Relative. To be eligible for AFDC a needy child must be living in the home of a relative as specified in the Social Security Act and interpreted as follows:

(1) A blood relative, including father, mother, grandfather, grandmother, brother, sister, uncle, aunt, nephew, niece, first cousin.

(2) Also relatives of the half-blood and preceding generations as denoted by prefixes of grand, great or great-great; a stepfather, stepmother, stepbrother, stepsister.

(3) Any person listed above if parent has had paternity established through the administrative determination process. An administrative determination of paternity is limited to situations in which the following types of evidence are present: [acknowledged paternity in a written affidavit.]

(a) A birth certificate listing the alleged parent; or

(b) Legal documents such as hospital records, juvenile court records, wills, and other court records which clearly indicate the relationship of the alleged parent or relative; or

(c) Receipt of statutory benefits as a result of the alleged parent's circumstances; or

(d) A sworn statement or affidavit of either parent acknowledging paternity plus one (1) of the following:

1. School records;
2. Bible records;
3. Immigration records;
4. Naturalization records;
5. Church documents, such as baptismal certificates;
6. Passport;
7. Military records;
8. U.S. Census records; or
9. Sworn statement or affidavit from an individual having specific knowledge about the relationship between the alleged parent and child.

(4) Adoptive parents as well as the natural and other legally adopted children and other relatives of such parents.

(5) Husband or wife of any persons listed above even if the marriage may have terminated, providing termination occurred after the birth of the child.

(6) A child is considered as living in the home even when temporarily absent for medical care, attendance at boarding school, college or vocational school, emergency foster care or short visits with friends or relatives, if the parent continues to exercise control over the child.

Section 4. Age and School Attendance. A child may be eligible for AFDC from birth to age eighteen (18), or to age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program prior to or during the month of their nineteenth birthday. Full and part-time is defined in 904 KAR 2:016, standards for need and amount; AFDC. A child is considered in regular attendance in months in which he/she is not attending because of official school or training program vacation, illness, convalescence or family emergency unless he/she has indicated an intention not to re-enter school.

Section 5. One Category of Assistance. A child or adult relative shall not be eligible for AFDC if receiving supplemental security income.

Section 6. Strikers. (1) A family shall be ineligible for benefits for any month in which the natural or adoptive parent, with whom the child is living is, on the last day of such month, participating in a strike; and

(2) No individual shall be considered eligible for benefits for any month if, on the last day of such month, such individual is participating in a strike.

(3) Strike shall be defined to include a strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees.

Section 7. Work Registration. (1) Unless exempt under the criteria specified in Title IV of the Social Security Act and 45 CFR Section 224.20(b), an individual who has applied for or is receiving AFDC shall be ineligible for benefits if he/she refuses to register for the Work Incentive Program, (WIN) or if registered, refuses to participate without good cause. Participation in a strike shall not constitute good cause.

(2) Individuals exempt from WIN registration pursuant to 45 CFR 224.20(b) are as follows:

(a) An individual under age sixteen (16);

(b) A child age sixteen (16) to age eighteen (18), if enrolled as a full-time student; or to age nineteen (19), if a full-time student who meets the requirements set forth in Section 4 of this regulation;

(c) An individual who has a medically determined temporary illness or injury with recovery anticipated within ninety (90) days;

(d) An individual who has a medically determined physical or mental incapacity which is expected to exist longer than ninety (90) days;

(e) An individual age sixty-five (65) or over;

(f) An individual whose presence is required in the home to care for another member of the household who has been medically determined to be precluded from self-care and for whom alternate care arrangements are not feasible;

(g) A parent or other relative who cares for a child under six (6), and who personally provides full-time care of the child with only very brief and infrequent absences from the child. Brief and infrequent absences are defined as:

1. Employment by the caretaker relative of less than thirty (30) hours per week;

2. Less than full-time school attendance as specified in 904 KAR 2:016 by the caretaker relative;

3. Less than full-time attendance as specified in 904 KAR 2:016 and less than fifteen (15) hours per week employment by the caretaker relative;
4. Less than full-time attendance by the under six (6) year old child in a school or preschool;
5. Attendance by the under six (6) year old child in kindergarten;
6. Additionally, brief and infrequent absences include:
a. Visits by the under six (6) year old child with relatives, friends, the absent parent, neighbors, etc.;
b. Visits by the caretaker relative with relatives, friends, neighbors, etc.;
c. Routine shopping and errands;
d. Doctor's visits; and
e. Short-term hospitalization (less than thirty (30) days).
7. If a parent or other caretaker relative is absent from the child for reasons other than these listed, the absence is not considered brief and infrequent.
(h) A person so far remote from a work incentive project that his/her effective participation is precluded;
(i) An individual who is employed not less than thirty (30) hours per week, in unsubsidized employment expected to last a minimum of thirty (30) days, except when there is a temporary break in such employment expected to last longer than ten (10) days;
(j) A woman who has been medically verified to be in the third trimester of pregnancy.

Section 8. Cooperation in Child Support Activities. (1) Inclusion of a specified relative in the AFDC budget is dependent upon his/her cooperation in child support activities pursuant to 45 CFR 232.12 and refusal, except for "good cause," results in ineligibility of the relative with AFDC payments on behalf of the child(ren) made to a protective payee.
(2) If, after exclusion from the grant for failure to cooperate, the individual states that he/she is willing to cooperate and wishes to be reinstated, a supplemental application must be completed. If eligibility criteria are met, the individual will be added to the grant effective with the month of application and the protective payee will be removed.
(3) Pursuant to 45 CFR Part 232.40, the Cabinet for Human Resources will provide written notice to the applicant or recipient that he/she may claim good cause for refusing to cooperate.
(4) The applicant or recipient will be determined to have "good cause" for failing to cooperate only when one (1) or more of the following criteria is met:
(a) The applicant or recipient's cooperation is reasonably anticipated to result in physical or emotional harm of a serious nature to the child; or
(b) The applicant or recipient's cooperation is reasonably anticipated to result in physical or emotional harm of a serious nature to himself/herself to such an extent that it would reduce his/her capacity to care for the child(ren) adequately; or
(c) The child was conceived as a result of incest or forcible rape and the department believes it would be detrimental to the child to require the applicant's/recipient's cooperation; or
(d) Legal proceedings for adoption of the child by a specific family are pending before a court of competent jurisdiction; and the department believes it would be detrimental to the child to require the applicant's/recipient's cooperation; or
(e) The applicant/recipient is being assisted by a public or licensed private social agency to resolve whether to keep the child or release him/her for adoption and discussion has not gone on for more than three (3) months and the cabinet believes it would be detrimental to the child to require the applicant's/recipient's cooperation.
(5) Specific requirements in determining the existence of good cause and the time limits for providing substantiation of claims are made pursuant to the regulation at 45 CFR 232.42 and 45 CFR 232.43.

Section 9. Potential Entitlement for Other Programs. All applicants/recipients must apply for any [statutory] benefit(s) if potential entitlement exists. Failure to apply results in ineligibility for AFDC.

Section 10. Furnishing of Social Security Account Numbers. All applicants/recipients must furnish social security account numbers pursuant to 45 CFR 232.10.

Section 11. Assignment of Rights to Support. Pursuant to KRS 205.720, by accepting assistance for or on behalf of a child, a recipient is deemed to have made an assignment to the Cabinet for Human Resources of any child support owed for the child not to exceed the amount of AFDC payments made to the recipient.

Section 12. Assignment of Rights to Medical Support. By accepting assistance for or on behalf of a child, a recipient is deemed to have made an assignment to the Cabinet for Human Resources of any medical support owed for the child not to exceed the amount of medical assistance payments made on behalf of the recipient.

Section 13. Provisions contained in this regulation shall become effective November 1, 1986.

MIKE ROBINSON, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: August 29, 1986
FILED WITH LRC: September 15, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 21, 1986, at 9 a.m. in the Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by October 16, 1986, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler
(1) Type and number of entities affected: We project that an estimated 16 cases per year may be added due to changes in Section 3. A small

but undetermined number of people may be declared ineligible if they do not apply for benefits they may be entitled to.

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: AFDC benefits will need to be paid to clients found eligible due to changes in Section 3.

(a) Direct and indirect costs or savings:

1. First year: Total Costs $37,000. (Approximately $11,000 annual state share.)

2. Continuing costs or savings: Same as above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: N/A

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

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

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: This provision has been amended to incorporate changes regarding the "living with the specified relative" requirement. The alleged parent and persons related to an alleged parent who has had an administrative determination of paternity made are now eligible. Additionally, all benefits a person is entitled to must be applied.

TIERING: Was tiering applied? No. Tiering not applicable to this program.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:013. Payments for acute care and mental hospital inpatient services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the cabinet for acute care and mental hospital inpatient services.

Section 1. Acute Care Hospital and Mental Hospital (Including Psychiatric Facility) Inpatient Services. The state agency will pay for inpatient hospital services provided to eligible recipients of Medical Assistance through the use of rates that are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated hospitals to provide services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

Section 2. Establishment of Payment Rates. The policies, methods, and standards to be used by the cabinet in setting payment rates are specified in the cabinet's "Inpatient Hospital Reimbursement Manual" revised August 16 [April 1], 1986, which is incorporated herein by reference. For any reimbursement issue or area not specified in the manual, the cabinet will apply the Medicare standards and principles described in 20 CFR Sections 405.402 through 405.488 (excluding the Medicare inpatient routine nursing salary differential).

Section 3. Compliance with Federal Medicaid Requirements. The cabinet will comply with the requirements shown in 42 CFR 447.250 through 447.280.

Section 4. General Description of the Payment System. (1) Use of prospective rates. Each hospital will be paid using a prospective payment rate based on allowable Medicaid costs and Medicaid inpatient days. The prospective rate will be all inclusive in that both routine and ancillary cost will be reimbursed through the rate. For universal rate years prior to January 1, 1985 the prospective rate will not be subject to retroactive adjustment except to the extent that an audited cost report alters the basis for the prospective rate and/or the projected inflation index utilized in setting the individual rate is different from actual inflation as determined by the index being used. For universal rate years beginning on or after January 1, 1985, the prospective rate will not be subject to retroactive adjustment except to the extent that facilities with a rate based on unaudited data will have their rate appropriately revised for the rate year when the audited cost report is received from the fiscal intermediary. However, total prospective payments shall not exceed the total customary charges in the prospective year. Overpayments will be recouped by payment from the provider to the cabinet of the amount of the overpayment, or alternatively, by the withholding of the overpayment amount by the cabinet from future payments otherwise due the provider.

(2) Use of a uniform rate year. A uniform rate year will be set for all facilities, with the rate year established as January 1 through December 31 of each year. The first uniform rate year for mental hospitals shall be July 1, 1985 through June 30, 1986; however, effective January 1, 1986 the mental hospital rate year shall be re-established and shall be January 1 through December 31 of each year thereafter. Changes of rates throughout the rate year as a result of policy changes shall not change the rate year, although the facility rates may change. Hospitals are not required to change their fiscal years.

(3) Trending of cost reports. Allowable Medicaid cost as shown in cost reports on file in the cabinet, both audited and unaudited, will be trended to the beginning of the rate year so as to update Medicaid costs. When trending, capital costs and return on equity capital are excluded. The trending factor to be used will be

the Data Resources, Inc. rate of inflation for the period being trended.

(4) Indexing for inflation. After allowable costs have been trended to the beginning of the rate year, an indexing factor is applied so as to project inflationary cost in the uniform rate year. The forecasting index currently in use is prepared by Data Resources, Inc. This policy shall be effective August 3, 1985.

(5) Peer grouping. Acute care hospitals will be peer grouped according to bed size. The peer groupings for the payment system will be: 0-50 beds, 51-100 beds, 101-200 beds, 201-400 beds, and 401 beds and up (except that the designated state teaching hospitals affiliated with or a part of the University of Kentucky and the University of Louisville shall not be included in the array for facilities with 401 beds and up unless such facility's primary characteristics are considered essentially the same as the peer group's, and the facility, although not a university teaching hospital as such, is treated in the same manner with regard to the upper limit to recognize the presence of the major pediatric teaching component existing outside the state university hospitals). No facility in the 201-400 peer group shall have its operational per diem reduced below that amount in effect in the 1982 rate year as a result of the establishment of a peer grouping of 401 beds and up. Mental hospitals will not be peer grouped but will have a separate array of mental hospitals only.

(6) Use of a minimum occupancy factor. A minimum occupancy factor will be applied to operating and capital costs attributable to the Medicaid program. A sixty (60) percent occupancy factor will apply to hospitals with 100 or fewer beds. A seventy-five (75) percent occupancy factor will apply to facilities with 101 or more beds. Operating costs are all costs except professional (physician) and capital costs. Capital costs are interest and depreciation related to plant and equipment. The minimum occupancy factor is not applicable with regard to operating costs of mental hospitals. Effective January 1, 1986, the operating cost occupancy factor shall be applied in such a manner as not to reduce otherwise allowable payments for operating costs below eighty (80) percent of the appropriate peer group upper limit.

(7) Use of a reduced depreciation allowance. The allowable amount for depreciation on building and fixtures (not including major movable equipment) shall be sixty-five (65) percent of the reported depreciation amount as shown in the hospital's cost reports. The use of a reduced depreciation allowance is not applicable with regard to mental hospitals.

(8) Use of upper limits. For acute care hospitals, an upper limit will be established on all costs (except Medicaid capital cost) at the weighted median per diem cost for hospitals in each peer group, using the most recent medicaid cost report available as of December 1 of each year. For mental hospitals, an upper limit will be established on all costs (except Medicaid capital cost) at the weighted median per diem cost for hospitals in the array. Upon being set, the arrays and upper limits will not be altered due to revisions or corrections of data; however the arrays and/or upper limits may be changed as a result of changes of agency policy. The upper limit is established at 120 percent for those acute care hospitals serving a disproportionate number of poor patients (defined as twenty (20) percent or more Medicaid clients as compared to the total number of clients served) and the upper limit is established at 105 percent for those mental hospitals serving a disproportionate number of poor patients (defined as thirty-five (35) percent or more Medicaid clients as compared to the total number of clients served). For the designated state teaching hospitals affiliated with or a part of the University of Kentucky and the University of Louisville, and major pediatric teaching hospitals affiliated thereto, their upper limit shall recognize their status as teaching hospitals traditionally serving a disproportionate number of poor patients, and shall be set at 126 percent of the median of the array for all other hospitals of comparable size (401 beds and up).

(9) Operating costs shall not include professional (physician) costs for purposes of establishing the median based upper limits. Professional costs shall be trended separately.

(10) Hospitals whose general characteristics are not those of an acute care or mental hospital (i.e., because they are primarily rehabilitative in nature) are not subject to the operating cost upper limits.

(11) Rate appeals. As specified in the Inpatient Hospital Reimbursement Manual, hospitals may request an adjustment to the prospective rate with the submittal of supporting documentation. The established appeal procedure allows a representative of the hospital group to participate as a member of the rate review panel.

Section 5. Payments to Participating Out-of-State Hospitals. Participating out-of-state hospitals, except those where the other state's Medicaid Program pays on the basis of diagnosis related groupings, shall be reimbursed for covered services rendered eligible Kentucky Medicaid recipients at the lower of the rate paid by the other state's Medicaid Program or the upper limit for Kentucky hospitals in a peer group for hospitals of comparable size (or total array, in the instance of mental hospitals), except that payments shall not exceed charges. For those participating out-of-state hospitals where the other state's Medicaid Program pays on the basis of diagnosis related groupings, reimbursement for covered services rendered eligible Kentucky Medicaid recipients shall be at the lower of eight (80) percent of the hospital's covered charges or the upper limit for Kentucky hospitals in a peer group for hospitals of comparable size. The operating cost upper limits shall be appropriately adjusted to include capital costs. The appropriate amount to include for capital costs shall be the average allowable per diem capital cost for the peer group (not adjusted for occupancy). Professional costs (i.e., physician fees) shall be paid on the basis of the usual and customary charges of the provider.

R. HUGHES WALKER, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: August 19, 1986
FILED WITH LRC: August 27, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on

this regulation has been scheduled for October 21, 1986, at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by October 16, 1986, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: R. Hughes Walker
(1) Type and number of entities affected: All hospitals participating in the Medicaid Program.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Not applicable for Medicaid regulations.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The federal mandate, with regard to hospital payments under the Medicaid Program, is contained in federal regulations at 42 CFR 447.250-447.280. The state regulation implements the minimum requirements contained in the federal regulations.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. The state has wide latitude in developing its reimbursement system for hospital payments, but does not exceed mandated federal standards.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

PROPOSED REGULATIONS RECEIVED THROUGH SEPTEMBER 15

FINANCE AND ADMINISTRATION CABINET
Kentucky State Board of Medical Licensure

201 KAR 9:083. Certification and supervision of physician assistants.

RELATES TO: KRS 311.530 to 311.620, 311.990
PURSUANT TO: KRS Chapter 13A
NECESSITY AND FUNCTION: It is the purpose of this regulation to promote the efficient and effective utilization of the skills of physicians by allowing them to delegate health care tasks to qualified physician assistants and in so doing, promote, sustain and enhance the health and welfare of the people of the Commonwealth.

Section 1. Definitions. The following terms and/or words used hereinafter shall have the assigned meanings unless indicated to the contrary:
(1) Physician assistant or PA means a person approved and certified by the board to assist a physician in the provision of medical care and service under the supervision and direction of a registered and supervising physician;
(2) Board means the Kentucky Board of Medical Licensure;
(3) Supervising physician means a physician currently licensed to practice medicine in the Commonwealth of Kentucky who registers with and is approved by the board as supervising physician and who, in turn, accepts responsibility for the supervision of physician assistant and the services rendered by the physician assistant in the Commonwealth of Kentucky;
(4) Advisory committee means the committee appointed by the board and composed of physicians and physician assistants directed to advise the board on all matters related to physician assistants;
(5) Approved program means a program for the education and training of physician assistants accredited by the Committee on Allied Health Education and Accreditation of the American Medical Association which meets the standards acceptable to the board;
(6) Supervision means the ability and responsibility to provide control and direction of the services of physician assistants. The constant physical presence of the supervising physician is not required so long as he/she and the physician assistant can communicate easily, adequately and expeditiously at any time;
(7) Proficiency examination means an examination given by the National Commission on Certification of Physician Assistants;
(8) Trainee means a person who is currently enrolled in an approved educational and training program for physician assistants, and whose sponsoring training program assumes

responsibility for the supervision of the trainee and the services rendered by the trainee;

(9) Certificate means the board's official authorization to assist a specific supervising physician(s) for the time specified in the certificate; and

(10) Sponsoring training program means a training program, approved by the approved program, in which a trainee is allowed to practice a a physician assistant within the parameters of the training program.

Section 2. Certification and Approval of Physician Assistants. To be certified and approved by the board as a physician assistant, a person must:

(1) Initially submit a completed application within twelve (12) months of the effective date of this regulation with the required fee;

(2) Be of good character and reputation;

(3) Be a graduate of an approved program; and

(4) Have successfully completed the examination of the National Commission on the Certification of Physician Assistants. A temporary certificate may be issued to a physician assistant after graduating from a training program approved by the board. Such a certificate shall be effective until receipt of a passing score from the first available examination after graduation. The holder of such a certificate who fails the first available approved examination after graduation shall cease and desist performing any and all services as a physician assistant, and failure to comply in this instance shall subject him/her to prosecution for practicing as a physician assistant without a certificate. A failing score on the first available examination shall not prevent an applicant from applying for and taking the examination a second time. However, a person must be granted a waiver to apply for a certificate the third time upon the committee's recommendation to the board. Renewal of certification and approval of physician assistants shall be on a biennial basis according to established criteria as outlined in item nine (9) under Functions and Duties of Supervising Physicians. Physician assistants duly authorized to practice in other states and in good standing, may apply for certification and be certified by the board after critical appraisal of their qualifications by the committee and if the state of the prior approval has substantially equivalent requirements. For persons who have held themselves out to be physician assistants and who have had sufficient equivalent training, who have served as a physician assistant satisfactorily under a physician duly licensed in the Commonwealth of Kentucky for at least one (1) year during the preceding five (5) years, may apply for certification and approval after successfully completing the NCCPA examination or may apply for certification via waiver requiring approval of the committee and the board. For persons so categorized ("grandfather status"), their certification and approval must be renewed biennially by the same process as outlined above, provided they have served satisfactorily under a physician approved as a supervising physician by the board. Subsequent to one (1) year following the approval of this regulation, this mode of initial approval will no longer be in effect.

Section 3. Certification and Approval of Supervising Physicians. To be certified and approved as a supervising physician, a physician must:

(1) Have a current license and be in good standing with the board, and

(2) Submit a formal application with the required fee.

Supervising physicians, functions and duties: He/she shall maintain adequate, active and continuous overview of the physician assistant's activity to insure that his/her directions and advice are being properly implemented and he/she shall make a personal review of the historical data, physical and other related examinations, and therapeutic data on all patients and their condition and shall certify same by signature in a timely manner.

Section 4. Duties of Supervising Physician. The supervising physician must:

(1) Restrict the health care services of the physician assistant to the field of his specialty as designated by the specialty code in the most current revision of the Kentucky Medical Directory and not in any other specialty field of another supervising physician;

(2) Not supervise more than two (2) physician assistants at any one time;

(3) Designate one (1) or more alternate physicians who agree contractually in writing to accept the responsibilities of supervising the physician assistant on a pre-arranged basis for whatever reason in his/her absence;

(4) Not allow the physician assistant to prescribe or dispense drugs;

(5) Make it known to all patients in out-patient and in-patient facilities that he/she utilizes the supervised services of physician assistants, including, but not limited to, posting notice on the primary premises of the supervising physician;

(6) Submit protocol and obtain specific approval from the board to utilize a physician assistant in an area, office, clinic or any other health care delivery system (satellite facility) that is separate and apart from the primary office of the supervising physician and in so doing, must demonstrate to the satisfaction of the board that there is adequate provision for direct communication between the physician assistant and supervising physician and that the distance between the main office and the satellite facility is not so great as to prohibit or impede delivery of appropriate medical services;

(7) Outline for the governing board of any hospital or other in-patient health care delivery system, if requested, the medical tasks and services to be rendered by the physician assistant; however, nothing in this regulation shall be interpreted as granting the board authority to regulate or otherwise have jurisdiction over any hospital or other in-patient health care delivery system;

(8) Survey critically and biennially the performance of the physician assistant under his/her supervision as to reliability, accountability, fund of medical knowledge and recommend to the committee, approval or disapproval of the physician assistant's certification, including evidence of continuing certification by the National Commission on Certification of Physician Assistants. This

critical survey process shall be performed by the supervising physician biennially on the date of the physician assistant's original certification in the Commonwealth of Kentucky;

(9) Require and be responsible for the physician assistant wearing visibly sufficient identification at all times to indicate the physician assistant's status;

(10) Prohibit the physician assistant from directly billing any patient or other payor, for any medical service; or

(11) Give written notice to the board if a physician assistant ceases for whatever reason to be in his supervisory control, such notice to be in the hands of the board within three (3) working days after the date on which the supervisory control ceased.

Section 5. Physician Assistant Advisory Committee. The board shall form a Physician Assistant Advisory Committee consisting of six (6) members, three (3) physician assistants from (as far as is feasible) the western, central, and eastern sections of the Commonwealth, two (2) supervising physicians appointed by the board, and one (1) board member. The members of the committee shall hold office for terms of three (3) years. The terms of members first appointed shall be as follows: two (2) members shall be appointed for one (1) year, two (2) members shall be appointed for two (2) years and two (2) members shall be appointed for three (3) years. Upon expiration of the respected terms of the first appointed, the terms of each successor shall be three (3) years. Members of the committee shall be entitled to reimbursement for all reasonable expenses for travel, lodging and subsistence incurred in connection with attendance of meetings. The committee shall select a chairman who is a member thereof. The committee shall hold meetings at least semiannually and more often as necessary, to hear, discuss, and make decisions about physician assistant affairs and problems, and forward recommendations to the board. The committee shall consider applications of physician assistants at the initiations of these regulations and biennially thereafter. The committee shall review annually the provisions and regulations of the Medical Practice Act as it relates to physician assistants and make indicated recommendations to the board. The committee shall consider all grievances against physician assistants and make recommendations to the board, being ever mindful of the grounds for disciplinary action against physician assistants which include:

(1) Having been convicted, by any court within or without the Commonwealth of Kentucky, of committing an act which is, or would be a felony under the laws of the Commonwealth of Kentucky, or of the United States, or of any crime involving moral turpitude which is a misdemeanor, under such laws;

(2) Gross malpractice resulting in permanent injury or death of a patient;

(3) Dishonorable, unethical or unprofessional conduct;

(4) Habitual substance abuse to an extent as to incapacitate for performance of professional duties;

(5) Fraud, deception and unlawful means in applying for, or securing certification as a physician assistant;

(6) Exceeding authority delegated by supervising physician;

(7) Violation of any provisions of this act or these regulations;

(8) Having developed such physical or mental disability, or other condition, that continued practice is dangerous to patients or to the public;

(9) Violation of any order of suspension, or the terms or conditions of any order of probation, issued by the board;

(10) Conduct which is calculated, or which has the effect of bringing the medical profession into disrepute; or

(11) Had his certification as a physician assistant in any other state, territory or foreign nation revoked, suspended, restricted or limited or has been subjected to other disciplinary action by the licensing authority thereof.

C. WILLIAM SCHMIDT, Executive Director
APPROVED BY AGENCY: September 11, 1986
FILED WITH LRC: September 12, 1986 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on Thursday, October 23, 1986, at 1 p.m., EST, at the offices of the Kentucky Board of Medical Licensure, 400 Sherburn Lane, Suite 222, Louisville, Kentucky 40207. Those interested in attending this hearing shall contact in writing: Mr. C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, 400 Sherburn Lane, Suite 222, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: C. William Schmidt

(1) Type and number of entities affected: 201 KAR 9:083 is designed to establish standards for the certification and supervision of physician assistants in the Commonwealth. Promulgation of this regulation was mandated by the 1986 General Assembly pursuant to KRS 311.565(22). This regulation will potentially affect all physician assistants who have graduated from approved physician assistant educational programs, and it may also affect those who may not have graduated from such approved programs but have held themselves out to be a physician assistant for at least one of the the last five years. Additionally, licensed physicians may be affected by this regulation should they decide to employ a physician assistant(s) in their practice of medicine. It is estimated that the number of persons affected by this regulation will total some 200 to 300.

(a) Direct and indirect costs or savings to those affected: See 1, 2 & 3 below.

1. First year: PA application fee - $100. Supervising Physician application fee - $100.

2. Continuing costs or savings: PA - biennial renewal of certificate - $50.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Increased costs of administering the Physician Assistant Program.

(b) Reporting and paperwork requirements: Application process to be completed by the PA and certification application to be completed by supervising physician. The supervising physician must also survey his PA on a biennial basis.

(2) Effects on the promulgating administrative body: Promulgation of 201 KAR 9:083 will affect

the board in many ways. Regulating and certifying PA's will require the board's staff to diversify their responsibilities to include PA's. The board, at present, regulates not only physicians but, also, athletic trainers and paramedics.

(a) Direct and indirect costs or savings: Estimated administrative costs - $10,000 for first year.

1. First year: $10,000 - part-time employee to administer this regulation.

2. Continuing costs or savings: Correspond with number of PA's who apply for certification.

3. Additional factors increasing or decreasing costs: Board may have to employ additional staff to effectively monitor PA's which could increase cost.

(b) Reporting and paperwork requirements: Would increase greatly: processing application renewals and monitoring.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were evaluated, however, the board feels this regulation properly and adequately addresses the mandate of the 1986 General Assembly, pursuant to KRS 311.565(22).

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes

FINANCE AND ADMINISTRATION CABINET
Kentucky State Board of Medical Licensure

201 KAR 9:084. Fee schedule.

RELATES TO: KRS 311.530 to 311.620, 311.990

PURSUANT TO: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 311.565(22) authorizes the State Board of Medical Licensure to exercise all the administrive functions of the state in regard to the regulation of physician assistants. The purpose of this regulation is to establish a schedule of fees for services rendered by the board in performing its administrative functions.

Section 1. Fee Schedule. The board shall charge the following fees:

(1) Application for a certificate, $100.

(2) Application for a temporary certificate, fifty (50) dollars.

(3) Conversion from a temporary certificate to a certificate, fifty (50) dollars.

(4) Fee for biennial renewal of certificate, fifty (50) dollars.

(5) Penalty fee for late renewal of certificate, twenty-five (25) dollars.

(6) Issuance of a duplicate certificate, ten (10) dollars.

(7) Application by a physician for approval to employ a physician assistant, $100.

(8) Application to transfer the responsibility of the supervising physician to an approved supervising physician agent, fifty (50) dollars.

(9) For services not specifically required to be provided by these regulations, but which the board deems appropriate to carry out the intent and purpose of these regulations, a fee not to exceed the actual cost of providing the services.

C. WILLIAM SCHMIDT, Executive Director

APPROVED BY AGENCY: September 11, 1986

FILED WITH LRC: September 12, 1986 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on Thursday, October 23, 1986, at 1 p.m., EST, at the offices of the Kentucky Board of Medical Licensure, 400 Sherburn Lane, Suite 222, Louisville, Kentucky 40207. Those interested in attending this hearing shall contact in writing: Mr. C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, 400 Sherburn Lane, Suite 222, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: C. William Schmidt

(1) Type and number of entities affected: 201 KAR 9:084 is designed to establish a fee schedule to enable the board to adequately certify and monitor PA's and their supervising physicians. Promulgation of this regulation is necessary for the board to perform its duties pursuant to KRS 311.565(22). This regulation will potentially affect all physician assistants who have graduated from approved physician assistant educational programs, and it may also affect those who may not have graduated from such approved programs but have held themselves out to be a physician assistant for at least one of the the last five years. Additionally, licensed physicians may be affected by this regulation should they decide to employ a physician assistant(s) in their practice of medicine. It is estimated that the number of persons affected by this regulation will total some 200 to 300.

(a) Direct and indirect costs or savings to those affected: See 1, 2 & 3 below.

1. First year: PA application fee - $100. Supervising Physician application fee - $100.

2. Continuing costs or savings: PA - biennial renewal of certificate - $50.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Increased costs of administering the Physician Assistant Program.

(b) Reporting and paperwork requirements: Application process to be completed by the PA and certification application to be completed by supervising physician. The supervising physician must also survey his PA on a biennial basis.

(2) Effects on the promulgating administrative body: Promulgation of 201 KAR 9:084 will affect the board in many ways. Regulating and certifying PA's will require the board's staff to diversify their responsibilities to include PA's. The board, at present, regulates not only physicians but, also, athletic trainers and paramedics.

(a) Direct and indirect costs or savings: Estimated administrative costs - $10,000 for first year.

1. First year: $10,000 - part-time employee to administer this regulation.

2. Continuing costs or savings: Correspond with number of PA's who apply for certification.

3. Additional factors increasing or decreasing costs: Board may have to employ additional staff to effectively monitor PA's which could increase cost.

(b) Reporting and paperwork requirements: Would increase greatly: processing application renewals and monitoring.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods were evaluated, however, the board feels this regulation properly and adequately addresses the mandate of the 1986 General Assembly, pursuant to KRS 311.565(22).

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

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

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

(6) Any additional information or comments: The board feels that the proposed fee schedule will adequately provide the funds needed to administer the PA regulation, 201 KAR 9:083.

TIERING: Was tiering applied? Yes

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Surface Mining Reclamation and Enforcement

405 KAR 10:200. Kentucky bond pool.

RELATES TO: KRS Chapter 304, 350.020, 350.028, 350.060, 350.062, 350.064, 350.068, 350.085, 350.093, 350.095, 350.100, 350.110, 350.113, 350.130, 350.135, 350.151, 350.260, 350.465, 350.700, 350.705, 350.710, 350.715, 350.720, 350.725, 350.730, 350.735, 350.740, 350.745, 350.750, 350.755, 350.990

PURSUANT TO: KRS Chapter 13A, 350.020, 350.028, 350.060, 350.062, 350.064, 350.093, 350.130, 350.151, 350.465, 350.710, 350.715, 350.720, 350.725, 350.730, 350.735, 350.740, 350.750

NECESSITY AND FUNCTION: KRS Chapter 350 in pertinent part requires the cabinet to regulate surface coal mining and reclamation operations, including requiring bond sufficient to insure satisfactory reclamation. KRS Chapter 350 further authorizes the cabinet to establish alternative methods of meeting bonding requirements. This regulation implements an alternative bonding program known as a bond pool. This regulation establishes requirements for applications for membership in the bond pool; procedures for submittal of, review of, and decisions on such applications, including determinations of financial standing and reclamation compliance records of applicants; procedures for acceptance of specific permit areas into coverage by the bond pool; and procedures for keeping of production records, reporting of production, and payment of fees based on coal production.

Section 1. Applicability. This regulation applies only to the voluntary alternative bonding program known as the Kentucky Bond Pool, as established in Senate Bill No. 130, 1986 Acts Chapter 137, codified at KRS 350.700 through 350.755; and to permanent program permits, or parts of such permits, covered under that pool.

Section 2. Definitions. (1) "Administrator" or "bond pool administrator" means the cabinet employee named by the secretary to assist the commission and to perform certain administrative functions in connection with the bond pool, as required by KRS 350.715.

(2) "Applicant," for purposes of this regulation, means a person or entity which has submitted an application form to the commission seeking membership in the bond pool.

(3) "Bond pool" or "Kentucky Bond Pool" means the voluntary alternative bonding program as established at KRS 350.700 through .755.

(4) "Commission" or "bond pool commission" means the seven (7) member body established at KRS 350.705.

(5) "Member" means a person or entity which the bond pool commission has determined meets the minimum requirements of KRS 350.720 and this regulation for inclusion in the bond pool and upon whom the commission has formally conferred membership. Permanent program permits, or portions thereof, may be covered by the bond pool only if the permittee is a member of the bond pool.

(6) "Month of operation," for the purposes of Section 7 of this regulation, means a calendar month in which a duty exists to reclaim a disturbed area for which a permit was issued under KRS Chapter 350. It is not necessary that coal extraction occur during the month.

Section 3. Review of Decisions. There shall be no administrative appeal under 405 KAR 7:090 from a decision of the commission. However, the applicant or member may within sixty (60) days after notice of the decision, request the commission to reconsider its decision. The commission may, at its discretion, grant or deny the request for reconsideration.

Section 4. Applications for Membership. (1) Any person desiring membership in the bond pool shall submit an application for membership to the commission at the address established by the administrator.

(2) The application shall be submitted on forms provided by the commission and shall be of such form, content, and number of originals and copies as the commission may require. The application shall be typed or printed, and shall be legible throughout.

(3) The application shall include an application fee of $100, by certified check, cashier's check, or money order made payable to "Kentucky State Treasurer." The fee shall not be refunded in any circumstances, but shall be applied toward the membership fee if the applicant is accepted for membership.

(4) The application shall be complete in all respects.

Section 5. Review of Applications. (1) As soon as practicable after the administrator receives the application, he shall determine whether the application is complete or incomplete.

(a) If the application is incomplete, the administrator shall so notify the applicant and shall identify the additional information which is needed to make the application complete. The

applicant may submit the corrected application, in whole or in part, and no additional application fee shall be required.

(b) If the application is complete, the administrator shall so notify the applicant in writing. The administrator shall evaluate the complete application and any other relevant information available to the administrator, and shall submit the evaluation to the commission. The application, the administrator's evaluation, and any other relevant information available to the commission, shall form the factual basis for the commission's decision on the application.

(2) The commission shall act upon the application as soon as practicable.

(a) If the commission approves the application, the administrator shall provide written notice to the applicant. The notice shall specify the rating which the applicant will receive upon membership, and shall state the membership fee required. The applicant shall submit the required membership fee. As soon as practicable after receipt of the membership fee, the administrator shall provide the applicant with an official certificate of membership which shall confer actual membership as of the date of the certificate. The certificate shall state the rating assigned to the member and also shall assign the member a unique membership number. The certificate shall be signed by the chairman of the commission and by the administrator.

(b) If the commission denies the application, the administrator shall provide written notice to the applicant, setting forth the reasons for denial. The notice of denial shall be signed by the chairman of the commission.

Section 6. Determination of Financial Standing. (1) Financial statements required to be submitted as attachments to the application shall be kept confidential to the commission, the administrator, and cabinet personnel authorized by the administrator.

(2) The financial standing of the applicant for membership shall be determined based upon the financial information required in the application and other information available to the commission and cabinet. The commission may consider, but shall not be limited to, the following financial ratios and related financial information:

(a) The ratio of current assets to current liabilities;

(b) The ratio of net income to net sales;

(c) The ratio of total liabilities to stockholders' equity;

(d) The ratio of net income to owners' equity;

(e) The ratio of owners' equity to total assets; and

(f) The ratio of the sum of cash, marketable securities, and net receivables, to current liabilities.

Section 7. Determination of Reclamation Compliance Record. (1) Excellent compliance record. The applicant shall be deemed to have an excellent compliance record if the applicant, each person who owns or controls the applicant, each person who is owned or controlled by the applicant, and each person who is under common ownership or control with the applicant, meet all the criteria in this subsection.

(a) Has never forfeited a bond under KRS Chapter 350;

(b) Has never avoided forfeiture of a bond under KRS Chapter 350 because a surety performed reclamation work in order to avoid forfeiture;

(c) Has never been determined to have demonstrated a pattern of willful violations pursuant to KRS 350.028(4), 350.130(3), or 350.465(3)(f);

(d) Has not been issued a failure-to-abate cessation order pursuant to 405 KAR 12:020, Section 3(1)(a) in the most recent thirty-six (36) months of operation;

(e) Has not been issued more than one (1) cessation order under 405 KAR 12:020, Section 3(1)(b) in the most recent thirty-six (36) months of operation;

(f) Has not committed a violation of contemporaneous reclamation requirements under 405 KAR 16:020 or 405 KAR 18:020 in the most recent thirty-six (36) months of operation;

(g) Has not committed more than three (3) violations of KRS Chapter 350 or 405 KAR Chapters 7-24 on any one (1) permit in any twelve (12) month period of the most recent thirty-six (36) months of operation, excluding the twelve (12) month period on one (1) permit during which the largest number of such violations occurred; or

(h) Has not had civil penalities under KRS 350.990, 405 KAR 7:090 or 405 KAR 7:095 remaining unpaid more than thirty (30) days after they were due and payable, within the most recent thirty-six (36) months of operation.

(i) To the extent such information is available, the commission may take into account the applicant's performance in other states and on federal lands and Indian lands under criteria similar or equivalent to paragraphs (a) - (h) of this subsection.

(2) Acceptable compliance record. The applicant shall be deemed to have an acceptable compliance record if the applicant, each person who owns or controls the applicant, each person who is owned or controlled by the applicant, and each person who is under common ownership or control with the applicant, meet all the criteria in this subsection:

(a) Has never forfeited a bond under KRS Chapter 350;

(b) Has never avoided forfeiture of a bond under KRS Chapter 350 because a surety performed reclamation work to avoid forfeiture;

(c) Has never been determined to have demonstrated a pattern of willful violations pursuant to KRS 350.028(4), 350.130(3), or 350.465(3)(f);

(d) Has not been issued a failure-to-abate cessation order pursuant to 405 KAR 12:020, Section 3(1)(a) in the most recent thirty-six (36) months of operation;

(e) Has not been issued a cessation order under 405 KAR 12:020, Section 3(1)(b) in the most recent thirty-six (36) months of operation;

(f) Has not committed more than one (1) violation of contemporaneous reclamation requirements under 405 KAR 16:020 or 405 KAR 18:020 in the most recent thirty-six (36) months of operation;

(g) Has not committed more than eight (8) violations of KRS Chapter 350 or 405 KAR Chapters 7-24 on any one (1) permit in any twelve (12) month period of the most recent thirty-six (36) months of operation, excluding the twelve (12) month period on one (1) permit during which the largest number of such

violations occurred; or

(h) Has not had civil penalities under KRS 350.990, 405 KAR 7:090 or 405 KAR 7:095 remaining unpaid more than ninety (90) days after they were due and payable, within the most recent thirty-six (36) months of operation.

(i) To the extent such information is available, the commission may take into account the applicant's performance in other states and on federal lands and Indian lands under criteria similar or equivalent to paragraphs (a) - (h) of this subsection.

Section 8. Acceptance of Permit Areas Into Bond Pool. (1) The commission shall specifically set forth those permits, increments, or portions thereof, which have been accepted for coverage under the bond pool. Coverage shall not be effective unless so identified by the commission.

(2) Eligible portions of all permits issued to the member after the date of membership shall be covered by the bond pool.

(3) For existing permits or increments which have been disturbed at the time membership is granted, the bond pool shall cover all eligible undisturbed portions of such permits provided that:

(a) The disturbed areas and undisturbed areas on the permit area or increment, and the acreages thereof, and the current date, shall be clearly marked by the applicant on a map or maps as required by the cabinet and shall be submitted to the cabinet. The map or maps shall be certified as required by the cabinet. Upon verification of the map information by the cabinet, the bond pool shall cover the eligible undisturbed portions of such permits or increments beginning on the date of verification.

(b) A permit area or increment shall not be accepted for coverage if all coal removal has been completed on the permit area or increment.

Section 9. Production Records, Reporting, and Payment of Fees. (1)(a) Authorized representatives of the commission and administrator shall have access to all permit areas of the applicant for purposes of determining compliance with the requirements of this section.

(b) Each member shall make any book or record necessary to substantiate the accuracy of reports and payments available at reasonable times for inspection and copying by authorized representatives of the commission and administrator. All information copied shall be kept confidential to the administrator and commission and their authorized representatives.

(c) Each member shall retain books and records for a period of six (6) years from the end of the calendar month in which a report was due.

(d) Authorized representatives of the administrator and commission shall have authority to examine records of second parties involved in the sale or transfer of the ownership of coal by the member, and shall have authority to examine the records of any party selling or transferring coal to the member.

(2) Each member shall maintain current books and records that contain at least the following information separately for each permit covered by the bond pool:

(a) Tons of coal sold or transferred, name of party to whom sold or transferred, and the date of each sale or transfer.

(b) Tons of coal used by the member and date of use.

(c) Tons of coal stockpiled or inventoried, but not classified as sold, transferred, or used, for fee computation purposes.

(3) Coal subject to fees.

(a) Each member shall pay the tonnage fees required by KRS 350.725 through 350.730 on each ton of coal extracted. Fees shall be paid for all coal extracted on all eligible permits issued to the member after the date of membership. For permits held at the time of initial membership, coal extracted after the date of verification under Section 8(3)(a) shall be subject to fees.

(b) Stockpiled coal shall not be subject to tonnage fees until sold, transferred, or used by the member.

(4) Determination of fees. Fees shall be determined by the weight of coal at the time of initial bona fide sale, transfer of ownership, or use by the member.

(a) The initial bona fide sale, transfer of ownership, or use by the member, shall be the first transaction or use of the coal after it is extracted.

(b) The weight of the coal shall be the actual gross weight of the coal. Impurities, including water, that have not been removed prior to the time of initial bona fide sale, transfer of ownership, or use by the member, shall not be deducted from the gross weight. Members selling coal on a clean coal basis shall retain records that show run-of-mine tonnage, and the basis for the clean coal transaction. Insufficient records shall subject the member to fees based on run-of-mine tonnage.

(c) If the member combines surface mined coal and underground mined coal before the coal is weighed for fee purposes, the rate for surface mined coal shall apply unless the member can substantiate the tonnage produced by surface and underground mining by acceptable engineering calculations or other procedures which the cabinet may require.

(5) Reporting of tonnage and payment of fees.

(a) On forms provided by the cabinet each member shall report, for each permit covered by the bond pool, all coal tonnage extracted, stockpiled, sold, transferred, or used, during the reporting period. Payment of fees shall accompany the report.

(b) The reporting and payment period shall be monthly. The report shall be submitted, and fees shall be paid, not later than the 20th day of the month which follows the reporting period. The report shall be submitted even if the member has zero production during the reporting period.

(c) Late report or payment. If a member fails to submit a report or payment on or before the due date, five (5) percent of the original fee due shall be added to the fee for each month or fraction thereof elapsing between the due date and the date on which the report or payment is submitted. In no case shall the penalty be less than ten (10) dollars.

(6) As soon as practicable after each report is received, the administrator shall examine it and shall notify the member of any underpayment or overpayment.

(a) If the amount of required fee as computed by the administrator is greater than the amount submitted by the member, the administrator shall notify the member, within thirty (30) days from

the date the payment was received, of the additional amount to be paid; except that in the case of a failure to submit a report or of a fraudulent report, the examination and notification may occur at any time. Additional fee payments under this paragraph shall include a penalty of five (5) percent of the amount of the deficiency for each month or fraction thereof elapsing between the original due date and the date on which the payment is submitted.

(b) If the amount of required fee as computed by the administrator is less than the amount submitted by the member, the administrator shall notify the member, within thirty (30) days from the date the payment was received, of the amount of the overpayment. The member may receive credit for the overpayment against the next monthly payment or any subsequent payment.

CHARLOTTE E. BALDWIN, Secretary
APPROVED BY AGENCY: September 2, 1986
FILED WITH LRC: September 3, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation has been scheduled to occur on October 30, 1986 at 10 a.m (EDT) in the auditorium of the Capital Plaza Tower, Frankfort, Kentucky. Persons interested in attending this hearing must submit written notification of such to the Natural Resources and Environmental Protection Cabinet by October 25, 1986. If no written notice of intent to testify is received prior to this deadline, the hearing will be cancelled. Written comments on the proposed regulation may be submitted at any time before 4:30 p.m. (EDT) on October 30, 1986. Written comments and written requests to attend or testify at the hearing must be submitted to: James B. Hale, Department for Surface Mining Reclamation and Enforcement, 3rd Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Lawrence E. Grasch

(1) Type and number of entities affected: This regulation affects only those permittees of surface coal mining and reclamation operations who volunteer to participate in the alternative bonding program (bond pool) established by Senate Bill No. 130, 1986 Acts Chapter 137, and who meet certain eligibility requirements prescribed by the legislation and this regulation. Operations under two acres in size, coal preparation plants, tipples, and loading facilities are not eligible. Of the remaining permittees, it is estimated that about one-half will initially be eligible. The program is not intended to affect all permittees, but rather those who are financially sound, experienced in mining in Kentucky, and have a history of good compliance with reclamation requirements. Additionally, the program may have a minor adverse impact on surety companies by reducing the total dollar demand for coverage in the surety market.

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

1. First year: Each applicant must submit an application fee of $100, which is credited against the one-time membership fee if the applicant is accepted as a member. The membership fee is $1,000, $2,000, or $2,500, depending upon the rating of the applicant. The membership fee is reduced by $500 for applications submitted within 60 days of initial startup of the program. Each member pays monthly production fees of $0.08 per ton of surface mined coal and $0.01 per ton of underground mined coal. Some minor costs will be incurred in preparing the application form, but substantially less than the cost for preparing a single application for a permit to mine. Offsetting these costs, the member will be able to reduce the amount of surety or other performance bond, and may be able to obtain surety bonds that he could not otherwise obtain.

2. Continuing costs or savings: Production fees continue except as described in 3. below. The program must yield a net benefit to a member or he will elect to withdraw from the program. For most members, total bonding cost under the program should be less than total bonding cost if not a member (for members, permit-specific bonds are completely released after Phase I reclamation). For some members, the primary benefit will be the ability to obtain bond coverage they could not obtain if they were not members.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Monthly production fees cease when the bond pool fund reaches $7 million and remain ceased unless and until the fund falls to $5 million. The amount of permit-specific bond required on new permits will decrease if the member improves his rating through experience and improved compliance. The base cost of surety bonds could decrease for members as they demonstrate they are better risks than most non-members, and because members' bonds are fully released at Phase I and thus create less exposure for the surety than non-members' bonds which are held until completion of Phase III. Increased overall availability of bonding should help all members regardless of size, but should generally increase the competitiveness of smaller operators relative to larger operators by reducing the present disparity between the two groups in the shrinking bond market.

(b) Reporting and paperwork requirements: An initial application and fee are required, as previously described. Monthly reporting of production and payment of fees is similar to existing requirements for reporting and payment of Kentucky severance tax and should not impose significant new costs. Recordkeeping is similar to existing requirements for federal reclamation fees and should not impose significant new costs.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The cabinet has incurred minor costs for staff time and materials in developing regulations, forms and procedures. After startup of the program (approx. Sept., 1986) costs clearly separable to bond pool activities will be reimbursed to the cabinet from the bond pool fund as provided by the legislation.

2. Continuing costs or savings: Very minor costs for cabinet staff time on miscellaneous activities resulting from the bond pool but not clearly separable to administration of the bond pool.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Reporting semiannually to OSM on the status of the bond pool as part of the overall primacy

program.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Among the few specific areas which the legislation required the cabinet to address in regulations, in only two areas was it possible to consider significant alternatives.

The legislation listed five principal criteria which the cabinet may use to determine whether an applicant has an "acceptable" or "excellent" reclamation compliance record, but did not limit the cabinet to those five only. The cabinet briefly considered and rejected the alternative of utilizing additional criteria because it deemed the five statutory criteria to be sufficient. Additionally, the cabinet decided for the present time to rely on only four of the five statutory criteria because of the extreme difficulty of developing a fair and workable standard for the fifth criterion (timely bond releases).

The legislation required that the cabinet develop regulations under which the financial soundness of applicants will be determined. The cabinet considered and rejected the adoption of specific minimum standards for several commonly used financial ratios whereby an applicant would be denied membership unless it met or exceeded all the minimum ratios. This approach was rejected because of the variability of these ratios among financially sound companies and the likelihood that rigid adherence to such ratios could lead to unjust results. The cabinet elected instead to identify in the regulation the financial ratios upon which the commission would primarily rely, but left it to the judgment of the bond pool commission (of which one member must be a certified public accountant) as to how much weight to give these financial ratios and related financial information submitted within the application. Additionally, the cabinet decided that certain of the financial information is to be kept confidential.

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

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

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

(6) Any additional information or comments: The bond pool program was established and set forth in considerable detail by legislation. Only a few specific aspects of the program are expressly required to be set forth by cabinet regulations, and this regulation pertains only to those specific aspects. In order to be more meaningful this regulatory impact analysis generally describes not only the impact of this regulation but also the impact of the program as a whole.

TIERING: Was tiering applied? No. Tiering was not appropriate for this regulation. The legislation made certain distinctions among mining permittees based upon their experience in mining in Kentucky and their reclamation compliance record. This regulation provides certain criteria by which permittees' reclamation compliance records will be determined, but it is not appropriate to provide separate compliance criteria based on size of operations because all permittees are equally subject to the reclamation requirements of the statutes and regulations. Further, the legislation established uniform fees based on production tonnage, which are thus directly related to the size of the operations. This regulation establishes procedural requirements for reporting and payment of production and fees, but there is no logical basis to vary these reporting requirements based on size of operations since they are patterned closely after procedures for reporting and payment of Kentucky severance tax and federal reclamation fees, which make no distinction based upon size of operations. This regulation establishes requirements for applications for membership and procedural requirements for decisions on such applications. There is no apparent basis to have different application and decision procedures based on applicant size.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This regulation is not promulgated directly pursuant to a federal mandate, in that there is no federal law, regulation or order which requires that Kentucky have a law or regulation which addresses the subject matter of this regulation. This is in contrast to most Kentucky statutes and regulations related to the environmental regulation of surface coal mining and reclamation (primarily KRS Chapter 350 and 405 KAR Chapters 7 - 24), which are required to exist in order for Kentucky to continue to regulate such operations under P.L. 95-87, the Federal Surface Mining Control and Reclamation Act of 1977 and federal regulations pursuant to that Act. Both federal and Kentucky laws and regulations contain requirements for performance bonds to guarantee reclamation of lands affected by mining operations. This regulation provides an alternative, voluntary program which qualified operators may utilize to fulfill the bonding requirements. Federal law and regulations do not contain a direct counterpart to this regulation. However, this regulation is subject to approval by the U.S. Department of Interior, Office of Surface Mining, to insure that it is "no less stringent" than the federal law, and "as effective as" the federal regulations in implementing the federal law. The Kentucky legislation (Senate Bill No. 130, 1986 Acts Chapter 137, codified at KRS 350.700 - .755) authorizing this regulation has already received federal approval, conditioned upon subsequent federal approval of this regulation.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. There is no federal mandate for Kentucky to have the alternative bonding program implemented by this regulation. 1986 Senate Bill 130 and this regulation do not impose new requirements on regulated entities, but merely offer a voluntary, alternative means of complying with existing requirements. However, if a regulated entity elects to participate in this alternative program, the entity then voluntarily subjects itself to certain conditions and requirements imposed by

Senate Bill 130 and this regulation which do not appear in federal law or regulations.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

CORRECTIONS CABINET

501 KAR 6:120. Blackburn Correctional Complex.

RELATES TO: KRS Chapters 196, 197, 439

PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on September 9, 1986 and hereinafter should be referred to as Blackburn Correctional Complex and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

BCC 01-07-01	Extraordinary Occurrence Reports
BCC 01-11-01	Roles of Consultants, Contract Employees, Volunteers and Employees of Other Agencies
BCC 01-13-01	Relationships with Public, Media, and Other Agencies
BCC 01-15-01	Internal Affairs Office
BCC 01-16-01	Tours of Blackburn Correctional Complex
BCC 01-19-01	Inmate Access to BCC Staff
BCC 02-01-01	Inmate Canteen
BCC 02-02-01	Fiscal Responsibility
BCC 02-02-02	Fiscal Management: Accounting Procedures
BCC 02-02-03	Fiscal Management: Checks
BCC 02-02-04	Fiscal Management: Budget
BCC 02-02-05	Fiscal Management: Insurance
BCC 02-02-06	Fiscal Management: Audits
BCC 02-04-01	Billing Method for Health Services Staff Paid by Personal Service Contract
BCC 05-01-01	Inmate Participation in Authorized Research
BCC 06-01-01	Storage of Expunged Records
BCC 06-02-01	Records - Release of Information
BCC 06-03-01	Reporting Inmate Misconduct Following Favorable Recommendation by the Parole Board
BCC 08-01-01	Simplified Fire Safety System (SFSS)
BCC 08-02-01	Natural Disaster Plan (Tornado)
BCC 08-03-01	Emergency Preparedness Plan Manual
BCC 09-02-01	Restricted Areas
BCC 09-02-02	Inmate Pass System to Restricted Areas
BCC 09-03-01	Inmate Identification
BCC 09-04-02	Complex Entry & Exit
BCC 09-05-01	Key Control
BCC 09-07-01	Drug Abuse and Intoxicants Testing
BCC 11-01-01	Menu and Special Diets
BCC 12-02-01	Personal Hygiene Items
BCC 12-02-02	Personal Hygiene for Inmates: Clothing and Linens
BCC 13-01-01	Sick Call and Pill Call
BCC 14-01-01	Office of Public Advocacy Attorney Visits
BCC 14-02-01	Law Library
BCC 14-03-01	Inmate Grievance Procedure
BCC 14-04-01	Inmate Rights and Responsibilities
BCC 15-01-01	Authorized Inmate Personal Property
BCC 15-02-01	Meritorious Living Unit (B-1)
BCC 15-03-01	Rules and Regulation for Dormitories
BCC 15-04-01	Restoration of Forfeited Good Time
BCC 16-01-01	Inmate Furloughs
BCC 16-02-01	Visiting
BCC 16-03-01	Mail Regulations - Packages
BCC 20-01-01	Academic School
BCC 21-01-01	Library Services
BCC 22-01-01	Arts and Crafts/Production and Sale of Items
BCC 22-02-01	Privileged Trips
BCC 24-03-01	Social Services
BCC 25-01-01	Inmate Check Out Procedure

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: September 9, 1986

FILED WITH LRC: September 9, 1986 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 22, 1986 at 9 a.m. on the 10th Floor, Room 4471 in the State Office Building. Those interested in attending this hearing shall notify in writing: Barbara Jones, Office of General Counsel, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Barbara Jones

(1) Type and number of entities affected: 84 employees of the Blackburn Correctional Complex, 291 inmates, and all visitors to state correctional institutions.

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

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.

2. Continuing costs or savings: Same as 2(a)1

3. Additional factors increasing or decreasing costs: Same as 2(a)1.

(b) Reporting and paperwork requirements: Monthly submission of policy revisions.

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

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

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

(a) Necessity of proposed regulation if in conflict:

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

with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

CORRECTIONS CABINET

501 KAR 7:010. Definitions.

RELATES TO: KRS 441.055
PURSUANT TO: KRS 13A.350, 441.055
NECESSITY AND FUNCTION: KRS 441.055 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for detention facilities. This regulation sets forth definitions.

Section 1. Definitions. (1) "Restricted Custody Center" is a facility separate from the jail used for the housing of sentenced inmates who have been approved for educational, work or program participation release.
(2) "Jailer" means the duly elected or appointed official charged with the overall responsibility of administering the center.
(3) "Staff" means deputy jailers and other personnel involved in the supervision, custody, care, or treatment of prisoners in the center.
(4) "Resident" means any person approved for placement in the center by the jailer in accordance with the definition of a restricted custody center.
(5) "Medical authority" means the person or persons licensed and certified to provide medical care to residents in the center.
(6) "Security area" means a defined space whose physical boundaries have controlled ingress and egress.
(7) "Resident living area" means a group of rooms which provide housing for the resident population.

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Will affect approximately 3 counties.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): Will allow larger counties the option of using this type of facility rather than adding expensive jail beds.
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected:
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. This is creating a fourth level of jail.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/definitions.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To give larger counties an option to adding more expensive jail beds.
PROVISION/MECHANICS:
FISCAL EXPLANATION: This new classification of standards will not have a significant fiscal impact on the counties who either have such a facility or plan such a facility.

CORRECTIONS CABINET

501 KAR 7:020. Administration; management.

RELATES TO: KRS 441.055
PURSUANT TO: KRS 13A.350, 441.055
NECESSITY AND FUNCTION: KRS 441.055 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for detention facilities. This regulation sets forth procedures to be followed for the administration and management of restricted custody centers.

Section 1. Policy and Procedures - Organization. (1) The jailer shall develop and maintain an organizational chart and an operations manual of policy and procedure which has been adopted by the fiscal court and filed with the Corrections Cabinet.
(2) The written policy and procedures manual shall be made available to employees.
(3) The operations manual shall include but not be limited to the following aspects of the center's operation:
(a) Administration;
(b) Fiscal management;
(c) Personnel;
(d) Security and control;
(e) Sanitation and management;
(f) Medical services;

(g) Food services;
(h) Emergency and safety procedures;
(i) Classification;
(j) Resident programs;
(k) Resident services; and
(l) Admission and release.
(4) The operations manual shall be reviewed and updated at least annually. All revisions shall be marked with the effective date and filed with the Corrections Cabinet.

Section 2. Public Information. (1) The jailer shall develop and implement a procedure for the dissemination of information about the center to the public, to government agencies, and to the media. The public and residents shall have access to the procedure.
(2) With the consent of the resident, news media shall be permitted to interview any resident as set forth in the center's policy and procedure manual except when the safety and security of the center is affected.
(3) Written policy and procedure shall set forth the time and length allowable for resident interviews.
(4) All official statements to the news media, relating to center administration policy, shall be made by the jailer only or his designee.
(5) Release of resident information shall include the following:
(a) All requests for information shall be addressed to the jailer;
(b) Governmental agencies shall be provided with information pertinent only to their specific function and with the consent of the resident; and
(c) Private citizens shall only be provided with information supplied to the media.
(6) No information shall be released that is detrimental to another resident.

Section 3. Information Systems. (1) The jailer shall establish and maintain an information system which shall comply with the requirements of this section.
(a) Center information and resident records shall be retained in written form or within computer records.
(b) Center information and resident records shall be stored in a secure manner so that they are protected from theft, loss, tampering, and destruction. Written guidelines shall specify the length of time a resident record shall be maintained after a resident's release from custody and the conditions under which archives are maintained.
(c) A written report shall be made of all extraordinary or unusual occurrences within forty-eight (48) hours of the occurrence. This report shall be placed in the resident's center record. Extraordinary or unusual occurrences shall include but not be limited to:
1. Death of a resident;
2. Attempted suicide or suicide;
3. Serious injury, whether accidental or self-inflicted;
4. Attempted escape or escape from center;
5. Fire;
6. Riot;
7. Battery, whether by a staff member or resident;
8. Sexual assaults; and
9. Occurrence of contagious or infectious disease, or illness within the facility.
(d) The center shall keep a log of daily activity.
(e) Each center shall maintain records on the types and hours of training completed by each employee. A current and accurate personnel record shall be maintained on each employee. Each employee shall have access to his individual record.

Section 4. Resident Records. (1) The information required by KAR Title 501 for admission and release shall be retained for each resident. Other information retained in each resident's center record shall include but not be limited to:
(a) Court orders;
(b) Personal property receipts;
(c) Infraction reports;
(d) Reports of disciplinary actions;
(e) Work record and program involvement; and
(f) Unusual occurrences and in the case of death of a resident, disposition of the resident's property and remains.
(2) Medical records shall be maintained as required by KAR Title 501.
(3) The jailer shall ensure that resident records are safeguarded in accordance with relevant federal and state laws and regulations.
(4) The jailer shall require that residents sign a "Release of Information Consent Form" prior to the release of information to individuals other than law enforcement or court officials. A copy of the signed consent form shall be maintained in the resident's record. This form shall include but not be limited to:
(a) Name of person, agency or organization requesting information;
(b) Name of facility releasing information;
(c) Specific information to be disclosed;
(d) Purpose of the information;
(e) Date consent form is signed;
(f) Signature of resident; and
(g) Signature of employee witnessing the resident's signature.

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Will affect approximately three counties.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change.

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

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. This is creating a fourth level of jail.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/administration; management.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To give larger counties an option to ading more expensive jail beds.
PROVISION/MECHANICS:
FISCAL EXPLANATION: This new classification of standards will not have a significant fiscal impact on the counties sho either have such a facility or plan such a facility.

CORRECTIONS CABINET

501 KAR 7:030. Fiscal management.

RELATES TO: KRS 441.055
PURSUANT TO: KRS 13A.350, 441.055
NECESSITY AND FUNCTION: KRS 441.055 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for detention facilities. This regulation sets forth fiscal management procedures to be followed in restricted custody centers.

Section 1. Budgeting and Accounting. The center's budget and fiscal records shall be kept in accordance with the general records of the center.

Section 2. Canteen. As provided in KRS 441.135, each jailer may establish a canteen to provide residents with approved items not supplied by the center.

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts

(1) Type and number of entities affected: Will affect approximately three counties.

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

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): Will allow larger counties the option of using this type of facility rather than adding expensive beds.

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change.

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

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. This is creating a fourth level of jail.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/Fiscal management.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To give larger counties an option to adding more expensive jail beds.
PROVISION/MECHANICS:
FISCAL EXPLANATION: This new classification of standards will not have a significant fiscal impact on the counties who either have such a facility or plan such a facility.

CORRECTIONS CABINET

501 KAR 7:040. Personnel.

RELATES TO: KRS 441.055
PURSUANT TO: KRS 13A.350, 441.055
NECESSITY AND FUNCTION: KRS 441.055 requires the Corrections Cabinet to promulgate

regulations establishing minimum standards for detention facilities. This regulation sets forth personnel procedures to be followed in restricted custody centers.

Section 1. Staffing. (1) Each center shall provide twenty-four (24) hour awake supervision.

(2) When female residents are housed in the center, female staff shall be made available as needed to perform sensitive procedures to include but not limited to:

(a) Admission; and

(b) Searches.

Section 2. Background Checks; Qualifications. (1) Prior to employment, all employees of the center shall be subject to a thorough background investigation to include criminal, medical, and employment histories.

(2) All security employees of the center shall be at least twenty-one (21) years of age.

Section 3. Compensation. All employees of the center shall receive salaries at least equal to the State Minimum Wage Law except where Federal Minimum Wage Law has to be applied.

Section 4. Training. Deputy jailers, correctional officers and other employees whose jobs require supervision of residents shall receive a minimum of sixteen (16) hours annual in-service training delivered by the Corrections Cabinet on a regional or local basis.

Section 5. Policy and Procedures. Written policy shall specify that equal employment opportunities exist for all positions.

Section 6. Physical Fitness. The jailer shall ensure that all employees maintain a level of physical fitness that will allow the employees to satisfactorily perform their duties.

Section 7. Code of Ethics. (1) The jailer shall make available to all employees a written code of ethics.

(2) The written code of ethics shall be incorporated in the center's policy and procedures manual and shall include but not be limited to the following:

(a) Employees shall not:

1. Exchange personal gifts or favors with residents, their family, or friends;

2. Accept any form of bribe or unlawful inducement;

3. Perform duties under the influence of intoxicants or consume intoxicants while on duty;

4. Violate or disobey established rules, regulations, or lawful orders from a superior;

5. Discriminate against any residents on the basis of race, religion, creed, gender, national origin, or other individual characteristics;

6. Employ corporal punishment or unnecessary physical force;

7. Subject residents to any form of unwarranted physical or mental abuse;

8. Intentionally demean or humiliate residents;

9. Bring any type of weapon or item declared as contraband into the center without proper authorization;

10. Engage in critical discussion of staff members or residents in the presence of residents;

11. Divulge confidential information without proper authorization;

12. Withhold information which, in so doing, threatens the security of the center, its staff, visitors, or the community;

13. Through negligence, endanger the well-being of self or others;

14. Engage in any form of business or profitable enterprise with residents; or

15. Inquire about, disclose, or discuss details of a resident's crime other than as may be absolutely necessary in performing official duties.

(b) Employees shall:

1. Comply with all established rules, regulations, and lawful orders from superiors;

2. Treat all residents in a fair, impartial manner; and

3. Report all violations of the code of ethics to the jailer.

(3) Any employee violation of this code of ethics shall be made a part of that employee's personnel file.

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: September 12, 1986

FILED WITH LRC: September 15, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts

(1) Type and number of entities affected: Will affect approximately three counties.

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

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): Will allow larger counties the option of using this type of facility rather than adding expensive beds.

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change.

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

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:
TIERING: Was tiering applied? No. This is creating a fourth level of jail.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/personnel.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To give larger counties an option to adding more expensive jail beds.
PROVISION/MECHANICS:
FISCAL EXPLANATION: This new classification of standards will not have a significant fiscal impact on the counties who either have such a facility or plan such a facility.

CORRECTIONS CABINET

501 KAR 7:050. Physical plant.

RELATES TO: KRS 441.055
PURSUANT TO: KRS 13A.350, 441.055
NECESSITY AND FUNCTION: KRS 441.055 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for detention facilities. This regulation sets forth standards and procedures to be followed in the design and construction of centers.

Section 1. Purpose. The purpose of this regulation is to provide minimum standards for the renovation and construction of detention facilities and for measuring compliance of existing centers in accordance with KRS 441.011, 441.012 and 441.013, and Kentucky Construction/Renovation Standards.

Section 2. Consultation. The Corrections Cabinet shall provide for any county government which wishes to remodel an existing detention facility or construct a new facility, a consultant knowledgeable in the design, utilization, and operation of detention facilities. The consultant shall meet with the appropriate officials of that county and advise them in matters including but not limited to:
(1) Site selection;
(2) Probable need as it relates to capacity and types of residents to be housed;
(3) Sources of financing for constructing;
(4) Laws and regulations relating to treatment of residents;
(5) Laws and regulations relating to facilities for residents;
(6) Sources of revenue for operations of the center;
(7) Probable cost for operation of the center; and
(8) Potential for shared facilities with adjoining counties.

Section 3. Site Acceptance. No center shall be built without site acceptance by the Corrections Cabinet. The following criteria shall be considered in site selection including but not limited to:
(1) Size;
(2) Proximity to courts;
(3) Proximity to community resources;
(4) Availability of public transportation;
(5) Environmental health;
(6) Adequate parking; and
(7) Provisions for future expansion.

Section 4. Construction Documents. Prior to the renovation or construction of any detention facility, plans and specifications shall be submitted to the Corrections Cabinet for review and approval as follows:
(1) Programming phase. This submission shall show:
(a) Evaluation of existing facility;
(b) Population analysis;
(c) Space requirements based on population analysis and standards for the facility and site outlined in these Kentucky Minimum Standards for Restricted Custody Centers;
(d) Staffing analysis;
(e) Cost analysis;
(f) Financing alternatives, if applicable;
(g) Summary and recommendations; and
(h) This phase is submitted on major renovation or new construction only and for information review purposes.
(2) Schematic phase.
(a) Scale drawings of each floor plan with all proposed rooms and areas one-eighth (1/8) inch minimum;
(b) Scale drawings of the site, locating the building, parking and other facilities one (1) inch = fifty (50) feet;
(c) Documentation of site as to:
1. Size;
2. Proximity to courts;
3. Proximity to community resources;
4. Availability of public transportation;
5. Environmental health;
6. Adequate parking; and
7. Provisions of future expansion.
8. Sections through the proposed structure indicating ceiling heights of rooms, mechanical spaces, roof slopes and other related information;
9. Scale elevation drawings of all exterior walls; and
10. Schematic cost estimate.
(3) Design development phase.
(a) Scale drawings on each floor plan with all proposed rooms and areas with their dimensions one-eight (1/8) inch minimum;
(b) All necessary construction drawings including construction details;
(c) Specifications for all materials and workmanship;
(d) A proposed contract with general and special conditions;
(e) Engineering calculations for the foundation, structure, heating, ventilating, air conditioning, lighting and plumbing; and
(f) Detailed estimates of cost of land, site development, construction, financing, professional services, equipment and furnishings.
(4) Construction document phase.
(a) Revised design development construction drawings following review by all applicable agencies;
(b) Signed by an architect registered in the Commonwealth of Kentucky and revised if necessary to include all changes required by the Corrections Cabinet; and
(c) Revised design development specifications

of material and workmanship following review by all applicable agencies.

(5) Contract administration.

(a) Signed copies of all contracts for construction, financing and bonding;

(b) Signed copies of all construction permits;

(c) Documentation of review by all other applicable state agencies; and

(d) All change orders must be submitted to the Corrections Cabinet for review and approval.

(6) The Corrections Cabinet will review all submissions within thirty (30) days of receipt and issue a letter of approval, acceptance with required changes, or rejection with reasons. No construction shall be started until the construction document phase as required in subsection (4) of this section has been approved.

(7) Depending on the site of the proposed construction, renovation or addition the Corrections Cabinet may combine two (2) or more phases as outlined in this section for review and approval.

(8) All changes to the plans shall require re-draws unless specifically exempted by the Corrections Cabinet. Specifications must be rewritten to reflect changes.

Section 5. Waiver of Compliance. (1) The Corrections Cabinet may grant a waiver of the implementation of the physical plant standards for an existing center if the cabinet determines:

(a) That strict compliance will cause unreasonable difficulties;

(b) That a waiver will not seriously affect the security, supervision of prisoners, programs, or the safe, healthful, or efficient operations of the center; and

(c) That compliance is to be achieved in a manner other than that which is specified, but in a manner which is sufficient to meet the intent of these standards.

(2) When a waiver from a standard is desired, the responsible local authority shall submit a written request to the Corrections Cabinet. The written request shall include the following information:

(a) Citation of the specific standard involved;

(b) Identification and description of the specific difficulties involved in meeting strict compliance;

(c) Description of alternative proposed; and

(d) Provision of sufficient documentation which will demonstrate that the waiver, if granted, will not jeopardize the security, supervision of residents, programs, or the safe, healthful, or efficient operation of the center.

(3) A waiver, if granted by the Corrections Cabinet, shall apply only to the petitioner for the specific situation cited and for the period of time specified and shall include any requirements imposed by the cabinet as conditions upon the waiver. No waiver shall be granted for longer than twelve (12) months. Any waiver granted for a twelve (12) month period shall be reviewed at the end of the period for re-approval.

Section 6. Facility Design. (1) Each center shall have two (2) separate entrances, a resident entrance and a service entrance. The Corrections Cabinet may permit these entrances to be combined.

(a) Residents' entry. The purpose of this entrance is to provide secure and controlled access to the center for residents.

(b) Service entrance. The purpose of this entrance is to provide access to service vehicles and delivery trucks with minimum security risks. It should be located in close proximity to storage rooms and the kitchen area.

(2) All exits in the security area shall be secured.

(3) Security area. The area shall enclose all facilities and services required for or used by residents. It shall contain the following function areas:

1. Control area. This area shall be located in close proximity to the resident entrance and shall be used to monitor the movement of residents in and out of the facility.

2. Visitation. Adequate space shall be made available for contact visits between residents and families. Tables and chairs shall be provided. Bathroom facilities shall be available to serve this area.

3. Multi-purpose room. The purpose of this area is to provide space for assembly of residents for specific program activities. Adequate furnishings shall be provided.

4. Conference area. The purpose of this space is to provide space for confidential conferences between residents and lawyers, counselors, clergy, etc. A table and chairs shall be provided.

5. Living areas.

a. All sleeping rooms shall provide a minimum of fifty (50) square feet per resident. No more than fifteen (15) residents shall be placed in a single sleeping room.

b. Each resident has provided in the sleeping room, at a minimum: bed, mattress and pillow, supply of bed linen, chair, and closet/locker space for the storage of personal items.

c. Sleeping areas shall have lighting of at least twenty (20) foot-candles in reading and grooming area with a nightlight capable of providing five (5) foot-candles of light.

d. The facility shall have one (1) toilet for every eight (8) residents, one (1) wash basin for every eight (8) residents and a shower for every eight (8) residents.

e. Phone facilities are available for resident use.

f. Provide temperature ranges within comfort zones (sixty-five (65) degree F to eighty-five (85) degree F).

g. Provide ventilation to meet air exchange as required in the State Health Code.

6. Kitchen. The purpose of this area is to provide sufficient space and equipment for preparing meals for the maximum rated capacity of the center. Design features shall include compliance with standards for the State Food Service Code. If food is not prepared in the facility, a food distribution area shall be substituted.

7. Laundry facilities. Laundry facilities to include at least one (1) washer and dryer per sixteen (16) residents shall be located at the center or a contract for such services shall be in effect.

8. Furnishings. All furnishings in the center shall be approved fire rated.

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: September 12, 1986

FILED WITH LRC: September 15, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on

this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Will affect approximately three counties.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): Will allow larger counties the option of using this type of facility rather than adding expensive beds.
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected:
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. This is creating a fourth level of jail.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/physical plant.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To give larger counties an option to adding more expensive jail beds.
PROVISION/MECHANICS:
FISCAL EXPLANATION: This new classification of standards will not have a significant fiscal impact on the counties who either have such a facility or plan such a facility.

CORRECTIONS CABINET

501 KAR 7:060. Security; control.

RELATES TO: KRS 441.055
PURSUANT TO: KRS 13A.350, 441.055
NECESSITY AND FUNCTION: KRS 441.055 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for detention facilities. This regulation sets forth security procedures to be followed in restricted custody centers.

Section 1. Policy and Procedure. (1) Each jailer shall develop a written policy and procedure governing all security aspects of the center's operations.
(2) The Corrections Cabinet shall provide technical assistance to the jailer in his efforts to formulate such written policy and procedure.
(2) These policies and procedures shall include but not be limited to:
(a) Resident rules and regulations;
(b) Staffing;
(c) Searches of resident and of secure areas;
(d) Visitation;
(e) Key and weapon control;
(f) Resident head counts;
(g) Movement of residents;
(h) Emergency situations;
(i) Center schedule; and
(j) Administering medication.

Section 2. Resident Supervision. (1) Center personnel shall conduct rounds of the center no less than every sixty (60) minutes.
(4) There shall be at least three (3) documented resident counts every twenty-four (24) hours during which each resident's physical presence, by show of skin, or movement shall be observed or his location accounted for. At least one (1) count shall be conducted per shift.

Section 3. Security Procedures. (1) Each jailer shall establish a procedure for inspecting all facility areas accessible to residents for contraband and physical security at least weekly.
(a) Isolated security spot checks for contraband shall be conducted daily.
(b) Items considered as contraband or items permitted in the center shall be clearly defined in the center rules.
(c) There shall be a written procedure for reporting security irregularities and for confiscating contraband.
(2) No weapon, ammunition, chemical agent, related security equipment, or any object which represents the potential of being used as a weapon shall be permitted in the security area unless authorized by the jailer under emergency circumstances.
(3) All firearms, weapons, and chemical agents assigned to the center shall be stored in an arsenal, vault, or other room under lock.
(a) This area shall be inaccessible to all unauthorized persons.
(b) There shall be a written procedure for issuing and accounting for all weapons.
(4) All security devices and safety equipment shall be inspected monthly to ensure they are maintained in proper working order.
(5) All tools, toxic, corrosive, and flammable

substances, and other potentially dangerous supplies and equipment shall be stored in a locked area which is secure.

(6) Tools, supplies, and equipment which are hazardous shall be used by residents only under the direct supervision of center personnel.

(7) At no time shall any resident be assigned to a position of authority over any other resident or given the responsibility of providing resident services such as commissary, telephone calls, or delivery of meals.

(8) Residents shall never be permitted to perform or assist in any security duties.

(9) Residents and their belongings shall be searched whenever entering the security perimeter.

(10) Written procedures shall be developed for transporting outside the center.

(11) All centers shall have key-control procedures.

Section 4. Daily Center Log; Special Reports. (1) A daily center log shall be kept current and reflect all significant occcurrences within the center. Special reports shall include:

(a) Use of force;
(b) Disciplinary actions;
(c) Medical or mental health treatment;
(d) Feeding schedule and menus;
(e) Extraordinary occurrences:
1. Fires;
2. Assaults;
3. Suicide or attempted suicide;
4. Escape or attempted escape;
(f) Resident vandalism;
1. Destruction of center property.
2. Flooding of plumbing fixtures.
(g) Staff roster for each shift;
(h) Visitors' log;
(i) Fire planning sessions.

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Will affect approximately three counties.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): Will allow larger counties the option of using this type of facility rather than adding expensive beds.
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected:
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. This is creating a fourth level of jail.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/security; control.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To give larger counties an option to adding more expensive jail beds.
PROVISION/MECHANICS:
FISCAL EXPLANATION: This new classification of standards will not have a significant fiscal impact on the counties who either have such a facility or plan such a facility.

CORRECTIONS CABINET

501 KAR 7:070. Safety; emergency procedures.

RELATES TO: KRS 441.055
PURSUANT TO: KRS 13A.350, 441.055
NECESSITY AND FUNCTION: KRS 441.055 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for detention facilities. This regulation sets forth safety and emergency procedures to be followed in restricted custody centers.

Section 1. Policy and Procedure. (1) Each center shall have a written policy and procedure which specify fire prevention regulations and practices to ensure the safety of residents, visitors, and staff. These shall include but not be limited to:

(a) Provision of fire emergency planning sessions for staff and residents at least quarterly;
(b) Written documentation of fire planning sessions;
(c) A fire safety inspection by the Corrections Cabinet at least once a year;
(d) Inspection and testing of fire protection equipment by qualified persons at least annually with visual inspections by staff monthly;
(e) Smoking restrictions and regulations; and
(f) Written evacuation plan coordinated with local fire officials.
(2) Each center shall have written policy and

procedures for emergency situations including but not limited to:
(a) Escapes;
(b) Taking of hostages;
(c) Riots;
(d) Food poisoning;
(e) Civil disturbances in the community;
(f) Natural disasters;
(g) Suicides; and
(h) Other deaths and disorder.

Section 2. Physical Plant. (1) The center shall comply with the NFPA Life Safety Code (1981 Edition).
(2) Each center shall have exits which are distinctly and permanently marked, visible at all times, kept clear, and maintained in usable condition.
(3) Each center shall have equipment necessary to maintain essential lights.
(4) Each center shall have an approved fire alarm and smoke detection system.
(5) Each center may be required to install an approved sprinkler system and/or a smoke evacuation system.

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Will affect approximately three counties.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): Will allow larger counties the option of using this type of facility rather than adding expensive beds.
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected:
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. This is creating a fourth level of jail.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/safety; emergency procedures.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To give larger counties an option to adding more expensive jail beds.
PROVISION/MECHANICS:
FISCAL EXPLANATION: This new classification of standards will not have a significant fiscal impact on the counties who either have such a facility or plan such a facility.

CORRECTIONS CABINET

501 KAR 7:080. Sanitation; hygiene.

RELATES TO: KRS 441.055
PURSUANT TO: KRS 13A.350, 441.055
NECESSITY AND FUNCTION: KRS 441.055 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for detention facilities. This regulation sets forth procedures to provide proper santitation and hygiene in restricted community centers.

Section 1. Procedures. (1) The jailer shall provide for the control of vermin and pests.
(2) The jailer shall provide for both solid and liquid waste disposal.
(3) The jailer shall have a written preventative maintenance plan which includes but is not limited to:
(a) A cleaning schedule for various locations and items in the center;
(b) A schedule for inspections by the jailer;
(c) A schedule for trash and garbage removal; and
(d) A schedule for periodic inspection and maintenance of specific mechanical equipment.
(4) The center shall have fresh and purified air circulating within resident living and activity areas consistent with the State Health Code.
(5) The center shall furnish clean sanitized bedding to residents, including but not limited to:
(a) One (1) penal mattress;
(b) One (1) mattress cover;
(c) One (1) blanket, when conditions require;
(d) One (1) sheet;
(e) One (1) pillow; and
(f) One (1) pillowcase.
(6) Resident bedding shall be cleaned on a regular basis according to the following schedule:
(a) Sheets, pillowcases, and mattress cover shall be cleaned at least once per week;
(b) Blankets shall be cleaned upon reissue or quarterly, whichever is sooner;

(c) Mattresses and pillows shall be cleaned quarterly.

(7) Each resident shall be issued a clean towel. Towels shall be laundered every fourth day.

(8) Provisions shall be made for laundering resident clothing at least once a week.

(9) All floors, toilets, and sinks in the center shall be washed daily or more often as necessary.

(10) All showers shall be cleaned on at least a weekly basis.

(11) All residents shall be issued or permitted to obtain the following hygienic items:

(a) Soap;

(b) Toothbrush;

(c) Toothpaste;

(d) Toilet paper; and

(e) Female sanitary supplies (where applicable). Indigent residents shall be furnished these items by the center.

(12) Hair cutting services or sanitized hair cutting equipment shall be available. Residents shall not be forced to cut their hair except for medical purposes and under the specific orders of the medical authority.

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: September 12, 1986

FILED WITH LRC: September 15, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts

(1) Type and number of entities affected: Will affect approximately three counties.

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

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): Will allow larger counties the option of using this type of facility rather than adding expensive beds.

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change.

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

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. This is creating a fourth level of jail.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/Sanitation; hygiene.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To give larger counties an option to adding more expensive jail beds.
PROVISION/MECHANICS:
FISCAL EXPLANATION: This new classification of standards will not have a significant fiscal impact on the counties who either have such a facility or plan such a facility.

CORRECTIONS CABINET

501 KAR 7:090. Medical services.

RELATES TO: KRS 441.055

PURSUANT TO: KRS 13A.350, 441.055

NECESSITY AND FUNCTION: KRS 441.055 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for detention centers. This regulation sets forth procedures to provide proper medical services in restricted custody centers.

Section 1. Procedure Services. (1) The center's medical services shall be provided by contracting with a Kentucky licensed health care provider.

(2) The medical staff and mental health professionals shall not be restricted by the jailer in the performance of their duties except to adhere to the center's security requirements.

(3) All health care staff working in the center shall comply with state licensure and certificate requirements commensurate with health care personnel working elsewhere in the community. Copies of such licenses and certificates for health care staff employed by the center shall be maintained on file within the center.

(4) A daily medical log shall be maintained documenting specific medical treatment rendered in the center. This log shall be kept current to the preceding hour.

(5) Residents shall not perform any medical functions within the center.

(6) Residents shall be informed verbally and in writing at the time of admission the methods of gaining access to medical care within the center.

(7) All medical procedures shall be performed according to written and standing orders issued by the responsible medical authority.

(8) Medical screening information shall be transferred to the center from the jail on each resident. Staff shall insure that the information is current at the time of transfer.

The medical screening inquiry shall include but not be limited to:

(a) Current illnesses and health problems;

(b) Medications taken and special health requirements;

(c) Screening of other health problems designated by the medical authority;

(d) Behavioral observation, state of consciousness and mental status;

(e) Notation of body deformities, markings, bruises, lesions, jaundice, ease of movement, and other distinguishing characteristics;

(f) Condition of skin and body orifices, including rashes and infestations;

(g) Disposition and referral of residents to qualified medical personnel on an emergency basis.

(9) Medical, dental and psychological care for residents shall be provided in accordance with KRS 441.045.

(10) At least one (1) center staff member per shift shall be trained in first aid procedures including CPR.

(11) Medical research shall not be permitted on any resident in the center.

(12) Access to the resident's medical file shall be controlled by the medical authority and the jailer. The physician-patient privilege shall apply to the medical record. The medical record is separate from custody and other administrative records of the center.

(13) In accordance with KRS 72.025, a post-mortem examination shall be conducted on all residents who die while in the custody of the jailer.

(14) All center staff who administers medications to residents shall be trained in the proper procedures as outlined in the Policy and Procedures Manual.

(15) The center shall have first-aid kits available at all times.

(16) When a urine surveillance program is in effect there shall be written procedures for carrying out the program.

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts

(1) Type and number of entities affected: Will affect approximately three counties.

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

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): Will allow larger counties the option of using this type of facility rather than adding expensive beds.

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change.

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

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. This is creating a fourth level of jail.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/Medical services.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To give larger counties an option to adding more expensive jail beds.
PROVISION/MECHANICS:
FISCAL EXPLANATION: This new classification of standards will not have a significant fiscal impact on the counties who either have such a facility or plan such a facility.

CORRECTIONS CABINET

501 KAR 7:100. Food Services.

RELATES TO: KRS 441.055
PURSUANT TO: KRS 13A.350, 441.055
NECESSITY AND FUNCTION: KRS 441.055 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for detention facilities. This regulation sets forth procedures for the delivery of proper food services in restricted custody centers.

Section 1. Procedures. (1) The center shall comply with the Kentucky Food Service Establishment Act and State Food Service Code (KRS 219.019 through KRS 219.081) and the Kentucky Occupational Safety and Health Standards for General Industry (803 KAR 2:020 and 29 CFR Part 1910).

(2) The jailer shall provide adult residents with a nutritionally adequate diet.

(3) The jailer shall provide for religious diets.

(4) The jailer shall provide for medical diets where prescribed by a medical authority.

(5) The center shall maintain accurate records of all meals served.

(6) Food shall not be used for disciplinary or

reward purposes.
(7) A nutritionist or dietician shall approve the nutritional value of the center menu on an annual basis.
(8) A staff member shall directly supervise all food prepared within the center.
(9) All food shall be served under the direct supervision of a staff member.
(10) The center shall have sufficient cold and dry food storage facilities if food is prepared in the center.

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Will affect approximately three counties.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): Will allow larger counties the option of using this type of facility rather than adding expensive beds.
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected:
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. This is creating a fourth level of jail.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/food services.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To give larger counties an option to adding more expensive jail beds.
PROVISION/MECHANICS:
FISCAL EXPLANATION: This new classification of standards will not have a significant fiscal impact on the counties who either have such a facility or plan such a facility.

CORRECTIONS CABINET

501 KAR 7:110. Classification.

RELATES TO: KRS 441.055
PURSUANT TO: KRS 13A.350, 441.055
NECESSITY AND FUNCTION: KRS 441.055 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for detention facilities. This regulation sets forth the procedure for the classification of residents.

Section 1. Procedures. (1) Each center shall develop an appropriate resident classification system, which shall be included in the facility's written policy and procedure manual.
(2) The center shall establish guidelines for admission to the facility and a procedure for transfer to the jail from this facility.
(3) The resident classification system shall provide for the separation of male and female residents.
(4) Program evaluation of each resident by a staff no less than once per month and, whenever there is a change in the residents status.
(5) The classification system shall prohibit discrimination or segregation based on race, color or national origin.
(6) There shall be a procedure for an appeal by the resident of his classification.

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Will affect approximately three counties.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): Will allow larger counties the option of using this type of facility rather than adding expensive beds.
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative

body:
(a) Direct and indirect costs or savings: None
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected:
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. This is creating a fourth level of jail.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/classification.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To give larger counties an option to adding more expensive jail beds.
PROVISION/MECHANICS:
FISCAL EXPLANATION: This new classification of standards will not have a significant fiscal impact on the counties who either have such a facility or plan such a facility.

CORRECTIONS CABINET

501 KAR 7:120. Admission; release.

RELATES TO: KRS 441.055
PURSUANT TO: KRS 13A.350, 441.055
NECESSITY AND FUNCTION: KRS 441.055 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for detention facilities. This regulation sets forth admission and release procedures.

Section 1. Policy and Procedure. Each center shall develop written admission, orientation, and release procedures to be included in the center's policy and procedure manual.

Section 2. Admission. (1) The center staff shall ensure that each resident is transferred under proper legal authority by a duly authorized officer.
(2) Resident records shall be delivered to the center at the time of admission. The admitting officer shall make certain that all required forms are complete and that information is current.
(3) The center staff shall conduct a search of residents and their possessions upon admission.
(a) Each resident shall be searched for contraband in such a manner as responsible staff reasonably determine is necessary to protect the safety of fellow residents, staff and institutional security. Such search shall be conducted in a private area and in a manner which protects the resident's dignity to such extent as possible in that particular center.
(b) When a strip search is conducted, it shall be performed by a staff person of the same sex as the resident.
(c) When a strip search of a resident is conducted it shall include a thorough visual check for birthmarks, wounds, sores, cuts, bruises, scars, and injuries, "health tags" and body vermin. A less complete search shall include the same checks to the extent determined reasonably necessary.
(d) The probing of body cavities shall not be done except where there is reasonable suspicion to believe that the resident is carrying contraband there and such search shall only be conducted by medically trained persons (physician, emergency medical technician, registered nurse, licensed practical nurse) in a private location and under sanitary conditions.
(4) Each center shall develop written policies and procedures, specifying the personal property that residents may retain in their possession.
(a) Any cash or personal property which is taken from the resident upon admission shall be listed by complete description on a receipt form, and securely stored pending the resident's release. The receipt shall be signed by the receiving officer and the resident.
(b) Personal property released to a third party must have the resident's signature of approval and the signature receipt of the third party.

Section 3. Orientation. (1) As soon after assignment as possible an oral or written orientation shall be made available to each resident. Special assistance shall be given to illiterate and non-English speaking residents.
(2) The orientation shall provide the resident with information regarding his confinement including, but not limited to the following:
(a) Information pertaining to rising and retiring, meals, mail procedures, work assignments, telephone privileges, visitation, correspondence, commissary, medical care, and other matters related to the conditions of the resident's confinement;
(b) Rules of resident conduct;
(c) Disciplinary procedures;
(d) Information regarding programs (work, educational and vocational training, counseling, and other social services);
(e) Procedures for making requests or registering complaints with the center's staff, judiciary, and Corrections Cabinet personnel.

Section 4. Release. (1) Written legal authorization shall be required prior to the release or removal of any resident from confinement.
(2) When a resident is released or removed for any legal purposes to the custody of another, the identity or receiving authority shall be verified.
(3) A written record shall be kept of the time, purpose, date, and authority for release or removal from confinement, and into whose custody the resident is released or removed.
(4) Prior to the release or removal of a

resident, the receiving authority shall sign an authorized release form.

(5) Before the jailer releases a resident to an out-of-state jurisdiction, he shall consult with the appropriate prosecuting office in the county.

(6) Any property, not legally confiscated or retained, receipted from the resident upon admission shall be returned to the resident at the time of release.

(7) Each resident shall sign a receipt for property returned at the time of release.

(8) Any complaint regarding property returned must be submitted in writing with specific details within twenty-four (24) hours.

Section 5. Transfer. (1) Policy and procedure shall be developed to determine the conditions under which a resident would become ineligible to remain at the facility and must be transferred to the jail.

(2) When a resident is transferred to the jail, an incident report specifying the reasons for the transfer, the resident's record and personal property shall accompany the resident.

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: September 12, 1986

FILED WITH LRC: September 15, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts

(1) Type and number of entities affected: Will affect approximately three counties.

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

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): Will allow larger counties the option of using this type of facility rather than adding expensive beds.

(b) Reporting and paperwork requirements: No change.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change.

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

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. This is creating a fourth level of jail.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/admission; release.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To give larger counties an option to adding more expensive jail beds.
PROVISION/MECHANICS:
FISCAL EXPLANATION: This new classification of standards will not have a significant fiscal impact on the counties who either have such a facility or plan such a facility.

CORRECTIONS CABINET

501 KAR 7:130. Inmate programs; services.

RELATES TO: KRS 441.055

PURSUANT TO: KRS 13A.350, 441.055

NECESSITY AND FUNCTION: KRS 441.055 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for detention facilities. This regulation sets forth procedures for resident programs and services.

Section 1. Programs. (1) Written policy and procedure shall provide that resident programs and services are available and include, but are not limited to, social services, religious services, recreation and leisure time activities and library services.

(2) Residents who perform work as authorized by KRS 441.068 may receive rewards in the form of sentence reductions or other privileges, if granted by proper authority.

(3) Policy and procedures shall establish guidelines for residents as to acceptable means of transportation to and from work, school and programs.

(4) There shall be written procedures for the verification and monitoring of the resident's employment status. A written schedule shall be maintained for program release to include but not limited to: time of departure, destination, telephone number and address of program location and time of return. Periodic monitoring of a resident's adherence to the approved schedule shall occur.

(5) Written procedures shall specify the monetary amount of reimbursement for room and board at the facility by the resident and the process by which these fees will be collected and used. Accurate records of receipts shall be maintained.

Section 2. Religious Programs. Written policy and procedure shall ensure the constitutional rights of residents to voluntarily practice their own religious activities, subject only to those limitations necessary to maintain the order and security of the center.

Section 3. Recreation Programs. Written policy and procedure shall provide all residents with the opportunity to participate in an average of one (1) hour of recreational activity per day. Recreation programs may include but not limited to, such activities as board games, arts and crafts, radio and television to relieve idleness and boredom.

Section 4. Volunteers. The policy and procedure manual shall establish guidelines for the selection and use of volunteers in the facility.

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Will affect approximately three counties.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): Will allow larger counties the option of using this type of facility rather than adding expensive beds.
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected:
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. This is creating a fourth level of jail.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/Inmate programs; services.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To give larger counties an option to adding more expensive jail beds.
PROVISION/MECHANICS:
FISCAL EXPLANATION: This new classification of standards will not have a significant fiscal impact on the counties who either have such a facility or plan such a facility.

CORRECTIONS CABINET

501 KAR 7:140. Inmate rights.

RELATES TO: KRS 441.055
PURSUANT TO: KRS 13A.350, 441.055
NECESSITY AND FUNCTION: KRS 441.055 requires the Corrections Cabinet to promulgate regulations establishing minimum standards for detention facilities. This regulation sets forth procedures to ensure resident rights.

Section 1. Policy and Procedure. (1) Each center shall have a written statement of resident rights which shall include, but not be limited to:
(a) Access to courts;
(b) Access to attorney;
(c) Mail;
(d) Telephone;
(e) Grievances;
(f) Search and seizure;
(g) Disciplinary procedure;
(h) Racial segregation;
(i) Medical care;
(j) Counseling, if available; and
(k) Religion.
The statement of resident rights shall be posted in a conspicuous place in the booking and living areas of the center and a copy shall be made available to the resident as soon after assignment as possible.
(2) The jailer shall not prohibit a resident's right of access to the judicial process.
(3) The jailer shall ensure the right of residents to have confidential access to their attorney and their authorized representative.
(4) The jailer shall have a written policy which defines the center's visitation rules and regulations, which shall include but not be limited to:
(a) A schedule identifying no fewer than two (2) visiting days each week, one (1) of which must be during the weekend;
(b) At least one (1) visit per week per resident shall be allowed except when a resident has been assessed a disciplinary penalty for an infraction of rules governing visitation;
(c) Visits shall not be less than fifteen (15) minutes;
(d) Two (2) or more persons permitted to visit at the same time shall count as a single visit; or
(e) Children, when accompanied by an adult, shall be permitted to visit residents.
(5) Attorneys, clergy, and medical personnel shall be permitted to visit residents at reasonable hours other than during regularly scheduled visiting hours and shall not count as

an allotted visit.
(6) Visitors shall register before admission and may be denied admission for refusal to register, for refusal to consent to search or for any violation.
(7) Residents shall not be restricted in regard to whom they may have as a visitor unless the jailer determines that a visitor should be excluded due to the existence of one (1) or more of the following conditions:
(a) The visitor represents a clear and present danger to security;
(b) The visitor has a past history of disruptive conduct at the center;
(c) The visitor is under the influence of alcohol or drugs;
(d) The visitor refuses to submit to a search or show proper identification;
(e) The resident refuses the visit.
(8) The jailer shall not listen to visitor's conversations but may observe the visitation for security reasons.

Section 2. Mail. (1) The jailer shall have a written policy and procedure for receiving and sending mail that protects the resident's personal rights and provides for reasonable security practices consistent with the operation of the center.
(2) Residents shall be allowed to correspond with anyone so long as such correspondence does not violate any state or federal law except that caution shall be taken to protect the resident's rights in accordance with court decisions regarding correspondence.
(3) Incoming mail may be inspected for contraband items prior to delivery unless such mail is received from the courts, attorney of record or public officials, then it may be opened and inspected in the presence of the resident.

Section 3. Telephone. (1) Written policy and procedure shall permit each resident to complete at least one (1) telephone phone call each week. Any expense incurred for calls shall be borne by the resident or the party called.
(2) Telephone calls shall not be routinely monitored. If calls are monitored, the resident shall be notified.
(3) Telephone privileges may be suspended for a designated period of time if telephone rules are violated.

Section 4. Religion. (1) Residents shall be granted the right to practice their religion within limits necessary to maintain institutional order and security.
(2) Residents shall be afforded an opportunity to participate in religious services and receive religious counseling within the center.
(3) Residents shall not be required to attend or participate in religious services or discussions.

Section 5. Access to Programs. The jailer shall ensure equal access to programs and services for all residents provided the security and order of the center are not jeopardized.

Section 6. Grievance Procedure. The jailer shall have a written resident grievance procedure which shall be available to all residents. These procedures shall include provisions for:
(1) Responses, within a reasonable time limit, to all grievance complaints;
(2) Equal access to all residents;
(3) Guarantees against reprisal;
(4) Resolving legitimate complaints.

Section 7. Searches. (1) Each search of a resident for contraband shall be done in such a manner as the jailer determines is necessary to insure the safety of residents, staff and security of the center.
(2) Each search shall be conducted in a private area and in a professional manner which protects the resident's dignity to the extent possible.
(3) All strip searches shall be performed by a staff person of the same sex as the resident.

Section 8. Disciplinary Rights. Each center shall have a written policy and procedure for maintaining discipline which is consistent with constitutional requirements for due process.

Section 9. Medical. Each resident shall be afforded access to necessary medical care.

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 12, 1986
FILED WITH LRC: September 15, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 23, 1986 at 10 a.m. at the State Office Building Auditorium. If anyone wishes to attend, they shall notify the following in writing at least five days before the hearing: Doug Sapp/Cheryl Roberts, Corrections Cabinet, 514 State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Doug Sapp and Cheryl Roberts
(1) Type and number of entities affected: Will affect approximately three counties.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): Will allow larger counties the option of using this type of facility rather than adding expensive beds.
(b) Reporting and paperwork requirements: No change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues: No change.
(4) Assessment of alternative methods; reasons why alternatives were rejected:
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not aware of any.
(a) Necessity of proposed regulation if in

conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. This is creating a fourth level of jail.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Jail standards/Inmate rights.
SPONSOR: Corrections Cabinet
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: Yes
TYPE OF MANDATE: Jail standards
LEVEL(S) OF IMPACT: County
BUDGET UNIT(S) IMPACT: Jail budget
FISCAL SUMMARY: No change
MEASURE'S PURPOSE: To give larger counties an option to adding more expensive jail beds.
PROVISION/MECHANICS:
FISCAL EXPLANATION: This new classification of standards will not have a significant fiscal impact on the counties who either have such a facility or plan such a facility.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Carriers

601 KAR 9:110. Supplemental highway user's tax; decal.

RELATES TO: KRS 138.655 to 138.725
PURSUANT TO: KRS 138.660, 138.661, 138.725
NECESSITY AND FUNCTION: KRS 138.660 requires that supplemental highway user's tax to be paid for all vehicles with a combined license weight in excess of 59,999 pounds which use Kentucky's public highways. This administrative regulation sets forth the administrative procedures to be followed in paying this tax and applying for the decal which serves as proof of payment of the tax.

Section 1. (1) All motor carriers, as defined by KRS 138.655(5), that operate, or cause to be operated, motor vehicles with a combined licensed weight in excess of 59,999 pounds upon the public highways of Kentucky, shall pay, or insure the payment of, the supplemental highway use tax imposed by KRS 138.660(4) in respect to each such vehicle; and, shall obtain for, and properly display on, each such vehicle an appropriate tax decal evidencing payment thereof, commensurate with the estimated mileage to be operated by each such vehicle in Kentucky.
(2) The term "combined licensed weight" shall have the meaning defined by KRS 138.655(14). The term "current registration period" as used in KRS 138.655(14), for purposes of the supplemental highway use tax imposed by KRS 138.660(4), shall mean the registration of the vehicle with the Department of Vehicle Regulation for the payment of the supplemental highway use tax imposed by KRS 138.660(4) for the period from February 1 of each year, beginning February 1, 1987, through January 31 of the succeeding year.
(3) Registration for the current registration period, and for the payment of the supplemental highway use tax shall be made on the forms prescribed and furnished by the Department of Vehicle Regulation. Each such application shall be completed in full, and shall be accompanied by payment in full at the time the application is filed.
(4) Payments for the supplemental highway use tax made by check, or money order, shall be payable to "Kentucky State Treasurer." Any applicant for payment of the supplemental highway use tax that does not hold an active KYU license in good standing at the time of application shall remit the tax amount due by cash, certified check, cashiers check or money order. The department may require those holding an active KYU license to make supplemental highway use tax payment by cash, certified check, cashiers check or money order. All supplemental highway use tax payments shall be in United States dollars.
(5) No decal issued by the department evidencing payment of the supplemental highway use tax imposed by KRS 138.660(4) shall be sold, assigned, leased, or otherwise bartered. Notwithstanding, such a decal which has been properly affixed to a motor vehicle shall remain with said vehicle, and shall remain valid upon a transfer of ownership of the vehicle for the remaining of the supplemental highway use tax year.
(6) In the event that the motor vehicle, for which a decal has been issued by the department evidencing payment of the supplemental highway use tax imposed by KRS 138.660(4), becomes destroyed, stolen, or disabled, within thirty (30) days next subsequent to the application for such decal, such unused decal may be returned to the department and the application therefor withdrawn. The withdrawal request must be accompanied by a properly executed affidavit of the taxpayer setting forth the circumstances and reasons why the application should be withdrawn. If such conditions are met, the decal payment may be returned to the applicant.
(7) Motor vehicle equipment lessors, whose motor vehicles are subject to the supplemental highway use tax imposed by KRS 138.660(4), may pay such taxes due thereupon, and obtain the decals evidencing such tax payment, in respect to the motor vehicles leased by them.
(8) On or before July 31 of each year following the tax year of the supplemental highway use tax imposed by KRS 138.660(4), every liable supplemental highway use taxpayer shall file with the department, on forms prescribed and furnished by the department, a supplemental highway use tax report covering only those vehicles which were operated by the taxpayer during the preceeding supplemental highway use tax year, and which have exceeded the estimated mileages for such vehicles during that period. The additional supplemental highway use taxes due shall be paid in full with such tax report.

Section 2. (1) Payment of the supplemental highway use tax imposed by KRS 138.660(4) shall be evidenced by the issuance of an appropriate tax decal by the department to the taxpayer. The tax imposed by KRS 138.660(4) shall be assessed on a per vehicle basis and shall require only one (1) properly displayed decal per vehicle per year.
(2) It shall be the responsibility of the motor carrier, as defined by KRS 138.655(5) under whose KYU license the vehicle is operated on the public highways in Kentucky, to insure

that all vehicles operating on its behalf have been currently and properly covered by the applicable supplemental highway use tax payment, and that all such vehicles have properly displayed thereon the decal evidencing such tax payments.

(3) Such decal shall be affixed to, and displayed upon, only vehicles of the mileage tax class for which it was issued. The mileage class of a motor vehicle shall consist of the estimated mileage that it will operate upon the public highways to Kentucky from February 1 of each year through the succeeding January 31 of the following year as hereinafter set forth:

VEHICLE CLASS	TAX YEAR MILEAGES
Class A	0 mi. to 9,999 mi.
Class B	10,000 mi. to 19,999 mi.
Class C	20,000 mi. to 29,999 mi.
Class D	30,000 mi. to 39,999 mi.
Class E	40,000 mi. to unlim. mi.

(4) The supplemental highway use tax decal must be permanently affixed, by means of the decal adhesive, to the interior of the vehicle windshield, near the bottom, no more that six (6) inches from the center of the windshield.

Section 3. This administrative regulation shall have an effective date of January 1, 1987.

JOHN K. PENROD, Commissioner
C. LESLIE DAWSON, Secretary
APPROVED BY AGENCY: August 29, 1986
FILED WITH LRC: September 2, 1986 at 1 p.m.
PUBLIC HEARING SCHEDULED: A public comment joint hearing with 601 KAR 9:040 will be held on this proposed administrative regulation on October 23, 1986 at 9:30 a.m., local prevailing time. The hearing will be held in the fourth floor hearing room of the State Office Building located at the corner of High and Clinton Streets in Frankfort, Kentucky. Any person who intends to attend this hearing must by October 18, 1986, in writing, so notify: Sandra G. Pullen, Transportation Cabinet, 1003 State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen
(1) Type and number of entities affected: Approximately 33,000 motor carriers.
(a) Direct and indirect costs or savings to those affected:
1. First year: Approximately $30,000,000 additional costs.
2. Continuing costs or savings: Same increased costs annually.
3. Additional factors increasing or decreasing costs (note any effects upon competition): Will place Kentucky carriers operating interstate at competitive disadvantage through tax retaliation.
(b) Reporting and paperwork requirements: Substantial additional requirements.
(2) Effects on the promulgating administrative body: Substantial additional work and expense.
(a) Direct and indirect costs or savings: Additional indirect costs.
1. First year: Approximately $250,000 additional costs.
2. Continuing costs or savings: Same increased annual costs.
3. Additional factors increasing or decreasing costs: More telephone traffic and correspondence, additional filing, etc. printing, postage.
(b) Reporting and paperwork requirements: Entire new and additional reporting requirements.
(3) Assessment of anticipated effect on state and local revenues: Increase under revenue distribution formula enacted in HB 126.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Regulation required to implement legislative and tax changes enacted in HB 126.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None.
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: Regulation required to implement HB 126.
TIERING: Was tiering applied? No. Not applicable.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Superintendent

701 KAR 5:070. Criteria for Commonwealth Institute for Teachers.

RELATES TO: KRS 156.097
PURSUANT TO: KRS 156.070, 156.097
NECESSITY AND FUNCTION: KRS 156.097 requires that the State Board of Education develop regulations to establish a summer program of one (1) week educational institutes to be held at selected college campuses for teachers for the purpose of general improvement of instruction. The state board must, further, develop specific criteria relating to the selection of the eligible teachers, with an emphasis on selecting teachers with a demonstrated record of effective teaching, and participating teachers shall be reimbursed for their expenses and awarded a stipend in an amount to be determined by the state board. This regulation establishes the criteria for selection of the teachers, selection of the college campuses, and the amount of the stipend and expenses for the participating teachers.

Section 1. The educational institutes mandated by KRS 156.097 shall be called the Commonwealth Institute for Teachers. Each institute shall begin on Sunday and conclude on the following Saturday. Each institute may be followed by weekend sessions during the school year following the institute session.

Section 2. A theme shall be selected for each year's institute that is designed to emphasize academic excellence in the schools and to motivate personal, professional excellence among the participants. The theme shall contribute to the overall goal of the State Board of Education which is the creation of an academically excellent school system in every Kentucky school district.

Section 3. The institute shall be held on the campuses of Kentucky colleges or universities

which are accessible and which can provide appropriate conference facilities, faculty and staff for the conduct of the institute. The state board shall make its selections of sites based on recommendations submitted by the Kentucky Department of Education and assurances of capability provided by the institutions, and experience with preceding institutes.

Section 4. Teachers shall apply, either individually or in teams of two (2) or three (3), to attend the Commonwealth Institute, and shall use forms supplied by the institute for the purpose. The applications shall include appropriate information about the applicant, and specifically, shall include the name and address of at least one (1) private, public, non-profit, commercial, business or industry entity within the applicant's community which is willing to cooperate, and indicates its willingness in writing, with the applicant in the action project to expand academic excellence in the school district, which is one (1) component of the institute's activities.

Section 5. The Commonwealth Institute shall select outstanding teachers with a record of effective teaching which may be demonstrated as follows:

(1) Professional credentials, development, and experience;

(2) Honors, awards, and recognition achieved for effective teaching;

(3) Innovative teaching techniques such as effective curricula developed for use in the applicant's classroom, award-winning students taught by the applicant, and any other appropriate evidence the teacher may wish to include;

(4) Individual essays expressing initiative and reason for wishing to attend an institute.

Section 6. The selection committee will be named by the Superintendent of Public Instruction and will consist of three (3) institute alumni, two (2) from the institute's host college(s) the preceding year, two (2) faculty from the institute's host college(s) the coming year, and two (2) citizens having an interest in the institute. The Kentucky Department of Education will provide staff support to the selection committee.

Section 7. Each institute shall serve approximately 300 teachers.

Section 8. Each teacher shall be paid a stipend of $400 for the week long seminar and follow-up sessions. Meals and lodging expenses shall be paid from the Department of Education appropriation for the Commonwealth Institute, and maximum expense allowance of fifty (50) per teacher per year may be paid to defray the cost of traveling to and from the institute sessions.

Section 9. An amount of ten (10) dollars per participant shall be set aside each year from institute resources to defray the expenses of a commonwealth institute alumni association. The amount shall be used for a network of institute participants for mutual support and sharing of information, experiences, and teaching techniques for further academic excellence. The association may supplement this amount with resources of its own.

Section 10. Teachers who have been selected and have attended a Commonwealth Institute, are not eligible to attend subsequent Commonwealth Institutes as participants eligible for stipends but may attend sessions as alumni. They may also serve as participants in institute programs or as resource consultants, and may receive any honorariums that may be appropriate in return for rendering specific services to the Commonwealth Institute.

Section 11. All Commonwealth Institutes shall include a study/action project component which shall require the participating teachers to develop and initiate within their home school and community a project for the advancement of academic excellence. The projects shall define the respective roles of the teacher/participants and the partner/sponsor supporting the teacher in carrying out the project. Project outcomes shall be reported and published by the Commonwealth Institute and disseminated throughout Kentucky.

Section 12. On behalf of the Commonwealth Institute, the Kentucky Department of Education shall request the coopertion and support of the Kentucky Educational Foundation, Inc. in obtaining the financial support necessary to enable teachers of private and parochial schools to attend the Commonwealth Institute and, in general, in obtaining the required private support for the Commonwealth Institute programs and purposes. In return, the foundation shall receive a co-sponsorship of the Commonwealth Institute for Teachers. Financial support provided to the Institute by any other private enterprise or tax-exempt entity shall receive appropriate recognition by the Commonwealth Institute, the state board, and the Department of Education.

ALICE MCDONALD, Superintendent
APPROVED BY AGENCY: August 27, 1986
FILED WITH LRC: September 15, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 28, 1986 at 10 a.m. EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky to review the regulations adopted by the State Board of Education at its August meeting. Those persons wishing to attend and testify shall contact in writing: Sheila Collins, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 23, 1986. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Alice McDonald
(1) Type and number of entities affected: Approximately 300 teachers annually and one-two participating colleges and universities.
(a) Direct and indirect costs or savings to those affected:
1. First year: $150,000 state funds budgeted 1986-87.
2. Continuing costs or savings: $150,000 budgeted 1987-88.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Donations sought from the private sector through offices of the Kentucky Educational Foundation, Inc.

(b) Reporting and paperwork requirements: Institute will be evaluated each year.

(2) Effects on the promulgating administrative body: No appreciable change.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Institute is a unique motivational opportunity for teachers and was enacted by the General Assembly which also appropriated funds.

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

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

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Local Services

702 KAR 3:200. Management Assistance Program.

RELATES TO: KRS 158.780, 158.785

PURSUANT TO: KRS 156.070, 158.780

NECESSITY AND FUNCTION: KRS 158.780 and 158.785 require the Superintendent of Public Instruction to identify to the State Board of Education each year a minimum of five (5) districts with critical management deficiencies and in need of the resources of a management assistance team. This regulation prescribes the selection criteria for such a program and sets forth the effect of refusal to participate by a selected district.

Section 1. Districts participating in the Management Assistance Program mandated by KRS 158.780 and 158.785 shall be selected based upon the following criteria:

(1) Performance criteria:

(a) Holding power (9-12);

(b) Percent attendance;

(c) Dropout rate;

(d) Retention rate;

(e) Test scores (Normal Curve Equivalent Grade 3);

(f) Test scores (Normal Curve Equivalent Grade 5);

(g) Test scores (Normal Curve Equivalent Grade 7);

(h) Test scores (Normal Curve Equivalent Grade 10); and

(i) Test scores (Normal Curve Equivalent Total).

(2) Resource commitment criteria:

(a) Cost/Pupil - current expenses (obtained from local districts on the annual financial reports collected by the Division of School Management and Audit and the Superintendent's annual statistical reports collected by the Division of Pupil Attendance. The total current expenses are to be divided by the ADA to arrive at the figure. Current expenses include administration, instruction, attendance services, health services, pupil transportation, plant operation and maintenance, and fixed charges);

(b) Average teacher salary (average of all classroom teachers in a district, excluding salaries of administrators, principals, supervisors, and like personnel);

(c) Cost/Pupil - instruction (such instruction costs are calculated by dividing the total spent for instruction by the average daily attendance);

(d) Pupil/Teacher ratio (calculated by dividing the enrollment obtained from the Superintendent's Annual Statistical Report by the total number of clasroom teachers as reported on the federal and state salary schedules);

(e) Percent local revenue (percent of total revenue from local sources as indicated on the annual financial reports);

(f) Percent state revenue (the total posted in account codes 41-45 and below the line receipts 94.12 and 94.22 of the Annual Financial Report);

(g) Percent supplement for salary (teachers' salaries in excess of Foundation Program funding, with data necessary for this calculation to be obtained from a publication of the Department of Education, "Foundation Program Expenditures by Category," and from the salary schedules which include only state funds); and

(h) Cost/Pupil - instructional materials (cost for educational materials is found by adding the account items dealing with library books, periodicals and newspapers, library supplies, audio-visual materials, tests, supplementary books, and teaching supplies which include codes 251-258; 261-266.03; and 268 on the Annual Financial Report. This total is divided by the number of students in average daily attendance).

Section 2. Any district identified and selected by the state board which refuses management assistance and which has identified deficiencies and required Master Educational Improvement Plan/sub-plans according to 704 KAR 3:005 shall not have such Master Educational Improvement Plan approved and shall be assessed under the provisions of 704 KAR 3:005.

Section 3. Subsequent to selection, the Superintendent of Public Instruction shall provide the state board, for its approval. Agreements to accept management assistance, signed by respective districts. A plan of action shall be developed and become a part of the agreement. The plan of action shall specify the needs of the district, the personnel involved and the time frame for accomplishment, including an agreement on a procedure for developing the required work program.

Section 4. A mid-year progress report shall be submitted to the State Board of Education on each district participating in the Management Assistance Program. This progress report shall be submitted to the state board at it's first regular meeting of the calendar year. A final

evaluation shall be submitted to the State Board of Education following the completion of the project which shall include an analysis of the effectiveness of the management assistance program in each district. Each team manager shall submit such an evaluation on the district to which he/she was assigned.

ALICE MCDONALD, Superintendent
APPROVED BY AGENCY: August 27, 1986
FILED WITH LRC: September 8, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 28, 1986 at 10 a.m. EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky to review the regulations adopted by the State Board of Education at its August meeting. Those persons wishing to attend and testify shall contact in writing: Sheila Collins, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 23, 1986. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Arnie Oaken
(1) Type and number of entities affected: Five (5) local school districts.
(a) Direct and indirect costs or savings to those affected: Not at this time.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Minimal.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: Program costs up to a maximum of $250,000 which is provided for in HB 6.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Extensive. Most through Office of Local Services.
(3) Assessment of anticipated effect on state and local revenues: None.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Required by KRS 158.785.
TIERING: Was tiering applied? No. Not applied in the interest of uniformity.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Local Services

702 KAR 7:065. Designation of agent to manage high school interscholastic athletics.

RELATES TO: KRS 156.070
PURSUANT TO: KRS 156.070
NECESSITY AND FUNCTION: KRS 156.070 gives the State Board of Education the management and control of the common schools, including interscholastic athletics therein, and allows the state board to designate an agency to manage athletics pursuant to rules approved by the state board. This regulation designates such an agent for high school athletics and adopts the constitution, bylaws, and rules of said agent.

Section 1. The Kentucky High School Athletic Association (KHSAA) is hereby designated as the State Board of Education's agent to manage interscholastic athletics at the high school level in the common schools, including any private schools desiring to associate therewith and to compete with said common schools.

Section 2. The constitution, bylaws, and tournament rules of the KHSAA, 1986-87 are hereby approved, adopted, and incorporated herein by reference. A copy of said rules may be obtained from the Office of Local Services, Department of Education, Frankfort, Kentucky 40601.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: August 27, 1986
FILED WITH LRC: September 8, 1986 at 11 a.m.
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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Gary Bale
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected: There will be no direct or indirect cost of implementing this change in regulation.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: There will not be additional reporting or paperwork required.
(2) Effects on the promulgating administrative body: This regulation will have no effect (financial/paperwork) on the promulgating administrative body.
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: State and local revenues will not be affected.

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Bylaw 5 of the "Kentucky High School Athletic Association's Constitution and Bylaws."

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Tiering not applied since all school boards (school) must comply with elementary and secondary interscholastic athletics.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction

704 KAR 7:070. Guidelines for dropout prevention programs.

RELATES TO: KRS 158.148

PURSUANT TO: KRS 156.031(6), 156.035(2), 156.070(5), 158.148

NECESSITY AND FUNCTION: KRS 158.148 directs the State Board of Education to establish criteria for the development of dropout prevention programs and criteria for awarding grants to school districts which have the highest dropout rate and/or numbers of dropouts in the state. The state board is also directed to prescribe dropout prevention services and to develop grant funding criteria based upon available appropriations. This regulation prescribes the criteria for operation and funding of dropout prevention programs and authorizes the Department of Education to enter into contracts with other agencies for the purpose of securing additional funds for dropout prevention programs.

Section 1. (1) Local boards of education may operate dropout prevention programs for students of high risk for dropping out. A student is considered of high risk for dropping out if he/she meets one (1) or more of the following criteria:

(a) A student who is currently achieving two (2) or more grade levels below his/her age group.

(b) A student who has demonstrated poor academic skills, i.e., who has failed two (2) or more subjects in two (2) of the past four (4) school years.

(c) A student who is consistently absent or tardy and who has been absent twenty-five (25) or more unexcused days in the last two (2) school years and has an overall grade point average below a C.

(d) A student who has been suspended (in-school alternative to home suspension or home suspension) two (2) or more times during the past school year and has an overall grade point average below a C.

(e) A student who becomes pregnant.

(f) A student whose family has a history of dropping out and/or, whose family does not support the student in the completion of school.

(g) A student who little or no participation in school co-curricular activities.

(h) A student who is two (2) or more grades behind in reading or math skills.

(i) A student who shows indication of being socially isolated.

(j) Upon approval of the Department of Education, other indicators supported by strong research may also be utilized to identify students of high risk for dropping out.

(2) Funds shall be made available to eligible Kentucky school districts through contractual agreements whereby school districts agree to provide special services designed to prevent students of high risk from dropping out. State appropriated funds shall be utilized first in providing grant awards for dropout prevention programs. These funds may be supplemented by other special funds which may be available to the Department of Education through contracts or grants intended for this purpose.

(a) Eligibility for grant awards shall be based on the following criteria:

1. Twenty (20) dropout prevention programs shall be funded in districts whose dropout rates are among the highest twenty-five (25) districts in the state and who report more than 100 student dropouts each year.

2. Twenty (20) dropout prevention programs shall be funded in districts having high dropout rates but fewer than 100 dropouts per year.

3. Additional dropout prevention programs shall be funded in districts with dropout rates above the state average dropout rate and/or who report more than 100 dropouts each year, if special grant funds are available.

4. Special contract or grant funds may also be used to fund the continuation of successful dropout prevention services in school districts demonstrating a reduction in their dropout rates and/or numbers.

(b) Available dropout prevention funds, unless otherwise restricted by legislation or contract, shall be allocated for the use of eligible districts on a pro rata share basis. A percentage will be determined for each eligible district by dividing the number of reported dropouts of each eligible district by the total number of dropouts for all eligible districts. The resulting percentage shall be used as a multiple with the total funds for distribution to determine the amount of funds to be made available for each eligible district. The number of dropouts to be counted for each district shall be the total dropouts reported by the districts' annual report on file in the State Department of Education.

(c) The Department of Education shall notify school districts of their eligibility to receive funds for operation of dropout prevention programs based upon the rate and/or numbers of dropouts within each district during the most recent school year for which such data is available.

(d) School districts may apply for such funds by submitting applications which specify special services to be provided to students who are at high risk of dropping out. Procedures and forms for applications shall be developed by the Department of Education. Applications shall be

approved by the Department of Education prior to the encumbrance or expenditure of such funds for a dropout prevention program.

(e) All districts receiving dropout prevention funds as provided for in this administrative regulation shall demonstrate a reduction in the number of youths dropping out as compared to the previous year in order to be eligible for continuation funding. In the 1986-87 school year, the percentage reduction shall be thirteen (13) percent. Appropriate percentage reductions will be determined by the Department of Education for succeeding years.

(3) School districts applying for such funds shall describe the special service(s) which will be provided to eligible students from the services listed below:

(a) Alternative curriculum provides academic alternatives for rebellious or disruptive students, who have negative feelings for school or staff. Alternative programs, classes or schools provide the students with a neutral territory in which they can develop a positive attitude and build academic successes.

(b) Counseling/advising services provide techniques to fulfill individual needs for a positive self-esteem and personal status through school activities which promote the development of a healthy identity.

(c) Parent involvement services provide teachers and counselors with needed information to make an accurate assessment of student needs. This approach can be implemented through extensive home visits, group conferences or using parents as tutors.

(d) Students-centered services provide a focus on the individual student. All efforts are focused on individual needs and differences. These differences are respected and individualized goals and objectives for cognition and effective growth are determined and priorities.

(e) Tutorial services provide the extra attention, encouragement and support needed by underachievers. Tutoring can be provided by students (peer tutoring) or specialized staff, at a small cost, to help students gain academic skills, social skills and social maturity.

(f) Work-related services provide opportunities for paid employment to students who face family economic pressure. This approach may utilize several components which include on-the-job experiences, work-related classes, career awareness/exploration activities or vocational courses. It is designed to help students enter the world of work.

Section 2. All school districts receiving dropout prevention funds shall submit an annual evaluation report. The annual evaluation report shall provide data for each student receiving dropout prevention services. The following data shall be required as a minimum: number of courses passed, number of courses failed, grade point average, NCE score of the Kentucky Essential Skills Test in reading and math, suspension data, and whether or not the student receiving services remained in school.

Section 3. The State Board of Education authorizes the Superintendent of Public Instruction to enter into contractual agreements with the Department of Employment Services and other agencies and organizations for the purpose of securing Job Training Partnership Act funds and other special grant and contract funds to be utilized to supplement state appropriations, under the criteria and standards of this regulation, in reducing the numbers of dropouts in the common schools of Kentucky.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: August 27, 1986
FILED WITH LRC: September 8, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on has been scheduled on October 28, 1986, at 10 a.m., EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board of Education at its August meeting. Those persons wishing to attend and testify shall contact in writing: Sheila Collins, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 23, 1986. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Joanne Brooks
(1) Type and number of entities affected: 70 LEAs.
(a) Direct and indirect costs or savings to those affected:
1. First year: LEAs are required match (cash or in-kind) for any federal dollars utilized in this program.
2. Continuing costs or savings: Match
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: LEAs are required to submit quarterly reports and an annual report to the Kentucky Department of Education.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: Staff time: A major part of which is reimbursed by federal dollars.
2. Continuing costs or savings: Staff time.
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: Quarterly reports are required.
(3) Assessment of anticipated effect on state and local revenues: State legislature has allocated $550,000 per year for the 1986-88 biennium.
(4) Assessment of alternative methods; reasons why alternatives were rejected: There were no alternative methods available.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments:
TIERING: Was tiering applied? Yes

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: There are no

federal standards related to dropout prevention programs.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Not applicable.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Education for Exceptional Children

707 KAR 1:120. Kentucky schools for the blind and deaf; contract teachers service regulation.

RELATES TO: KRS 161.152, 161.154, 163.032, 167.015

PURSUANT TO: KRS 156.031, 156.070, 161.015

NECESSITY AND FUNCTION: KRS 163.032 directs that teachers of the Kentucky School for the Blind and Kentucky School for the Deaf shall have the same statutory employment status and benefits as certified teachers in the public schools. KRS 161.152 and 161.154 authorize emergency and personal leave days for local school district teachers; and KRS 167.015 gives the management and control of the schools for the blind and deaf to the State Board of Education. This regulation establishes emergency and personal leave policies which are necessary to fulfill statutory requirements dealing with teacher status of the certified employees of the Kentucky School for the Blind and Kentucky School for the Deaf who are no longer covered by state personnel leave policies.

Section 1. All teachers under contract to teach at the Kentucky School for the Blind and Kentucky School for the Deaf shall be granted three (3) days of emergency leave per year. Said leave will be credited on the initial day of the school year and will not accumulate from year to year. Emergency leave granted pursuant to request under this regulation will be granted in units of full days. For the purpose of this section "emergency" shall mean a sudden unexpected happening; an unforeseen occasion or condition; a sudden or unexpected occasion for action. Emergency leave shall be granted upon request for occasions involving the death or funeral of a relative by blood or marriage; emergency situations arising from natural disaster; and such other reasons of emergency of extraordinary nature as approved by the respective superintendents of Kentucky School for the Blind or Kentucky School for the Deaf.

Section 2. All teachers under contract to teach at the Kentucky School for the Blind or Kentucky School for the Deaf shall be credited with three (3) days of personal leave per school year, such to be credited upon the initial day of the school year for use by employees at their sole discretion. Unused personal leave shall accumulate as sick leave. Personal leave will be granted upon request to employees who request same by notice to the school principal prior to noon of the preceding day for which leave is requested. The principal or superintendent may deny personal leave if the total requests for leave by the teaching staff would exceed ten (10) percent of the staff for any one (1) day. Personal leave days will not be granted for the last five (5) days of the school term.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: August 27, 1986
FILED WITH LRC: September 15, 1986 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 28, 1986, at 10 a.m., EDT, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, Kentucky, to review the regulations adopted by the State Board of Education at its August meeting. Those persons wishing to attend and testify shall contact in writing: Sheila Collins, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 23, 1986. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Gary Bale
(1) Type and number of entities affected: There will be no direct or indirect cost of implementing this change in regulation.
(a) Direct and indirect costs or savings to those affected:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: There will not be additional reporting or paperwork required.
(2) Effects on the promulgating administrative body: This regulation will have no effect (financial/paperwork) on the promulgating administrative body.
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: State and local revenues will not be affected.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None; new legislation HB 298.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Uniform application of personnel benefits.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Education for Exceptional Children

707 KAR 1:130. Kentucky schools for the blind and deaf; contract teachers appeal and grievance procedures.

RELATES TO: KRS 161.790, 161.800, 163.032, 167.015
PURSUANT TO: KRS 156.031, 156.070, 156.015
NECESSITY AND FUNCTION: KRS 163.032 directs that teachers of the Kentucky School for the Blind and Kentucky School for the Deaf shall have the same statutory employment status and benefits as certified teachers in the public schools; KRS 161.790 and 161.800 set forth procedures for termination, suspension, and layoff of local school district teachers and KRS 167.015 gives management and control of the schools for the blind and deaf to the State Board of Education. This regulation establishes due process procedures regarding terms of employment and termination of teachers currently under validly-renewed contracts.

Section 1. Any teacher under validly-renewed contract to teach at the Kentucky School for the Blind or Kentucky School for the Deaf shall be dismissed, suspended, or laid off only in accordance with the standards and procedures set forth in KRS 161.790 and 161.800. All personnel actions involving dispute over work conditions or compensation paid pursuant to adopted salary schedule shall be subject to review by the Superintendent of Public Instruction or his designee pursuant to grievance.

Section 2. Grievance review shall be filed with the Superintendent of Public Instruction by certified mail. No grievance shall be heard if not filed within thirty (30) days of notice to or discovery by the employee of the personnel action or condition from which the grievance arises.

Section 3. (1) Dismissal or suspension hearings before the State Board of Education shall be heard by a hearing officer designated by the State Board of Education. Said hearing officer shall be a board member or attorney within the employ of the Department of Education. The hearing officer shall conduct a hearing, preserving testimony by court reporter and present to the full State Board of Education a synopsis of testimony and recommended order concerning said dismissal and suspension. All hearings shall be held within thirty (30) days of service of charges and recommended order shall be presented to the full State Board of Education at its next regularly scheduled meeting following date of hearing. The appointing authority shall bear the burden of proof in all appeals.
(2) Suspension of contract (layoff) for any relevant teacher shall be subject to any contitutionally appropriate pretermination hearing.

Section 4. Any grievance properly filed with the Superintendent of Public Instruction shall be heard within ten (10) days of filing thereof. The superintendent or his designee shall conduct a hearing of said grievance and notify all parties of the dispostion and resolution thereof within ten (10) days of hearing.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: August 27, 1986
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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Gary Bale
(1) Type and number of entities affected: There will be no direct or indirect cost of implementing this change in regulation.
(a) Direct and indirect costs or savings to those affected:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: There will not be additional reporting or paperwork required.
(2) Effects on the promulgating administrative body: This regulation will have no effect (financial/paperwork) on the promulgating administrative body.
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: State and local revenues will not be affected.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: KRS 161.790 and 161.800.
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Uniform application of disciplinary and termination procedures.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of the September 3-4, 1986 Meeting

The September meeting of the Administrative Regulation Review Subcommittee was held on Wednesday, September 3, 1986 at 2 p.m. and on Thursday, September 4, 1986 10 a.m. in Room 110. Representative Bill Brinkley, Chairman, called the meeting to order, and the secretary called the roll. On motion of Representative Bruce, seconded by Senator McCuiston, the minutes of the August 11-12, 1986 meeting were approved.

Present were:

Members: Representative Bill Brinkley, Chairman; Senators Harold Haering and Pat McCuiston; Representatives Jim Bruce, Ed Holloway, and Joe Meyer.

Guests: Senators Helen Garrett and Joe Lane Travis; Dena Schickinger, Board of Hairdressers; Sharon M. Weisenbeck, Board of Nursing; Bob Arnold, David E. Boswell, Department of Agriculture; Clyde P. Baldwin, William S. Coakley, Ann Margaret Griffin, Martha L. Hall, Michael J. Kimmel, Timothy Kuryla, Roger B. McCann, Hisham Saaid, Amarjit Sidhu, Natural Resources and Environmental Protection Cabinet; Gary L. Bush, Bob Stallins, KY State Police; Cathy C. Snell, Douglas L. True, Justice Cabinet; Michael Bradley, Linda G. Cooper, Barbara Hickey, Bev Purvis, Corrections Cabinet; Ronnie Bingham, Bill Debord, Betty Hawkins, Ed Martin, Sandra G. Pullen, Bill Wilhoite, Transportation Cabinet; Sheila Collins, Dwayne Gatewood, Patti Parker, Perry C. Watson, Gene Wright, Department of Education; J. Rick Jones, Jan Smith, Department of Financial Institutions; Allen Prewitt, Raymond E. Wallace, Registry of Election Finance; Robert L. Barnett, Roy Butler, Barbara Coleman, John Cubine, Jules W. Delambre, Eric Friedlander, Rebecca Herrin, Carol Hunt, Eugenia Jump, Delano Miller, Larry W. Moore, Lynn Owens, Angela Scott, Phillip R. Spangler, Larry Taylor, Wayne Westwood, Thyra Whitford, Frank Willey, Cabinet for Human Resources; Arthur Hatterick, Jr., Jim Terry, Personnel Board; Raoul Cunningham, Jean Ann Gabbard, Thomas C. Greenwell, Chuck Vineyard, Department of Personnel; Lowell W. Clark, Finance and Administration Cabinet; John Underwood, Jim Judy, KAHCF; Bonnie Ethington, Secretary of State; W. Gayle Faust, Department of Parks; Mary Roberts, Labor Cabinet; Edmound C. Rose, Treasury Department; Lola S. Eddins, Commerce Cabinet; John Carr, Coalition of State Employee Organization; Jim Thompson, Employee Advisory Committee to Personnel Board; Etta Ruth Kepp, Governor's Office for Policy and Budget; O. B. Arnold, KMTA; Howard G. Myers, Kentucky League of Savings Institutions; Lyle D. Cobb, MEPAK; Daniel T. Yates, Kentucky Association of Electric Cooperatives; Jack G. Brown, David F. Westerbeck, Union Central Life Insurance Company; David Garnett, Dandridge Walton, Motor Vehicle Commission

LRC Staff: Susan Wunderlich, Joe Hood, Gregory Karambellas, June Mabry, Donna Valencia, Chris Lilly, and Carla Arnold.

The Administrative Regulation Review Subcommittee met on September 3 and 4, 1986, and submits the following report:

The Subcommittee determined that the following regulations, amended as agreed by the subcommittee and promulgating body, complied with KRS Chapter 13A:

Personnel Board: Personnel Rules

101 KAR 1:310 (Personnel Board meetings.) The Subcommittee and agency agreed to technically amend Section 1 of this regulation by inserting after the words "Any request to address the board" the words ", except as provided in 101 KAR 1:360".

101 KAR 1:340 (Disciplinary actions.) The Subcommittee and agency agreed to technically amend Section 4(4) of this regulation by deleting the words "and the board". The Subcommittee referred the issues raised by this regulation to the Interim Joint Committee on State Government for review.

101 KAR 1:360 (Appeal procedures.) The Subcommittee and agency agreed to technically amend Section 5(5) and (6) of this regulation by inserting after the words "recommended order," the words "unless otherwise directed by the chief hearing examiner". The Subcommittee referred the issues raised by this regulation to the Interim Joint Committee on State Government for review.

Department of Personnel: Classified

101 KAR 2:030 (Compensation plan.) The Department amended paragraph (d) of subsection (8) of Section 4 of this regulation to delete the reference to appeals by employes of salary adjustments. Appeals by state employes falls within the jurisdiction of the Board.

101 KAR 2:110 (Employee evaluation plan.) This regulation was amended to delete the word "final", in Sections 3 and 4 of the regulation, as it relates to steps in the evaluation procedure and rights thereunder. It was further amended to delete Section 5(8)(d) because employee appeals are within the jurisdiction of the board.

General Government Cabinet: Board of Hairdressers and Cosmetologists

201 KAR 12:110 (School license.) Section 7 provided that an extension of the time period during which construction or renovation of a proposed school must be completed "may be granted at the discretion of the board...." Representative Meyer stated that this granted unlimited discretion to the Board, with no criteria or standards, and that the Board could grant or deny an extension only for good cause. Board personnel amended the regulation to read: "Any extension of this period of time shall be granted by the Board for good cause shown...."

Justice Cabinet: Special Local Peace Officer

500 KAR 3:020 (Filing and processing SLPO commissions.) Representatives Brinkley and Meyer objected to the requirement Section 2(7) for training of Special Local Police Officers since KRS 61.360 did not include training in the specified qualifications. They objected to the restriction of an officer's right to carry weapons, stating that the Constitution of Kentucky would permit a prohibition against carrying a concealed weapon only. In addition, they objected to Section 5(3), requiring the reporting of "complaints or unusual incidents" or "misconduct". Agency personnel agreed to amend Section 2(7) to prohibit the carrying of concealed weapons; to delete the requirement for training; and to require the reporting only of crimes or violations of other requirements specified in the statute.

Department of State Police: Criminal History Record Information System

502 KAR 30:060 (Dissemination of criminal history record information.) The Subcommittee and agency agreed to correct a typographical error in Section 1(4)(b) by changing "perspective" to "prospective".

Public Protection and Regulation Cabinet:Department of Insurance: Group and Blanket Health Insurance

806 KAR 18:030 (Group health insurance coordination of benefits.) The Subcommittee and agency agreed to delete Section 6(2) as this information should not be included in the regulation but should be transmitted to the Legislative Research Commission in memorandum form.

Department of Financial Institutions: Mortgage Loan Companies and Mortgage Loan Brokers

808 KAR 12:010 (Corporate surety bond amounts.) The Subcommittee questioned the possibility that an entity acting as a broker and/or a corporation would have to post both bonds required in this regulation. The agency agreed to amend the regulation by adding the following language: "Section 3. No entity shall be required to post both bonds."

The Subcommittee determined that the following regulations did not comply with KRS Chapter 13A:

Department of Personnel: Classified

101 KAR 2:130 (Political activity.) The Subcommittee approved a motion by Representative Meyer that an attachment be placed on the regulation that Sections 1(3), 2(4), 2(7) and 2(8) exceeded statutory authority, and that the issue of political activities by state employes be referred to the Interim Joint Committee on State Government.

Justice Cabinet: Special Law Enforcement Officer

500 KAR 2:010 (Definitions.) Representative Brinkley stated that while the Subcommittee had not attached statements of objection to regulations that reiterated language of statutes governing the subject matter of administrative regulations in the past, agencies would have to end this practice. Representative Meyer pointed out that KRS 13A.120 specifically prohibits this practice. The Subcommittee approved a motion by Representative Meyer that a statement of objection to this effect be attached to this regulation.

500 KAR 2:020 (Filing and processing SLEO commissions.) Representative Brinkley stated that while the Subcommittee had not attached statements of objection to regulations that reiterated language of statutes governing the subject matter of administrative regulations in the past, agencies would have to end this practice. Representative Meyer pointed out that KRS 13A.120 specifically prohibits this practice. The Subcommittee approved a motion by Representative Meyer that a statement of objection to this effect be attached to this regulation.

The Subcommittee determined that the following regulations complied with KRS Chapter 13A:

Personnel Board: Personnel Rules

101 KAR 1:300 (Repeal of previous regulations.)

101 KAR 1:320 (Probationary period.) The Subcommittee referred the issues raised by this regulation to the Interim Joint Committee on State Government for review.

101 KAR 1:325 (Initial probationary periods in excess of six months.) The Subcommittee referred the issues raised by this regulation to the Interim Joint Committee on State Government for review.

101 KAR 1:350 (Right of appeal.) The Subcommittee referred the issues raised by this regulation to the Interim Joint Committee on State Government for review.

101 KAR 1:370 (Employee grievances.) The Subcommittee referred the issues raised by this regulation to the Interim Joint Committee on State Government for review.

101 KAR 1:380 (Personnel board investigations.)

101 KAR 1:390 (Restoration from military duty.)

Department of Personnel: Classified

101 KAR 2:005 (Repeal of previous regulations.)

101 KAR 2:010 (Definitions.)

101 KAR 2:020 (Classification plan.)

101 KAR 2:040 (Applications and examinations.) This regulation provides that the part-time experience of employes is not counted toward the experience requirement for a job classification. KRS 18A.032(5) provides: "In determining whether a state employe meets the minimum requirements for experience required for a job classification the department shall consider only the experience gained during permanent full-time state employment." Representatives Brinkley and Meyer stated that the part time experience of employes prior to the effective date of Senate Bill 340 (July 15, 1986) should be credited to that employe and should be counted toward the experience requirement for a job classification. This question was referred to the Interim Joint Committee on State Government.

101 KAR 2:050 (Registers.) Employee representatives pointed out that the Board has not filed its regulation governing promotions; that the provisions of Section 7 relating to promotional registers could conflict with the Board's regulation. The Subcommittee referred this regulation to the Interim Joint Committee on State Government.

101 KAR 2:060 (Certification and selection of eligibles.)

101 KAR 2:070 (Types and appointments and detail to special duty.)
101 KAR 2:080 (Layoffs.)
101 KAR 2:090 (Service regulations.)
101 KAR 2:100 (Leave regulations.)
101 KAR 2:120 (Incentive programs.)
Unclassified
101 KAR 3:005 (Repeal of previous regulations.)
101 KAR 3:010 (Leave regulations for unclassified service.)
101 KAR 3:030 (Appeals for employees in the unclassified service.)
101 KAR 3:040 (Unclassified service; classification and compensation plans.)
101 KAR 3:050 (Unclassified service; promotion, transfer and disciplinary actions.)

Public Protection and Regulation Cabinet: Department of Financial Institutions: Administration
808 KAR 1:100 (Information to be furnished and maintained by banks.)

General Government Cabinet: Board of Nursing
201 KAR 20:057 (Scope and standards of practice of advanced registered nurse practitioners.)

Commerce Cabinet: Department of Agriculture: Amusement Rides
302 KAR 16:010 (Procedure for obtaining a permit for operating amusement rides or attractions.)

Natural Resources and Environmental Protection Cabinet: Department for Environmental Protection: Division of Water
401 KAR 5:055 (Scope and applicability of the KPDES program.)
401 KAR 5:065 (KPDES permit conditions.)
401 KAR 5:090 (Control of water pollution from oil and gas facilities.)
Division of Air Pollution: General Administrative Procedures
401 KAR 50:015 (Documents incorporated by reference.)
New Source Standards
401 KAR 59:010 (New process operations.)
401 KAR 59:082 (New kraft pulp plants.
401 KAR 59:196 (New metal furniture coating operations.)
401 KAR 59:211 (New flexible vinyl and urethane coating and printing operations.)
401 KAR 59:242 (New petroleum dry cleaning plants.)
401 KAR 59:290 (New wool fiberglass insulation manufacturing plants.)
Existing Source Standards
401 KAR 61:020 (Existing process operations.)
401 KAR 61:140 (Existing by-product coke manufacturing plants.)

Justice Cabinet: Special Local Peace Officer
500 KAR 3:010 (Definitions.)

Corrections Cabinet: Office of the Secretary
501 KAR 6:040 (Kentucky State Penitentiary.)
501 KAR 6:070 (Kentucky Correctional Institution for Women.) An objection had been raised relating to furloughs of prisoners from state institutions. Cabinet personnel stated that KRS 439.600(1) and KRS 439.630 permitted the furloughs provided for by this regulation.
501 KAR 6:080 (Corrections Cabinet manuals.)

Transportation Cabinet: Administration
600 KAR 1:080 (Repeal of transportation related administrative regulations.)
Department of Vehicle Regulation: Motor Vehicle Tax
601 KAR 9:074 (Kentucky highway use license, records and taxes.)
Driver's License
601 KAR 12:050 (Driver licensing fee schedule, and licensees under age 21.)
Office of Aeronautics: Airport Zoning
602 KAR 50:060 (Construction within jurisdictional airspace.)
602 KAR 50:090 (Application procedure.)

Education and Humanities Cabinet: Department of Education: Office of Local Services: General Administration
702 KAR 1:025 (Extended employment.)
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Pupil Transportation
702 KAR 5:080 (Bus drivers' qualifications; responsibilities.)
Office of Education for Exceptional Children: Exceptional and Handicapped Programs
707 KAR 1:051 (Exceptional children's programs.)
Office of Programs: Adult Education
709 KAR 1:030 (High school equivalency certificate.)

Public Protection and Regulation Cabinet: Registry of Election Finance: Practice and Procedures
801 KAR 2:010 (Processing complaints; hearings.)

Cabinet for Human Resources: Administration
900 KAR 1:060 (Protection of human subjects.)

Department for Health Services: Local Boards of Health
902 KAR 8:020 (Policies and procedures for local health department operations.)
Hospitalization of Mentally Ill and Mentally Retarded
902 KAR 12:080 (Policies and procedures for mental health/mental retardation facilities.)
Certificate of Need and Licensure
902 KAR 20:026 (Operations and services; skilled nursing facilities.)
902 KAR 20:036 (Operation and services; personal care homes.)
902 KAR 20:048 (Operation and services; nursing homes.)
902 KAR 20:051 (Operation and services; intermediate care.)
Department for Employment Services: Unemployment Insurance
903 KAR 5:300 (Required reports and due dates.)
Department for Social Services: Block Grants
905 KAR 3:030 (Matching requirements.)
Department for Medicaid Services: Medicaid Services
907 KAR 1:011 (Technical eligibility requirements.)
907 KAR 1:031 (Payments for home health services.)
907 KAR 1:045 (Payments for mental health center services.)
907 KAR 1:055 (Payments for primary care center services.)

The following regulations were deferred at the request of the promulgating agency:

Personnel Board: Personnel Rules

101 KAR 1:330 (Employee actions.) The Personnel Board requested that this regulation be deferred in order to give further consideration to questions raised by board members.

Corrections Cabinet: Office of the Secretary

501 KAR 6:030 (Kentucky State Reformatory.) The Subcommittee reviewed the objections to the search policy raised when a similar regulation was reviewed by the Subcommittee at its June 1986 meeting. Cabinet personnel deferred this regulation until the next meeting of the Subcommittee in order to correct errors in the material incorporated by reference.

501 KAR 6:060 (Northpoint Training Center.) Representative Brinkley pointed out that KRS Chapter 18A, as amended by Senate Bill 340 (1986 RS), granted regulatory authority over personnel matters to the Personnel Board and the Personnel Department. He pointed out that when a similar regulation was before the Subcommittee, 501 KAR 6:050, the Cabinet had withdrawn it. Cabinet personnel deferred this regulation until the next meeting of the Subcommittee at which time they would present amendments to the Subcommittee conforming to objections made by it.

The Subcommittee had no objections to emergency regulations which had been filed.

The Subcommittee adjourned at 11:45 a.m. until October 1, 1986.

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